



HM Crown Prosecution
Service Inspectorate

Improvement through inspection

HM Chief Inspector of the Crown Prosecution Service

Annual Report 2012-2013





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Michael Fuller QPM BA MBA LLM LLD (Hon)
Her Majesty's Chief Inspector

Letter from HM Chief Inspector to the Attorney General

The Rt Hon Dominic Grieve QC

I am pleased to present to you this report on the activities of the Crown Prosecution Service Inspectorate for the year 1 April 2012 to 31 March 2013.

In my last annual report I set out a demanding inspection programme for this year. I am pleased to inform you that not only has that programme been achieved, but the Inspectorate has also been able to respond swiftly to undertake several pieces of unscheduled inspection activity.

Assuring the casework quality of the CPS is one of our key priorities. To support this inspectors have examined over 2,800 files as part of an Annual Casework Examination Programme. Coupled with the audit of the handling of cases involving custody time limits this enables me to give you a comprehensive assessment of the quality of CPS casework and a clear indication of whether the robustness of CPS core quality standards monitoring is improving nationally. Our findings indicate that the quality of decision-making at the charging stage is improving, but more still needs to be done to ensure cases are progressed and prepared efficiently and effectively beyond this point.

Although the programme was resource intensive, a substantial focus was maintained on inspecting overall area effectiveness, with full inspections of CPS East of England (Cambridgeshire, Essex, Norfolk and Suffolk) and CPS North East (Cleveland, Durham and Northumberland). Additionally, follow-up inspections were carried out in the former areas of CPS Nottinghamshire, Cheshire and Merseyside, who all demonstrated improved performance and made substantial progress or achieved 69.0% of the priority recommendations.

In conjunction with the CPS I have now introduced formal assessments at a strategic level of progress against all recommendations arising from inspection. This, coupled with the rigorous approach to follow-up activity, maintains a sharp focus on driving up all aspects of performance.

The service provided to victims and witnesses, and particularly the more vulnerable, rightly remains the subject of scrutiny. This year the Inspectorate has contributed significantly to the inspection of disability hate crime. Other joint work which focussed on improving the criminal justice system identified good practice in caring for victims and witnesses. Our follow-up report on how the CPS deals with complaints was also published and I am pleased to note that, in accordance with our recommendation, an independent assessor of the quality of complaint handling has been appointed.

During this year we also undertook, at your request, a challenging inspection of the quality of casework handling in the Serious Fraud Office. We found that some casework was carried out to a high standard but that there is clear room for improvement. I welcome the intention, subject to Parliamentary approval, to put the inspection of this prosecuting authority on a statutory footing.

I noted in last year's report that the request by the Director of Public Prosecutions to review disclosure in the case of R v Mouncher and others (the Lynette White murder case) would require significant resources. The scale and complexity of this piece of work has proved that assessment to be correct. I have submitted my report to the Director of Public Prosecutions.

I have continued in my role of Chair of the Criminal Justice Chief Inspectors' Group and have maintained our commitment to participating in cross-cutting joint inspections. During this year I have also embedded liaison arrangements at a strategic level not only with the CPS but other key stakeholders, including the Senior Presiding Judge. These all assist in determining inspection priorities.

Last year I highlighted the challenges faced by the CPS in its move to digitisation of its casework processes. Much has been achieved, but a number of risks remain if progress is to be maintained. Not least of these is the need for a successful move to standard operating practices against a background of continuing resource reductions and a down sizing of the overall CPS estate. When coupled with the refocusing of how the CPS manages the delivery of casework it is clear that it now faces one of the biggest challenges since its inception.

I am committed, within a challenging resource environment, to ensuring the Inspectorate has the capacity to deliver a wide ranging inspection programme in the ensuing year and to respond if required at short notice to bespoke work. Next year's programme will include a focus on aspects of CPS Headquarters casework, another casework examination programme and further unit based inspections. Additionally we will be undertaking further activity in respect of the Serious Fraud Office. I am confident this will enable us to continue to support the prosecution agencies in the challenges they face through inspection and recommendations to improve performance.



Michael Fuller QPM BA MBA LLM LLD (Hon)
Her Majesty's Chief Inspector

Crown Prosecution Service geographical areas



Overview

Our assessment of CPS performance is informed by findings from our Annual Casework Examination Programme (ACEP), area effectiveness inspections (AEIs), follow-up inspections, and audits undertaken between April 2012 and March 2013. Details are set out in annex 1. Our approach to inspection takes account of the business needs of the CPS as well as the expectations of the general public as to whether the CPS provides an efficient service and gives value for money. This assessment reflects those aspects in which its performance is crucial to public confidence or where casework failures represent a high reputational risk to the organisation.

This has been another challenging year for the CPS, as it continues the roll-out of the Transforming Through Technology (T3)¹ programme against a demanding timetable. Electronic case presentation, through ‘tablet’ computers is now commonplace in most Magistrates’ Courts including contested proceedings. CPS Magistrates’ Court case progression units are moving towards full digitisation of casework processes, although our AEIs indicated that even within the same geographical area the progress and effectiveness of units was variable. The move to a national daytime delivery charging service under the auspices of CPS Direct, the implementation of standard operating practices within case progression units, coupled with the refocusing of how the CPS delivers its casework add to these challenges. If these strands are to effectively improve casework quality, and the service to victims and witnesses, it is essential that compliance is rigorously monitored and maintained.

All this is taking place against a continuing background of reducing budgets and resources. In 2012-13 the number of staff employed by the CPS reduced overall by 3.8 per cent. Within CPS areas² the total number of staff reduced by 7.3 per cent, and prosecutors by 8.5.³ However, there has also been a continuing reduction in caseload. In 2012-13 the overall Magistrates’ Court caseload reduced by 11.1 per cent compared to 2011-12, in the Crown Court by 10.5 per cent and the volume of CPS charging decisions by 18.4.

Many of the pressures observed by inspectors in case progression units during the course of inspections could be reduced by improving the effectiveness of trial preparation processes. Importantly this includes ensuring that weak cases are either stopped at an early stage or remedial action taken to improve the strength of the evidence. In the inspection of CPS North East I highlighted the detrimental impact that a high rate of late vacated trials had, because cases were not ready to proceed, on the overall criminal justice process in the Magistrates’ Court.

I also emphasised in the inspection of CPS East of England the positive environmental factors that can contribute to overcoming these difficulties. These include thorough preparation before the first hearing which ensures that cases proceed on the correct charges, acceptable pleas are determined from the outset and where appropriate cases are dropped at the earliest opportunity. This, when combined with timely and good

¹ Now referred to as the Digital Business Programme.

² This includes CPS Direct which delivers charging advice only, but excludes all Headquarters staff.

³ This data is derived from the CPS corporate information system and reflects full-time equivalent paid employees. It may differ from other staffing data sources.

quality police files, a collaborative approach with criminal justice partners and defence representatives, and proactive judicial case management contributes substantially to a high performing CPS area.

The continued reduction in the volume of charging decisions was to be expected as the authority to charge in a wider range of cases was returned to the police. However, during the course of the Annual Casework Examination Programme inspectors found cases where the police had charged outside their remit, for example where it was unrealistic to anticipate a guilty plea. It is important that where this occurs it is taken up through joint CPS/police performance management arrangements.

Although not quantifiable, it is apparent from the findings of the joint inspection on the use of restorative justice⁴ that a proportion of cases that would have previously entered the criminal justice system are being resolved through this process. There was a very high level of victim satisfaction with this approach, particularly when it involved a young offender. Inspectors had concerns that in a small number of cases the police implemented a restorative justice resolution when no criminal offence appeared to have been committed, which was coupled with a lack of quality assurance. This is a risk to justice.

4 Facing up to offending: use of restorative justice in the criminal justice system, September 2012.

The findings from a sample of ACEP cases where the CPS directed either no further action or an out of court disposal indicated that Code for Crown Prosecutors (the Code) compliance was excellent,⁵ and significantly higher than in those cases where proceedings were directed.

The three former areas⁶ that were subject to follow-up inspection in 2012-13 to assess progress against recommendations all showed improvement. Overall they had achieved or made substantial progress in 69.0% of the priority recommendations. I shall continue to focus recommendations on those challenging strategic issues where successful implementation will lead to substantive and sustainable improvement in outcomes.

The quality of decision-making at the charging and further review stages shows improvement from last year's file examination findings. This is encouraging, but should be considered in the context of the majority of last year's file sample being drawn from areas where there had been concerns about aspects of performance. The findings from the ACEP file examination include all CPS areas and it would be surprising if they did not show overall better performance. However the ACEP findings provide a benchmark for the CPS to measure the direction of travel in respect of many aspects of casework.

