



HM Crown Prosecution  
Service Inspectorate

# CPS Core Quality Standards Monitoring Scheme

Thematic review of the CPS Core Quality Standards  
Monitoring scheme

March 2012

A magnifying glass with a black handle and a red frame is positioned over a red document. The document has the text 'Core Quality Standards' written on it in white. The magnifying glass is focused on the text, making it larger and clearer. The background is a solid red color.

Core Quality  
Standards



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## Chief Inspector's foreword

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It is essential that the CPS has an effective, efficient method of assessing the quality of its casework. It is equally important that this process is examined to assess the level of assurance it provides, and how far it assists the CPS in improving its casework quality.

With the introduction in 2010 of Core Quality Standards (CQS) and a monitoring scheme (CQSM) to assess compliance with those standards, the CPS has made significant progress in its efforts to assess the quality of its work.

The standards broadly cover all the relevant aspects of casework, and the monitoring scheme is capable of giving a high level picture of casework quality. There is scope, however, to improve the assessment of case progression, which is a key aspect of casework. There are parts of the scheme that would benefit from review and amendment, such as the set of questions used, and the categories of cases selected. The drive to deliver local improvement in high risk cases would be supported by more flexibility in file selection, and the CPS is reviewing this aspect and other parts of the scheme, partly as a result of our early feedback on the findings of this inspection.

It will take time to develop and embed the practice of structured and consistent assessment, which is new to many CPS managers, and which is essential to the effective operation of CQSM. One of the key challenges facing the CPS is to develop greater rigour in the way that managers assess casework quality. Nowhere was this more apparent than in cases where there was a failure to comply with the Code for Crown Prosecutors. This has significant implications for victims, witnesses, defendants, criminal justice partners and the public, yet only a quarter of the Code test failures were identified.

When the CPS is facing stringent financial restraints, it is encouraging to be able to report that CQSM represents good value for money when used effectively to drive improvements.

The degree to which we and the CPS have worked together on the scheme and its review, whilst maintaining our organisational independence, is encouraging. We are grateful for the significant degree of co-operation afforded to this review by CPS staff at Headquarters and in Areas.



Michael Fuller QPM  
HM Chief Inspector of the  
Crown Prosecution Service



## 1 Executive summary

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1.1 In 2010, the Crown Prosecution Service (CPS) introduced a set of Core Quality Standards (CQS), and a mechanism, linked to other key measures, by which they could assess compliance with the standards. This scheme is a process by which CPS managers assess the quality of casework on a dip-sample of case files.

1.2 These were significant steps forward for the CPS in its management of casework and performance. Whilst the CQS Monitoring scheme (CQSM) has yet to become fully embedded, and the process of file examination has yet to become a matter of routine for CPS managers, real progress has been made over the last 12 months.

1.3 CQSM is more effective and authoritative than its predecessor, Casework Quality Assurance (CQA). The operation of the scheme and the resulting data have greater resonance with middle managers in most Areas, and there is clarity at Headquarters level on its use and significance. Areas are moving away from the standard file sample mandated by the scheme in its present form. The CPS is reviewing how best to use CQSM to promote improvement, and we understand that there is likely to be a greater degree of autonomy for Areas in selecting the file categories. The CPS will need to ensure that it develops a national picture of casework that derives, at least in part, from file examination, since validation data alone cannot give the full picture.

1.4 There is still work to do to ensure that the operation of the scheme is robust and consistent. In our file sample, CPS reviewers painted a picture of casework that was over 10% better than it should have been, and missed opportunities to learn from the cases they were examining. Assessment of the application of the Code for Crown Prosecutors (the Code), and identification of Code test failures are a matter of particular concern. CPS lawyers are making errors of analysis and judgement, which lead to 7% of cases being wrongly prosecuted or discontinued, and this has significant consequences for victims, witnesses, defendants, criminal justice partners and public confidence. More worryingly, CQSM reviewers are perpetuating these errors by failing to identify the majority of the Code test failures and ensure that lessons are learned; this urgently needs addressing.

1.5 There is some evidence of improvement in the quality of the casework we examined between the fourth quarter of 2010-11 and the second quarter of 2011-12, which may in part be attributable to improved performance management and is significant in a time of resource reduction. There are indications that CQSM may also be capable, if the advantages are taken, of driving more cohesiveness in Areas and improved working systems. The costs involved in staff time taken represent a very small part of the CPS budget, and it appears to be value for money.

1.6 We make six recommendations to assist the CPS in improving the operation of CQSM, and identify six aspects for improvement.

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## Recommendations

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1 By 31 March 2013, the CPS should achieve more effective communication between champions and between Areas, and raise the profile of the National Governance Panel so that good practice can be promoted and shared more readily (paragraph 4.6).

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2 That:

- a Questions 33 and 34 are removed, and that the CPS puts another method in place to ensure that judicial expectations and the needs of partner agencies (and thus Core Quality Standard 9) are met.
  - b Question 1 is removed (save for use by specialist units).
  - c Additional questions are introduced to give a more detailed picture of case progression and compliance with the Code for Crown Prosecutors.
  - d The guidance given to Areas is reviewed to recognise the impact that T3 will have in the near future (paragraph 4.30).
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3 The CQSM process should include an element of peer review by re-review (paragraph 4.46).

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4 The CPS urgently needs to strengthen those parts of CQSM that demonstrate least robustness. This means reduction of the proportion of unreasonable answers to self-assessment questions from 10% to 7% by 31 March 2013 (paragraph 4.57).

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5 The CPS should consider the risks and implications involved in failure on Code test decisions, and improve the monitoring of the robustness of Area compliance on Questions 2, 11, 12 and 13.

The CPS should ensure by 31 March 2013 that they have improved their focus on the proportion of Code test failures generally, and, within CQSM, increased the identification of those failures from 25% to at least 95%. This is not a target nor do we set an acceptable level of failure; it is set with a view to further improvement in subsequent years (paragraph 4.62).

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6 The CPS must develop the CQSM scheme in 2012-13 to ensure that it has in place a process by which it can judge its own work effectively on a national level (paragraph 4.78).

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## Aspects for improvement

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1 By 31 March 2013, the CPS should further develop the CQSM process to maximise its capability to drive improvement without creating disincentives to robust and realistic assessment (paragraph 4.3).

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2 The CPS should consider ways to improve the effectiveness of comments and other methods used to draw out lessons learned (paragraph 4.10).

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3 There is scope for the CPS to improve the recording of the defendant's ethnicity (paragraph 4.20).

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4 Some Areas would benefit from clearer definitions of the case categories (paragraph 4.36).

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5 The proportion of live cases should be reduced or removed altogether save for in Complex Casework Units and specialist divisions. If any live cases remain in the sample, the CPS needs to ensure by 31 March 2013 that live and finalised cases are equally robustly assessed (paragraph 4.41).

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6 There is scope to clarify or improve the guidance for CPS reviewers for those questions that appear to be causing more difficulty (paragraph 4.50).

