

THE INSPECTORATE'S REPORT
on
CPS CENTRAL CASEWORK

REPORT ON THE INSPECTION OF CPS CENTRAL CASEWORK

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INTRODUCTION

- 1.1 This is the Crown Prosecution Service Inspectorate's report about the quality of casework in CPS Central Casework.
- 1.2 CPS Central Casework is the unit within the CPS which deals with that range of casework which by virtue of its importance, sensitivity, complexity or specialist nature, is unsuitable for handling within the CPS Areas. It includes cases of terrorism, breaches of official secrets legislation, some particular types of homicide, certain categories of criminal allegation relating to police officers, commercial fraud, extradition and confiscation of the proceeds of crime.
- 1.3 At the time of our inspection, Central Casework was constituted as a 14th (non-geographical) Area of the CPS and headed by a Chief Crown Prosecutor (CCP), assisted by two Assistant Chief Crown Prosecutors (ACCPs). As at 26 February 1999, Central Casework employed the equivalent of 168.8 full time staff and was organised into four Branches, each headed by a Branch Crown Prosecutor (BCP). One Branch is based in United House, York and known simply as the York Branch. The other three Branches (London Branch 1, London Branch 2 and Central Confiscation Branch) are co-located in the CPS headquarters building at Ludgate Hill, London EC4.
- 1.4 We examine in more detail later in this report the work assigned to each Branch and the manner in which they are staffed. It is, however, necessary first to put this inspection into the context of the troubled history of the unit and the numerous reviews which that has involved - most recently the inquiry by His Honour Gerald Butler QC (the Butler Inquiry) into decision-making in relation to deaths in custody and related matters and the Review of the Crown Prosecution Service under the chairmanship of the Rt Hon Sir Iain Glidewell (the Glidewell Review).
- 1.5 We are pleased to report that the overall quality of decision-making in Central Casework is good. We were impressed by the high level of commitment displayed by many staff, who often work long hours to ensure that cases are ready for court and prepared to a high standard. However, some decision-making was less assured and the level of expertise of prosecutors is not universally high. In particular, several aspects of case preparation concerned us.
- 1.6 These weaknesses are substantially the same as those flagged up in the Butler Inquiry and the Glidewell Review. We were pleased to note that they are being actively addressed although much of this work is still at a very early stage. The management of Central Casework - which has in any event changed for wholly unconnected reasons since we started our inspection - began the process. It will be subsumed in the restructuring of the CPS which will see Central Casework become once again part of CPS Headquarters within the Casework Directorate.
- 1.7 The problems were, however, in significant respects attributable to the past culture and some wider policies of the CPS which have also changed. We believe that the "fresh start" which is being implemented throughout the CPS has created both the conditions and the ethos for Central Casework to move forward as an integral part of CPS HQ and to assume its rightful position as the flagship of the CPS with a reputation for excellence. Realising this ambition will place a heavy onus on staff and management alike and is likely to take some time.
- 1.8 The scale of the changes within the CPS is enormous and the extent of achievement in Central Casework cannot be assessed in isolation.

It is heavily dependent on and must fit in with everything else which is happening within the CPS. This is a time of change and uncertainty for staff within Central Casework. Despite this, all staff gave us their full co-operation and support throughout the inspection process. The Chief Inspector and the inspection team would like to record their thanks and appreciation.

HISTORICAL CONTEXT

The early history of Central Casework

2.1 Central Casework and its workload both have their roots in the old Director of Public Prosecutions Department which, until 1986, was responsible for advice in relation to, and conduct of, the minority of cases which were not handled under the local prosecution arrangements which then existed in most parts of the country. Although some of the casework of the former DPP's office was assigned to CPS Areas, the majority of it continued to be dealt with by this unit. It was then known as HQ Casework.

Emerging concerns

2.2 By the early 1990s concern was being expressed about managerial and other problems within Central Casework - staff shortages, poor internal communications, haphazard record keeping, and failure to change practices inherited from the pre-CPS era. From 1992 until 1998 Central Casework was the subject of an almost unprecedented series of reviews and scrutinies, focusing initially on the handling of fraud work but extending to examine the distribution of work between headquarters and Areas (1993) and proposals for team working. In 1995, following a Senior Management Review, HQ Casework became known as Central Casework. It initially comprised three Divisions within which there were 11

Branches. There was a CPS internal audit report in October 1995 which examined further issues.

2.3 The culmination of all this activity seems to have been a process begun in early 1996 to review further Central Casework in its new guise as a 14th Area. Work continued during 1996 on, among other issues, the implementation of team working and the devolution of work to geographical Areas. The number of divisions was reduced from three to two and a policy was adopted of redeploying as many as possible of the Level E (formerly Grade 6) lawyers out of Central Casework.

2.4 One of the purposes of the change was to replicate so far as possible within Central Casework the organisational and staffing level structures and working practices to be found elsewhere within the CPS.

2.5 Despite this, concerns persisted and became acute in July 1997 when there were successful challenges by way of judicial review to three decisions (in each case not to prosecute) taken within Central Casework relating to alleged assault or deaths which had occurred in police custody. In two cases concessions were made on behalf of the CPS that the decisions were procedurally flawed and should be quashed; the third application for judicial review proceeded to a substantive hearing at which the decision not to prosecute was quashed and the case was remitted by the Divisional Court for reconsideration by the CPS.

The Butler Inquiry and the Glidewell Review

2.6 Consequent upon these events, His Honour Gerald Butler QC was invited to inquire into the handling of the three cases by the CPS and also to consider the process and the quality of casework decision-making in death in custody cases handled by Central Casework. His report was delivered to the DPP in February 1998 at

which time there remained in progress the Glidewell Review. Following presentation of the Butler report, the Law Officers in March 1998 requested that Central Casework be considered as a specific topic by the Glidewell Review whose terms of reference were substantially wider than those of His Honour Gerald Butler QC.

- 2.7 There is reproduced at Annex A to this report a synopsis of the reviews and scrutinies relating to Central Casework which originally appeared as Appendix E to the Glidewell Report.

The Glidewell Review findings

- 2.8 The Glidewell Report (published on 1 June 1998) confirmed that significant problems continued to beset Central Casework and concluded (Chapter 9, paragraph 8) that they had two origins. First, they stemmed from a lack of systems for the control of casework, a failing inherited by the CPS at its inception from the old DPP's Department. Attempts to deal with these problems by the frequent reviews referred to above appeared not to have achieved a great deal. Secondly, an additional set of problems had a more recent origin in the attempts to fit Central Casework into a standard structure broadly similar to that of geographical areas. The Review team summarised their findings as to the historical problems within Central Casework in the following terms:

(i) The quality of case review and decision-making

There is evidence of a number of cases where the review process was inadequate. The system for decision-making was cumbersome. Clearly it was necessary for important decisions to be referred upwards for a decision at a high level, but we have the impression that some people did not always take decisions even where they were competent to make them. Moreover, on occasions reference upwards resulted in the

decision-making chain becoming too long to be effective.

(ii) Lack of information about the quality and timeliness of case preparation

Despite the work of recent years, the management information of case handling systems are not working effectively. Case papers have come to light on which little or no action has been taken for a considerable period of time.

(iii) Excessive specialisation by lawyers and caseworkers in narrow legal areas

Narrow specialisation has made Central Casework vulnerable to loss of skills when staff leave and a loss of flexibility in controlling the workloads of individuals and teams.

(iv) Staff perceptions about management initiatives to improve performance are not always accurate"

- 2.9 The conclusions about the quality of case review and decision-making processes echoed those of the Butler report which, in the context of deaths in custody, concluded that the system of decision-making was "inefficient and fundamentally unsound" and that there was a need for clarity in relation to decision-making.

THE INSPECTION

The reason for this inspection

- 3.1 Given the history outlined in the previous Chapter, subjecting Central Casework to yet another scrutiny within a relatively short time after the Butler Inquiry and Glidewell Review

might, at first, seem oppressive. But the importance attaching to its work makes thorough monitoring of the quality of its casework essential. His Honour Gerald Butler QC noted that, although Central Casework had not been the subject of an inspection, one was imminent and he commented:

“Had this not been the case, my recommendation would have included a requirement as to this.”

How the inspection was conducted

3.2 The nature of the work conducted by Central Casework meant that this inspection could not follow exactly the same pattern as our previous Branch inspections. Nevertheless, in order to provide some method of comparison between Central Casework and other CPS Branches and Areas, we have mirrored the methodology of a Branch inspection so far as it seemed sensible to do so. In presenting our findings, we endeavour to relate them to the earlier concerns about Central Casework and assess the progress made in addressing earlier problems. We have found it helpful to do this by reference to certain aspects of the Central Casework Management Plan 1998/99 which was developed with these matters specifically in mind (see paragraph 5.20 below).

3.3 The team of four inspectors visited Central Casework between 26 February and 29 March 1999. During this period, we spent up to a week in each of the three Branches we inspected, and in Central Casework headquarters. We refer elsewhere in this report to the fact that Central Casework prosecutors spend little time in court. Nevertheless, we were able to observe one prosecutor from each Branch prosecuting in the magistrates' courts at Horseferry Road, Bow Street and Leamington Spa.

3.4 The inspection team examined a total of 331 cases, ranging from those where Central

Casework gave advice to the police and to local Areas, through those where Central Casework acted as a gateway to the Law Officers or other agencies, to those where criminal or extradition proceedings were conducted. The team interviewed members of staff in the three Branches which we inspected and Central Casework headquarters. We also interviewed members of the legal profession and representatives of the criminal justice agencies that directly affect, or are directly affected by, the quality of casework decisions taken in Central Casework.

The limitations to this inspection

3.5 Our inspection was, however, limited in three respects. First, a consequence of the three judicial review cases in July 1997 was that “safeguard arrangements” were put in place for the handling of cases which would ordinarily have been dealt with in Central Casework involving deaths in police or prison custody or allegations of serious assault by police officers. Under those arrangements, such cases are at present handled by a panel of senior lawyers from outside Central Casework who seek advice from Treasury Counsel in every case. Central Casework is not therefore at present concerned with these cases.

3.6 Secondly, the work of Central Confiscation Branch is highly specialised, and mainly concerns forfeiture and confiscation applications in relation to the proceeds of crime under the provisions of the Criminal Justice Act 1988 and the Drug Trafficking Offences Act 1994. This work is ancillary to the prosecution functions of the CPS and so was outside the remit of our inspection. Consequently, we did not inspect Central Confiscation Branch.

3.7 Thirdly, we also excluded from our inspection a detailed consideration of the handling of fraud

cases by Central Casework. We recognise that these cases take up a significant proportion of the time of some prosecutors and caseworkers. However, we were aware at the time of our inspection that the CPS was considering changes to the way fraud cases were dealt with in local Areas and centrally which had been suggested in the Glidewell Review. It seemed to us, therefore, that the CPS' handling of fraud in general would benefit more from a thematic review in due course, rather than a piecemeal examination over a series of inspections.

CASES HANDLED BY CENTRAL CASEWORK

- 4.1 The CPS has identified the categories of case which are not considered suitable for handling in the Areas and which should therefore be referred to Central Casework. They are generally characterised by the requirement for particular expertise or specialist knowledge, or by a need for central handling to avoid any suggestion of local influence (such as the prosecution of Members of Parliament or members of the judiciary). A summary of the types of case handled within Central Casework is at Annex B. They include all cases involving terrorism, together with those involving any breach of the Official Secrets Acts. The former in particular carry with them security implications beyond those within the experience of Area or Branch staff. The cases may require high levels of security clearance for staff. Furthermore, by their very nature most cases handled by Central Casework carry with them the need for particular vigilance and security consciousness.
- 4.2 The position as regards allegations of criminal conduct by police officers is now a complicated one. There is a statutory requirement under section 90, Police and Criminal Evidence Act 1984 that such allegations be referred to the Director of Public Prosecutions save in very limited circumstances. Such work was retained at CPS headquarters following its establishment in 1986 until the 1993 review of the distribution of work between CPS Areas and HQ Casework which resulted in a range of less serious allegations involving police officers being devolved to CPS Areas. The remainder (the more serious) allegations were retained in HQ Casework which became Central Casework. However, the safeguard arrangements (referred to at paragraph 3.5 above) have had the effect, for the time being at least, of removing responsibility from Central Casework of the most serious allegations of assault and homicide. Consequently, Central Casework was, at the time of our review, responsible only for the middle range of offences alleged to have been committed by police officers.
- 4.3 We found that the guidance as to what should be referred to Central Casework was not always clearly understood by staff in CPS Areas. Although the guidance lists appropriate categories of case, there is no one composite check-list of all cases to be referred. Some definitions lack clarity: for instance, the type of participating informant cases which need to be referred. Others are referred to elsewhere in the guidance, in the sections dealing with specific topics, such as fraud cases.
- 4.4 We were told of several instances where local Areas had retained the file for several months before referring the case to Central Casework. We saw examples of this in our file examination. This places additional pressure upon Central Casework staff. On the other hand, we also saw one case where the papers had been accepted at Central Casework, a considerable amount of work had been undertaken, and the decision was then taken to refer the case back to the local Area to continue with the prosecution. This

decision was taken at much too late a stage of the proceedings.

4.5 We are aware that the consideration being given to the Glidewell recommendations means that the role and structure of Central Casework will undoubtedly change further and that it will, in all probability, develop into a unit handling “national casework” from the centre, possibly with more locations than at present. This will involve defining the scope of the work which is to be done centrally in the future. But that remains some way off and there is an existing need for clarification.

4.6 We recommend that the CPS should ensure that guidance on cases which should be referred to Central Casework by local Areas is clear, complete and easily accessible.

Casework information

4.7 It is essential for several reasons that managers have adequate and reliable information about the casework for which they are responsible. First, it is important so that management can ensure that the necessary resources - staff and funds - can be made available when and where they are needed; secondly, they are the basis of figures presented to Parliament and elsewhere about the use of public resources; thirdly, it enables management to identify where priorities lie and where performance may require managerial intervention and improvement.