5 112 cases dealt with by CPS Direct were examined. The Code was complied with correctly in 111.

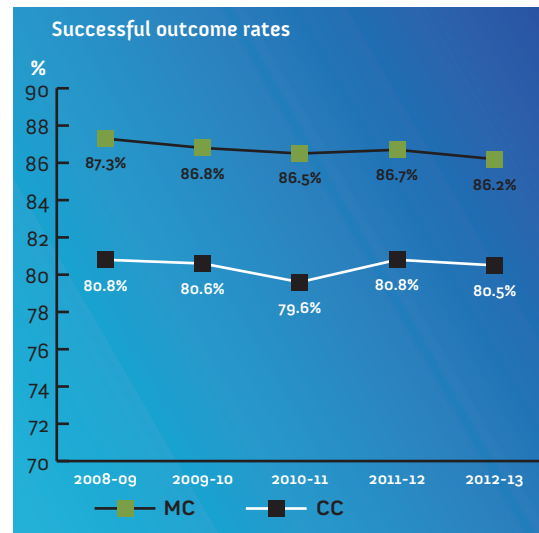
6 Since the CPS restructuring in April 2011, these areas have been incorporated into larger geographical areas.

Evaluation of a sub-set of 502 ACEP cases which had also been subject to core quality standards monitoring⁷ by the CPS indicates that both the quality of casework and the robustness of CPS legal managers' assessment of quality are improving. There remain a number of casework aspects where inspectors found that CPS assessments were over generous, for example the quality of instructions to counsel. However, there is increasing agreement between our assessments and those of the CPS in a number of crucial aspects, such as the disclosure of unused material. There remain however too many errors, for example not providing substantive assessments when required which indicates that not all managers are fully conversant with the guidance.⁸

There has been little change in the overall proportion of cases that result in a successful outcome, although improvement continues in respect of cases involving violence against women, including specifically offences of rape. Moves to standardise processes and systems in Rape and Serious Sexual Offences units across the areas should assist in maintaining this improvement. Whilst there are always risks in predicting future performance, I would expect the various measures the CPS are taking to refocus and restructure to show outcome based improvements during the course of 2013-14.

⁷ The detailed methodology is set out at annex 2.

⁸ Primarily erroneously answering questions 'not applicable'.



Recommendations from last year's follow-up review of the quality of prosecution advocacy and case presentation⁹ have informed the new CPS advocacy strategy. However, as evidenced by the findings from the inspection of CPS North East, areas are still struggling to achieve sufficient savings in respect of each Crown Advocate. Despite a national initiative to reduce numbers the position remains unsatisfactory. This is a sensitive issue, which is a legacy of earlier policies, but has to be addressed to ensure value for money is achieved.

⁹ Follow-up report of the thematic review of the quality of prosecution advocacy and case presentation, March 2012.

Overall assessment of the Crown Prosecution Service's performance

Introduction

The findings in this section are drawn primarily from the Annual Casework Examination Programme which comprised an examination of over 2,800 cases from across all CPS areas, including some where the charging decision was made by CPS Direct. In 502 cases the file had also been assessed previously by a CPS lawyer manager as part of the core quality standards monitoring regime. Where appropriate we make reference to our evaluation of the robustness of those assessments.

A more detailed outline of the ACEP methodology and a breakdown of the file sample is at annex 2 and the detailed findings from the file examination at annex 3.

The quality of decisions

Ensuring that the Code for Crown Prosecutors is applied correctly together with timely casework progression, in accordance with court orders, is essential in maintaining confidence in CPS performance and in the delivery of quality casework.

All casework decisions must comply with the Code for Crown Prosecutors¹⁰ which requires that there is a realistic prospect of conviction and that a prosecution is in the public interest. Effective decision-making at the charging stage contributes substantially to the subsequent progression of the case in a variety of ways including enhancing the likelihood of an early guilty plea or setting out clearly the issues in dispute in those which go to trial.

¹⁰ A revised version of the Code was published in January 2013.

Inspectors assessed 2,191 cases where prosecutors had directed the charge to assess whether they were getting it right at the charging stage. Overall the Code was applied correctly in respect of each charge at this stage¹¹ in 93.5 per cent of all cases, compared with 90.9 per cent¹² in 2011-12. Performance in respect of Crown Court cases, which are likely to be the more serious, was slightly better at 94.0 per cent, and an improvement on the previous year (92.6). The overall improvement in the quality of decision-making at the charging stage is encouraging. There were common threads to cases which inspectors assessed as not being Code compliant, including failures to weigh up correctly the strength of identification or forensic evidence, and misunderstanding joint enterprise concepts, particularly the weight to be given to what co-accused said in interview.

Decision-making in respect of cases where prosecutors directed either no further action on evidential or public interest grounds, or decided that an out of court disposal (for example a conditional caution) was a just outcome was much better than in charged cases.¹³ Inspectors were concerned that in some cases prosecutors appeared risk averse and gave undue weight to issues which they considered impacted adversely on the victim's credibility. I am encouraged that the revised Code for Crown Prosecutors and emerging guidance in respect of sexual assaults involving children seek to ensure that prosecutors give proper weight to victim's accounts.

¹¹ Inspectors consider Code compliance in respect of each charge, not the overall case. Therefore in some cases in the sample a prosecution may have been properly directed against a defendant on some, but not all of the charges.

¹² Based on a much smaller file sample of 570 cases.

¹³ Based on an ACEP sample of 112 CPS Direct cases and approximately 40 cases examined as part of AELs.

There was a substantial range of performance across the Service. However, in every area sample a proportion of charging decisions were made by CPS Direct lawyers and compliance rates are not necessarily reflective of the quality of decision-making at area level. In respect of cases charged by CPS Direct lawyers there was 93.7 per cent compliance with the Code.¹⁴

The volume of charging decisions taken by CPS Direct lawyers, as a proportion of overall CPS charging decisions, will increase as part of the restructuring of how the CPS delivers its work. I am therefore considering how the Inspectorate's methodology needs to be adjusted to ensure it reflects these changes in service delivery.

In 502 cases in the ACEP file sample, the CPS had assessed the quality of decision-making as part of the CQSM requirements. In 30 (6.0 per cent) inspectors found that the Code had not been complied with at one or more stages. However CPS legal managers had correctly identified a failure in a third of these cases.

Where the police charged the defendant without reference to the CPS we found that the Code was applied correctly in 87.4 per cent of cases. All the police charged cases that did not comply with the Code were discontinued appropriately by the CPS, although this was not always timely. I am concerned that inspectors identified a number of police charged cases which did not fall correctly within the police remit, and should have been referred to the CPS. It is essential that local CPS managers continue to use joint prosecution team performance

mechanisms to draw these cases promptly to the attention of the police and work with them to improve compliance.

Effective systems for joint performance management with partner agencies have been considered as part of my thematic review of assurance and performance management which will report in 2013-14.

Last year I commented on how performance in respect of the quality of the MG3 (record of charging decisions) was polarising with more being assessed as good or excellent (41.4 per cent) but also more assessed as poor (29.1 per cent) compared with 2010-11. This year inspectors assessed 44.0 per cent of MG3s as being good or better but 18.3 as poor. These findings indicate that there has been some improvement, with a much lower proportion assessed as poor. However more work still needs to be done to drive up quality, with significantly less than half assessed as good or better. A common deficiency was a failure to provide a proper analysis of the evidence and set out clearly the proposed case strategy. These requirements were met fully in 52.4 per cent of cases.¹⁵ Inspectors examined many lengthy MG3s which amounted to little more than a repetition of the evidence as set out in the police summary, with no analysis of how that strengthened or weakened the case. This was compounded in some instances when, at a further review stage, another prosecutor merely copied this into the case management system (CMS).

¹⁴ A larger proportion of CPS Direct cases are currently charged under the lower evidential threshold test.

¹⁵ Further analysis of the findings can be found at annex 3.

It is disappointing that, despite the recommendation in our thematic review of youth offender casework,¹⁶ overall 54.8 per cent of youth grave crime cases had the relevant factors identified and weighed correctly at the charging stage, with an acceptable endorsement on the MG3.¹⁷ I intend to return to this aspect as part of planned follow-up work to the thematic review.

The Code was applied correctly at subsequent review stages, including initial review in police charged cases, in 93.6 per cent of relevant cases. This is an improvement on last year's findings (91.4 per cent). There was negligible difference in correct Code application between Magistrates' Court and Crown Court cases.