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## Strength

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1 In the files examined, the standard of casework in cases of violence against women (other than rape) was closer to the sample average than for any other type of sensitive casework. The robustness of assessment within the CQSM scheme was also closer to the average, and indicates a focus on improvement for this category of hate crime which is commendable (paragraph 4.64).

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## 2 Context

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### Core Quality Standards

**2.1** In March 2010, the Director of Public Prosecutions (DPP), who is head of the CPS, published a set of Core Quality Standards<sup>1</sup> for the Service. The 12 standards are reproduced at Annex A. They came about after a consultation exercise, which began with the publication of draft standards in July 2009.<sup>2</sup> The standards were devised, together with the Code for Crown Prosecutors,<sup>3</sup> to tell the public about the standard they can expect from those who prosecute on their behalf, and to set out for CPS staff what is expected of them. The standards are supported by guidance within the CQS document, supplementary to other legal and policy guidance issued to CPS staff, which is available on the CPS website.<sup>4</sup>

### Core Quality Standards Monitoring scheme

**2.2** The CPS devised a monitoring scheme to assess how far it complies with standards 1-9 (those that relate directly to casework decisions and preparation), and to assist units and Areas to improve their casework performance. Neither of these aims was given primacy over the other.

**2.3** The scheme, which was launched in July 2010, requires heads of CPS units to carry out a dip-sample of six files per month for ten months of the year, answering 34 set questions on each case and deciding whether the relevant Core Quality Standard has been “fully met”, “partially met” or “not met”. In the remaining two months of the year (at present, this is May and November) the reviews are carried out by a lawyer manager

other than the Unit Head, called a Peer Reviewer, who looks at an additional 12 files for each of those months. Throughout this report, where we make a comment or record a finding that applies equally to Unit Heads and Peer Reviewers, we use the term “CPS reviewer”.

**2.4** There is a recommended mix for the categories of cases to be selected for CQSM. The sample of six per month should include an early advice file,<sup>5</sup> an out of court disposal,<sup>6</sup> a finalised guilty plea, a finalised trial, and two live trials. Where one of the other categories is not available that month, live trial files can be substituted. The file selection should be random, save that motoring offences ought to be excluded. There is no requirement to select unsuccessful outcomes or sensitive cases, except that in units undertaking rape prosecutions, at least two rape cases per year must be included in CQSM by the Unit Head and a further one by a Peer Reviewer.

**2.5** If followed as described, CQSM produces evaluations of 84 files per unit per year. At the time of writing, there are 215 units in the CPS, giving a total of about 18,000 cases subject of CQSM each year. This represents about 3% of the overall caseload of the CPS, excluding motoring offences, although it is not a precisely representative cross-section of the CPS caseload.

**2.6** Guidance on CQSM was issued to Areas in two parts, the first on the types of files to be chosen and other aspects of the process, and the second on how to answer the 34 questions

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1 [http://www.cps.gov.uk/publications/core\\_quality\\_standards/index.html](http://www.cps.gov.uk/publications/core_quality_standards/index.html)

2 [http://www.cps.gov.uk/news/press\\_releases/135\\_09/](http://www.cps.gov.uk/news/press_releases/135_09/)

3 [http://www.cps.gov.uk/publications/code\\_for\\_crown\\_prosecutors/](http://www.cps.gov.uk/publications/code_for_crown_prosecutors/)

4 <http://www.cps.gov.uk/index.html>

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5 A request from the police to the CPS for early advice, before the police are ready to seek a charging decision.

6 Out of court disposals include decisions not to charge, adult cautions, and youth diversions from the court system (reprimands and final warnings).

(which the CPS calls “commitments”) posed for each case. The questions are set out in Annex B. The guidance was produced in consultation with the Inspectorate, and we also assisted the CPS in a series of training workshops for Unit Heads, Peer Reviewers, and other managers. These were held between July and December 2010.

**2.7** The 34 CQSM questions or commitments require answers of fully met, partially met, not met, or not applicable, and managers use these to assess casework quality. The CPS also uses a weighted scoring method to represent the standard of compliance it has achieved in relation to each of the commitments, each Core Quality Standard, and an overall score for units and Areas. The weighted score is calculated by allocating one point for each fully met answer, half a point for partially met, and no points for not met. This is turned into a ratio of the total number of answers, excluding those which were not applicable. For example, if a reviewer scored ten questions as fully met, six as partially met, six as not met and the remaining 12 as not applicable, the weighted score would be 59.<sup>7</sup>

**2.8** There is a standard electronic form on which reviewers record their answers to the 34 questions. The CQSM form also provides space for reviewers to record comments against each of the questions where the standard has been partially or not met, and at the end of the form to identify strengths, weaknesses and issues that need to be escalated. This is the part of the process linking CQSM into the local and national performance management frameworks, aimed at enhancing their capability to improve casework quality.

**2.9** The CQSM forms are uploaded electronically to a central database, and the weighted scores are used, with other parts of the CPS performance management framework, to assess how well Areas and the CPS are performing. This is the “assurance” aspect of the process. The ability electronically to submit comments was introduced later in the year. The comments are recorded centrally, but they are not used or analysed by CPS Headquarters.

**2.10** As part of the performance framework, the standards have supporting or validation measures, which include data on successful outcomes, cracked and ineffective trial rates, and other key indicators. The CPS intention from the outset was that CQSM was not to be used in isolation, but in conjunction with other performance management tools, such as other performance data or advocacy assessments, to manage the unit or Area.

**2.11** Each Area in the CPS (of which there are now 13, reduced from 42 after a reorganisation in April 2011) is instructed to appoint a CQSM champion. The champions are there to oversee the application of the scheme, provide assistance, and ensure that remedial action is taken. As part of their duties, the champions are also tasked with reporting back to the national CQSM Governance Panel. The panel met for the first time in October 2010, and is responsible for reviewing and monitoring the operation of CQSM. Under their direction, and over a similar timeframe to this inspection, the CPS has been running a research project, which has included a survey of Unit Heads, seeking their views on the scheme. The Inspectorate is represented at the Governance Panel, but does not have decision-making powers.

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<sup>7</sup> Calculation: 10 points for the fully met answers (10 x 1), plus 3 points for the partially met (6 x 0.5), divided by 22, which is the number of all fully, partially and not met answers (10+6+6), and multiplied by 100 to turn it into a whole number.

## 3 Inspection methodology

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### Examination of CQSM assessments

**3.1** Our primary goal was to assess the effectiveness of CQSM in providing an accurate representation of CPS casework for assurance purposes, and its effectiveness in helping CPS units improve their performance. We also looked to assess the value for money delivered by the scheme.

**3.2** We selected 26 units from across England and Wales, including at least one from each of the 13 CPS Areas. They represented a cross-section of units, including rural and urban, large and small, and magistrates' courts, Crown Court and combined units. A sample was selected from each unit of files that had been subject to CQSM by CPS reviewers between January and May 2011. We also took a sample of charging decisions from CPS Direct, the out-of-hours service, from the same period. Four of the units were selected for onsite inspection activity, and from these, we took an additional sample of 96 cases, which had been the subject of CQSM in August to October 2011. In total, 861 CQSM assessments were examined. The pre-onsite sample represents about 10% of the self-assessments conducted by the CPS in the same timeframe. The total sample represents about 5% of the national self-assessments by the CPS each year.