4.8 Central Casework does not use the standard CPS performance indicators (PIs). A separate system has been developed to capture more completely the type of work carried out. Central Casework PIs are divided into two main categories: decision phase and proceedings phase. Decision phase cases form the majority of Central Casework’s caseload: in the year ending 31 December 1998, 4,921 decision phase cases were dealt with, compared with 2,239 proceedings phase cases.

4.9 The decision phase relates to work carried out which does not of itself involve court proceedings. For example, providing pre-charge advice; considering papers for applications for the consent of the Law Officers; drafting or processing letters of request to overseas authorities where a criminal investigation necessitates enquiries being made abroad; and considering material with a view to a prosecution under section 2, Obscene Publications Act 1959.

4.10 The proceedings phase generally relates to cases where there are court proceedings. These may be criminal proceedings, in the magistrates’ courts or the Crown Court, or extradition proceedings.

4.11 We noted that each action on a case is separately recorded in the PIs. If, for example, a case involves pre-charge advice, letters of request, the extradition of the defendant from a foreign state, and then criminal proceedings in this country, then each of these actions will be added to the relevant PI category. Furthermore, individual letters of request (which are also counted under the decision phase) are counted in the proceedings phase. They comprise around two-thirds of finalised proceedings phase cases. The effect is to obscure the true numbers of cases or defendants the subject of prosecution.

4.12 These factors make it very difficult to obtain a clear picture of the cases or of the work undertaken by Central Casework, although we believe that the system was devised and developed to provide this. We gained little assurance that the effort expended in gathering the information was justified, or that great use was made of that information.

4.13 The Director of Casework will wish to consider whether the nature and quality of the management information that he and his senior managers obtain from the PIs does, in fact, meet the first two requirements identified at paragraph 4.7 above.

Case management

- 4.14 As to the third purpose we note the view expressed in the Glidewell Report (Chapter 9, paragraph 21) that the top priority in addressing weaknesses in the management of casework was the provision of an effective management information system providing regular exception reports to identify case management problems at an early stage. This has not yet been adequately progressed. Central Casework has a computerised case management system (CAMS) which combines individual case tracking facilities with the gathering of information to indicate the performance of teams, Branches and Central Casework as a whole. On our inspection, we found that the system was undergoing extensive reprogramming to rectify some of the problems. This was in part to address security issues, and was in part continued development of the system. It has been pointed out to us that Central Casework is not in complete control of this work, but dependent on others within the Service.
- 4.15 CAMS captures information on the progress of cases, but it does not appear to be used to assist in managing their progress. The action-dating system on CAMS is not utilised, and staff use a separate diary system which is not linked with CAMS. This is, therefore, a burdensome extra task.
- 4.16 A separate system of case management is based upon written monthly case reports. Prosecutors prepare a monthly report of their current decision phase and proceedings phase cases for their Prosecution Team Leader (PTL). This report identifies any further action required and refers to target dates for matters such as the receipt of additional information. The system helps the general supervision of prosecutors and cases by the PTLs and BCPs. It also offers some assistance to the prosecutor and PTL in monitoring approaching target dates, but it does

not provide an effective method of ensuring that appropriate action is taken in good time (for example, failure to meet a target date at the beginning of the month may only be recognised when the next month's report is produced). We commend this practice as a means of overall case supervision, but as a monthly system its use is limited. In addition, some reports were unnecessarily long and the combined case reports of a number of large cases could be voluminous. These factors substantially reduce the ability of managers to oversee the progress of cases.

- 4.17 We were not surprised, therefore, to see some cases where substantial periods of time elapsed following the prosecutor's initial advice, without adequate checks being made on the progress of the police enquiries. Allegations against police officers on occasions took a long time to reach a decision, and the Police Complaints Authority had substantial concerns about a number of cases (some of which were not handled by Central Casework - see paragraph 3.5). The Director of Casework will want to address these concerns by monitoring these cases in particular.
- 4.18 We found that Central Casework had difficulty in cross-referencing the information on CAMS with performance indicator codes. This makes it difficult to use the system to identify trends in the outcomes of particular types of case falling either within Central Casework's own listed specialisms, or within offence based categories. We appreciate that this cannot be done elsewhere in the CPS, but consider this to be an essential requirement of management in Central Casework in seeking to analyse results of cases within particular categories which may be spread over a number of quarters or indeed years. Consequently we hope that the reprogramming will address this.

4.19 We recommend that the Director of Casework and his senior managers ensure

that the casework management system provides effective information to support case management and essential performance information.

Case weight

4.20 The profile of cases which are referred to Central Casework is characterised not only by its wide range but also by the significant proportion of cases which are specialist, complex or voluminous, or a combination of all three. This brings its own pressures, both intellectual and in terms of time and case management. It has implications for the decision-making processes and staffing overall. The extent of the difference between the work of Central Casework and that of a typical CPS Branch is starkly demonstrated by the proportion of cases committed to the Crown Court (75.2% compared with the national figure of 6.9%) and the proportion of contested cases both at magistrates' court level (27.5% compared with the national figure of 7.6%) and Crown Court (66.3% compared with 24.9% nationally). Contested cases take longer to finalise and require more resources to ensure they are ready for trial. These factors add further to the pressure we refer to elsewhere.

Decision-making processes

4.21 We endeavour in this section of our report to draw together a number of separate but linked issues relating to the decision-making process. First, we consider the response of Central Casework to the description of the system for decision-making in the Glidewell Report as "cumbersome" (see paragraph 2.8(i) above); secondly, we comment on the steps taken to establish clarity as to the identity of the decision-maker in any particular case and the compatibility of this approach with standing instructions relating to the level of decision-making; thirdly, we look briefly at the interaction

between these two issues and the wider question of staffing of Central Casework.

4.22 It is the policy of the Crown Prosecution Service that each casework decision should normally be made by a member of staff in the lowest grade at which he or she can reasonably be expected to have the necessary experience and skill to take the particular decision. Decisions are therefore usually taken at C1 (Crown Prosecutor) and C2 (Senior Crown Prosecutor or Principal Crown Prosecutor) Level, with PTL's (Level D) having a small caseload. (These designations were all within the old combined prosecutor grade). Following the restructuring of Central Casework to mirror the arrangements to be found generally in CPS Areas/Branches, the same arrangements apply in Central Casework (although the only Level C1 prosecutors in Central Casework are located in the Central Confiscation Branch which is not covered in this report). BCPs (Level E or old Grade 6) have the conduct of one or two cases. This does not preclude the referral of cases to senior lawyers within Central Casework. Indeed, guidance has been issued to Central Casework staff about the types of case which must be referred to senior lawyers, at BCP level or above. Referral is generally required in very serious or sensitive cases, and controversial or high profile cases which may attract media attention. Unsurprisingly, a substantial proportion of the work within Central Casework falls within these categories. If referral upwards is to be equated to decision-making, it cannot be said in relation to any case which merits consideration at Senior Civil Service level that the decision-making process has been simplified since the Glidewell Report.

4.23 It appears, however, now to be the practice for the senior lawyer to endorse the file or the review note that they agree with the reviewing prosecutor's decision (if this be the case). The effect is to distance senior staff from the decision-

making process. A letter of advice/decision is then usually signed by the reviewing prosecutor. We queried whether the procedure was fully compatible with the CPS internal instructions on levels of responsibility and decision-making. It was developed in the light of difficulties which emerged in the course of one of the three applications for judicial review which ultimately led to the setting up of the Butler Inquiry and may in our view reflect undue caution. The particular case passed through such a tortuous chain of decision-making that even those within the CPS could not ultimately agree as to who had taken the decision. The view has subsequently been taken that it is not possible for an individual to take a casework decision without having read and personally considered the totality of the relevant documentation. The only person who will ordinarily have done that is the reviewing lawyer who is therefore regarded by Central Casework as the decision-maker. This approach does not seem consistent with the internal instructions on levels of responsibility and decision-making within Central Casework. For example, the CPS Prosecution Manual prescribes that in certain cases either a member of staff of a specific grade must be notified of particular matters or that a decision must be taken by a member of staff of a specific grade. By contrast, Chapter 25 of the Central Casework manual is headed "Central Casework levels of decision-making" but is notable for not attributing responsibility for any particular decisions to any senior lawyer. Instead, there are categories of case which are to be variously "referred" or "reported" to either the BCP, ACCP or CCP. Others are to be "brought to the Director's attention". Given the rationale set out at the beginning of this report for assigning certain categories of case to Central Casework, it is surprising to find so much emphasis on decisions being taken at Level C2 (SCP and PCP) with line managers merely being informed or consulted.

4.24 The artificiality of this approach is perhaps most evident in a document described as "a final draft report on casework decision-making." This is referred to in the Central Casework Manual yet still appears to be a draft some 14 months later. It provides:

"If the reviewer consults or reports his decision to another lawyer, the latter does not become the reviewer or make the decision to prosecute. If a person who is being consulted disagrees with the reviewer's conclusions they have a choice of actions, namely:-

- Seek to discuss the matter in detail with reviewer and raise points of concern. The reviewer could be asked to look at specific aspects in more detail and cover these in the review note. The result of this process may be that the reviewer alters the decision or some of the conclusions. However, the decision is still vested in the reviewing lawyer as the person who read the evidence.
- If disagreement remains after discussion with the reviewer, the person consulted will need to review the case, and read the evidence, and write a review note."

4.25 We endorse the need for a decision-making process which ensures clarity and in particular that all casework decisions are founded on a thorough and accurate analysis of the relevant evidential, legal and public interest considerations, but we doubt whether the approach described above achieves this. At worst, it is susceptible to being viewed as a manifestation of the "blame culture" which forms no part of the philosophy of the present CPS management and which they are anxious to consign rapidly to history.

4.26 We consider that the approach described above may be founded on an unwarranted view that

consideration of the totality of relevant documentation equates with reading every witness statement and document in a prosecution file. The effect of this in practice would be to preclude the DPP (in whom statutes vest all the powers exercised by the CPS) or his senior legal staff from taking a decision other than in a handful of cases. Indeed, there would be many cases where they would be debarred from taking a decision simply because the volume of material involved precluded them from reading it without neglecting their other important responsibilities. At the extreme, there is a handful of cases, notably in the field of fraud, where the volume of evidence is so great that the case can only be handled by assembling a team (usually including counsel) to analyse the evidence with each member of the team focusing on a particular aspect of the case. Yet somebody must take a decision on behalf of the CPS. The practice we found at the York Branch (see 6.44) is in conflict with the CPS contention that the decision-maker must read all relevant documentation.

4.27 We do not see any reason why a decision cannot properly be taken on the basis of a briefing note which reviews the evidence and analyses it in the context of the relevant evidential, legal and public interest issues and provides balanced comment and argument on the key issues which the decision-maker must determine. The note would be cross-referenced to the documents which the decision-maker would need to read in order to satisfy himself on the key matters and that person would have access to any other papers which he or she might wish to consider personally. Such an approach would accord with the basis on which other comparable decisions are made in other organisations. Indeed, the Court of Appeal itself places heavy emphasis on the use of summaries prepared by officials.

4.28 We recommend that the Director of Casework institute a thorough review of the

decision-making process within Central Casework and promulgate clear guidance as to the levels at which decisions are to be taken in particular categories of case.

4.29 For the purposes of the inspection, we considered the files we examined against the criteria set out at Chapter 25 of the Central Casework Manual and the final draft report on Central Casework decision-making. We found that staff were fully aware of the Central Casework guidelines on the referral of cases. We saw a number of cases in the file sample which had been appropriately referred to senior lawyers: indeed, several cases had been referred to the Director of Public Prosecutions and in two, the Attorney General had been consulted.

4.30 However, we were concerned that in four cases where this should have occurred, we did not find any evidence of referral or consideration by a senior lawyer. In three cases, decisions on whether to bring, or continue with, charges were taken at PTL or C2 level: in one case, this related to an allegation of medical negligence; in the second case, offences under the Official Secrets Acts; and in the third, offences under the Prevention of Terrorism Act. Although we agreed with the decision in each case, there should have been clear evidence of referral in accordance with the guidelines.

4.31 The fourth case involved a possible reference to the Court of Appeal on a point of law under section 36, Criminal Justice Act 1972. The BCP endorsed on the file that a Grade 6 lawyer (now level E) should consider the papers. In fact, the file was considered by a lawyer of a lower grade whose decision, whilst not incorrect, was superficial and failed to address fully all the relevant considerations.

4.32 The Director of Casework will want to ensure that there is clear evidence of both the referral to

a senior lawyer, and the senior lawyer's consideration of the file, in all appropriate cases.

4.33 It is no part of the remit of the Inspectorate to make recommendations either about the numbers or gradings of staff. It has been pointed out to us that the current staffing structure, and the policy of displacing Level E lawyers which we refer to in paragraph 5.26, had their roots in the Pay and Grading Review referred to in Annex A at paragraph 20. In any event, the needs of Central Casework will have to be considered afresh in the context of the decisions ultimately taken about the overall structure of the Directorate of Casework and the scope of the work to be handled by it. The views expressed by His Honour Gerald Butler QC and in the Glidewell Report about the need for cases within Central Casework to be handled by lawyers of suitable experience and seniority must clearly be given suitable weight. The concern of the Inspectorate, leading to the recommendation for a review of decision-making processes, is founded on a firm view that the line needs to be shorter and simpler. The two issues may well be connected: if cases are handled from the outset within Central Casework by individuals of suitable experience and stature, the need for a cumbersome decision-making process seems likely to be correspondingly diminished.

THE STRUCTURE OF CENTRAL CASEWORK

5.1 In this section, we describe the staffing of each of the three Branches we inspected, and the areas of work each Branch covers.

London Branch 1

5.2 On 26 February 1999, London Branch 1 employed 48.4 staff (the BCP and 16 other

prosecutors, an accountant and 30.4 caseworkers). The Branch comprises two teams.

5.3 The Branch deals with prosecution work, including letters of request, from the Metropolitan and City of London police forces. The Branch handles almost all cases involving terrorist offences (the exceptions being the very small number of terrorist cases investigated entirely by police forces outside London). It also deals with official secrets cases and cases involving the security services.

5.4 In the year ending 31 December 1998, the Branch dealt with 1,879 decision phase cases and 930 proceedings phase cases.

London Branch 2

5.5 On 26 February 1999, London Branch 2 employed 41 staff (the BCP and 15.8 other prosecutors, an accountant and 23.2 caseworkers). The Branch comprises two teams.