Where decisions do not comply with the Code at the charging stage, they must either be dropped promptly or effective remedial action taken to strengthen them to the required level. Failure to do this can waste resources leading to cases being unnecessarily listed for trial and raise unrealistically the expectations of victims and witnesses. Whilst, ultimately, decisions to discontinue were correct in a high proportion of cases (97.3 per cent), often these were allowed to drift to another stage in the process, for example summary trial or committal to the Crown Court before they were stopped. This is neither cost effective nor efficient.

This aspect of performance needs to be seen in the context of the issues facing the CPS in respect of case preparation and progression which are set out below.

Case preparation and progression

In the area effectiveness inspections of CPS East of England and CPS North East I emphasised the crucial importance of effective case progression units in delivering timely quality casework.

The move by the CPS to introduce standard operating practices (SOPs) across a range of activities is therefore encouraging. It is essential that these are not watered down by the use of local workarounds, which we cautioned against in the East of England inspection report. Ensuring compliance with SOPs will be challenging, but this is imperative if the CPS is to successfully utilise the digitisation of its casework to enable it to move the work electronically to staff.

Even in those units which we considered to have effective operating procedures and robust task management, the impact of insufficient resources because of abstraction to other duties still had a negative impact. A consequence of this across many of the units observed was that contested cases were being prepared only a few days before the trial and committals or sent cases were reviewed and prepared often on the day before that set down for the committal or service of the prosecution case. This allows little time to remedy evidential deficiencies or request additional information and as we found in the North East can lead to an unacceptable rate of late vacated Magistrates' Court trials.

The consequences of hurried preparation were apparent, for example the inclusion of statements favourable to the defence in committal bundles and inadequate reviews endorsed on the case management system.

¹⁶ Thematic review of youth offender casework, November 2011.

¹⁷ Performance in respect of cases charged by CPS Direct was similar.

In some areas the situation was aggravated by the late receipt of the upgraded file from the police or the provision of only partial information. Late transmission by the police of the unused material schedules was particularly problematic and contributed to a number of timeliness issues around compliance with disclosure obligations.

It is too early to assess whether the move by the CPS to reduce the overall number of case progression units, and create larger centralised teams will provide the benefits of economies of scale and reduce the abstraction of staff to other tasks. I shall be considering this closely as part of inspection activity in the next business year, in particular in respect of CPS London which has moved to the new structure.

Our file examination found that there were inadequate reviews in 38.0 per cent of Magistrates' Court cases¹⁸ and 50.3 per cent of Crown Court cases. These included copying, without further comment, the review endorsed at the charge stage, failing to analyse the case properly and in some cases there was an absence of any review. It is essential, with the move to digitisation, that CMS is used fully to endorse all casework decisions. With the increasing use of electronic files, particularly in the Magistrates' Courts, it will become the primary source of record, and a key part of any audit trail.

As part of the assessment of the quality of case preparation and progression, inspectors made an assessment on each relevant file of the extent of the grip the CPS team had on the case as it made its way through the various stages. CPS legal managers make the same assessment as part of their core quality standards monitoring.

Overall, we found that they had an appropriate grip in 53.7 per cent of cases, although performance was slightly better in Crown Court cases (58.5 per cent). Criteria that contributed to the overall assessment included compliance with court directions, adherence to the Criminal Procedure Rules, the quality and timeliness of written applications, for example to adduce bad character evidence and whether ineffective hearings or trials could have been avoided by prosecution action.

In some of these criteria there are improvements in performance although they have yet to reach an acceptable level, for example there was timely compliance with Crown Court directions in 69.8 per cent of cases, although this was less satisfactory in Magistrates' Court cases (63.0 per cent). Last year I commented that less than half the Crown Court cases examined had timely directions. Whilst there were substantial differences in consistency between the areas, inspectors did note that CMS was now being used more effectively as a tool to monitor compliance with judge's orders in the Crown Court.

¹⁸ Including where cases were reviewed before committal.

Inspectors assessed that where the prosecution's grip on case preparation and progression fell short it was adversely affected by a late or inadequate response to a CPS communication by either another criminal justice agency or defence representative in 57.2 per cent of relevant cases.

It is important that the police are informed as quickly as practicable when the need to upgrade a file arises. Inspectors found that this was normally timely, but only a minority of upgrade file requests gave any specific guidance to the police about what was required. This caused problems further down the line if a deficient file was received late, or if timely was only considered by a prosecutor shortly before the next hearing date.

Some case progression units were operating an early screening process¹⁹ which enables matters such as these to be addressed quickly and importantly provides an opportunity to weed out weak cases which should not proceed further. This is a process which I would encourage the CPS to embed as part of their standard operating practices.

Inspectors also found that the Serious Fraud Office systems needed to be streamlined and mandated with a drive towards standardisation, and that overall the quality of casework needed to be strengthened.

¹⁹ Sometimes called 'the 48 hour review'.

The disclosure of unused material

Compliance by the prosecution with the requirements of the disclosure of unused material regime has been scrutinised closely this year across a range of inspection activities. This included the follow-up inspections of Mersey-Cheshire²⁰ and Nottinghamshire²¹ which found that both areas demonstrated improvements in the performance of the prosecution's duties following the implementation of our recommendations.

The assessment of CPS performance is taken primarily from the ACEP findings.²² There has also been audit work looking at complainant's consent to the disclosure of medical records and counselling notes and the extent of that disclosure in cases involving allegations of rape and serious sexual offences, which has drawn on relevant cases within the ACEP sample.

The findings from the ACEP file examination showed that prosecutors were dealing with initial and continuing disclosure correctly in respect of all aspects in 77.1 per cent of relevant cases, which is better than reported last year, substantially so in respect of continuing disclosure.

²⁰ Review of the performance of the former Areas of CPS Merseyside and CPS Cheshire follow-up inspection, February 2013.

²¹ Review of the performance of the former Area of CPS Nottinghamshire follow-up inspection, September 2012.

²² This includes the Mersey-Cheshire file sample, but not the Nottinghamshire follow-up file sample. However, a subsequent Nottinghamshire file sample is included.

Sensitive material, and the correct endorsement of the relevant schedule, was dealt with correctly in 75.7 per cent of relevant cases, and in just over half where there was not full compliance the issue was solely a failure by the prosecutor to endorse the sensitive material schedule correctly. This very straightforward matter appears stubbornly difficult to rectify.

In 8.0 per cent of the cases where there was not full compliance, either at the initial or continuing disclosure stage, there was a failure to disclose to the defence undermining or assisting material. Inspectors considered carefully whether these failures could have led to a miscarriage of justice, applying the test used by the Criminal Cases Review Commission and the Supreme Court.²³ In almost all the cases the defendant was not prejudiced as there had been either an unsuccessful outcome or the material was disclosed later in the process. In the very few cases where we were not satisfied, there was referral to the appropriate Chief Crown Prosecutor to consider further. Based on the assurances provided by them, I am satisfied that none of the failures identified was a potential miscarriage of justice.²⁴

The CPS has invested considerable time in improving its processes for dealing with disclosure issues, including in the most serious cases, for example those dealing with counter terrorism. The topic continues, rightly, to be given a high profile and I encourage the CPS

to maintain its drive to improve performance through rigorous training and quality assurance. There remains the risk that disclosure failings can cause both reputational damage and unnecessary cost to the CPS.

Generally, the CPS needs to develop processes to ensure that unused material schedules sent electronically by the police are endorsed by the prosecutor on CMS. As paper files disappear, initially in the Magistrates' Court, the entry on CMS will become the only document of record.

Compliance with the disclosure requirements was timely in 73.2 per cent of cases. In some areas late submission by the police of the unused material or the schedules impacted adversely on performance.

Disclosure compliance was also carefully scrutinised as part of our non-statutory inspection of the Serious Fraud Office (SFO).²⁵ That inspection recognised the complexity of disclosure issues in the types of casework routinely handled by the SFO and concluded that generally it carries out its disclosure duties satisfactorily. However, the internal processes and guidance needed a complete overhaul, and compliance with standard processes needed to be mandated and quality assured. I shall be scrutinising the extent to which improvements have been made as part of further inspection activity planned for 2013-14.

²³ *McInnes v H.M. Advocate* [2010] H.R.L.R 17, SC. (which covers issues relating to disclosure).

²⁴ For example the material was disclosed at trial but this was not endorsed on the file.

²⁵ Report to the Attorney General on the inspection of the Serious Fraud Office, November 2012.

As I indicated in last year's report, at the request of the Director of Public Prosecutions (DPP), we undertook a review of disclosure in the case of *R v Mouncher and others* (the Lynette White murder case), with particular reference to the conduct of the CPS and prosecution counsel in respect of their duties of disclosure. This has been one of the most complex and sensitive reviews undertaken by the Inspectorate, with many challenging facets. My report to the DPP was delivered in May 2013.