**3.3** For each file, inspectors answered the 34 CQSM questions and compared their answers with those of the CPS reviewers. Where the two disagreed, inspectors classified the CPS reviewers' answers as reasonable or unreasonable, and further divided them into whether they were too lenient, too robust, or could/should have been not applicable. Where a CPS reviewer answered not applicable and the inspector gave a substantive answer, it was not possible to characterise the CPS reviewer's answer as either lenient or robust, so we recorded a simple reasonable or unreasonable. Inspectors also recorded whether the CPS reviewer had commented sufficiently or at all where they had answered a question partially or not met.

**3.4** The weighted scores (using the calculation method set out at paragraph 2.7 above) for the CPS and inspectors' answers were calculated, and the difference between them noted. We did this for each unit and for the whole file sample. This gave us a measure of how good the CPS thought their casework was, how good we thought it was, and how far apart we and the CPS were in those assessments.

**3.5** From an alternative perspective, we identified the proportion of CPS answers which were so far from accurate that they could be regarded as “unreasonable”. We then calculated the number of unreasonable answers as a percentage of all the answers given in each case, including the not applicable responses. This gave us a measure of how well we thought CQSM was being applied. Whilst it is not possible to draw any conclusions as to how good the casework is from this measure, it identifies the minimum room for improvement available. Again, we produced results for each unit and the file sample as a whole.

**3.6** We analysed the data for the standard of the casework and the application of CQSM by unit, question, case category for CQSM selection, sensitive case type, and the gender, age and ethnicity of the defendant. We also looked at whether there was a difference in how Unit Heads and Peer Reviewers graded casework or applied CQSM, broken down by question as well as by unit.

**3.7** Finally, we assessed the number of not applicable answers, to see which questions were more or less likely to be answered not applicable, and whether this varied by case category, sensitive case type etc.

### **Other inspection activity**

**3.8** In the four Areas visited, we interviewed Unit Heads and Peer Reviewers, Area CQSM champions and/or other relevant senior managers, performance managers and staff, and the Senior Area Business Manager and Chief Crown Prosecutor.

**3.9** We conducted interviews with key staff in the Operations Directorate and CPS management structure, including the DPP, the Chief Executive and the Chief Operating Officer.

**3.10** We reviewed the preliminary findings from the CPS internal research, and compared the survey outcomes to the responses from our interviewees. We have taken our data analysis, interview responses and CPS budgetary information to calculate an approximate cost for applying CQSM, and to assess whether it represents value for money.

**3.11** We are providing detailed feedback to individual units and Areas on the outcomes for their cases, so as to promote improvement in the application of the CQSM process.

## 4 Findings

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### Application of the CQSM process

#### National level

**4.1** In CPS Headquarters, CQSM is viewed as an effective way of measuring casework across the CPS, and as a tool to assess Area performance. It is used in conjunction with supporting (or validation) data from a number of sources, such as the number of needs assessments carried out (victim and witness care) or the number of hearings per case (case progression). We discuss, at paragraphs 4.76-4.78 below, the tension between these aims and allowing flexibility for the Areas to use CQSM to address local concerns.

**4.2** There are no key CQSM-specific outcome measures at national and local level. It is, however, apparent that Areas are being held to account for CQSM outcomes, notably in the quarterly performance reviews with the Chief Operating Officer. This includes challenging Areas when their CQSM results appear to show a much better outcome than validation data would suggest was the case.

**4.3** There is an appropriate focus in CPS Headquarters on ensuring that the CQSM results are accurate and robust. Senior managers have, understandably, been conscious of the need to avoid pressure on Areas to inflate their results so as to make performance look better, a failing that featured in CQSM's predecessor, and helped bring it into disrepute. This is commendable, but parts of the current process allow a level of variation between Areas (and units) which hinders direct comparison between them. In particular, there is variation between the selection criteria Areas are using, which means that the dip-samples have different characteristics, and therefore that the data is not directly comparable.

#### Aspect for improvement

By 31 March 2013, the CPS should further develop the CQSM process to maximise its capability to drive improvement without creating disincentives to robust and realistic assessment.

**4.4** The CPS has not been prescriptive about how CQSM is incorporated into Area performance systems, although guidance is available. There have been recent workshops, led by the Operations Directorate in several Areas, on how to use the information generated alongside national performance data (called the dashboard). These have been welcomed by those attending, and appear to have driven development of the scheme locally, and generated a greater degree of buy-in for the scheme. It is apparent that there is a variable level of understanding of performance information, how CQSM fits in and what it can tell managers, so further similar events would undoubtedly assist.

**4.5** With varying approaches at Area level to incorporating CQSM into performance management, inevitably there are inefficiencies, or Areas re-inventing the wheel. Some of this could be avoided by better communication nationally between Areas, especially at the champions and performance officer level. There is also considerable scope to strengthen feedback loops at Area level, particularly between Area managers, Unit Heads and Peer Reviewers. The CPS may wish to consider including suggestions for feedback in the guidance issued to Areas.

**4.6** The National Governance Panel has a low profile locally, and this could be enhanced in conjunction with national promotion of greater communication between Areas and of national aims. The Panel could also give a lead by promoting examples of good work or exercises that can be used to improve the standard of CQSM assessments and consistency.

### Recommendation

By 31 March 2013, the CPS should achieve more effective communication between champions and between Areas, and raise the profile of the National Governance Panel so that good practice can be promoted and shared more readily.

### Local application

**4.7** The initial national workshops on CQSM were delivered to some managers in Areas; others have been trained in a relatively ad hoc way and there is significant room for improvement on this in the coming year. This is needed to enhance consistency and robustness in some aspects, and to prevent fall back in others. A small misunderstanding of law, practice, or the CQSM process and questions by one or two CPS reviewers can distort the findings for the whole Area.

**4.8** At Area level, the general approach is to drive improvement on casework quality by incorporating CQSM into team and individual performance management structures, but Areas have developed different parts of the scheme at different rates. Some have focused on ensuring that the peer review process works well, or on the robustness and consistency of self-assessment, while others have concentrated more on embedding the CQSM process into

the local performance regime, for example, by use of unit and/or Area action plans. Most give CQSM a high profile role in performance management; only one of the four Areas visited was focusing more on validation measures, and giving CQSM a secondary role. This may help to explain why, of the four visited, this Area showed the greatest deterioration in accuracy and robustness of CQSM answers between January-May, and August-October 2011.

**4.9** The ability to record comments is valuable for managers, but there is a limit to the amount of text that can be typed into the box on the electronic form. This means that CPS reviewers feel hampered in what they can say, and can lead to comments being too brief or concise to be meaningful for others. Some Unit Heads use a separate document, which means their remarks are not stored with the CQSM form. In the cases examined, where comments were required, over half were sufficient. The rest split equally between those cases where there was a comment, but it was not adequate to address the issue identified, and cases where there was no comment recorded. This is unhelpful if lessons are to be learned.