5.6 The Branch deals with prosecution work, including letters of request, from police forces in the southern part of the country, below a line drawn from the mouth of the river Severn to the Wash, excluding London. In addition, the Branch handles: all extradition cases; unduly lenient sentences; referrals to the Court of Appeal under section 36, Criminal Justice Act 1972; appeals to the House of Lords; and war crimes.

5.7 In the year ending 31 December 1998, the Branch dealt with 1,664 decision phase cases and 996 proceedings phase cases.

York Branch

5.8 On 26 February 1999, York Branch employed 34 staff (the BCP and 10.8 other prosecutors, an accountant and 21.2 caseworkers). The Branch comprises two teams.

5.9 The Branch deals with prosecution work, including letters of request, from police forces in the northern part of the country.

5.10 In the year ending 31 December 1998, the Branch dealt with 993 decision phase cases and 313 proceedings phase cases.

Staffing

5.11 In terms of staffing, we found a strange mix of over-specialisation, a concerted move to multi-skilling (again, it has been pointed out to us, this was a feature of the Pay and Grading Review referred to in paragraph 4.33) and a lack of positive induction and training of new prosecutors and caseworkers. Thus we came across several examples of an individual being regarded as an expert on one particular subject, with little or no structured effort to train others. We came across highly sensitive non-fraud cases being allocated to a fraud specialist lawyer. In London Branch 2 and in York, the teams are not aligned to any particular Areas, and fraud and non-fraud lawyers and cases have been intermixed. These practices appear to require higher levels of management input, which could better be spent on casework.

5.12 The dynamics which have led to the present staffing mix within Central Casework are complex. The starting point is that no personnel strategy for staffing Central Casework appears to have been developed and implemented. There is, however, wide acceptance that the rich mix of the work within Central Casework creates special demands in terms of skill and experience on the part of both prosecutors and caseworkers. Many are fiercely contested with the defence having the benefit of whole teams of experienced solicitors and counsel who, by constant pressure, may turn the process into one of attrition. Equally, the prosecutors and caseworkers are likely to be dealing with police officers, counsel and others

on a prosecution team who also have high levels of expectation. Quite apart from the propensity of such cases to generate ancillary legal challenges such as judicial review, they tend to attract a disproportionate amount of public and media attention. The failure of any such case may have ramifications for the CPS and for confidence in the administration of justice way beyond the individual case.

5.13 It is a combination of the above features that has pointed to particular specialisms developing within Central Casework because of the relatively small number of cases requiring the particular expertise, knowledge and skill, and because of the need to handle the intrinsic difficulties within the cases to a high standard. Although one might have expected these requirements to have led to Central Casework being positively developed as a centre of excellence, that has not been the case. On the contrary, there appears to have been some lack of clarity both within Central Casework and the senior management of the CPS as to what role Central Casework should play and how it might best discharge its important responsibilities.

5.14 This has been manifested in a desire to avoid perceived elitism or the growth of specialism, and there has been pressure to remove higher graded (Level E) lawyers dealing purely with casework from Central Casework. Further steps have been taken to break down specialisms, and fraud lawyers have been allocated other types of cases and non-fraud prosecutors have been required to handle fraud cases. These moves to “generalism” seem to have exceeded what might have been regarded as prudent steps to ensure that casework was not at risk by having important expertise confined in the hands of too few individuals. Some posts were not filled and short term secondments were made from Areas. Also, experienced caseworkers covering courts have been moved back into the office and replaced by inexperienced staff, and counsel have been left to

deal with part of these cases without any instructions or support from a CPS member of staff. We did not come across many who were able to tell us of the benefits of this de-specialisation and multi-skilling and in fact we received much criticism from informed representatives of the criminal justice system, as well as from members of staff. We are concerned that these developments have substantially diminished the respect for Central Casework previously held by Treasury Counsel who, whilst acknowledging the commitment of individuals, do not believe that Central Casework as an organisation can consistently provide the backup and support for counsel which the important caseload merits.

5.15 Much of the situation we have described above reflects policies which were not necessarily within the control of managers in Central Casework. Some of the policies no longer operate, and others are likely to be reconsidered in the near future. Furthermore, we understand that the Director of Casework is in discussion with CPS Personnel Branch to develop a strategy for the medium and longer term which is set within the framework of a wider CPS human resources strategy. There remains, however, a need to establish a short term strategy which will provide Central Casework with a clearer sense of direction pending its integration into wider arrangements for handling casework on a national basis.

5.16 We recommend that the Director of Casework should develop urgently a short term strategy to provide Central Casework with a clearer sense of direction pending its integration into wider arrangements for handling casework on a national basis.

5.17 We fully understand the wish of CPS management to avoid any part of the Service developing into an elite cadre which would be

both divisive and prejudicial to the effectiveness of the CPS as a whole. We think, however, that the risk of that occurring is sometimes overstated even though we saw evidence that, at least in some parts of the CPS, Central Casework is regarded as an elitist group.

5.18 It is no part of our function to determine whether that perception is justified or not. In any event, elitism is more a matter of attitude and relationships than it is about the calibre of staff within any given unit. The public interest requires that the most difficult and sensitive of the casework handled by the CPS should be in the hands of its most able lawyers. It is essential that the human resources strategy which CPS Personnel Branch intends to develop should achieve this and we so recommend. A successful strategy will be one which achieves a balance between the maintenance within Central Casework of a core of individuals possessing experience and expertise across the full range of its casework, whilst affording opportunities to less experienced lawyers who have real potential so as to build for the future.

5.19 We recommend that the Director of Personnel should, in developing the proposed human resources strategy for the CPS, give full effect to the principle that the most difficult and sensitive casework handled by the CPS should be in the hands of its most able lawyers.

Performance against action plan

5.20 We conclude this overview of Central Casework with a brief consideration of how the unit has performed against its Action Plan for 1998/99 with particular reference to those aspects of it which the Glidewell Report (Chapter 9, paragraph 22) commended as likely to lead to improved performance in Central Casework. They related to “better systems for case management,

improved casework audit procedures, realistic staff numbers, better training, a radical recruitment programme to bring in fresh people and personnel management which ensures that each member of staff is fully aware of what is expected of him". As we examine in the following paragraphs, progress against the action plan has been patchy. It is only fair to record that the degree of uncertainty which inevitably arose whilst Glidewell's recommendations were considered and the new senior management structure put in place has made it difficult to take forward many initiatives. This has been particularly so in the context of staffing.

5.21 The recommendation that Central Casework should become part of CPS headquarters (now accepted) and within arrangements for handling casework nationally, has limited the range of issues which could be pursued in isolation from the rest of the change process in the CPS. It is ironic that implementation of the main Glidewell recommendation (endorsement of the move to 42 CPS Areas) has had the effect of removing from Central Casework its three senior managers (the CCP and one ACCP through early retirement and one ACCP on appointment to become a CCP) without any corresponding movement into Central Casework itself. We appreciate, of course, that Central Casework has become part of the Directorate of Casework, under the command of the recently appointed Director of Casework.

5.22 There has been significant progress in case management. We set out later the structured arrangements for review notes which we commend at paragraph 6.54. There has been a significant increase in the number of cases where case management plans have been used; we saw several examples in our case sample. These require counsel to liaise with the CPS to plan preparation time for a case, and ensure that an accurate record is kept of the work undertaken. This assists appropriate fee negotiation and

provides better control over costs. We commend this use of case management plans. We were told that the use of similar, but internally focussed, plans is being considered by senior managers. We hope that these "prosecution plans" will be developed to assist in the effective management of cases utilising project management techniques.

5.23 There has been some improvement in relation to casework audit procedures but there remains a significant weakness through the absence of any system which automatically produces exception reports and thereby identifies cases where targets or deadlines have not been met or where undue time has elapsed without progress (see paragraphs 4.14 to 4.19).

5.24 We have already made recommendations about the need for both short term and medium/long term strategies to address personnel management issues. There has been some attempt to bring in fresh people through some short term secondments of prosecutors from local Branches. Whilst providing a stop gap measure to overcome staff shortages, we are not persuaded that this met the needs of the casework being handled.

5.25 As to training, the most valuable assets available to Central Casework are undoubtedly the expertise of its more senior staff and the wealth of experience which is to be derived from the cases which it handles. We found, however, a lack of clarity as to how best to maintain and develop expertise within the unit.

5.26 Level E lawyers were told that there would no longer be positions for them within Central Casework, outside the management posts of BCP. This move was deferred, largely we assume, as a result of concern expressed in the Glidewell report. Some steps had been taken to capture the knowledge and experience of those lawyers who had been in Central Casework for many years in

retrievable form, such as within the written manual we refer to below. However, we are concerned that there was a lack of collective knowledge and experience in a number of fields and that this had not been captured over a period of time in some form of casework guidance or informal collection of precedents and advice.

5.27 A Central Casework manual has been prepared, under the supervision of one of the BCPs. This manual provides a useful introduction to the areas of work covered by Central Casework, and we commend its compilation, but the guidance it contains is not detailed and the manual is neither complete nor up to date.

5.28 We recommend that the Central Casework manual should be completed, and updated where necessary.

5.29 There have been some attempts to ensure that experienced and inexperienced lawyers work together on large and complex cases, but this has not been formalised and we saw instances of this cutting across Branch (let alone team) divides. There remains a need for some comprehensive form of induction training. Additionally, continued close working between prosecutors is required if Central Casework is to avoid the risks inherent in a single person having all the expertise in a particular sphere, and at the same time is to develop and improve standards of casework and enable career development.

5.30 We saw little to indicate that the new pattern of working referred to in chapter 9, paragraph 17, of the Glidewell Report has been refined to a stage which is sufficient to retain or increase specialist expertise. We were told that an induction programme is being developed, and that training in specialised areas (such as corporate manslaughter, terrorist cases and cases involving Official Secrets Act offences) is being considered. We are pleased to hear of these

initiatives, but there is a need for this work to be progressed immediately.

5.31 We recommend that:

- **a structured induction programme should be developed to ensure that all prosecutors and caseworkers who join Central Casework receive appropriate initial training; and**
- **a training programme should be designed to utilise and develop expertise in specialist topics.**

5.32 Central Casework has handled a small number of war crimes cases. These were based on very close working between police, CPS and prosecuting counsel. They involved prosecutors working closely with foreign procurators. Caseworkers undertook very high levels of witness support in the trial that resulted in a conviction. The small unit demonstrated what can be achieved by close inter-agency co-operation and the development of expertise. At the same time, we noted that the conduct of the only case to come to trial was passed, at a late stage, to a completely fresh prosecutor. It was not surprising, in the circumstances, that this led to a lack of certainty in the management of the changeover.

ADVICE AND REVIEW

6.1 It is the usual practice of the Inspectorate to consider separately the performance of CPS Branches in relation to the provision of advice to the police pre-charge (usually a very small percentage of its work) and its handling of prosecutions initiated by the police which comprise the vast majority of its caseload. In Central Casework, however, the proportion of

cases submitted prior to charge makes any such separation wholly artificial. The advice initially given is the effective review of the case although, of course, that must always be an ongoing process.

6.2 We have described at paragraphs 4.9 and 4.10 the distinction drawn between the decision and the proceedings phase of cases. We examined 98 decision phase cases which had been finalised in the three-month period ending on 30 September 1998. All had been appropriately submitted, by local Areas or directly by the police, although some cases should have been submitted earlier. We also examined 36 cases prosecuted in the magistrates' courts and the Crown Court. All had been considered within Central Casework prior to charge as a decision phase case following a reference either by a CPS Area or the police direct.

6.3 Central Casework prosecutors also provide advice to the police and local Areas over the telephone. Where this is about a specific case we found that appropriate file endorsements are made. Where the advice is not case specific, existing instructions within Central Casework require that the prosecutor make a note of the advice given so that it can be stored and the number of such cases collated. We were told that prosecutors do not always follow this system. Our observation in the Branches tended to confirm this: we found very few examples of telephone advice being recorded.

6.4 We recognise that it is unrealistic to record details of every telephone conversation. Nevertheless, it is important that accurate records are maintained if further action is likely to be required, or if an advice file is to be submitted. Compliance with the recording system will also enable the amount of telephone advice to be accurately assessed. The primary purpose of noting advice should be to avoid misunderstanding and in case the matter subsequently assumes significance. The secondary, and lesser, purpose should be to

provide a more accurate assessment of the work actually done by Central Casework. We found that senior managers had not considered to what extent the good practice set out in our thematic review of advice cases (Thematic Report number 3/98) could be adopted to good effect in Central Casework.

6.5 We recommend that prosecutors and Branch managers should ensure that accurate records are made of telephone advices, and that the records are properly stored and collated.

6.6 There is no equivalent in Central Casework of the arrangements found in some Branches for prosecutors to attend police stations on a routine basis for the provision of advice to officers. However, in complex and sensitive cases, there is good, early liaison between officers and prosecutors. Case conferences are held, where appropriate, either at the Branch office or, occasionally, at the police station.

6.7 The majority of the 98 decision phase cases we examined did not require an assessment by the Central Casework prosecutor of the evidential and public interest tests in the Code for Crown Prosecutors (the Code). They included, for example, possible applications for unduly lenient sentences, letters of request and advice about the suitability of material for possible prosecution under section 2, Obscene Publications Act 1959. In the latter, the decision on whether proceedings should be instituted is left with the Area prosecutor.

6.8 We found that handling some decision phase cases could lead to a lack of case ownership by the Central Casework prosecutor. This was particularly evident in relation to cases submitted by CPS Areas with a view to obtaining the consent of a Law Officer to prosecute. Prosecutors in Central Casework have an uncertain view of its role. Either they do not

always apply their minds fully to these cases (perhaps on the basis that the decision was for the Area prosecutor and they are merely the conduit to the Attorney General) or the cases are being allocated to inexperienced prosecutors who do not manage to use the expertise of Central Casework to ensure that all relevant issues have been considered and resolved before cases go forward to the Attorney General.