The findings from the ACEP sample show that overall the quality of decision-making is better in cases involving allegations of rape, with the Code applied correctly at the charging stage in 98.0 per cent of cases compared with 93.5 per cent for all cases. Additionally, a higher proportion of MG3s in rape cases were found to be good or better although case preparation and progression still needs to improve further. Overall, the direction of travel remains positive with successful outcomes again increasing in 2012-13 to 63.2 per cent from 62.5 per cent.

Victim and witness experiences in the criminal justice system

Offences involving violence against women and hate crimes often involve the most vulnerable of victims and require particular care and attention. Events this year have also highlighted issues around the sexual abuse of children. A joint inspection with Her Majesty's Inspectorate of Constabulary (HMIC) is planned for early in the next business year to look at aspects relating to child sexual abuse and exploitation. We have also worked closely with other inspectorates in relation to wider child protection issues.

The proportion of successful outcomes in cases involving violence against women continues to improve year on year, rising in 2012-13 to 74.1 per cent from 73.1 per cent, but there has been a decline in successful hate crime outcomes to 82.6 per cent from 83.4. In both categories there is a substantial spread of performance across the CPS, although London lagged substantially behind the national figure for both categories.

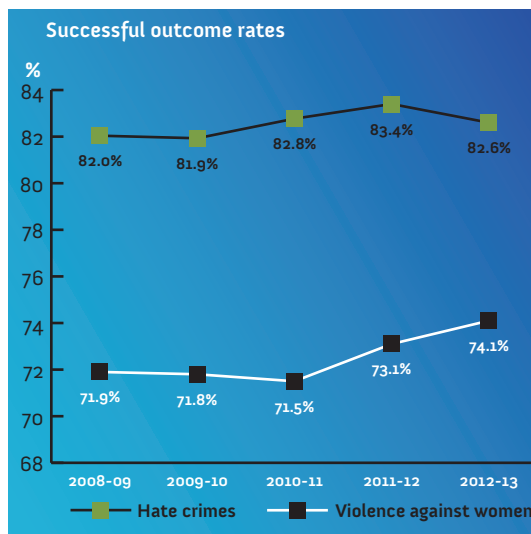
I welcome the planned regularisation by the CPS of the structure of Rape and Serious Sexual Offences units in each area. Where these units are appropriately resourced with staff with the requisite levels of experience we find that there is generally an improvement in casework quality.

The CPS does not produce separate performance data on cases involving child abuse, but our findings show that, as with rape cases there is better Code compliance at the charging stage (96.0 per cent) than found generally although the quality of MG3s needs to improve.²⁶ The CPS has carried out a searching review of the quality of its decision-making in respect of a number of high profile sexual child abuse cases that came to prominence in 2012-13. Whilst the benefit of hindsight provides substantial advantage, the general learning from that review should ensure that more victims of this horrendous type of crime get the justice they deserve.

²⁶ These findings relate only to cases specifically recorded on the HMCPSI database as involving child abuse. A small number of cases recorded as involving allegations of rape or serious sexual assaults will have had child victims.

Prosecutors are also alive to general safeguarding issues in relation to child victims and witnesses and considered them appropriately in 90.5 per cent of relevant cases.²⁷

There was also better Code compliance at the charging stage in cases involving allegations of domestic violence and racially and religiously aggravated crimes and the MG3s were also of a better quality in domestic violence cases than found overall.



Overall, the Victims' Code, Prosecutors' Pledge and specific policy guidance on the treatment of witnesses was complied with fully in 91.1 per cent of cases and the most appropriate special measures were sought in 93.3 per cent. Whilst there remains room for improvement, particularly in respect of the timeliness of some applications these findings are encouraging. However, performance is less satisfactory in respect of compliance with the direct communication with

²⁷ Similar consideration was given to young offenders in 84.6 per cent of cases.

victims scheme; 62.3 per cent of communications were timely in all aspects and in some case no letter was sent when required. Of the letters sent 58.5 per cent were fully satisfactory, with a wide range of performance in different case types. Recurring issues were a lack of empathy, unclear explanations of the reasons why proceedings were dropped and a failure to adapt letters to meet the needs of the recipient. The CPS needs to address this as a priority.

The need to improve the quality of communications is a priority, particularly with the recent introduction of the victim's right of review of CPS decisions not to prosecute or to discontinue proceedings.²⁸

The benefits of a joined-up service approach to the needs of victims and witnesses was reinforced in the joint inspectorate report on Improving the Criminal Justice System – lessons from local change projects.²⁹ That report identified that recognising victims and witnesses as key stakeholders is a strength in the delivery of good witness care.

This year the Inspectorate also undertook a follow-up inspection³⁰ of our review in 2009 of CPS complaints handling. We found that senior managers' efforts have been substantial and show a real desire to address the issues outlined in the original report, although there was still progress to be made against a number of the recommendations. The decision to appoint an independent complaints assessor, as I recommended in 2009 and again in 2012 provides an important level of independent scrutiny.

²⁸ This scheme is to be introduced following the Court of Appeal decision in *R v Christopher Killick* [2011] EWCA Crim 1608.

²⁹ Published May 2012.

³⁰ Review of complaints handling by the Crown Prosecution Service follow-up inspection, January 2013.

The percentage of responses to complaints rated as excellent was significantly better than in 2009, but the thoroughness of investigation and quality of responses to complaints varied considerably. Many of the 'cultural' issues, identified in our previous report, persisted including some defensiveness when considering the complaint.

It is important that appropriate applications are made to keep in custody those defendants who pose a danger to the public in general or individual victims. Encouragingly, the findings from the file sample show that the CPS deals well with these types of case.

Where applications are successful it is equally important to ensure that there is compliance with the requirements of the custody time limit (CTL) regulations. A failure to comply can result in dangerous defendants being released on bail.

The findings from the ACEP file examination and a follow-up CTL audit, which will be published in 2013-14, indicate that overall CPS compliance with the CTL regime is good. The audit found that there is now greater management oversight of CTL cases, coupled with improved area self-assessment of the robustness of internal processes. However, some custody cases need to be progressed more effectively to show that the prosecution has acted with due diligence, which is essential if any application is needed to extend a time limit. Only 4.3 per cent³¹ of relevant cases in the ACEP file sample had a wrongly calculated CTL, which supports the audit finding that prosecutors are now more proactive at court in agreeing the correct CTL. All those which were incorrectly calculated initially were amended correctly during management checks.

Advocacy

The CPS, in response to last year's follow-up review of the quality of prosecution advocacy and case presentation, has developed its advocacy strategy for 2012-16. I welcome the intention, as proposed in our review, to deploy Crown Advocates (CAs) in complex Magistrates' Court and youth court trials, and that there is an expectation that all CAs above a certain level will undertake trial work. However the overriding issue remains, namely that the CPS has more CAs than it requires for its business need. As I commented in the North East Area inspection report, this makes it extremely difficult for areas to generate sufficient graduated fee savings for each CA. The CPS has sought to address this issue by conducting reversion exercises whereby CAs agree to revert to Senior Crown Prosecutor grade, but it remains financially unattractive for many. Some areas have sought to move to compulsory reversion where there has been insufficient voluntary take up, although the projected savings have not always been accurately quantified.

Inspectors carried out only very limited advocacy observations this year, but in the East of England report observed the benefits to advocates of cases being reviewed thoroughly before the first hearing, ensuring acceptable pleas were determined at this stage and discontinuing promptly those cases which could not proceed further. Other aspects relating to case presentation arising from the ACEP findings were less satisfactory. Instructions to the advocate were fully satisfactory in 49.7 per cent of relevant cases with many containing no analysis of the evidential issues or proposed trial strategy. This is undoubtedly partly attributable to last minute preparation.

³¹ Excluding nine of the 443 relevant cases where there was insufficient information on the finalised file to determine accurately the correct CTL.

Aligned to this, there is a need to improve the recording on CMS of the advocate's input to the case, for example through formal advice or guidance given in conference.

Inspectors considered that prosecutors were correct to accept the pleas offered or any basis of plea in 89.8 per cent of cases. Our limited court observations indicate that there is increasing judicial scrutiny of prosecution acceptance of basis but in 53.4 per cent of cases there was no evidence on the file of any basis of plea in writing signed by both the prosecution and the defence. There is mandatory e-learning for CPS prosecutors on the basis of plea requirements and therefore this finding is disappointing.

The planned restructuring of how the CPS proposes to deliver its advocacy requirements by creating specific advocacy units will be considered as part of the Inspectorate's review of our methodology in the light of the major changes proposed to how the CPS meets its business need. I will consider any follow-up work once priorities for the future are clearer.