**4.10** We recognise concerns that brevity can yield greater focus, and that the ability to identify issues readily may be affected by more text. Had those been the only factors, the advantages of increasing the character count would have outweighed the risks. However, there are additional drawbacks to an increase, notably the functionality of the central database where the data and comments are stored, and the costs attached to the additional storage requirements for even a small expansion. These make such a suggestion impractical so instead, the CPS should look to improve the use that is made of the existing facilities.



### Aspect for improvement

The CPS should consider ways to improve the effectiveness of comments and other methods used to draw out lessons learned.

**4.11** Most of the managers we interviewed regarded CQSM as a useful performance tool, both for managing their unit and for identifying where individual or team performance needed to improve. There was much more buy-in than has been seen by the Inspectorate for CQSM's predecessor, Casework Quality Assurance. CQSM is widely viewed as more effective and credible, even amongst those who admit to having been a little sceptical at the start.

**4.12** There were a few examples in the file sample of remedial action being taken as a result of the CQSM review, but managers struggled to identify instances where they had changed processes or outcomes as a result. However, there are signs that the process of applying CQSM has had side benefits. In one team, systems had been changed as a result of the Peer Reviewer seeing files from another part of the Area, where a process worked better. In one large Area, meetings between the CPS reviewers to ensure consistency in CQSM approaches improved their communication and sense of being part of an Area, where they had previously been managers in a number of smaller, disparate Areas.

**4.13** CQSM is being used to identify training needs and make improvements as a result. Aspects such as weak performance in disclosure have been highlighted by the application of CQSM and in one Area training delivered to about 60 lawyers has begun to show some improvement.

**4.14** Performance officers understand CQSM's purpose locally, but are less clear about its role at national level. In Areas where the performance officer selects the file sample, they do not always see the value in sticking to the national file sample structure. However, they are commonly able to select the cases where the casework risk is greater.

**4.15** The selection by performance officers allows for randomness, which is preferable to the selection of files by Unit Heads. Selection by Unit Heads, who have numerous demands on their time, inevitably leads to a potential risk that they will cherry-pick easier cases. It could also, for the best of motives, lead to targeting particular members of staff at the risk of missing aspects of the work of the unit as a whole.

#### Composition of the file sample

**4.16** The sample we examined was selected randomly from the list of cases subjected to CQSM assessment by the CPS over the relevant period. The table at Annex C shows the balance of cases in our file sample, and how that compares to the CPS caseload (finalised cases) for both the full calendar year 2011, and the five months from January to May 2011, which is the period from which the bulk of our cases were selected. Despite supposedly random selection of the CQSM sample by CPS units, analysis of the file sample shows that it is not entirely representative.

**4.17** The successful outcome rate was 78.3%, which is 5.5% lower in the file sample than in CPS caseload generally. This may in part be explained by the fact that we also found imbalance in the number of sensitive cases, which tend to have lower success rates (74.0% for sensitive cases compared to 83.8% for all non-motoring cases in 2011).

**4.18** There were just over twice as many sensitive cases in the file sample than in the general population of CPS cases (35% compared to around 17%). This was true for most categories of sensitive cases (such as rape, other violence against women, disability and racial or religious hate crime). However, it was not true for homophobic hate crime, which was underrepresented, with only one case in the sample. Rape cases must be selected by units that prosecute this type of work, which may explain some of that element of imbalance. However, it was apparent from the fieldwork that, despite the requirement for random selection, some of the Areas we visited were choosing to target types of work that they felt presented them with greater risks. The analysis of the sample suggests that this may be a widespread practice, and it is one that is likely to be adopted formally.

**4.19** There were only slight differences in the recorded gender or age of defendants as between the file sample and the CPS finalised caseload.

**4.20** Our recording of the defendant's ethnicity as part of this inspection shows a lower proportion of unidentified (not provided, not stated or unknown) ethnicity (5.5% compared to about 8%) than the CPS national data. This indicates that the information is available somewhere on the file but is not always being captured by the CPS. The higher recorded proportion of White British defendants (around 74% compared to 70%) may be explained by the same mechanism. Our file sample also contained a slightly higher representation of Pakistani defendants (3% compared to 2%). Otherwise, the balance was broadly similar.

### Aspect for improvement

There is scope for the CPS to improve the recording of the defendant's ethnicity.

#### The 34 questions

**4.21** The question set adequately covers the end-to-end casework process at a high level, and gives sufficient information for a national overview in most aspects. It is also capable of giving sufficient detail to be of use at local level for some aspects, such as charging, disclosure and victim care. However, it lacks the capability to give a more detailed picture of case progression, and there is lack of clarity as to the role of the electronic case management system (CMS) in the assessments.

**4.22** There is no specific reference to some aspects of the Core Quality Standards, including appeals, asset recovery and complaints, but these either do not lend themselves to analysis by general file assessment, or would come up too rarely to be of widespread application.

**4.23** Both CPS reviewers and inspectors recorded not applicable for about 63% of their answers. This would equate to about 21 questions, if evenly spread. In fact, some questions were marked not applicable much more than others, such as those relating to custody time limits, basis of plea or a fatality. This is entirely to be expected, as these inevitably occur less frequently in a random sample of cases. Whilst they may be of less frequent application, nevertheless, they are important questions, touching on areas of potential weakness and/or significance.

**4.24** Overall, there was very little difference between how often CPS reviewers and inspectors thought a specific question was not applicable, but there were notable examples, such as for early investigative advice (Question 1). The greatest difference was in Question 21 (the handling of sensitive unused material), which supports inspectors' findings that CPS reviewers are routinely but incorrectly recording this as not applicable where there is a blank sensitive material schedule.

**4.25** The file sample showed that the questions (33 and 34) regarding provision of information to Probation Services and sentencing information for the court lacked relevance for CPS reviewers and inspectors alike. Compliance with these questions was usually determined by or related to local processes which can vary widely and which were rarely discernible from the file, so that the data holds no real significance. We recommend that Questions 33 and 34 are removed, and that the CPS puts another method in place to ensure that judicial expectations and the needs of partner agencies (and thus Core Quality Standard 9) are met.

**4.26** Question 1 is often answered by CPS reviewers in cases that have not actually received early investigative advice. It was not applicable in 84% of cases on CPS reviewers' answers, and should have been recorded as such in a further 13%. This may partly be because cases are flagged for selection by reference to CMS and there are limited options open to duty prosecutors when categorising advice at the pre-charge stage. However, this does not explain variation in practice amongst CPS reviewers as to whether they chose to answer Question 1. The impact is that the data on the quality of early investigative advice is far from reliable.