6.9 Whilst present arrangements remain, it is important that Central Casework should operate as an effective filter on cases destined for consideration by the Law Officers to ensure that the twin tests of the Code for Crown Prosecutors have been properly applied. In the longer term, there is much force in the argument that the majority of cases where prosecution requires the consent of a Law Officer can be passed direct from the CPS Area to the Legal Secretariat to the Law Officers (LSLO). There was agreement in principle between the CPS and the Legal Secretariat some five years ago that this should happen subject to there being in place at Area Headquarters reliable arrangements for ensuring the quality of applications to the Law Officers. This agreement has never been implemented. Doing so would avoid duplication and reduce delay.

6.10 We recommend that the Director of Casework take steps to secure implementation of the agreement in principle whereby applications for the consent of a Law Officer may be made by CPS Areas direct to the Legal Secretariat to the Law Officers (subject to suitable safeguards as to quality of files).

6.11 We make the above recommendation with some hesitation because a serious question arises in relation to many categories of offences where the consent of a Law Officer is a pre-requisite to

prosecution as to whether that requirement represents any form of added value to the process. If not, the effect of our recommendation is merely to transfer unnecessary work from one part of the CPS to another.

6.12 We found a general consensus that rationalisation of the consent regime is long overdue. The Law Commission published a report in 1998 on “Consents to Prosecution” and made extensive proposals for change. Although we do not necessarily agree with all of the Law Commission’s proposals - and it is not for the Inspectorate to take a view upon their merits - we agree that the case for rationalisation is overwhelming. We hope that this avenue is pursued because such rationalisation would, by obviating duplication of effort and reducing delay, represent a better solution than that which we have recommended.

Quality of advice

6.13 Thirty-four of the 98 decision phase cases did require an application of the Code tests, in the remainder the advice was confined to ancillary issues such as letters of request. We agreed with the reviewing prosecutor’s application of the evidential test in all 34 cases, and with the application of the public interest test in 33 cases. In the one case where we disagreed, the prosecutor advised that it would not be in the public interest to prosecute a police officer for an alleged offence of criminal damage. In our view, the public interest factors in favour of prosecution outweighed those against prosecution. We also agreed with the advice given at the decision stage in the 36 cases which we examined in our scrutiny of proceedings phase cases.

6.14 The advice was typed in all cases, and was generally well reasoned and explained. The police told us that they valued the advice received from Central Casework.

6.15 Advice files are usually allocated by the PTLs. In the London Branches, the BCP often carries out a brief examination of new cases to assess the issues involved. PTLs take into account the workload and experience of their prosecutors, but also keep in mind the need to ensure that prosecutors develop experience of dealing with different types of case.

6.16 Monitoring practices vary between the Branches and teams. Generally, PTLs ask for, and are shown, review notes in advice cases handled by their prosecutors, where they consider that the case is complex or sensitive, or raises difficult legal or evidential issues. We were told that PTLs occasionally find inadequate review notes, although this is usually because of insufficient detail, as opposed to poor legal judgment. When this occurs, the case is discussed with the individual prosecutor and appropriate remedial action is taken.

6.17 We have some concern that the PTLs spend a great proportion of their time on management matters, and so do not find time to develop their casework skills and expertise to the standard necessary to, in turn, develop their prosecutors. It had previously been considered unnecessary for each team to have a senior caseworker to provide management support to the PTL. We were pleased to note that this situation has been addressed by the recent re-allocation of a senior caseworker at B2 level to each team.

6.18 In relation to letters of request, we were told by the Home Office that there is a pressing need for closer co-operation between the United Kingdom Central Authority (UKCA) - the Home Office unit responsible for dealing with letters of request - and Central Casework. The UKCA consider that they are sent letters of request unnecessarily and that in several recent cases, officers have already made their enquiries with the assistance of their counterparts abroad. They also expressed

concern about the quality of preparation of some letters of request. The CPS perspective is that they have, in fact, been trying to give effect to existing policy. The merits of this are not for us, but the mis-match of views does emphasise our point that closer liaison is essential.

6.19 We did not identify any obvious defects in the cases that we examined where letters of request had been prepared. We saw a number of cases where Central Casework had corrected mistakes made by prosecutors in local Areas, and other cases where helpful advice had been provided to the local Area.

6.20 Nevertheless, the Director of Casework will want to ensure that the CPS, the UKCA, and the police operate an agreed procedure for dealing with letters of request.

Timeliness of consideration

6.21 The CPS has set a target of providing advice within 14 days of the receipt of the file. This target is not realistic for the large and complex cases often handled by Central Casework. The targets have been amended, therefore, for Central Casework: an initial assessment should be made within 14 days and advice provided within 28 days thereafter. In our sample of decision phase cases, we found that advice had been given within this timescale in 29 of the 34 cases (85.3%). We also noted several cases in our sample of proceedings phase cases where there had been delay at the earlier stage.

6.22 It is often not possible for the prosecutor to take the final decision on a case until further police enquiries have been made and additional evidence or information obtained. In a small number of very serious and sensitive cases, such as corporate manslaughter, it can take many months before the final decision can be taken. This can result in a long period of uncertainty for

victims, witnesses, suspects and other interested parties. It is important, therefore, that systems are in place to enable information to be obtained and considered at the earliest opportunity. This requires effective action-dating, to check on the progress of enquiries.

6.23 Prosecutors prepare a monthly report of their current decision phase and proceedings phase cases for their PTL. We commend this initiative which is a substantial improvement on previous arrangements. It does, however, have the limitations we described at paragraph 4.16 above.

6.24 This was manifest in the fact that we saw some cases where substantial periods of delay did occur (see paragraph 4.17).

6.25 We were told that the timeliness of submission of cases to LSLO for the consideration of a Law Officer is not always good. This is often because of late referral by the local Area to Central Casework. However, on occasions, Central Casework delays sending any papers until all the evidence has been obtained. This can place unnecessary pressure on LSLO, because often they have no knowledge or prior warning of the case. Establishing contact with LSLO at an early stage could help to alleviate the pressure.

6.26 We recommend that the reviewing prosecutor should seek early liaison with the Legal Secretariat to the Law Officers if the assembly of the paperwork in cases to be referred to the Law Officers is likely to be delayed for any reason.

Selection of the appropriate charge and charging standards

6.27 We found that the original police charges required amendment or substitution in only three of the sample of 36 proceedings phase cases. Appropriate amendments were made in

each instance. Early involvement of the prosecutor, before proceedings are instituted, should ensure that the correct charges are preferred at the outset.

6.28 The CPS and the police nationally have agreed charging standards for assaults, public order offences and some driving offences. Five cases in the sample involved the application of a charging standard; the relevant charging standard was applied in all five.

6.29 Generally, careful consideration is given to selecting the appropriate charges in all cases. We were told, however, that some cases which are submitted for the consent of the Law Officers are not always considered as carefully as they should be. Central Casework prosecutors should assess whether the charges proposed by the local Area, and for which consent is required, are appropriate.

6.30 On occasions, other charges which do not require consent may be more suitable. In particular, we were told of a number of recent cases which were submitted for the Attorney General's consent to prosecute an offence of possessing an explosive substance under suspicious circumstances, contrary to section 4, Explosive Substances Act 1883. In each case, the facts suggested little more than experimentation with homemade fireworks, and other offences which did not require the Attorney General's consent might have been more appropriate. We have been informed that some of the difficulty relates to CPS guidance to refer cases to the Attorney General when the case has passed the evidential test, and the issue is whether the public interest requires a prosecution. However, we consider that the issue in the cases we were told about was in reality one of charge selection, and again reflects a lack of individual or collective experience to which we referred in paragraph 5.26 above. Nevertheless, we appreciate that there are particular complexities concerning

certain legislation and Central Casework has already sought the advice of Treasury Counsel about these.

6.31 We did not see any cases in the file sample where the submission had been inappropriate for this reason. In fact, we saw one case where the local Area proposed charges under the 1883 Act and the Central Casework prosecutor correctly identified that a charge of unlawfully manufacturing gunpowder, contrary to section 4, Explosives Act 1875, was more appropriate. The local Area accepted this advice, and the case was not referred to LSLO.

6.32 We saw two other cases, however, where the prosecutor had failed to give proper consideration to the charges before submitting the case to LSLO. In one, the need for two offences to cover the course of conduct was not recognised. In the second, defective papers prepared by the local Area were submitted to LSLO without being carefully analysed by Central Casework.

6.33 We recommend that, in all cases submitted for the Attorney General's consent, the prosecutor should give full consideration to the appropriateness of the proposed charges.

6.34 We found some inconsistency in the approach taken by prosecutors to the selection of charges in export extradition cases. In these cases, Central Casework acts on behalf of the foreign state which is requesting the defendant's extradition from England and Wales. Central Casework prepares the paperwork to enable the magistrates' court to commit the defendant to await the Home Secretary's decision. A schedule of charges, based on the offences under English law which are supported by the facts of the case, is also prepared.

6.35 Prosecutors told us that they put all appropriate charges on the schedule. However, we examined

three cases where this had not occurred. In one, committal was sought on a charge of aggravated burglary. There was evidence of assault occasioning actual bodily harm, and this charge should have been included on the schedule. In the other two cases, charges of murder were pursued, without adequate consideration being given to the appropriateness of the charge or the prudent addition of alternative charges. In one of these cases, the court committed the defendant on another charge, rather than the murder charge. Such incidents can reflect badly upon Central Casework and the CPS in general, even if the extradition proceeds.

6.36 We recommend that, in export extradition cases, prosecutors should ensure that a consistent approach is taken to the selection of committal charges.

6.37 We note that prosecutors do not complete review notes (see paragraph 6.52 below) in these cases. We were told that this is because the cases do not involve an application of the Code tests. However, the cases do require the application of legal judgment. Prosecutors will want to ensure that the reasons for their decisions are clearly endorsed in the file. The Director of Casework will want to consider whether the compilation of a review note would be beneficial in this type of case.

Advice from counsel

6.38 Central Casework instruct counsel to advise on cases before charge or committal more frequently than local Branches. The PIs show that counsel was used for advice on taking legal decisions in 13.1% of cases in the year ending 31 March 1999.

6.39 There is a significant variation between the Branches over the proportion of cases where counsel is asked to advise. In London Branch 1, counsel was involved in 4.5% of cases; in London

Branch 2, in 21.2%; and in York Branch, 18.4%. The difference in the casework profiles of the Branches explains the variation to some extent. For example, London Branch 2 deals with all unduly lenient sentence cases. The advice of Treasury Counsel is sought in any such case which is regarded as a serious candidate for reference by the Attorney General to the Court of Appeal.

6.40 We were told that requests to counsel for advice at this stage are considered by the BCPs. We saw evidence in the file sample that the BCP had been consulted. Prosecutors told us that the BCP does not usually question their decision to seek advice from counsel, but may make suggestions about suitable counsel for the particular case.

6.41 We found that prosecutors, and BCPs, were not generally aware of the guidance on the provision of early advice from counsel which had been circulated to all CPS Areas in March 1997. This guidance indicates the types of case which may benefit from early advice, and should form the basis of any decision to instruct counsel to advise before charge or before committal. It was developed at the request of the then Law Officers following a number of cases where counsel had not been instructed even though it would have been desirable to do so. We were therefore surprised that the draft guidance in Central Casework levels of decision-making (incorporated into the Central Casework Manual) also promulgated in March 1997 stipulated:

“In view of efforts to reduce the use of counsel in Central Casework, decisions on whether to instruct counsel in any case (are) to be made in consultation with the BCP” (our emphasis).

6.42 We also found that, in some cases, the prosecutor’s review note was not sent to counsel. Where this is not sent, the prosecutor’s assessment of the case should be incorporated

into the instructions to counsel. This provides a useful introduction to the case to counsel, and helps to build confidence between counsel and the prosecutor.

6.43 We recommend that, when pre-charge or pre-committal advice from counsel is sought, the Director of Casework and other senior managers should ensure that:

- **systems are in place in each Branch to ensure that staff are aware of, and follow, the guidance for prosecutors on the provision of early advice from counsel; and**
- **the reviewing prosecutor considers the case before it is sent to counsel, and incorporates that assessment into the instructions to counsel.**

6.44 In a significant number of cases in the York Branch, counsel was instructed to advise because there were insufficient lawyer resources to deal with the caseload. A procedure has developed of sending cases involving allegations of offences committed by police officers to counsel without the reviewing prosecutor examining the papers. The PTL makes a preliminary assessment of the case, and if the case is unlikely to result in prosecution, counsel is instructed to advise and to prepare a review note. The reviewing prosecutor then considers the case, guided by counsel’s advice, and prepares their own review note (often simply adopting counsel’s advice).

6.45 We were told that, very occasionally, this approach may be taken in the two London Branches. We did not see any cases from these Branches in the file sample where counsel had been instructed to advise in these circumstances.

6.46 We can understand the reason for this procedure. It is better to make progress in the

case by asking counsel to advise, than to allow delay while waiting for an in-house prosecutor to review the case. However, the saving of time is questionable if the reviewing prosecutor has to consider the case after counsel has advised, and reads enough of the evidence to properly be the reviewer in accordance with the principle we refer to at paragraphs 4.21 to 4.33. This procedure can be a temporary measure at best. We are pleased to learn that two new lawyers have now been recruited to the York Branch, and that the procedure will be discontinued. There remains the possibility that similar arrangements may have to be made in the future. If so, it is important that adequate safeguards exist to monitor the number of cases, and the quality of review.

6.47 We recommend that if, because of staff shortages, cases are exceptionally sent to counsel for advice, in order to avoid delay, without first being considered by a prosecutor, the Director of Casework and other senior managers should ensure that:

- **the number of such cases is monitored; and**
- **the evidence is considered by a prosecutor in the light of the advice tendered.**

6.48 In the sample of decision phase cases, advice was sought from counsel in six out of 34 cases (17.6%). Two had been appropriately referred. The other four cases were from York Branch, where the procedure outlined at paragraph 6.44 had been followed. We agreed with counsel's advice in all cases. Not surprisingly, we came across a number of instances of very high quality advices from counsel in cases of great sensitivity or complexity.