There has been a substantial increase in agent usage in Magistrates' Courts this year, rising from 8.8 per cent of court sessions in 2011-12 to 20.0 per cent. During the course of our area effectiveness inspections we found that there had been significant short term abstractions of prosecutors from court for training on the use of computer 'tablets' for digital case presentation. However, the need to ensure there are sufficient resources available for case preparation will continue to impact on the availability of prosecutors to undertake court presentation.

It is therefore essential that areas continue to work with their partners in Her Majesty's Courts and Tribunals Service to ensure that court sitting patterns maximise the overall efficiency of all agencies' resources.

This year also saw a slight fall in the number of court sessions covered by Associate Prosecutors (APs). Changes introduced this year to the prosecution of minor motoring offences, coupled with the continuing reduction in Magistrates' Court caseload may impact on the overall number of court sessions which can be covered by APs and the CPS will need to consider this as part of its staffing strategy.

Conclusions

The CPS continues to face major challenges to the efficient and effective delivery of its service. The continued reduction in budgetary resource has required it to look critically at its structure. It is planning significant changes, not least of which is the size of its estate. It is probable that the CPS will look very different by the end of the next business year. The scale of this change should not be underestimated and will need to be carefully managed to retain the support of staff, criminal justice partners and local communities.

It will also have a substantial impact on how the Inspectorate assesses aspects of the quality of casework, which will be part of a fundamental review of our methodology. The role of a defined local geographical unit as being responsible and accountable for all aspects of its casework is rapidly diminishing.

Against this background there is a creditable level of performance against a range of aspects and outcomes. The overall level of successful outcomes has held up well compared with the previous year, showing only marginal decreases in both the Magistrates' Court and the Crown Court. The discontinuance rate in the Crown Court has dropped marginally, and there continues to be overall improvement in the proportion of successful outcomes in cases of violence against women including rape.

The application of the Code at the charging and further review stage is improving but remains fair overall, and could be improved if evidential requirements in certain categories of case were considered more carefully. Aspects of disclosure handling also show good improvement.

Our assessment of other aspects shows clearly that there is a need for substantial improvement both in the timeliness and quality of case preparation. Much of this undoubtedly stems from the resource demands on the case progression units, even those we considered had good processes and task management were struggling to prepare cases sufficiently in advance of trial dates.

Moves to create fewer but larger case progression units should assist if they are resourced appropriately and do not suffer from abstractions to other duties, are managed well, adhere to standard operating practices, and use the case management system for task management and to record fully all actions.

Digitisation of casework processes is now embedded in Magistrates' Courts units, although different police operating systems make it difficult to have complete uniformity of approach. However consistent use by the CPS of its own system will be essential if the work is to be moved electronically to staff. The use of tablet computers for case presentation is becoming more accepted by staff as they familiarise themselves with its functionality. There clearly remain issues to address to assist staff at court, but many of those should be lessened by the introduction of business broadband at court centres.

The benefit of a robust follow-up process to inspection reports continues to demonstrate value for money. Those areas (or former areas) subject to follow-up inspection this year (Mersey-Cheshire and Nottinghamshire) both showed considerable improvement after achieving or making substantial progress in respect of most of our priority recommendations.

Supporting performance improvement

The process of inspection provides an objective and independent scrutiny and assurance by those who are familiar with the business of the organisation. HMCPSI's position enables us to offer clear advice to senior managers within the Service. We also seek to drive performance improvement by a robust follow-up process which assesses progress made in implementing original recommendations and enables us to identify whether further action is necessary to support areas in making improvements.

Despite the resource demands of the ACEP initiative, we have maintained our programme of follow-up inspections, returning to CPS Mersey-Cheshire and the former CPS Nottinghamshire Area, and reviewing progress in the effective handling of complaints. Inspectors found that 69.0 per cent of the priority recommendations made had either been achieved or showed substantial progress. As a consequence performance improvements were found across a range of measures.

The findings from the follow-up review of complaints handling were less satisfactory, but since that report the CPS has made further improvements based on our earlier recommendations.

This year we have also undertaken a thematic review of CPS assurance and performance management, which will be published in 2013-14. This review has scrutinised a number of strategic aspects, including the timely and accurate provision of performance information to inform decision-making, and whether there are effective systems for joint performance management with partner agencies.

The analysis of the findings of the core quality standards ACEP file sample sub-set enables us to continue to provide the CPS with reliable information on how robust its legal managers are in assuring casework quality. In a number of aspects there remains a significant differential between what inspectors and CPS assessors consider to be acceptable levels of casework handling.

Value for money

There has been substantial emphasis this year on working jointly with criminal justice inspectorate partners to identify where the criminal justice processes and systems can be improved to increase the value for money of committed resources. Joint inspection work on reducing unnecessary bureaucracy in police case preparation and the quality of police files will contribute to more overall cost effective casework processes.

Following an earlier inspection report³² on the graduated fee scheme for the payment of prosecution counsel costs, the CPS has introduced a revised scheme. In line with our recommendations this simplifies a number of aspects and also addresses some of the financial anomalies. Limited inspection work this year shows a higher degree of accuracy in the operation of the scheme.

³² Value for money inspection of the application of the CPS graduated fees scheme, May 2011.

Performance management

We continue to work closely with the Service to deliver performance improvement outside the inspection process. We have continued to work collaboratively with the CPS to develop a range of common performance measures and have used our risk model extensively to inform future inspection activity.

As part of area effectiveness inspections there is detailed discussion with the area on those cases where inspectors consider that performance should be improved. This helps to develop a mutual understanding of casework expectations.

The findings from the sub-set of ACEP cases that was subject to CPS core quality standards monitoring indicate improvement in the performance management of cases. CPS reviewers' answers led to an overall weighted score for the 502 cases of 89.9,³³ which indicates a higher standard of casework than was demonstrated in the CQSM thematic review³⁴, when the CPS's weighted score was 87.1. Inspectors gave a weighted score of 82.6, compared with 76.6 in the thematic review, which indicates that we also consider casework quality is improving. The reduced difference between the weighted scores (7.3, compared to 10.5 in the thematic review) demonstrates a marked increase in the robustness of the application of CQSM by the CPS.

However, the accuracy of the application of CQSM questions has deteriorated. Inspectors found that 15.7 per cent of CPS reviewers' answers were unreasonable, compared to 10.4 per cent previously. Over half (51.0 per cent) of the inaccurate answers occurred where the CPS reviewer had marked a question 'not applicable' when a substantive answer was required or vice versa. In a further 40.0 per cent the inaccurate answers were over lenient. These findings indicate that there is still a good deal of misunderstanding of the CQSM questions and guidance. Some of the inaccuracies represented missed opportunities to recognise good work, for example by marking as not applicable questions that inspectors marked as fully met. In others, chances to identify lessons to learn and to improve weaker aspects of casework were not taken.

Inspectors will continue to assess CQSM compliance as part of our file examination methodology.

The move by the CPS to develop standard operating practices will bring compliance aspects into sharper focus. We shall consider, in conjunction with the CPS, the impact this will have on how we assess the overall quality of performance management.

³³ The quality of casework as assessed under the CQSM scoring mechanism is reflected by the overall score. A higher score reflects better casework quality.

³⁴ Thematic review of the CPS core quality standards monitoring scheme, March 2012.

Joint inspection work

Joint inspection work provides an effective means of improving performance across the agencies and we continue to work closely with other criminal justice inspectorates in this respect. During this year I have ensured, despite the demands of the ACEP initiative that sufficient inspector resource has been available to enable us to contribute fully to all required joint activity.

The inspection, with Her Majesty's Inspectorates of Constabulary and Probation, of disability hate crime³⁵ was a major piece of work and ensured that a focus rightly remains on protecting the more vulnerable in society. The findings indicate clearly that more needs to be done across a range of aspects, including a better understanding of what constitutes a disability hate crime aligned to a need by both the police and the CPS to improve their recording mechanisms. Progress has been made in addressing a number of issues but there is a need for a new impetus to ensure these crimes are recognised and dealt with properly. I was pleased to hold a stakeholder event at the launch of this report for a number of organisations who work for the most vulnerable.

The findings from the ACEP file sample of disability hate crime cases also indicate clearly that casework decision-making needs to improve, particularly at the charging stage where both Code compliance and the quality of MG3s was below that found overall.

³⁵ Living in a different world: joint review of disability hate crime, March 2013.

We have also commenced, in conjunction with HMIC and HMI Probation a review of how the prosecution process deals with offenders with learning difficulties.

At the request of Ministers, we are undertaking at short notice a joint review with HMIC on the quality of police files. This is an important piece of work which should address many of the issues which we identify when examining CPS files.