**4.27** Question 1 undoubtedly has more relevance for units dealing with rape and other serious sexual offences (RASSO units), Complex Casework Units (CCUs) and central casework divisions (CCDs), and should be retained for their use. Amongst interviewees, there was not felt to be a need for any other questions relating specifically to complex casework, but an alternative version of the guidance for complex casework would enable an almost identical, updated question set to be used by these units, and provide meaningful, comparable data. We recommend that Question 1 is removed (save for use by CCUs, CCDs and RASSO units).

**4.28** With the removal of three questions, there is scope for introducing others without adding to the overall workload. This would enable the CPS to address the concerns of unit managers in aspects more central to their casework, especially around case progression. Greater depth of analysis on case progression was appealing to most of the managers interviewed and they were comfortable with it being at the expense of other questions. This was also accepted in principle at national level. The CPS, following early feedback on our findings, is proposing to release an amended version of the questions in April 2012.

**4.29** Suggestions for further questions include specific ones about whether there has been a good grip or guiding hand on the case, whether there has been a proactive approach to case progression, compliance with court orders and directions, or correspondence handling. These are assuming greater importance in the financial climate, and in view of criminal justice system initiatives such as Stop Delaying Justice. In view of our findings as to compliance with the Code for Crown Prosecutors (discussed at paragraphs 4.58-4.62 below), there should be specific question(s) relating to the standard of Code decisions at stages other than charging and discontinuance.

**4.30** The CPS is shortly to introduce its Transforming Through Technology (T3) initiative. The operation of CQSM and the guidance provided to Areas need to be reviewed in light of T3, especially the forthcoming introduction of electronic files.

### Recommendation

That:

- a Questions 33 and 34 are removed, and that the CPS puts another method in place to ensure that judicial expectations and the needs of partner agencies (and thus Core Quality Standard 9) are met.
- b Question 1 is removed (save for use by specialist units).
- c Additional questions are introduced to give a more detailed picture of case progression and compliance with the Code for Crown Prosecutors.
- d The guidance given to Areas is reviewed to recognise the impact that T3 will have in the near future.

### Possible answers and scoring

**4.31** CQSM has three possible substantive answers, fully met, partially met and not met. The partially met answer permits some flexibility in grading the overall standard of casework. The Inspectorate at present uses a yes/no approach where this is possible (for example where it can be said that something was or was not done), and four options where gradation is required

(such as in the standard of case progression or quality of review).<sup>8</sup> The possible answers used are excellent, good, fair and poor, which enables inspectors to say when an acceptable casework standard has been achieved or exceeded (good or excellent) and where improvement is needed (poor or fair).

**4.32** The weighted scoring system used by the CPS, which we describe at paragraph 2.7 above, gives some credit for partially met, when the casework may in some instances fall well below the standard expected, whilst not being sufficiently poor to merit a not met response. This gives less opportunity to reflect the nuances of casework in the mid-range.

**4.33** CQSM's predecessor, Casework Quality Assurance, recorded answers as yes or no. CQSM's three answer approach is a clear improvement on CQA, but does not lend itself to focus in the same way as a four answer scheme would. This and the weighting mechanism combine to reduce the clarity with which CQSM can identify those aspects where improvement may be required, and thus enable the targeting of effort and resource. That said, the structured file analysis introduced by CQSM is new to many CPS managers, and there is scope for leaving the assessment mechanism as it stands whilst the scheme beds in further and CPS reviewers become more practised at file examination.

<sup>8</sup> The Inspectorate is revising its methodology, and this may not remain the case.

### Case categories

**4.34** CQSM requires cases to be chosen from specific categories – early advice provided to investigators, out of court disposals, guilty pleas and trials – in set proportions. We assessed whether there was a difference in how the questions were answered for these categories, but noticed that a number of cases had been wrongly classified. The most frequent instances of wrongly classified cases were those inaccurately recorded as early advice, or as an out of court disposal (e.g. a bind over on the trial date).

**4.35** In some units, only the pre-charge questions were answered in cases that had been classified as advice or an out of court disposal, although other questions may also have applied. In those cases, there was a large difference in weighted scores (16%), probably largely as a result of inspectors answering more questions than CPS reviewers.

**4.36** There was understandably greater agreement on weighted scores for genuine out of court disposals, where there were generally fewer questions answered. Trials produced more disagreement over weighted scores than guilty pleas or advice cases, both of which were scored about as robustly as one another. Trials also generated the largest proportion of unreasonable answers, particularly in relation to the standard of pre-charge advice, review, case progression and disclosure.

### Live or finalised cases

**4.37** The CQSM file sample prescribes the inclusion of live and finalised cases. In Complex Casework Units and specialist divisions, examination of live files is inevitable. The benefit of assessing these was said to be to correct casework errors in real time, and put cases back on track before it was too late. There were only a few instances in the 861 cases examined where we saw clear evidence of this taking place, and managers interviewed also struggled to come up with examples.

**4.38** Live cases were far more likely than finalised cases to be marked over-leniently in case progression, and, to a lesser extent, in timeliness of disclosure and the standard of the disclosure record sheet. There were no questions where finalised cases were marked significantly more leniently than live cases.

**4.39** The average difference between CPS and HMCPSI weighted scores was 10.2% in finalised cases and 10.9% in live cases. Overall, there was little difference in the proportion of unreasonable answers given on live or finalised cases. However, we found more unreasonable answers in live cases in the most significant aspects of casework, such as pre-charge advice, post-charge reviews, case progression and parts of the disclosure of unused material.

**4.40** Inspectors recorded not applicable answers more often in live cases than finalised, to a more marked degree than did CPS reviewers.

### Aspect for improvement

Some Areas would benefit from clearer definitions of the case categories.

**4.41** Interviewees had mixed views about whether live cases should be retained. The cost of retrieving files from archives was cited as a concern with finalised cases, but with the advent of T3, this will become less of an issue. On balance, we consider that the clear advantage of greater robustness in finalised cases in the key questions outweighs the disadvantages.

#### Aspect for improvement

The proportion of live cases should be reduced or removed altogether save for in Complex Casework Units and specialist divisions. If any live cases remain in the sample, the CPS needs to ensure by 31 March 2013 that live and finalised cases are equally robustly assessed.

#### *Unit Heads and Peer Reviewers*

**4.42** The peer review process in CQSM was designed to improve the accuracy of casework assessments by including an independent element. However, the scheme mandates that the Peer Reviewers do not assess any of the same files as the Unit Heads, which reduces the effectiveness of the process as a genuine peer review. Whilst not permitted, this has begun to take place in some units or Areas, where the clear value of re-review is seen.

**4.43** Peer Reviewers are widely believed to be more robust in answering questions than Unit Heads, and this is true in general terms. However, the detailed picture from the inspection is mixed; it is apparent that the advantages of having peer review in its present form are only partly supported by the evidence. Overall, the Peer Reviewers' weighted scores were more robust than Unit Heads' scores but they were much closer to those of Unit Heads than of inspectors. By question, Peer Reviewers'

scores were the same or more robust than Unit Heads' in about two-thirds of the questions. However, there were 12 questions where Peer Reviewers' scores were less robust than those of Unit Heads, most notably those relating to preventing ineffective trials, timely disclosure and prioritising custody cases, and the standard of letters to victims.