Review endorsements and review notes

6.49 We have already noted the generally high quality of the substantive decisions taken in Central Casework notwithstanding our concerns about some of the mechanisms of the process. Good quality work by prosecutors at this stage is, however, of limited value if the reasoning on which a decision is based is not recorded so as to guide those who may have to deal with aspects of the case. This is particularly important in the more complex, voluminous and sensitive cases, especially when, as with those dealt with by Central Casework, they are highly susceptible to legal challenge. It can be achieved either by careful endorsement of the file or through a structured system of review notes as described below.

6.50 The Inspectorate has frequently had occasion to criticise CPS Branches for their performance in this respect. We were, however, pleased to note the care which is usually taken on this point in Central Casework.

6.51 In the sample of 36 completed proceedings phase cases, we found that the evidential factors were fully evaluated and recorded in 33 (91.7%), and the public interest factors in 32 (88.9%). This reflected work done at the decision phase. In our experience, these figures are very good, but prosecutors will no doubt want to reach the highest standards in all cases. In fact, all but one of the cases where inadequate endorsements were made had been reviewed before the introduction of new procedures in Central Casework for preparing and recording the review decision, in a review note.

6.52 A standard format has been in use throughout the three Branches for about a year. We were impressed with this format. The reviewing prosecutor is required to analyse the evidence, the possible charges, and apply the evidential

sufficiency and public interest tests to the facts of the case. We saw several review notes which were more than ten pages in length; and we were told that, in some cases, the review note can be considerably longer. This structured approach to reviewing cases of complexity and sensitivity helps to ensure that all relevant factors are taken into account, and contributes to the good review decisions to which we make reference elsewhere in this report. It also ensures that, if the review decision is challenged, the CPS is able to show why and how the decision was reached.

6.53 We were pleased to find that BCPs and senior managers are committed to improving further the quality of case review and review endorsements. PTLs monitor closely prosecutors' review notes and address with individuals any examples of incomplete or superficial review. In addition, refresher training has been arranged for all staff involved in the review process on how to carry out the review of a case and prepare a review note. The Director of Casework has taken a personal involvement in this training.

6.54 We commend the use of review notes within Central Casework. Whilst this format would not be appropriate for the many straightforward cases handled by local Areas, it may be of considerable use in the more complex cases handled locally, particularly by Special Casework Lawyers. CCPs and BCPs in Areas may wish to consider adapting the model for their purposes.

6.55 We were told that review notes are not routinely sent to the Area which submitted the case. Some prosecutors told us that they do, on occasions, send a copy: but there is no consistent policy. Some senior managers in Central Casework were of the view that the review note would not be of interest to the local Area, because the Area would have no on-going involvement with the case.

6.56 We do not agree with this view. The fact that the case is to be handled in Central Casework does

not mean that the local prosecutors have no interest in decisions made about the case. There is a useful learning opportunity for the local prosecutors to have the benefit of the detailed consideration of the case by a Central Casework prosecutor, and an opportunity to develop the relationship between Central Casework and the local Areas. Providing examples of good quality review notes is an effective method of promulgating good practice in an aspect of CPS performance which the Inspectorate has frequently had cause to criticise.

6.57 There may be exceptional cases where the review note should not be sent. For example, security issues may arise during the consideration of the case in Central Casework, or there may be issues of local sensitivity. We are convinced, however, that the balance of advantage lies in a general policy of sending the review note, withholding it only where this is considered necessary.

6.58 We recommend that, when local Areas submit cases to Central Casework, the reviewing prosecutor should send the local Area a copy of the review note, unless there is good reason not to.

Outcomes

6.59 For the year ending 31 December 1998, the conviction rate for contested Crown Court cases handled by Central Casework was 65.6%, which is well above the national average of 57.3%. Although the rate in the magistrates' courts was lower than the national figure (54.6%, compared with 73.7%), the small number of summary trials make this comparison of limited value. The figures must also be seen in the context of the proportion of contested cases in Central Casework which is higher than the national figure (see paragraph 4.20).

Discontinuance

6.60 Central Casework's discontinuance rate for the year ending 31 December 1998 was 5.6% which

is significantly lower than the national figure of 12%. Two caveats however apply: first, the high proportion of proceedings conducted by Central Casework which have been the subject of pre-charge consideration and advice means that it would be surprising if the discontinuance rate was anything approaching the national figure; secondly, the rate is based on a small caseload (by comparison with CPS Branches) and cannot be regarded as a valid comparison.

- 6.61 We examined four cases which had been discontinued. We agreed with the decision in all four. In one case, however, there was evidence of poor timeliness of review. The file had not been considered promptly by the prosecutor, and in order to commence proceedings within the limitation period, the police were advised to charge the defendant before an important piece of information had been obtained. When this information became available, it in fact undermined the case, rather than supported it, and it was clear that there was no longer a realistic prospect of conviction. The charge was properly discontinued, but if the case had been reviewed timeously, all information could have been considered before charge.

Cases lost on a submission of no case to answer in the magistrates' courts and discharged committals

- 6.62 There are very few cases which fall within these categories. In the year ending 31 December 1998, Central Casework recorded one trial which was stopped by the magistrates at the close of the prosecution case. In the same period, two defendants were discharged at committal after the magistrates decided that there was insufficient evidence to commit them to the Crown Court for trial. None of these cases fell within our file sample.

Judge ordered and judge directed acquittals

- 6.63 In the year ending 31 December 1998, 31 cases were not proceeded with in the Crown Court. This represents 13.4% of Central Casework's Crown Court caseload, which is above the national average of 9.4%. The great majority were stopped by the judge at the request of the prosecution before the trial started (judge ordered acquittals).

- 6.64 We examined four judge ordered acquittals. We agreed with the decision to prosecute in all cases. In each case, further evidence came to light, after the defendant had been committed for trial, which cast doubt upon the credibility of key prosecution witnesses. It is clear that the decisions to offer no evidence were taken only after all relevant factors had been considered. In all four cases, a conference was held between the reviewing prosecutor, the caseworker, counsel and the officer in charge of the case; and counsel provided written advice following the conference. In one case, involving serious allegations against a police officer, a briefing note was prepared for the Director of Public Prosecutions.

- 6.65 During the same period, there were 14 cases in which the judge directed an acquittal after the trial had started. This represents 7.3% of Central Casework's Crown Court caseload, which is higher than the national average of 2.2%.

- 6.66 We examined one case. We agreed with the decision to prosecute. A key witness refused to attend the trial, and although every effort was made to admit the witness' statement in evidence pursuant to section 23, Criminal Justice Act 1988, ultimately this was unsuccessful. The prosecution could not proceed, and had no alternative but to offer no further evidence.

Bail

- 6.67 Our sample included only four cases where the defendant appeared in custody, and an

appropriate decision whether or not to oppose bail was made in all cases. We did note, however, that the reasons for opposing bail, and the court's reasons for refusing bail, were endorsed in only two cases.

6.68 We saw one other case where the details of the first hearing, where bail had been refused, had been endorsed on a piece of paper which was loose inside a very bulky file. This made it difficult to follow the chronology of court appearances, and to check that custody time limits had been correctly calculated.

6.69 We recommend that, in relation to bail issues, prosecutors should endorse fully and clearly their grounds for opposing bail, the basis of the submission by the defence, and the reasons given by the court for refusing bail.

6.70 We were told that, on occasions, prosecutors can appear reluctant to depart from the police views on bail. We saw some limited evidence to support this. It is important that prosecutors exercise independent judgment in relation to bail issues. Where this may differ from the views of the officer in the case, early liaison and discussion should enable all relevant factors to be properly considered.

PREPARING CASES

7.1 The prosecution caseload of Central Casework is heavily weighted towards the Crown Court and the appellate courts rather than the magistrates' courts - as would be the case of a CPS Branch. Nonetheless, our inspection considered the quality of case preparation in relation to all categories of work whilst recognising that our conclusions in relation to magistrates' court cases

must be treated with caution having regard to the small number of cases involved. Overall, the case handling within Central Casework does not match up to the consistently high standards which the importance of its caseload demands. The inexperience of many of the prosecutors and caseworkers showed through and was reflected in undue reliance on counsel. We were told that managers did not always have the general day-to-day awareness of the progress of significant cases which might reasonably have been expected. This was felt particularly keenly by Treasury Counsel, notably in the context of the handling of sensitive unused material. We comment further by reference to the various stages of the different types of proceedings.

Advance information

7.2 National guidelines require advance information to be provided within five working days of the Branch being in possession of the file from the police, and knowing the identity of the defence solicitor. We found that advance information had been provided within the guidelines in all 12 relevant cases in the file sample.

7.3 Central Casework does not use a proforma letter, as many local Branches do, to record what has been served. Instead, a letter specific to the case is prepared by the prosecutor, and the relevant documentation is prepared and sent by a caseworker, on the prosecutor's instructions. We found it difficult in some cases to identify what had been served. The letter referring to advance information was often lost in a large amount of correspondence.

Committal preparation

7.4 We were told that prosecutors try to prepare committal papers for service before, or at, the first hearing of a case where it is clear that the Crown Court will be the appropriate venue. This is possible because the majority of the cases have

been the subject of pre-charge consideration by Central Casework, and a full file is often in the prosecutor's possession. This is a commendable practice, because it can avoid delay. However, prosecutors should ensure that early preparation of the committal papers is appropriate and feasible before embarking on this task.

- 7.5 We saw one case where the prosecutor had prepared committal papers for service at the first hearing, and had then received, on various dates, substantial amounts of additional evidence which was served piecemeal on the defence and the court. In the end new composite bundles had to be prepared.

Summary cases

- 7.6 In summary cases, the statute does not require the disclosure of the prosecution case but caselaw encourages it as part of the requirement of fairness. Prosecutors generally provide the information, if the defence solicitor requests it, and the prosecutor considers that it may help the progress of the case. We consider this appropriate in the types of summary cases handled by Central Casework. However, there is no formal policy for providing information in these circumstances, and the Director of Casework will wish to ensure that a consistent approach is taken to the voluntary provision of advance information in such circumstances.

Unused and sensitive material

- 7.7 All prosecutors and caseworkers have received training on the disclosure provisions in the Criminal Procedure and Investigations Act 1996. However, in many cases handled by Central Casework, the investigation commenced before 1 April 1997, and so the common law rules of disclosure apply. Some prosecutors and caseworkers understandably told us that they lack practical experience of dealing with the

statutory provisions, because they had not encountered many recent cases.

- 7.8 We were told that some specialist police squads do not submit the appropriate unused and sensitive material schedules with their files. This can cause delay in making decisions about disclosure, and it can cause difficulty in identifying what material is in the possession of the police, and what has been considered by the prosecution. BCPs will want to liaise with the relevant police squads to ensure, so far as they are able, that the national police guidance is followed, and that where applicable, the statutory disclosure provisions are complied with.
- 7.9 In the file sample, the unused material disclosure schedule had been completed correctly in all 21 cases where the schedule was on file. In a further six cases, however, lack of endorsement or other information on the files meant we were unable to ascertain from the file whether disclosure had been made, and if so, what had been disclosed.
- 7.10 Primary disclosure should be undertaken immediately after committal, wherever possible. The date of primary disclosure is significant, because it activates various statutory time limits relating to disclosure. Delay can reduce the effectiveness of PDHs. Timely disclosure was made in 17 of the 21 cases (81%) in the file sample, but we saw some cases where primary disclosure was not made until well after committal. In two cases, the delay was caused by late, or incomplete, provision of the disclosure schedules by the police; but the other two cases were apparently the result of late action in Central Casework.
- 7.11 The fair and scrupulous handling of unused material now forms part of the published objectives of the CPS. It is an issue of major importance to the defence and an essential element of the overall fairness of proceedings.

The types of case dealt with by Central Casework require particularly careful handling and decision making in relation to unused material.

Prosecutors and caseworkers fully appreciated the importance of disclosure, and will want to achieve the highest standards.

7.12 We recommend that BCPs and PTLs should ensure that prosecutors make full endorsements of their decisions about disclosure of unused material in all cases, and that such material is properly and timeously considered and dealt with.

7.13 We examined three cases involving sensitive material. The appropriate procedures were followed in each case. We also examined carefully on-site each Branch's procedures for storing sensitive material. The Branches use safes, to which only a limited number of staff have access, to keep the material secure. We are satisfied that particularly sensitive material is stored securely. However, there was no systematic approach to filing the documents, and it was difficult to ascertain whether some of the cases were still current, or had been concluded. We were told that steps are being taken to remedy this. We came across other files where sensitive information incorrectly was retained on the case file.

7.14 We recommend that BCPs should ensure that they have effective systems in place to store all types of sensitive material.

7.15 We were told that Central Casework often has little input in cases involving very sensitive unused material which may, for security reasons, properly be retained in the physical possession of the organisation which "owns" it - usually Special Branch or one of the security and intelligence agencies. It must be borne in mind that responsibility for compliance with the statutory and common law obligations of disclosure rests with the CPS: such material should be regarded

as in their constructive possession. Although there is some liaison between Central Casework, the police and the security and intelligence agencies, there appears to be a tendency for the latter to deal directly with counsel over these issues with prosecuting counsel attending premises where the material is held to inspect it - frequently over a long period of time in view of its volume. The extent of this liaison can leave CPS lawyers unsighted on important aspects of the case - especially if an application has to be made to withhold material on grounds of public interest immunity. Although prosecuting counsel (usually Treasury Counsel) invariably give careful attention to the handling of disclosure issues, the prosecutor also needs to be aware of these matters and the impact they may have on the case. Liaison between prosecutors and lawyers representing the interests of the security and intelligence services is essential but it must not extend to there effectively being, as Treasury Counsel put it, two instructing solicitors.

7.16 We recommend that the Director of Casework liaise with those representing the security and intelligence agencies to establish a protocol which makes clear their respective roles in relation to unused material.

7.17 We deal with general issues about inter-agency co-operation in paragraphs 9.1 to 9.3. Specifically regarding the handling of unused material, we became aware that a protocol concerning the involvement of various agencies in the handling of sensitive unused material was being prepared by the Treasury Solicitor's Department, in consultation with other interested parties, including the CPS, in order to improve the timeliness with which questions relating to possible claims for public interest immunity are considered. We understand that this has now been formally adopted and the Director of Casework will wish to ensure that full effect is given to that protocol within the CPS.