Information technology

In last year's annual report I indicated that inspectors would consider how effectively the CPS was taking forward the use of computer tablet devices in the digital presentation of cases, particularly in the Magistrates' Court. Overall the findings are encouraging and we found that after initial concerns prosecutors were beginning to use them effectively. The absence of adequate IT links at court centres was found to cause unnecessary delays, which can be overcome by the introduction of CPS business broadband in court based offices. This should enable easy access to the CPS case management system, which is essential on a number of fronts, including allowing prosecutors at court to obtain up to date information on defendants.

In our East of England inspection we noted how digitalising casework processes can assist effective case progression by enabling work to be centralised, which maximises the use of available resources. I support the CPS aim of moving to a state where work can be moved digitally to where the resource is available, but there remain a number of barriers including the number of different IT systems used by police forces to input files directly onto CMS.

There is still some way to go before I can be assured that CMS is being used effectively by prosecutors and administrators. I have already referred to the need to improve its use to record reviews and decision-making. More work also needs to be done to ensure prosecutors at court fill out timely and accurate electronic records of hearings and that cases are finalised correctly. The findings from the ACEP file sample indicated that in 23.6 per cent of cases the use of CMS for the accurate recording of information was not fully effective.

As I indicated in last year's report we intend to develop our use of the CPS knowledge information management system to reduce the inspection burden on areas. This was undertaken successfully in both area effectiveness inspections, enabling inspectors to access easily substantial amounts of information.

How we intend to take work forward in 2013-14

Against a background of reducing resources, I shall continue to target CPS inspection activity where it can achieve the most value for money. I shall also consider how best to maintain the benefits of the ACEP initiative in assuring the Attorney General and the Justice Select Committee of the performance and direction of travel of the CPS. A detailed evaluation of that initiative will determine whether, and to what extent, the programme should be repeated. However it is unlikely, when set against other inspection commitments that it will be as extensive in the coming year.

Full details of our inspection programme are set out in our business plan for 2013-14 which includes inspection activity in respect of CPS London and the CPS Welfare Rural and Health Prosecution Division; the quality of CPS project planning and implementation; and a follow-up to the thematic review of youth offender casework. We shall continue to use our risk based approach to identify CPS areas, or units within areas where inspection activity maximises value for money.

I again plan to undertake further inspection work in respect of the Serious Fraud Office including considering the progress made against the recommendations made in this year's report on its casework handling. Legislation is going forward to put inspection activity on a statutory basis, but in any event the Director of the SFO is in agreement with the planned work.

The resources required for the SFO and CPS London inspections will have a significant influence on the scope of other inspection activity. However, I am committed to ensuring that sufficient resource is made available to maintain our full involvement in the joint inspection programme. Work already agreed includes scrutinising how cases of child rape are handled and road traffic incidents involving fatalities.

HM Crown Prosecution Service Inspectorate – corporate issues

Performance against the business plan

We set out five priorities in our business plan for 2012-13. Those priorities and our progress in achieving them are set out in annex 4.

Finance

The Inspectorate's budget comprises part of the overall Treasury Solicitor's Department budget vote. The final outturn for 2012-13, details of which are shown in annex 5, was just over £2.8 million. Staffing costs have reduced slightly, although as a proportion of overall budget they have risen from 67.5 per cent to 80.5 per cent. During the course of this year we have actively managed a number of vacancies which have arisen through a number of factors including staff leaving on promotion or retirement, and lawyers on secondment from the CPS being selected after open competition for posts within the CPS. I am actively recruiting against these posts to ensure the Inspectorate retains its capacity to deliver a wide range of inspection activity.

We continue to plan to meet the challenge of maintaining our existing level of service with a reduced budget. During this year we have fully utilised shared services with the Treasury Solicitor's Department and the Attorney General's Office, including Press Office functions, and this has contributed to a substantial reduction in the proportion of costs spent on suppliers and other services. I have also secured a commitment from the CPS that we shall continue to share accommodation with them in York, when they move to new premises in 2013-14. This represents a cost benefit to the Inspectorate.

Human resources

Following open competition within the Civil Service I was pleased to appoint Asker Husain as my Deputy Chief Inspector in October 2012. Prior to his appointment he was a lawyer of many years standing in the CPS, and dealt with some of its most serious and challenging casework. I am grateful to those members of the Inspectorate who took on additional responsibilities during the interim period following the departure of my previous deputy.

Employee engagement

As in previous years, we took part in the 2012 Civil Service staff survey to assess the personal attachment and commitment of staff to their work and organisation in order to help it succeed. This year I have strengthened a number of aspects to enhance the corporacy of the organisation. These include continuing regular meetings of inspectors to discuss how to improve the delivery of our priorities and similar meetings for lawyers to ensure they remain abreast of the latest legal developments. A flexi-time scheme for inspectors has also been introduced which enhances their work/life balance without detriment to business need.

In my last annual report I set out a number of measures I had taken to improve communication within the Inspectorate. It is therefore encouraging to find that there has been a substantial improvement in the proportion of staff who consider they are kept informed about matters which affect them. The overall positive response rate is now better than found generally in the Civil Service. Similar improvements were seen in the fairness of individual performance evaluation and feedback by line managers. I am taking

further steps to enhance the opportunity of relevant staff to undertake line management responsibilities to enable them to develop their careers further.

Following a detailed analysis of all the findings from the survey, a staff survey working group has been set up to produce an action plan to take forward suggestions for further improvement. In particular there remains a need to improve our overall staff engagement which remains below the Civil Service average.

Learning and development

Activities are driven by corporate and individual development needs identified through the appraisal process. There has been considerable focus this year on meeting the training needs of staff, under the direction of the cross-grade Learning and Development Committee. A detailed training needs analysis has been undertaken, and as a result of that analysis a number of bespoke training initiatives have been instigated. The continuing professional developmental needs of the lawyers we employ are met by arranging regular legal updates on criminal law and facilitating attendance on Government Legal Service courses, for example on the handling of disclosure. There is also a mandatory requirement for lawyers to update and self-assess themselves on developments in criminal law and practice through enhanced use of the CPS Prosecution College. All these activities ensure that lawyers have the opportunity to meet the continuing professional development requirements of their governing bodies.

Equality and diversity

This year has seen the first full year of action to deliver on the Equality Objectives published by the Inspectorate in April 2012. The Equality and Diversity Co-ordinating Group, which is chaired by the Deputy Chief Inspector has adopted the objectives as its action plan in order to drive policy developments and improve working practices throughout HMCPST.

The Inspectorate’s standard methodology has now been developed to include guidance on completion of equality impact assessments (EIAs) or screening where a full EIA is deemed unnecessary.

The ACEP exercise has provided a wealth of detail in respect of the gender and ethnicity of defendants, and information on vulnerable victims and witnesses. The data in respect of ‘protected groups’ will be analysed to inform future inspection activity and whether there needs to be any specific focus on any of these aspects.

During 2012-13 I have introduced a flexible working scheme for inspectors.³⁶ A review of the scheme showed both business benefits and an improvement to the work/life balance of staff. Improved processes for the allocation of work for inspectors have been initiated which increase the fairness and transparency of the programme.

³⁶ A flexible working scheme was already in place for other staff.

Liaison with other jurisdictions

Inspectors have continued to work closely with Criminal Justice Inspection Northern Ireland in the drafting of their report on the Public Prosecution Service for Northern Ireland, in respect of which HMCPSI provided resource to their inspection team in 2011-12.³⁷ Additionally, I have assisted in the selection and appointment process for the Chief Executive of the Office of the Police Ombudsman for Northern Ireland.

This year I have welcomed delegations from China and India. These visits have enabled us to demonstrate the benefits of robust independent scrutiny of the prosecutorial role. Further visits from other jurisdictions have been arranged in the next business year.

³⁷ A corporate governance inspection of the Public Prosecution Service for Northern Ireland, April 2013.