**4.44** We rated Peer Reviewers' answers as unreasonable in a smaller proportion overall, but only slightly (10% compared to 10.5% unreasonable answers by Unit Heads). This masks a finding that a greater proportion of Peer Reviewers' answers were unreasonable in half the questions, including case progression, avoiding ineffective trials, and compliance with the Direct Communication with Victims (DCV) scheme, and this needs to be addressed. Peer Reviewers were, however, unreasonable less often in questions relating to pre-charge advice, review, sensitive material and victim and witness care. Peer Reviewers were much more accurate than Unit Heads in judging whether the sensitive material question applied.

**4.45** Peer Reviewers were better at identifying Code test failures than Unit Heads, especially where the failure related to analysis of the case, but still missed them in over half the applicable cases.

**4.46** The file examination undertaken for this report demonstrates the need to review the same files, which would lead to greater insight into the standard of both the casework and the application of the CQSM process.

#### Recommendation

The CQSM process should include an element of peer review by re-review.

## Quality of CQSM assessment

### Reasonableness of responses

**4.47** Overall, 10.4% of the answers given by CPS reviewers were outside a reasonable range. This masks considerable variation between the units (a range of 2% to 20%) and questions (from 0.1% to 28%). Overly lenient answers featured more than overly robust in all but two questions. The most important questions (around charging, review and case progression) attracted more unreasonable responses.

**4.48** Overly generous scoring made up the largest element of the unreasonable answers for the questions relating to pre-charge advice, review, case progression and most of the disclosure questions. For the answers to the questions relating to basis of plea and nearly all the victim care questions, the issue was marking them not applicable when they should have had a substantive answer. Conversely, questions relating to early investigative advice and preventing ineffective trials or unsuccessful outcomes should have been marked not applicable more often.

**4.49** Questions with a low frequency of unreasonable answers tended to be those that very rarely bite, those relating to relatively finite or straightforward aspects, or both; these included the Victim Focus scheme (in cases with a fatality), provision of sentencing information, basis of plea, and custody time limits.

**4.50** The more components there are to a question, the more it engages aspects of legal judgement, or the wider the range of understanding of what is required to meet the standard, the more unreasonable answers

it attracted. Examples include review of magistrates' court cases, initial disclosure and sensitive material handling, the standard of pre-charge advice and case progression. Amendments to the guidance may assist to some extent, but we also suggest (see paragraphs 4.28-4.29 above) that additional questions should be introduced around case progression. Any amendment to the guidance needs to be concise, so as to ensure that it does not become unwieldy.

### Aspect for improvement

There is scope to clarify or improve the guidance for CPS reviewers for those questions that appear to be causing more difficulty.

### Assessment of general casework

**4.51** The headline results from our examination of CQSM assessments are given at Annex D.

**4.52** CPS reviewers were less robust than they should have been in identifying unsatisfactory casework. The overall sample gave a weighted score of 87% from CPS reviewers and one of 77% from inspectors, a difference of 10%. Only one unit (out of 31) gave itself an overall score lower than we gave it (by 1%). The other units scored themselves between 5% and 23% better than we scored them. Twelve CPS units scored themselves better than our top score, and all but two rated themselves higher than our average. We scored only three units higher than the CPS average score. Inspectors recorded nearly twice as many not met answers and 5% fewer fully met answers. The proportion of not applicable answers was the same.



**4.53** Certain questions appeared to be more prone to lack of robustness than others. CPS reviewers rated casework more accurately on those relating to bail (Questions 7 and 8) on indictments (17) and provision of information to Probation Services (33). Questions where CPS reviewers were less robust included those relating to disclosure, case progression, consulting victims and police on decisions to drop charges, and victim and witness care. Two of the largest differences between CPS reviewers' and inspectors' scores were on the questions about the standard of reviews, with the CPS reviewers scoring Crown Court reviews over 30% higher than inspectors. This may be partly due to the comparative complexity of the subject matter, but these are important aspects of casework, and the assessment needs to be accurate and robust.

**4.54** Some questions were scored significantly higher and others significantly lower by one or both sets of file examiners. Inspectors scored five questions above 90% whereas CPS reviewers scored 13 as exceeding 90%. CPS reviewers and inspectors both scored the Code test questions (2 and 13) above 90%, but the number of failed cases that this represents is nevertheless a matter of concern. The other questions marked over 90% by both the CPS reviewers and inspectors concerned provision of information to Probation Services and preventing the release on bail of a high risk defendant.

**4.55** Scoring above average were recording case analysis and strategy and properly applying CPS policies at charging, victim and witness care (apart from the timeliness of letters to victims), and maintaining file housekeeping on the file and the case management system. The latter is important in light of the CPS's forthcoming move into wholly electronic file storage.

**4.56** Questions relating to the monitoring of custody time limits, disclosure, case progression and the standard of reviews were all scored below average by both sets of examiners. The timeliness of letters to victims when a charge was dropped or altered attracted a worse than average score, but the standard of letters was scored as just above average by both.

**4.57** The lowest weighted score from the CPS reviewers' answers was 66.7%, but ten of the questions fell below that on inspectors' scores. At the bottom of the table for both were the questions relating to avoiding ineffective trials or unsuccessful outcomes, recording disclosure decisions and proper handling of a basis of plea.

### Recommendation

The CPS urgently needs to strengthen those parts of CQSM that demonstrate least robustness. This means reduction of the proportion of unreasonable answers to self-assessment questions from 10% to 7% by 31 March 2013.



#### **Assessment of Code test application**

**4.58** The Code for Crown Prosecutors requires an assessment of whether there is sufficient evidence to provide a realistic prospect of conviction and whether a prosecution is in the public interest. This assessment must take place before deciding whether to charge a defendant or to accept a police charged case, and whether to proceed at key stages of the case.

**4.59** In CQSM, compliance with the Code is assessed in Questions 2 and 13, and forms part of the assessment in Questions 11 and 12. Because 11 and 12 cover the standard of review as well as Code compliance, it is not possible to draw direct conclusions from them as to Code compliance; this is a weakness in the design of the CQSM question set, about which we make a recommendation above (see paragraphs 4.29-4.30).

**4.60** In our file sample, 4.3% of cases scored not met on Question 2, Question 11 was not met in 13.6%, Question 12 in 5.6% and Question 13 in 1.5%. In total, there were 59 cases (out of the 861 examined) that failed the Code test at one or more of the key stages, which is 7%. This is better than has been found in other recent work by the Inspectorate, but that should be set against the fact that this file sample contains a relatively high proportion of successful outcomes (78%) unlike the usual Inspectorate sample. Over half of the Code test failures came about as a result of weak analysis of the case and what was needed to prove the various elements of the offence. Most of the other failures were in the application either of legal principles regarding identification or of the public interest limb of the Code test.