Instructions to counsel

7.18 Instructions to counsel are usually prepared by prosecutors, supported by A2 caseworkers. In recent months, managers in Central Casework have sought to increase the involvement of B1 (higher grade) caseworkers in this work. The principal role of B1 caseworkers has, until recently, been to attend the Crown Court to support counsel, a function which, in some cases, is being devolved to the A2 caseworkers. The withdrawal of experienced caseworkers from court so that they can spend more time preparing cases in the office has caused some disquiet amongst counsel (see paragraphs 7.31 and 7.32). They perceive that this will lead to a reduction in the quality of support they receive at court. Given the nature of the cases handled by Central Casework, senior managers will want to ensure the appropriate level of instruction to counsel and support to them in all cases. Additionally, the concerns of counsel should be considered carefully by those managers.

7.19 We were impressed with the working practice in the York Branch. Each B1 caseworker is aligned to an A2 caseworker, and has line management responsibility for that person. They work on cases together, and provide good support for the prosecutor. The BCP may wish to consider alignment of caseworkers to individual prosecutors, rather than relying on allocation on a case by case basis.

7.20 Some use is made of the CPS Crown Court Case Preparation Package to prepare cases for committal. This is a proforma package, which contains standard paragraphs to be included in the instructions to counsel, with freetext options to incorporate specific instructions relevant to each case.

7.21 The general view of staff is that the package and the associated working practices are not suited to

the type of case prosecuted by Central Casework. We accept this view. Nevertheless, we consider that a more consistent approach, with the flexibility to adapt to the individual circumstances of each case, is necessary.

7.22 We are pleased to note that a revised version of the package, based on a model recently piloted in the Highbury Branch of CPS London, is being developed for use in Central Casework. We referred to this initiative in our report on that Branch (number 21/98) at paragraphs 6.36 - 6.40. This version contains fewer standard paragraphs, and there is more scope to use the freetext to tailor the instructions to the particular case. Branch managers will want to ensure that all staff who will be involved in committal preparation receive training in the use of the new package.

7.23 The instructions to counsel contained a summary of the case prepared by Branch staff in 14 of the 21 relevant cases (66.7%) that we examined. The acceptability of pleas, or possible alternative offences, had been addressed in only eight of the 16 relevant cases. There is no general policy over sending counsel a copy of the prosecutor's review note.

7.24 Instructions to counsel were delivered within the agreed timescales set out in the CPS/Bar Standard in only 14 of the 19 cases (73.7%) where we were able to ascertain the relevant dates. We were not told of any monitoring of the quality or timeliness of instructions to counsel.

7.25 We recommend that prosecutors and caseworkers should ensure that instructions to counsel to prosecute:

- **are delivered within the agreed timescale in all cases; and**
- **contain a summary of the issues in the case and the views of the reviewing**

prosecutor, and comment on the acceptability of potential pleas, where this is appropriate.

7.26 We recommend that the Director of Casework should ensure that proper arrangements are in place for monitoring the quality and timeliness of instructions to counsel where this is not already done.

Quality of indictments

7.27 Indictments are usually drafted by prosecutors. In some cases, counsel is asked to draft the indictment. This is usually in complex cases (often fraud), or cases where counsel has been involved from an early stage and has formed a view on the tactical considerations which underpin the framing of the indictment. Counsel had been asked to draft the indictment in five out of 22 cases (22.7%) in the sample. We considered that in all five cases it was appropriate to ask counsel to settle the indictment.

7.28 The overall quality of drafting, whether by counsel or by prosecutors, was good. Although we found that six indictments had been amended, in three cases the amendment was to accommodate acceptable guilty pleas offered by the defendant. In two other cases, the dates of the offences were widened following discussion with counsel. In the sixth case, counsel amended the wording of offences contrary to the Data Protection Act 1984, to include an essential element of the offences.

7.29 In the sample, we found that in two cases, the indictment had been lodged with the Crown Court more than 28 days after committal. The delay in lodging had not been monitored, and there did not appear to be any action-dating system.

7.30 We recommend that BCPs should ensure that all indictments are lodged on time, and

that an action-dating system is introduced to monitor the need for applications for extensions of time.

The CPS in the Crown Court

7.31 Unlike their colleagues in local Branches, caseworkers in Central Casework cover only one case at a time in the Crown Court. Usually, they have a good knowledge of the case they are covering, and attend each hearing personally in order to maintain continuity. This enables the caseworkers to provide very effective support for counsel at the Crown Court. Counsel are concerned, however, about the possible reduction in the level of experience of caseworkers who attend court (see paragraph 7.18).

7.32 We were told that, in trials in the Crown Court, caseworkers do not always remain at court during the defence case. The location of the court can have a bearing on the decision as to whether the caseworker remains at court or returns to the office to carry out other work. In London courts, particularly the Central Criminal Court, which is very close to the office at Ludgate Hill, there is more likelihood of the caseworker returning to the office. We can understand the reason for caseworkers returning to the office, but the absence of a caseworker can give the impression, or create the reality, that the liaison point for counsel is the officer in charge of the case, who often remains throughout the trial. This is not appropriate, particularly in the types of case handled by Central Casework. Branch managers will want to bear this in mind when considering how best to deploy their case worker resources.

7.33 We were pleased to find that prosecutors recognise the importance of attending the Crown Court for key hearings, such as the plea and directions hearing (PDH) and the start of the

trial. This enables them to discuss issues with counsel; consider any offers by the defendant to plead to some, or alternative, charges; and observe counsel presenting the case.

- 7.34 Prosecutors deal with bail applications in chambers in the Crown Court whenever possible. This gives them experience of presenting cases before a judge, and provides the opportunity to raise the profile of Central Casework prosecutors.

Custody time limits

- 7.35 The custody time limit provisions regulate the length of time during which an accused person may be remanded in custody in the preliminary stages of a case. Central Casework has few cases to which the custody time limit provisions apply: at the time of our inspection, seven defendants were subject to custody time limits, across all three Branches. Despite the small number of relevant cases, it is essential that effective systems are in place to monitor the custody time limits, so that extensions can be applied for if necessary. Failure to monitor the expiry date, and to make any application to extend the time limits, would, under normal circumstances, result in the immediate release of the defendant from custody.

- 7.36 We examined all seven files. The correct review and expiry dates had been calculated, although the review dates were not endorsed on the file jackets. In one case (referred to earlier, at paragraph 6.68), the bail endorsement was not clear.

- 7.37 The Branches do not use a common system for monitoring their compliance with the custody time limit provisions. Concerns were expressed by staff in the Branches, especially in London Branch 1, that the monitoring systems were not robust. Senior caseworkers in London Branch 1 are reviewing their system, with a view to making

improvements and circulating desk instructions to all relevant staff. This action is commendable, but needs to be taken in conjunction with the other Branches, to ensure that a consistent approach is taken in this very important area of work.

- 7.38 We recommend that the Director of Casework should ensure that clear and consistent desk instructions are issued for handling custody time limit cases.**

File endorsements and file management

- 7.39 Despite the development of a highly effective system of notes/endorsements for recording prosecution advice and decision-making (see paragraph 6.52), there were significant weaknesses in this respect in relation to several aspects of case management. We found that the endorsement of out-of-court work (for example, telephone conversations and case conferences) was generally good; proper endorsements were made in 29 of the 36 magistrates' court files (80.6%), and 23 out of 25 Crown Court files (92%) in the sample. But the standard of court endorsements, particularly of magistrates' court proceedings, was not good. Endorsements were clearly and legibly recorded, and showed a comprehensive record of the case's progress, in only 17 out of 36 magistrates' court files (47.2%). In Crown Court files, the figure was slightly better: satisfactory court endorsements were made in 16 out of 25 cases (64%).

- 7.40 In particular, we found that notes made at PDHs were generally good. In 14 cases in the sample, a careful note had been made of the judge's orders and the timescale for compliance. In all 14 cases, Central Casework complied with orders, within the time period set by the judge. In a further two cases, however, there was no endorsement as to whether any orders had been made, or not.

7.41 We recommend that prosecutors and caseworkers should ensure that they make complete and accurate endorsements of court hearings and out-of-court work in all cases.

7.42 We found that CPS magistrates' court file jackets were not used in Central Casework. These jackets provide a suitable location for court endorsements, and enable relevant details to be located easily. Use of such jackets might provide a solution.

7.43 The general management of files was not good. It was often difficult to find key information or documents. We thought, initially, that our lack of familiarity with the files may account for our difficulties. However, we were told by prosecutors and caseworkers that they, too, experience these problems.

7.44 We recognise that bulky files, containing large quantities of statements, exhibits and correspondence, are not easy to maintain efficiently. However, the size of the files makes the need for efficient file maintenance all the more important. We found inconsistent practices as to filing correspondence, the use of internal folders, and the storage of unused material schedules and the material itself.

7.45 We were told that attempts have been made in each Branch to identify the basis of a consistent approach to file management. These attempts have not been successful, although we were impressed by an office systems manual which has been developed in the York Branch. We consider that one of the reasons for the lack of success of these Branch initiatives has been the absence of a co-ordinated approach by Central Casework as a whole. A clear management lead should be given to seek a resolution to this problem which, we were told, has existed for

many years. The Director of Casework may wish to give consideration to a system based on colour coding along the lines (but with suitable adaptation) of that commended in our report on the CPS Manchester South Branch (Branch Report 9/99).

7.46 We recommend that the Director of Casework should ensure that a co-ordinated approach is taken throughout Central Casework to devise and implement an effective system of file management. This should include consideration of the use of magistrates' courts file jackets to record details of hearings in the magistrates' courts.

Dealing with correspondence

7.47 We were concerned to find several cases in the file sample where correspondence had not been handled properly. Most involved police complaints cases, where the file was submitted to Central Casework with a covering letter from the Deputy or Assistant Chief Constable of the police force concerned. In five cases, we found that the advice letter from the reviewing prosecutor had been addressed simply to the force headquarters, and not marked for the attention of the officer who had submitted the file. Given the sensitive nature of these cases, we consider this to be unsatisfactory.

7.48 We found one case where a letter asking the police to investigate possible election offences had been sent to the wrong police force; and another case where the Chief Constable wrote directly to the DPP because he had not received a response to a series of letters asking for an explanation as to the outcome of a case. In other cases, spelling mistakes, grammatical errors and poor wording suggested that the writer had not

read the text of the typed letter before sending it out.

7.49 Such instances create a poor impression of Central Casework. Careful drafting and checking of correspondence would avoid these problems.

7.50 We recommend that all staff should ensure that correspondence is answered timeously, drafted properly, and addressed correctly.

PRESENTING CASES IN COURT

8.1 Central Casework prosecutors do not prosecute in the magistrates' court as often as their colleagues in local Branches. Most prosecutors go to court less than once a week. Representatives of other criminal justice agencies told us that the standard of advocacy of Central Casework prosecutors was good. We observed three CPS advocates presenting cases in the magistrates' courts. We agreed with the view of the external consultees: the advocates were well prepared and presented their cases competently.

8.2 Prosecutors are aware of the risk of losing the advocacy skills which many of them built up through prosecuting in local Branches. Some prosecutors who previously worked in CPS London have retained their position on the London Saturday and Bank Holiday rota. Some York prosecutors have prosecuted cases on behalf of CPS Yorkshire. Most prosecutors told us that they would like more opportunity to attend court. Prosecutors who had gained rights of audience in the higher courts are concerned as to how they will be able to use them. Branch managers will want to encourage

as much in-house advocacy as resources will allow.

8.3 Counsel are carefully selected for individual cases. Usually, there is discussion between the prosecutor and caseworker and, on occasions, the BCP. Every effort is made to choose counsel who has the appropriate level of expertise and experience for the circumstances of each individual case.

8.4 The standard of counsel instructed to prosecute on behalf of Central Casework is generally high. Effective use is made of Treasury Counsel, to prosecute cases and to provide prompt advice on particular aspects of casework. We were told that when Treasury Counsel, and other experienced and able counsel, are instructed, there is always high quality handling, preparation and presentation of cases.

8.5 Counsel who were originally instructed attended the PDH in 18 out of 20 cases (90%); the trial in 13 out of 15 cases (86.7%); and the sentencing hearing in 14 out of 18 cases (77.8%). The level of return briefs is significantly lower than in most Branches we have inspected. It reflects the nature of the work, the method of selection of counsel, and the relationship developed between Central Casework and counsel.

CENTRAL CASEWORK AND OTHER AGENCIES

9.1 Central Casework enjoys effective working relationships with other agencies. The lack of any alignment between Central Casework and the police and courts on a geographical basis means that liaison is generally on a case-by-case basis. Issues of concern are generally addressed through informal discussion.

9.2 We consider that more regular, formal liaison would build upon the existing relationship with some agencies. There is scope for mutual consideration of strategic issues which the current informal arrangements can make difficult. Certain agencies told us that they considered regular meetings would be beneficial. We consider that an effective meeting structure should be devised with relevant agencies.

9.3 We recommend that the Director of Casework should establish an effective meeting structure with the following agencies:

- **Metropolitan Police Specialist Operations;**
- **the National Crime Squad;**
- **the Police Complaints Authority;**
- **the United Kingdom Central Authority;**
- **the Judicial Office of the House of Lords;**
- **Bow Street Magistrates' Court.**

9.4 We were told that magistrates' courts would welcome an early indication of Central Casework involvement in a case. This enables them to recognise cases not being handled through the usual channels and identify the appropriate point of contact. We agree with this view. The Director of Casework will want to consider how this can best be brought about, and will want to ensure, in addition, that early notification is given to the Crown Court.

**COMMENTARY, CONCLUSIONS,
SUMMARY OF RECOMMENDATIONS
AND POINTS OF GOOD PRACTICE**

10.1 This inspection was necessarily different to any inspection previously undertaken by the Crown

Prosecution Service Inspectorate since it was established in 1996. First, the caseload and structure of Central Casework are so different to those of conventional CPS Branches that our ordinary methodology was only of limited relevance; secondly, there is a total absence of meaningful comparators in relation to both quality and quantity measures; thirdly, we have not previously undertaken an inspection against the background of two such recent scrutinies of the inspected unit. Our work could not sensibly be undertaken in isolation from what had gone before and the value of this report would have been seriously diminished if our consideration of present performance had not specifically considered the areas previously identified as weak. We have therefore set this report in an historical context but have endeavoured not to dwell on the past any more than has been necessary to assess progress, identifying where further work needs to be done and make what we believe are constructive recommendations for the future.