Annex 1: Inspection review and audit reports published between April 2012 and March 2013

Inspection reports, reviews and audits	Date
Review of the performance of the former Area of CPS Nottinghamshire follow-up inspection	September 2012
CPS East of England inspection report	November 2012
Review of the performance of the former Areas of CPS Merseyside and CPS Cheshire follow-up inspection	February 2013
Thematic reviews	Date
Thematic review of the CPS optimum business model for case progression	July 2012
Report to the Attorney General on the inspection of the Serious Fraud Office	November 2012
Review of complaints handling by the Crown Prosecution Service follow-up inspection	January 2013
Joint inspections	Date
Improving the criminal justice system – lessons from local change projects	May 2012
Facing up to offending: use of restorative justice in the criminal justice system	September 2012
Living in a different world: joint review of disability hate crime	March 2013
Inspections (including those being carried out jointly) and audit activity underway as at April 2013, but yet to be published	Anticipated publication date
CPS North East inspection report	April 2013
Stop the drift 2 a continuing focus on 21st century criminal justice (joint)	June 2013
Joint inspection of police file quality	July 2013
CPS custody time limits audit	July 2013
Review of CPS compliance with rules and guidance in relation to disclosure of complainants' medical records and counselling notes in rape and sexual offence cases	August 2013
Joint inspection of adult defendants with learning difficulties	Summer 2013
CPS assurance and performance thematic review	Summer 2013

Annex 2: The methodology of the Annual Casework Examination Programme including that for cases subject to core quality standards monitoring

The size of the file sample

The size of the file sample was determined by the volume of casework dealt with by each of the 42 geographical units including CPS London (based on the previous CPS structure). In the majority of instances a file sample of 50 finalised cases was taken. For eight units with larger casework volumes a sample of 100 finalised cases was taken and 150 for Greater Manchester and London. Each contained a sub-set of 12 cases which had previously been assessed by CPS legal managers as part of the core quality standards monitoring regime.

Additionally a sample of 112 cases was examined where CPS Direct prosecutors had directed an out of court disposal or no further action at the charging stage.

The composition of the file sample

The file sample contained a mix of Magistrates' Courts and Crown Court cases involving adult and youth offenders. It comprised a range of outcomes including guilty pleas, convictions and acquittals after trial and discontinuances. The sample also contained a variety of case types including those involving offences that met the definition of domestic violence; rape; other serious sexual assaults; child abuse and hate crimes.

Subject to the above, the unit file samples were randomly selected, but all included a mix of charging decisions, namely cases charged by the police, CPS Direct and Daytime Direct prosecutors and those dealt with by way of CPS written advice.

The approach to file examination

Cases which had been assessed previously under the CQSM regime were examined against the same question set used by the CPS. Inspectors when examining these cases noted, where necessary, when and the reason why they disagreed with the CPS legal managers' assessment. For example they recorded whether the CPS assessment was too robust, too lenient or had marked a question 'not applicable' when a substantive answer was required.

The level of convergence between inspectors and CPS legal managers in answering questions was assessed. The findings from that assessment were used to inform the progress the CPS is making in its effective use of the CQSM regime to identify where it considers performance improvement is needed.

Those cases that had not been subject to a CQSM assessment were considered against a standard Inspectorate set of 71 questions, which included all those questions used for the CQSM assessments.

There was a rigorous internal quality assurance process. In every case where an inspector considered there was a Code test failure, that assessment was re-considered by a senior inspector. Checks on the accuracy of data entries were also carried out and consistency exercises were undertaken by the file examiners at regular intervals. Additionally, areas that were also subject to other inspection activity were given the opportunity to peer review a sample of their cases where inspectors had determined there was a Code test failure or other serious concern about an aspect of casework preparation.

Data analysis and evaluation

The findings in respect of each file sample were analysed and evaluated. The Chief Crown Prosecutor for each of the 13 CPS areas was provided with a unit report which set out the key findings in respect of each unit in their area. This report also gave a commentary on where aspects for improvement had been identified, together with strengths in their casework handling.

The overall findings from the composite file sample were also analysed and evaluated. These have been shared with CPS senior managers and those which are crucial to CPS performance are set out in this report.

Core quality standards monitoring

Inspectors examined 502 files which had been reviewed previously by a CPS lawyer (usually a Unit Head) as part of CQSM. For these cases, inspectors recorded their answers to the 34 CQSM questions alongside those of the CPS reviewers.

The answers were used to produce scores for inspectors and Unit Heads' ratings using the CPS weighting method,³⁸ and compared the two scores to give a measure of robustness. Where the CPS and our answers differed, the CPS answers were categorised as reasonable or unreasonable, and this gave an indicator of accuracy.

Unreasonable answers were recorded as over lenient, too robust, or should or shouldn't have been 'not applicable'. This is the same methodology as that used in the thematic review of CQSM published in 2012.

³⁸ A 'fully met' answer scores one point, partially met scores half a point and 'not met' no points. The points are added, and turned into a ratio of the total number of answers, excluding those which were not applicable.

Annex 3: Detailed findings from the Annual Casework Examination Programme

Unless indicated to the contrary, the answers reflect the relevant files in which the appropriate criteria were fully met. The proportion of answers which could not be determined from the file are excluded, and therefore in some instances the cumulative total will be less than 100%.

Question	Finding			
Charging				
Early investigative advice was of good quality	70.1%			
The CPS decision to charge was compliant with the Code test	93.5%			
The police decision to charge was compliant with the Code test	87.4%			
All relevant CPS policies were applied at the pre-charge stage	80.1%			
The MG3 (record of charging decision) included proper case analysis and case strategy	52.4%			
The MG3 made reference to all relevant applications and ancillary matters	64.1%			
The MG3 included appropriate instructions and guidance to the court prosecutor	65.2%			
All factors relevant to mode of trial were considered at the pre-charge decision stage (PCD)	75.7%			
In youth cases, the relevant grave crimes factors were identified and weighed correctly and an appropriate comment recorded in the MG3	54.8%			
The most appropriate charges were advised at the PCD stage	87.6%			
The action plan met a satisfactory standard	73.5%			
The police provided sufficient material for a properly informed decision to be made	94.3%			
Question	Excellent	Good	Fair	Poor
The overall quality of the MG3/3A	3.3%	40.7%	37.7%	18.3%
Question	Finding			
Case presentation and progression				
File endorsements clearly set out what happened at court in relation to bail	75.9%			
All reasonable efforts were made to prevent the release on bail of a defendant who posed a risk to the victim or the public generally	96.0%			
The statutory provisions relevant to bail for a youth were correctly identified and recorded on the file	53.5%			
All factors relevant to mode of trial were put before the court by the prosecution	78.8%			
In youth cases, the factors relevant to the grave crime decision were put before the court by the prosecution	66.4%			
The case was correctly recorded on the case management system	76.5%			
File endorsements (other than bail) and file housekeeping were accurately and appropriately maintained	63.3%			
The case was reviewed properly while it was in the Magistrates' Court (including committal)	61.9%			
The case was reviewed properly once it had moved into the Crown Court (including sending)	49.6%			

Question	Finding				
Case presentation and progression					
The decision to end any charge was compliant with the Code test	97.3%				
Where an unsuccessful outcome was foreseeable, everything practicable was done to prevent it	48.0%				
Case progression was carried out in accordance with the Criminal Procedure Rules	66.2%				
The lawyer or team exercised sound judgement, had a grip on the case, and progressed it efficiently and effectively	53.7%				
The lawyer or team complied with the duty of continuous review in accordance with the Code	93.6%				
Where an ineffective trial was foreseeable, everything practicable was done to prevent it	35.8%				
By the first case management hearing/pre-trial review/plea and case management hearing, the prosecution had identified the relevant trial issues	92.1%				
There was timely compliance with court directions	67.1%				
Late or inadequate responses to communications from the court, police, witness care unit or defence caused unnecessary work or had an adverse impact on case progression	57.2%				
Question	Excellent	Good	Fair	Poor	
The quality of written applications (hearsay, bad character, special measures), skeleton arguments and any formal responses to defence applications	1.4%	39.9%	46.8%	9.9%	
Question	Finding				
The case proceeded to trial on the most appropriate charges	93.7%				
Question	0	1	2	3	4 or more
How many ineffective hearings (other than ineffective trials) could have been avoided by prosecution actions	67.7%	21.7%	5.2%	2.5%	0.9%
How many ineffective trials could have been avoided by prosecution actions	75.1%	20.3%	1.4%	0.0%	0.0%
Question	Finding				
There was compliance post-charge with the relevant policy for the type of sensitive or specialist case concerned	86.7%				
Lack of continuity of case ownership had an adverse impact on decision-making or case progression	12.9%				
The indictment was correctly drafted in all respects	81.7%				
Sufficient written instructions were prepared for the advocate	49.7%				
The input from counsel/Crown Advocate was properly recorded on the file and/or CMS as appropriate	52.2%				