**4.61** CPS reviewers were poor at identifying Code test failures, noting only 25% of the cases where one or more featured. They identified only six of the 32 charging decision failures (19%) and only nine of the 27 failures at later stages in the case (33%). CPS reviewers, especially Unit Heads, were worst at identifying a failure properly to analyse the case and whether each element could be proved. This shows a significant lack of robustness in challenging key decisions as part of the CQSM process, and is a fundamental flaw in the way that the process is being applied at present. From it flow missed opportunities to learn lessons; wasted effort by the CPS and other agencies; unnecessary cost; anxiety, inconvenience and distress to victims and witnesses; adverse impacts for those defendants who should not have been charged; and reputational damage.

**4.62** Code test compliance is central to the CPS in its focus on quality and efficiency, so demands greater attention within the CQSM scheme and generally. Whilst there is inevitably going to be human error in the application of the Code, the CPS needs to increase the significance within its performance regime that is attached to the failure rate, so it is able to hold Areas to account and implement remedial action effectively. Changes to the question set which the CPS propose to make, following early feedback of our findings, will include a specific question relating to post-charge Code test application, and this is a welcome step towards that improved clarity.

### Recommendation

The CPS should consider the risks and implications involved in failure on Code test decisions, and improve the monitoring of the robustness of Area compliance on Questions 2, 11, 12 and 13.

The CPS should ensure by 31 March 2013 that they have improved their focus on the proportion of Code test failures generally, and, within CQSM, increased the identification of those failures from 25% to at least 95%.

This is not a target nor do we set an acceptable level of failure; it is set with a view to further improvement in subsequent years.

### Strength

In the files examined, the standard of casework in cases of violence against women (other than rape) was closer to the sample average than for any other type of sensitive casework. The robustness of assessment within the CQSM scheme was also closer to the average, and indicates a focus on improvement for this category of hate crime which is commendable.

#### Assessment of specific types of casework

##### *Sensitive cases*

**4.63** CPS reviewers and inspectors both recorded lower scores for casework quality in rape and racially or religiously aggravated offences than the overall average. Inspectors scored these cases proportionately more robustly than CPS reviewers, and there was a greater difference in weighted scores.

**4.64** There was, though, closer agreement and better weighted scores, for child abuse and other violence against women (VAW) casework. It is apparent that both the standard of casework and the CPS assessment of cases involving VAW other than rape tend to sit close to the average, more so than other categories of sensitive case, and this should be fostered and incorporated into the approach taken to assessment of other types of case.

**4.65** In rape cases, it was notable that the CPS scored themselves much better than did inspectors for key aspects of casework, such as the quality of pre-charge advice, reviews, case progression, and the timeliness of letters to victims. They were closer to inspectors' scores, including scoring themselves more critically than inspectors, in questions relating to avoiding unsuccessful outcomes or ineffective trials, custody time limits, the standard of letters to victims, and compliance with the Victims' Code. Rape cases also generated a higher proportion of unreasonable answers than most of the other categories of sensitive and hate crime, and than the average, most notably for the standard of Crown Court review.

**4.66** There were few cases of disability hate crime in the file sample, one fatality and only one case of homophobic offending, which makes analysis of the data by individual question unreliable. However, it is apparent that inspectors scored the fatality case and the case of homophobic offending very similarly to the CPS reviewers. There were more marked differences of opinions in the five disability hate crime cases, and a higher proportion of unreasonable answers by CPS reviewers than average.

#### *Youth casework*

**4.67** Overall, there was very little difference between the weighted scores for cases with adult and youth defendants. A breakdown by question shows that CPS reviewers tended to mark less robustly for youths than for adults on aspects of pre-charge advice, Crown Court review, case progression and disclosure. They were more robust for questions relating to the application of custody time limits (CTLs), and some elements of victim care. We found that CPS reviewers gave fewer unreasonable answers in youth cases overall than in adult cases, and this was particularly so in the questions relating to CTLs and Crown Court review, which applied less often, and Direct Communication with Victims. However, in case progression, there was a much higher proportion of unreasonable answers for youth defendants than for adult.

#### *Gender and ethnicity*

**4.68** CPS reviewers marked cases very similarly for male and female defendants, and there was little difference in the proportion of answers we found to be unreasonable.

**4.69** CPS reviewers' answers produced weighted scores for different ethnic groups that were broadly similar, and where there was a more marked difference, it tended to be where the number of cases involved was small, making the data less representative. There was quite a wide variation in the difference between CPS and inspectors' weighted scores, but nearly all were within a reasonable range, and the numbers of cases involved in some of the categories are so small that drawing conclusions would be unwise. The proportion of unreasonable answers also varied, but when split by broad ethnic categories were within a reasonable band.

#### **Progress**

**4.70** In the four Areas we visited later in the year, we took a further sample of 24 cases each, subject to CQSM by CPS reviewers in August to October 2011. The consistent findings for all four units were that the overall standard of casework had improved on CPS reviewers' and inspectors' assessments, which suggests a link between the CQSM process and improving quality, although CPS reviewers assessed the improvement as greater than did inspectors.

**4.71** The other findings were inconclusive. The difference between our weighted scores and those of the CPS had reduced in two units but increased in two. In three out of the four, the proportion of unreasonable answers had increased, which supports our finding that there needs to be further work on robustness and consistency. The files which came from the Area where there has been greater focus on validation data than CQSM showed the least robust results of the four, with the smallest increase in the inspectors' score, the largest increase in difference in scores and the highest proportion of unreasonable answers. This suggests that the lack of focus at a senior level is adversely affecting the outcome of the CQSM process.

### Value for money

**4.72** It is generally accepted that there needs to be a process whereby the CPS assesses the quality of its work on cases, and that this must involve some form of file assessment, both to provide assurance and identify areas of nascent risk and existing weak performance. As discussed above, CQSM does have a value greater than its predecessor Casework Quality Assurance, suggested by the improved casework quality on three out of four Areas re-visited by us. Is it possible to quantify this value and compare it to the cost of the scheme?

**4.73** There has been no formal Area or national assessment of the resource cost of applying the CQSM process in relation to the benefit. There is a perception in some Areas that the opportunity cost of applying CQSM is minimal. When contrasting this process with its predecessor, it is generally accepted that the overall time commitment is not significantly different, and it is far outweighed by the perceived benefits provided by CQSM over the CQA process.

**4.74** The time and associated costs of the application of CQSM are small when considered relative to budget. We analysed the time taken in one of the Areas visited, which showed that the time commitment for CQSM equates to less than 1% of its budget. The Area chosen was fully engaged with CQSM, and its time commitment is comparable to the other Areas visited and information from the CPS's own research. We have therefore taken the analysis

and scaled it up for the CPS as a whole. This is not a precise calculation, but broadly, the time taken by CQSM approximates to less than 0.5% of the CPS's budget. Expressed another way, each of the CQSM cases costs about £72 for a Unit Head or Peer Reviewer to examine; this is against an average cost of prosecuting a case of £731. If CQSM works effectively to detect Code test failures (which are generally an indicator of inefficiency) and improve decision-making, it could pay significant dividends.