10.2 Our overall conclusion is that the quality of substantive decision-making in relation to those aspects of the work we considered is good. The areas of decision-making which appeared less assured were those affected by some lack of clarity in the role of Central Casework (eg. the handling of cases submitted by CPS Areas with a view to obtaining the consent of a Law Officer) and where specialism had not been adequately shared (eg. terrorism). This finding is not inconsistent with earlier reports, notably the Butler Report. It is pertinent to note that, although there were deficiencies in the decision-making processes in each of the three cases which gave rise to that inquiry, in two out of the three cases further extensive consideration, with the benefit of further inquiries and advice from Senior Treasury Counsel, led to the same conclusion ie. that proceedings would not be justified. In the third case, proceedings for

manslaughter were brought relating to the death in question. Counsel had advised further inquiries and the exercise became more than a further review of the same evidence. Direct comparison is therefore not appropriate. The undoubtedly serious criticisms made were focused on the decision-making processes and subsequent case preparation and handling.

- 10.3 There can be no doubt that the management of Central Casework has taken to heart the criticisms which were made and there have been real attempts to address most of them.
- 10.4 The clearest manifestation of this has been the introduction throughout the three Branches of Central Casework of a structured review note in standard format. This incorporates analysis of the evidence of possible charges as a basis for the application of the evidential sufficiency and public interest tests of the Code for Crown Prosecutors to the facts of the particular case. However, the decision-making processes remain unduly complicated and need urgent review with a view to simplification. We have particular concerns that present arrangements are founded on an unwarranted view that it is not possible for an individual to take a casework decision without having read and personally considered the totality of the relevant documentation - a term which is interpreted very onerously. Referral upwards is on a consultative or "for information" basis with the effect being to distance senior staff from the decision-making process even when their involvement may not only be appropriate but necessary. The approach we found seems wholly artificial and we do not see any reason why a decision cannot properly be taken on the basis of the sort of briefing note we describe at paragraph 4.27.
- 10.5 We have emphasised in our report the extent to which the caseload of Central Casework differs from that of other units within the CPS. We

accept that it would be inappropriate to apply the standard CPS performance indicators to Central Casework - the results would be meaningless. Their work is broadly categorised into decision phase cases of which there were 4,921 in the year ending 31 December 1998 and the proceedings phase cases of which there were 2,239 in the same period. But the manner in which the PI system has been adapted leads to extensive double counting (and worse) so that we found it very difficult to obtain a clear picture of the cases or of the work undertaken by Central Casework. What did come across very clearly was the range, sensitivity and complexity of most of the work which brought with it requirements for some very special skills and expertise.

- 10.6 We were impressed by the high level of commitment displayed by many staff, who often work long hours to ensure that cases are ready for court and prepared to a high standard. In acknowledging this commitment, we would not wish to bless, let alone encourage, a "long hours culture;" nor do we believe that CPS management would do so. The position needs to be monitored. The nature of the casework itself also makes management difficult. Although significant steps have been taken to enable line managers to take an overview of the cases for which their team is responsible, this is largely based on a relatively onerous system of case management based upon written monthly reports. The Glidewell recommendation for the provision of an effective management information system based on computerised records providing regular exception reports to identify problems at an early stage has not been adequately progressed. This would avoid situations, of which we saw some, where initial advice to the police prior to decision was followed by an unsatisfactory period of inactivity with no follow-up action on the part of the CPS. We wholeheartedly endorse, however, the case management plans developed to assist individual lawyers in their handling of substantial

and difficult cases which clarify the work which counsel is expected to undertake and enable costs to be more effectively controlled. Our overall impression is that too much reliance is placed on counsel in the handling of cases in the Crown Court.

10.7 Our scrutiny of Central Casework records and the individual cases included in our sample demonstrated how atypical Central Casework is as a CPS unit. The proportion of cases committed to the Crown Court is 75.2% of its prosecutions compared with the national figure of 6.9% and the proportion of contested cases is 66.3% compared with 24.9% nationally. In terms of outcome the conviction rate in the Crown Court was 65.6% which is well above the national average of 57.3%. The statistics relating to discontinuance (5.6% compared with the national figure of 12%), judge ordered acquittals (13.4% compared with the national average of 9.4%) and judge directed acquittals (7.3% against the national average of 2.2%) have a common weakness inherent in the smallness of the sample size.

10.8 The differences between the role of Central Casework and a typical CPS Branch are the basis of extensive debate within the CPS as to the extent to which it is right to model the structures and management of Central Casework on that of a typical Branch. The Glidewell Review clearly thought that too much emphasis had been based on fitting Central Casework within that mould. But it is equally clear from our findings that Central Casework has in the relatively recent past benefited from the importation with suitable adaptations - something we would emphasise - of practices already found elsewhere in the CPS. The debate is particularly keen in relation to staffing issues where we found tensions between the moves to “generalism” and the need to retain and develop specialist skills. The policy of dispensing with Level E lawyers in Central Casework remains in place but no further steps

appear to have been taken to implement it. This is a cause of considerable uncertainty. Overall, we find at present some lack of clarity as to what role Central Casework should play and how it might best discharge its important responsibilities. There is a concern that restoring Central Casework as a centre of excellence may develop into elitism. That should not, in our view, necessarily follow. There is, however, a clear need for a short term strategy to resolve present uncertainties, both organisational and individual, and provide Central Casework with a clear sense of direction pending its integration into wider arrangements for handling casework on a national basis. There is also a need for a longer term personnel strategy which achieves a balance between the maintenance within Central Casework of a core of individuals possessing experience and expertise across the full range of its casework, whilst affording opportunities to less experienced lawyers who have real potential so as to build for the future.

10.9 It would be trite to say that the task facing the Director of Casework, and his senior staff is a challenging one. We have found that the quality of decision-making is generally good, but we have identified numerous areas where improved performance, notably in the area of case management and handling, is needed. Frequently, we found evidence of a process which had been started but not finished - for example, the development of a Central Casework Manual which is now in serious need of updating. Part of the explanation for the lack of progress is the difficulty in progressing change within Central Casework in isolation from the overall change process within the CPS. Now that the revised corporate infrastructure is in place, it will be necessary to address with a renewed vigour the further steps necessary. We recommend that:

- i the CPS should ensure that guidance on cases which should be referred to Central

Casework by local Areas is clear, complete and easily accessible (paragraph 4.6);

- ii the Director of Casework and his senior managers ensure that the casework management system provides effective information to support case management and essential performance information (paragraph 4.19);
- iii the Director of Casework institute a thorough review of the decision-making process within Central Casework and promulgate clear guidance as to the levels at which decisions are to be taken in particular categories of case (paragraph 4.28);
- iv the Director of Casework should develop urgently a short term strategy to provide Central Casework with a clearer sense of direction pending its integration into wider arrangements for handling casework on a national basis (paragraph 5.16);
- v the Director of Personnel should, in developing the proposed human resources strategy for the CPS, give full effect to the principle that the most difficult and sensitive casework handled by the CPS should be in the hands of its most able lawyers (paragraph 5.19);
- vi the Central Casework manual should be completed, and updated where necessary (paragraph 5.28);
- vii
 - a structured induction programme should be developed to ensure that all prosecutors and caseworkers who join Central Casework receive appropriate initial training; and
 - a training programme should be designed to utilise and develop expertise in specialist topics (paragraph 5.31);

- viii prosecutors and Branch managers should ensure that accurate records are made of telephone advices, and that the records are properly stored and collated (paragraph 6.5);
- ix the Director of Casework take steps to secure implementation of the agreement in principle whereby applications for the consent of a Law Officer may be made by CPS Areas direct to the Legal Secretariat to the Law Officers (subject to suitable safeguards as to quality of files) (paragraph 6.10);
- x the reviewing prosecutor should seek early liaison with the Legal Secretariat to the Law Officers if the assembly of the paperwork in cases to be referred to the Law Officers is likely to be delayed for any reason (paragraph 6.26);
- xi in all cases submitted for the Attorney General's consent, the prosecutor should give full consideration to the appropriateness of the proposed charges (paragraph 6.33);
- xii in export extradition cases, prosecutors should ensure that a consistent approach is taken to the selection of committal charges (paragraph 6.36);
- xiii when pre-charge or pre-committal advice from counsel is sought, the Director of Casework and other senior managers should ensure that:
 - systems are in place in each Branch to ensure that staff are aware of, and follow, the guidance for prosecutors on the provision of early advice from counsel; and
 - the reviewing prosecutor considers the case before it is sent to counsel, and incorporates that assessment into the instructions to counsel (paragraph 6.43);

- xiv if, because of staff shortages, cases are exceptionally sent to counsel for advice, in order to avoid delay, without first being considered by a prosecutor, the Director of Casework and other senior managers should ensure that:
- the number of such cases is monitored; and
 - the evidence is considered by a prosecutor in the light of the advice tendered (paragraph 6.47);
- xv when local Areas submit cases to Central Casework, the reviewing prosecutor should send the local Area a copy of the review note, unless there is good reason not to (paragraph 6.58);
- xvi in relation to bail issues, prosecutors should endorse fully and clearly their grounds for opposing bail, the basis of the submission by the defence, and the reasons given by the court for refusing bail (paragraph 6.69);
- xvii BCPs and PTLs should ensure that prosecutors make full endorsements of their decisions about disclosure of unused material in all cases, and that such material is properly and timeously considered and dealt with (paragraph 7.12);
- xviii BCPs should ensure that they have effective systems in place to store all types of sensitive material (paragraph 7.14);
- xix the Director of Casework liaise with those representing the security and intelligence agencies to establish a protocol which makes clear their respective roles in relation to unused material (paragraph 7.16);
- xx prosecutors and caseworkers should ensure that instructions to counsel to prosecute:
- are delivered within the agreed timescale in all cases; and
 - contain a summary of the issues in the case and the views of the reviewing prosecutor, and comment on the acceptability of potential pleas, where this is appropriate (paragraph 7.25);
- xxi the Director of Casework should ensure that proper arrangements are in place for monitoring the quality and timeliness of instructions to counsel where this is not already done (paragraph 7.26);
- xxii BCPs should ensure that all indictments are lodged on time, and that an action-dating system is introduced to monitor the need for applications for extensions of time (paragraph 7.30);
- xxiii the Director of Casework should ensure that clear and consistent desk instructions are issued for handling custody time limit cases (paragraph 7.38);
- xxiv prosecutors and caseworkers should ensure that they make complete and accurate endorsements of court hearings and out-of-court work in all cases (paragraph 7.41);
- xxv the Director of Casework should ensure that a co-ordinated approach is taken throughout Central Casework to devise and implement an effective system of file management. This should include consideration of the use of magistrates' courts file jackets to record details of hearings in the magistrates' courts (paragraph 7.46);
- xxvi all staff should ensure that correspondence is answered timeously, drafted properly and addressed correctly (paragraph 7.50);

xxvii the Director of Casework should establish an effective meeting structure with the following agencies:

- Metropolitan Police Specialist Operations;
- the National Crime Squad;
- the Police Complaints Authority;
- the United Kingdom Central Authority;
- the Judicial Office of the House of Lords;
- Bow Street Magistrates' Court (paragraph 9.3)

10.10 We take this opportunity also of drawing together and highlighting some of the most positive aspects of performance we found in Central Casework. These were:

- i the steps taken to improve overall supervision of cases by PTLs and BCPs (paragraph 4.16);
- ii the increased use of case management plans to plan preparation time for cases and ensure that an accurate record is kept of the work undertaken (paragraph 5.22);
- iii the compilation of a manual, which provides a useful introduction to the specialist areas of work covered by Central Casework (paragraph 5.27);
- iv the introduction of a standard format review note (paragraph 6.52). We consider that CPS Areas could benefit from adapting this for use in the management of their more difficult casework;
- v the alignment in York Branch of B1 caseworkers to A2 caseworkers to provide support for prosecutors (paragraph 7.19);

vi the good quality of indictments drafted by prosecutors (paragraph 7.28);

vii the practice of prosecutors attending the Crown Court for PDH hearings where the case so warrants (paragraph 7.33);

viii the quality of file endorsements relating to out of court work and PDH hearings (paragraphs 7.39 and 7.40).

EXTERNAL CONSULTATION

11. 1 On pages 46 & 47 there is a list of the representatives of criminal justice agencies who assisted in our inspection.

REVIEWS OF AND MEMORANDA RELATING TO CENTRAL CASEWORK (APPENDIX E - GLIDEWELL REPORT)

1. On 18th June 1991 the then Director of Headquarters Casework sent a memorandum to the then Head of Fraud (London) about two reviews which the latter was to undertake. Referring to “the second and wider review of case management” he wrote: “I refer to a system of positive reporting ... one which tells us that the key steps along the prosecution road are being taken at the right time.”
2. At that time HQ Casework was experiencing an increasing workload and manpower pressures. It was decided to carry out a Manpower Audit and this took place during 1991. The report, by the then PEFO, was issued in January 1992. A principal finding was that manpower was at a level of 77% of the target level. A number of managerial concerns emerged. The staff were reported as saying that managers were unwilling to discuss issues with them whilst there also appeared to be a lack of co-operation between lawyers and administrators. Some staff were said to be reluctant to change the practices of the old DPP’s Department. Record-keeping was haphazard and there was a need to introduce some standard procedures for file preparation. The present DPP was not then in post and she has told us that she does not remember this report being drawn to her attention.
3. Concerns continued during 1992. In late September of that year the Attorney General expressed concern that unacceptable levels of delay in three fraud cases might have reflected wider and more serious problems and he met the DPP to discuss the issue.
4. In March 1993 there was a Management Review of Fraud Work. The report contained the following passages:

1.5 “We observe that the conduct of cases in HQ Fraud Divisions is hampered by the lack of a co-ordinated teamwork approach, leading to blurred responsibility and inefficient working practices amongst lawyers and support staff. We recommend the establishment of proper teamworking and throughout the Service the introduction of project management systems supported by a training programme.”