Question	Finding			
Disclosure				
The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedule (excluding timeliness)	77.1%			
The prosecutor complied with the duty of continuing disclosure, including the correct endorsement of the schedule (excluding timeliness)	77.1%			
The sensitive material schedule and any sensitive material was handled appropriately	75.7%			
There was an appropriate audit trail of disclosure decisions on the disclosure record sheet	62.9%			
The prosecution complied with its duties of disclosure in a timely fashion (every stage)	73.2%			
Compliance with the initial disclosure duty was timely	82.1%			
Compliance with continuing disclosure duty was timely throughout the case	72.7%			
Non-compliance was a failure to disclose undermining or assisting material	8.0%			
Non-compliance (timeliness or substance) was caused or aggravated by the failure of the police or any other agency to provide the right material at the right time	40.3%			
The issue in the handling of sensitive material was solely a failure to properly endorse the blank schedule	55.5%			
Question	Excellent	Good	Fair	Poor
The overall quality of handling of unused material	3.0%	43.7%	40.7%	12.2%
Question	Finding			
In unsuccessful outcomes, there was a material change in evidential strength or public interest since PCD or initial review in non-PCD cases	41.7%			
In adverse outcomes, there was an adverse outcome report or any other evidence on the file or CMS that lessons learnt had been noted	27.7%			
The prosecution was right to accept the pleas offered and/or to accept the basis of plea	89.8%			
Any basis of plea was in writing and signed by the prosecution and defence	46.6%			
Where a trial cracked with a guilty plea to one or more charges, more could have been done to avoid the trial listing	23.6%			
Decision-making, case progression and presentation took proper account of safeguarding issues in relation to child defendants	84.6%			
Question	Finding			
Custody time limits				
Where custody time limits (CTLs) applied, the preparation was prioritised to make sure that the trial/committal could take place within the custody time limit, or the CPS could demonstrate all due diligence and expedition if an extension was required	84.6%			
Where CTLs applied, the case was monitored and handled in accordance with national standards	84.1%			
The CTL expiry date was calculated correctly for each defendant and/or charge	93.7%			
The quality of any application to extend the CTLs was satisfactory	86.8%			

Question	Finding
Victims and witnesses	
The Victims' Code, Prosecutors' Pledge and any other policy guidance on the treatment of witnesses was complied with	91.1%
The right special measures were sought	93.3%
Decision-making, case progression and presentation took proper account of safeguarding issues in relation to child victims and witnesses	90.5%
When proposing to stop the case or to alter the charges substantially, where it was practicable to do so, the police or other investigators were consulted before reaching a final decision	76.3%
There was timely direct communication with the victim (DCV) when required	62.3%
The DCV communication was of a high standard	58.5%
The views of the victim were taken into account when deciding to discontinue one or more charges, accept lesser pleas or take a basis of plea	42.6%
The appropriate orders were sought at sentencing to address the needs of the victim	91.9%
Did the prosecution put before the court evidence of hate crime motivation and information on relevant sentencing provisions	70.5%
There was proper consideration of asset recovery	56.9%

Annex 4: HM Crown Prosecution Service Inspectorate – key priorities 2012-13

Five clear priorities were set for delivery in 2012-13:

Priority	Progress
To assist the CPS to improve the quality of service it offers the public	The delivery of our Annual Casework Examination Programme has enabled us to provide the CPS with a comprehensive review of its casework quality. The findings from this work, coupled with the area effectiveness inspections and follow-up activity has given an accurate and robust picture of where improvement is needed and what casework aspects are handled well.
To highlight CPS work where poor performance represents a risk to the public or to the reputation of the CPS	I commissioned a thematic review of CPS performance management and assurance to identify how effective CPS processes are in managing performance. The findings from the Annual Casework Examination Programme have also allowed me to target inspection activity in the forthcoming year on those aspects of performance where most improvement is required. It has also provided an accurate assessment of the direction of travel in respect of the CPS core quality standards monitoring regime. Our follow-up report on complaint handling has also assessed the progress the CPS has made in dealing with reputational issues.
To actively participate in joint inspections in order to identify opportunities for increased efficiency and improved outcomes	The Inspectorate contributed substantially to a joint inspection which focussed on identifying good practice in the criminal justice system. Similarly, the joint inspections which looked at the handling of disability hate crime and restorative justice have both made recommendations designed to increase the efficiency of processes and ensure just and improved outcomes.
To be flexible so that work can be undertaken at short notice if necessary	I have ensured that the deployment of resources has enabled the Inspectorate to undertake work at short notice. This is exemplified by the continuing availability of resources to carry out the South Wales Case Review, the non-statutory inspection of the Serious Fraud Office and the short notice request to contribute to the HMIC follow-up on unnecessary bureaucracy – ‘Stop the Drift’.

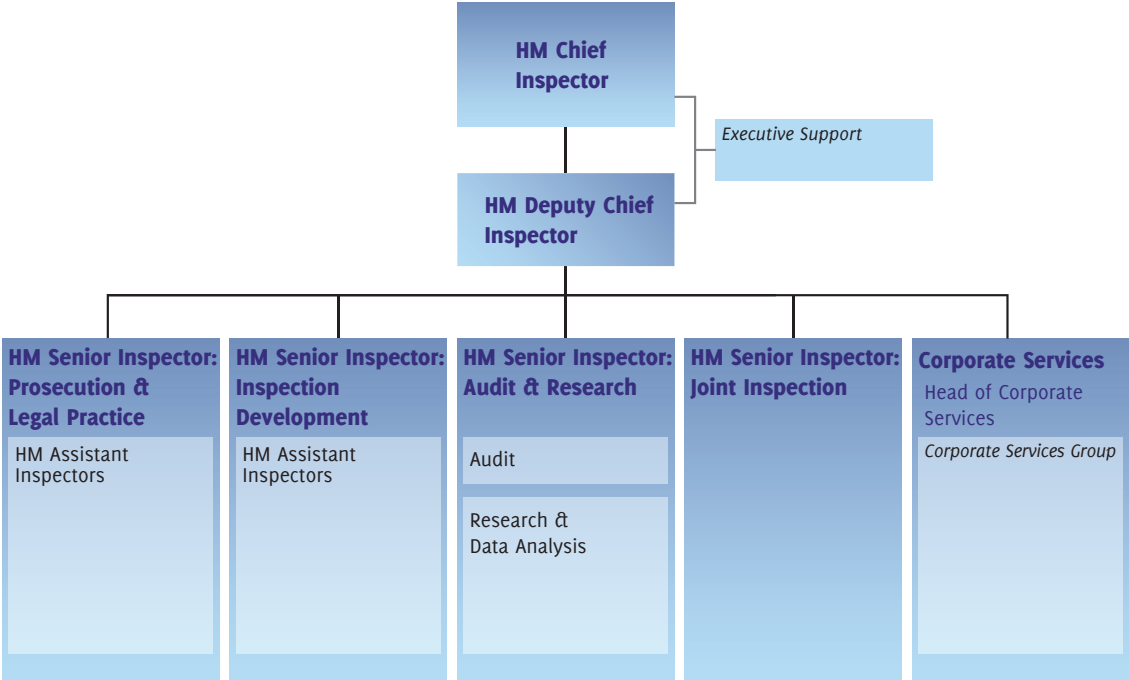
Priority	Progress
To carry out effective scrutiny of the work of the CPS in order to give assurance to the Attorney General and the public	For the first time since the overall performance assessments of CPS areas in 2007-08 I have been able to ensure an effective and contemporaneous scrutiny of casework handling across all CPS areas. Through the Annual Casework Examination Programme, the Inspectorate has reported on how well each area deals with its casework. The findings, as set out in this annual report, will provide a benchmark for the assessment of future performance.

Annex 5: Budget expenditure for 2012-13

	2010-11		2011-12		2012-13	
	Cost £'000	% of total costs	Cost £'000	% of total costs	Cost £'000	% of total costs
Staff	2,374	70.7%	2,381	67.5%	2,310	81.6%
Recruitment and training	17	0.5%	6	0.2%	15	0.5%
Accommodation	715	21.3%	188	5.3%	239	8.4%
Travel and subsistence	158	4.7%	156	4.4%	114	4.0%
Consultancy	—	—	10	0.3%	5	0.2%
Suppliers and other services	96	2.8%	365	10.4%	162	5.7%
Dilapidation provision	—	—	404	11.5%	0	0
Rental income	—	—	—	—	0	0
Income - recovery of direct costs	—	—	-5	-0.1%	-36	-1.3%
Non-cash costs (depreciation and NAO audit fee)	—	—	20	0.6%	23	0.8%
Total	3,360	100%	3,525	100%	2,832	100%

Annex 6: HM Crown Prosecution Service Inspectorate staffing structure as at 31 March 2013

HMCPSP Organisation Structure



If you ask us, we can provide a synopsis or complete version of this booklet in Braille, large print or in languages other than English.

For information or for more copies of this booklet, please contact our publications team on 020 7210 1197, or go to our website: www.hmcpsi.gov.uk

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