9.1 “We were struck by the generally low morale and confusion of roles apparent in HQ Fraud Divisions. Some of the factors which contribute to this are mentioned in the following paragraphs.”

There then follow five pages of comment, some of it critical, and a page and a half containing 35 recommendations relating, amongst a number of other topics, to case management. We have been given conflicting accounts of the extent to which these recommendations were implemented at the time. It seems to us probable that many but not all of these recommendations were acted upon, at least in part.
5. However, there were further Reviews concerning the management of HQ Casework. In August 1993 there was a review of the distribution of work between CPS Areas and HQ Casework. The Report made 38 recommendations dealing with, amongst other matters, complaints against the police. It recommended that a substantial amount of the work involved in police complaints should not stay in Headquarters Casework but should be sent out to the Areas. However, cases involving death in police custody, amongst others, would be and have always been retained in HQ/Central Casework. The Law Officers were much concerned about this issue and spent some time considering it but in the end gave their approval to what was proposed and this

was implemented. We have no evidence in the material before us that this particular devolution work has caused any problems. The problems which have arisen have been in the work which remained in HQ/Central Casework.

6. To a considerable extent a further general initiative was occupying senior managers in the CPS. Teamworking had been accepted as the desired working method for staff in the Areas and was proposed for HQ Casework in two reports in October and November 1993. However, teamworking was not introduced into HQ Casework immediately but remained on the agenda over the next four years.
7. In January 1994 there was a report on a review of the levels of casework decision-making in the CPS. Part 7 of this report specifically dealt with HQ Casework. An internal memorandum said of it: *“The majority of the changes that it does recommend reflect the reorganisation of the Service and have already been adopted as an inevitable consequence.”* The recommendations included particularly criteria for decision-making. This report was accepted by management and adopted late in 1994.
8. In early 1994 consideration was given to merging the Fraud Division of HQ Casework with the SF0 which led to a Review of the Handling of Serious Fraud. The merger did not take place but a further study in November 1994 set out revised criteria for the referral of fraud cases to HQ Casework. Managers in HQ Casework and in the Areas were, by late 1994, engaged in a debate concerning the respective roles of HQ Casework, Special Casework Lawyers and Branch staff in dealing with the more difficult cases. A central theme was the devolution of work from HQ Casework to the Areas. The Association of Chief Police Officers was consulted and they expressed concern at the potential for delay in dealing with fraud cases if doubt existed as to which part of the CPS was to deal with a particular case.
9. At a meeting between the DPP and the Law Officers on 19th December 1994, the Attorney General referred to “... concern that casework should be dealt with at a properly senior level; and that CPS Headquarters should become involved in complex casework so that the quality case handling was being exercised at a proper level and that good standards practised by senior staff were demonstrated to those below them.”
10. In March 1995 an internal memorandum pointed out that progress towards “integrated working” in the Fraud Divisions had been stopped. Integrated working was the author’s preferred form of teamworking for HQ Casework and he attached to his memorandum a paper setting out his views. The paper covered the management and structure of HQ Casework in a broad sweep, emphasising the need to draw together all the recent review work. One of the main problems, already recognised by senior management, was that there was no proper recording of decisions made or actions taken.
11. Discussion continued during 1995 on development in HQ Casework which came to form part of the strategic statement of the Directorate of Casework. The objectives included the following:
 - devise and secure the implementation of an effective system to monitor and evaluate the quality of decisions;
 - introduce integrated working throughout HQ Casework;
 - relocate part of the functions of the Casework Group to York;

- establish an operations unit to develop, implement and monitor consistent operational systems throughout HQ Casework;
 - operate an effective communications framework with ACCPs(C) for the dissemination of casework advice throughout the CPS;
 - continue the process of devolution of work from Headquarters Casework to the Areas.
12. The DPP continued to monitor the performance of HQ Casework, reporting orally to the Law Officers about specific cases involving delay and calling for internal reports.
 13. In October 1995, following a Senior Management Review, HQ Casework became known as Central Casework and was established as a fourteenth Area although still housed in Headquarters buildings in London and York. The Director who had been responsible for HQ Casework moved to another new Directorate. Since Central Casework was now a fourteenth Area, his position in the management structure ceased to exist. Like other CCPs, the CCP of Central Casework has since October 1995 been line managed directly by the DPP. The Head of HQ Casework became the Chief Crown Prosecutor of Central Casework.
 14. Central Casework was then divided into three Divisions, namely:
 - Prosecutions with two Branches in London and one in York.
 - International and Legal Services with four Branches in London.
 - Fraud with four Branches including one in York.

York Branches dealt generally with cases arising in the north of England. Each Division was headed by an Assistant CCP.
 15. A CPS internal audit services Report on HQ Casework is dated October 1995. In the summary of this Report management control was found to be satisfactory in eight respects but it was said that improvement could be made in 21 respects. Some of these were relatively minor relating, eg to the colour of file jackets, but some were of considerable importance relating to teamworking, training and monitoring.
 16. An internal memorandum dated 8th November 1995 said: “It seems to me that rapid and perhaps radical action is required in relation to some of this work in order to clear out the cupboards. I suggest that we should endeavour to start the next calendar year with as clear a view as possible about the future of every single case. If this means that some files quite simply have to be closed then the means by which we do that will require consideration.”
 17. A process began in early 1996 to review further Central Casework in its new guise as a fourteenth Area. An internal memorandum dated 25th January 1996, referred to: “... an operational structure which reflects to an appropriate extent the Branch and team structures established in the other 13 Areas.”
 18. Work continued during 1996, among other issues on the implementation of teamworking, on the devolution of work to geographical Areas, and on performance measures, management information, case planning and the

use of Counsel. In the summer resource constraints were becoming a matter of concern. The opportunity was also taken, through a retirement, to reduce the number of ACCP posts to two. The number of Branches was also reduced.

19. In July 1996 the Law Officers expressed concern over the handling of certain extradition cases and urgent steps were taken to resolve perceived weaknesses in the staffing arrangements for the type of case concerned. It appears that the DPP's Department was not always alerted to difficult cases, particularly when the Law Officers were to be consulted.
20. An internal memorandum in December 1996 explained in some detail the work required to implement revisions to the structure of Central Casework, in order to assist the implementation of new pay and grading system which was being introduced into the CPS. A target date of 1st April 1997 was proposed for the implementation of a new structure backed up by the implementation of full integrated teamworking and other relevant Pay and Grading recommendations.
21. An internal memorandum in January 1997 included the following passages: "...We propose to move to multi-discipline, geographically based teams. There will be no specialist teams other than Central Confiscation Branch. In particular, therefore, we will not have discrete teams devoted to Fraud and International work.

"I am concerned therefore that the Law Officers should be informed of what will happen in Central Casework as soon as possible. They, as you know, cherish certain aspects of work done by Central Casework notably fraud, Irish extradition and Unduly Lenient Sentences. You will recall that the Attorney gave certain assurances to Parliament in March 1995 about the effective handling of fraud by the SF0 and CPS in the aftermath of the Davie Report.

"I have no doubt that it is not necessary to isolate particular types of cases into discrete teams to ensure effective handling. I might also add that what we have in mind has the wholly beneficial effect of spreading expertise and encouraging horizontal links between teams through necessary training and information sharing dimensions."

22. The Law Officers were provided by Central Casework management with a briefing for a meeting with the DPP which was to take place on 4th February 1997. The brief included the following passages:

"A Pay and Grading Review report in September 1996 recommended that, as far as possible, given its unique and specialised workload, Central Casework should adopt the same structure as other CPS Areas. It proposed that there should be 2 BCP-led branches handling work broadly divided geographically and that Central Confiscation should be retained as a separate unit within Central Casework. This report was debated within Central Casework, following which the CCP tasked a small working group led by (a senior lawyer) to examine how practically its recommendations could be achieved. This included a more detailed examination than had been given by the Pay and Grading team of the appropriate number of Branches and Teams. In the event, the Group confirmed the Pay and Grading recommendation that there should be 2 Branches (London and Provincial) each with 2 teams of prosecutors and caseworkers. They also concluded that Central Confiscation should remain as a Branch led at Grade 6 level. They recommended that the London and Provincial branches and teams should handle a mixture of fraud and other work; in other words the present thematic division of work should be replaced by a geographical division with each team (subject to 4.3 below) handling a mix of all work referable to Central Casework. The CCP Central Casework and the Director consider that these proposals provide a sensible way forward."

“The continued quality of decision-making in Central Casework is paramount. All casework will continue to be handled only by suitably experienced prosecutors. Implementation will be gradual, flexible and subject to continuing review. A structured training programme will be developed for and by the staff of Central Casework to spread current expertise and broaden skills. A greater number of staff will then be available to deal with particular demands. In this way the risks of concentrating expertise exclusively upon a very small number of people (as was the case with Irish extradition) will be avoided.”

23. An internal memorandum in March 1997 described the future structure for Central Casework proposed, namely: 3 Branches and 6 teams (excluding the Central Confiscation Unit). The memorandum also referred to the risks involved in the change in hand and concern about identifying the right staffing profile for Central Casework, which had lost 20% of staff numbers in the past two years.
24. Internal memoranda in March and April 1997 related to the question of removing Grade 6 lawyer posts from Central Casework, a matter, as was noted, of concern to people outside the CPS in respect of a possible loss of expertise and experience. The Law Officers were briefed on this subject as follows:

“In the medium term some Grade 6 lawyers will be working within the branch structure as casework lawyers below the Grade 6 BCP. In the longer term the structure does not presently envisage Grade 6 caseworkers. CPS management are confident that this transition can be sensitively and pragmatically managed over the next financial year, maintaining quality of casework decision-making, through a staged process of career development.”

25. In a memorandum of 12 September 1997 the Director of Casework Services said:

“... I believe we should be sure that we are not going to threaten the ability of the Area to function at all in the near future by seeking further reductions in numbers here in the way we areThe existence of a Central Casework which is capable of doing its job is critical in relation to the continued existence of a CPS in a way no other component is.”

Summary of types of case handled within Central Casework

- Terrorist offences
- Offences under the Official Secrets Acts
- Proceedings arising out of major disasters, and/or where corporate manslaughter is likely to be considered
- Mercy killings
- Cases which are sensitive because of misconduct by a person acting in a professional capacity, for example a doctor
- Cases which are particularly sensitive due to the identity of the defendant, victim or a witness
- War crimes
- Election offences
- Cases where national consistency of approach is required (for example, lotteries and proceedings under section 2, Obscene Publications Act 1959)
- Cases where the consent of the Law Officers is required
- Unduly lenient sentences
- References to the Court of Appeal on points of law under section 36, Criminal Justice Act 1972
- Criminal contempts where proceedings will be by motion of the Attorney General
- Appeals to the House of Lords
- Reference to the European Court of Justice
- Cases where there is consideration of granting protected witness status
- Cases where there is consideration of granting immunity from proceedings
- Extradition (import, export and Irish)
- Letters of request to foreign judicial authorities
- Civil cases where the CPS is the defendant
- Substantial fraud or corruption cases
- Cases arising from reports by liquidators under section 218(4), Insolvency Act 1986
- Difficult cases requiring highly specialised knowledge of, for example, Stock Exchange practices, regulatory bodies, esoteric banking transactions, currency offences, shipping law, fine art, on-shore and off-shore trusts, and offences under the Data Protection Act 1984 and the Computer Misuse Act 1990
- Fraud arising from multiple share applications (where these are not dealt with by the Serious Fraud Office)

THE INSPECTION OF CPS CENTRAL CASEWORK
LIST OF EXTERNAL INTERVIEWEES

Judges	His Honour Judge Hyam, The Recorder of London His Honour Judge Mota Singh QC
Magistrates' courts	Mr G Parkinson, Chief Metropolitan Stipendiary Magistrate Mr R Bartle, Metropolitan Stipendiary Magistrate Mrs G Houghton-Jones, Justices' Clerk, South Westminster Division, Inner London Magistrates' Courts Area Mr P Brunning, Deputy Chief Clerk, Bow Street Magistrates' Court Ms E Franey, Deputy Chief Clerk, Bow Street Magistrates' Court
House of Lords	Mrs S Collings, Listing Officer
Police	Assistant Commissioner D Veness, QPM Metropolitan Police Detective Inspector K Pearce, Metropolitan Police
National Crime Squad	Mr R Packham, Deputy Director General Detective Chief Superintendent J Barlow Detective Superintendent F Sole Detective Chief Inspector A Williams

**THE INSPECTION OF CPS CENTRAL CASEWORK
LIST OF EXTERNAL INTERVIEWEES****Representatives of the Security Service and the Secret Intelligence Service****Police Complaints
Authority**

Mr P Moorhouse, Chairman
Ms M Meacher, Deputy Chairman
Mr A Williams, Case Officer

Home Office

Mr G Stadlen, Head of the Judicial Co-operation Unit
Mr S Watkin, Deputy Head of the United Kingdom Central
Authority

**Legal Secretariat to the
Law Officers**

Mr A Chapman
Ms T Cockerell
Mr P Geering
Ms K Jones

Counsel

Mr N Sweeney, First Treasury Counsel
Mr N Loraine Smith, Junior Treasury Counsel

Defence solicitors

Mr I Burton
Mr R Fletcher
Mr J Webber

CROWN PROSECUTION SERVICE INSPECTORATE

STATEMENT OF PURPOSE

To promote the efficiency and effectiveness of the Crown Prosecution Service through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice.

AIMS

- 1** To inspect and evaluate the quality of casework decisions and the quality of casework decision-making processes in the Crown Prosecution Service.
- 2** To report on how casework is dealt with in the Crown Prosecution Service in a way which encourages improvements in the quality of that casework.
- 3** To carry out separate reviews of particular topics which affect casework or the casework process. We call these thematic reviews.
- 4** To give advice to the Director of Public Prosecutions on the quality of casework decisions and casework decision-making processes of the Crown Prosecution Service.
- 5** To recommend how to improve the quality of casework in the Crown Prosecution Service.
- 6** To identify and promote good practice.
- 7** To work with other inspectorates to improve the efficiency and effectiveness of the criminal justice system.
- 8** To promote people's awareness of us throughout the criminal justice system so they can trust our findings.



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