**4.75** However, the benefits of applying CQSM are intangible, therefore less easy to quantify. CQSM could potentially be used to substitute other assurance procedures currently in place, although most of the unit managers interviewed reported that they had not ceased other work as a result. Some Areas are planning to apply CQSM to all adverse outcome cases, thus replacing existing adverse outcome monitoring. There are also examples of Areas that plan to enlarge CQSM use by the Area's specialist leads. Again this is intended to be at zero time cost by substituting the reports currently being prepared by these specialists. This approach to utilising CQSM as a management tool should avoid duplication of effort, substitute the production of some reports, and have a neutral impact on staff time. However, it requires greater robustness on analysis of some of the key issues in cases than has been demonstrated to date, particularly in identifying Code test failures. With that proviso, CQSM represents good value for money in these terms, too.

## Policy issues

**4.76** At national level, there is a tension, which is recognised but which has largely gone unexplored, between the dual objectives of the CQSM scheme. These are the need for consistency in production of a national picture of the standard of CPS casework for assurance purposes, and the capability of Chief Crown Prosecutors (CCPs) or unit managers to focus on those aspects of casework which carry local risk, and so aid improvement.

**4.77** There is clearly a need for the CPS to know the standard of casework nationally and for CCPs to be held to account for performance on an equal footing across Areas, but different Areas have different concerns about their casework and would wish to reflect those in the way that they apply CQSM. These two objectives may not be fully reconcilable, but it is apparent that the tension must be addressed, rather than allow CQSM to continue doing a partial job in both spheres. It is already the case that Areas are selecting different types of cases, both deliberately and due to misunderstanding of the categories. Some Areas are selecting sensitive or failed cases better to understand these higher risk cases, and this, whilst laudable, will inevitably have an effect on their results and the ability of CPS Headquarters to judge the standard of casework equally across the whole of the CPS.

**4.78** We recommended in emerging findings to the CPS that they review the scheme to determine how best to revise the national scheme so as to deliver both aims more effectively. The discussions within the CPS are now taking place, and we understand that the preferred proposal is to allow Areas to be

flexible in file selection to enable focus on casework improvement locally, and rely on the validation measures to give a picture of national casework. We do not agree that validation measures are sufficient to give a true picture of CPS casework, resting as they do on data from a number of external sources and work done by other parts of the criminal justice system. A way to use CQSM to achieve both could be to set aside one month a quarter for additional files for a national casework data capture and allowing flexibility the rest of the time, or by taking a national casework sample each month alongside samples selected by Areas to quality assure their local risks. Both would probably require an increase in the amount of files to be read to make the sample sizes meaningful and challenge local processes. Alternatively, prescribing a rolling programme of higher risk case categories month by month that reflected the most common of Areas' concerns would meet their needs, but would produce a national picture of casework that is skewed by the higher risk. Consideration should be given to whether it is possible to weight categories of cases so as to realign the sample to the national balance of cases, and thus reflect casework accurately. Failing this, it may be that the CPS has to accept that they have a picture of national casework that is generated by the higher risk casework, and that this may present a worse perspective than is achieved in the lower risk casework.

### Recommendation

The CPS must develop the CQSM scheme in 2012-13 to ensure that it has in place a process by which it can judge its own work effectively on a national level.



## 5 Conclusion

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**5.1** The introduction of a set of quality standards, and a mechanism, linked to other key measures, by which the CPS could assess compliance with them, are significant steps forward for the CPS in its management of casework and performance.

**5.2** It is early in the development of the Core Quality Standards Monitoring scheme, but real progress has been made over the last 12 months to develop and embed it locally and nationally. It is more effective and authoritative than its predecessor, Casework Quality Assurance, and is seen as a useful performance tool by most of the managers interviewed. The operation of the scheme and the resulting data have greater resonance with middle managers in some Areas than others, although there is clarity at Headquarters level on its use and significance.

**5.3** A small sample of later cases showed an improvement in the quality of the casework, which may in part be attributable to improved casework performance management and is significant in a time of resource reduction. There are indications that CQSM may also be capable, if the advantages are taken, of driving more cohesiveness in Areas and improved working systems. The costs involved in staff time taken represent a very small part of the CPS budget, and it appears to be value for money.

**5.4** The CPS is reviewing how best to use CQSM to promote improvement; we understand that there is likely to be a greater degree of autonomy for Areas in selecting the file categories. The CPS will need to ensure that it develops a national picture of casework that derives, at least in part, from file examination, since validation data alone cannot give the full picture.

**5.5** Whilst a clear improvement on CQA, there is still work to do to ensure that the operation of the scheme is robust and consistent. As Areas move away from the standard file selection criteria, this will assume even greater importance. In our file sample, CPS reviewers painted a picture of casework that was over 10% better than it should have been, and missed opportunities to learn from the cases they were examining. At the high level, the finalised/live status or outcome make little difference to the weighted score or how reasonable the answers given. However, this masks greater differences in key questions (decision-making, review and case progression) particularly for certain categories of case. The impact lies in the ability of CPS reviewers to elicit the key issues from the casework they examine. Peer Reviewers are more robust overall than Unit Heads, but again there are questions where Peer Reviewers need to be more critical. Re-review would make the peer review process more effective. Any consistency exercise should address these specific findings.

**5.6** Code test failures are a matter of particular concern. Not only are CPS lawyers making errors of analysis and judgement, which lead to 7% of cases being wrongly prosecuted or discontinued, but CQSM reviewers are perpetuating these errors by failing to identify the majority of the Code test failures and ensure that lessons are learned. This is despite the significant impact they have for the organisation and its stakeholders.





# Annexes

## A The CPS's Core Quality Standards

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**STANDARD 1:** We will provide the police and other investigators with advice to assist in tackling crime effectively and bringing offenders to justice.

**STANDARD 2:** We will make timely, effective and fair charging decisions in accordance with the Code for Crown Prosecutors.

**STANDARD 3:** We will use out of court disposals as alternatives to prosecution, where appropriate, to gain speedy reparation for victims and to rehabilitate or punish offenders.

**STANDARD 4:** We will oppose bail for defendants where appropriate, taking particular account of the risk posed to victims and the public.

**STANDARD 5:** We will prepare all our cases promptly and in accordance with the Criminal Procedure Rules so that guilty pleas can be entered at the earliest opportunity, and fair trials can take place on the appointed dates.

**STANDARD 6:** We will present our cases fairly and firmly.

**STANDARD 7:** We will assess the needs of victims and witnesses, keep them informed about the progress of their case and seek appropriate support to help them to give their best evidence.

**STANDARD 8:** We will explain our decisions to victims when we stop cases or substantially alter the charge.

**STANDARD 9:** We will assist the court in the sentencing process and seek to confiscate the proceeds of crime.

**STANDARD 10:** We will consider whether to exercise our rights of appeal when we believe the court has made the wrong legal decision.

**STANDARD 11:** We will deal promptly and openly with complaints about our decisions and the service we provide.

**STANDARD 12:** We will engage with communities so that we are aware of their concerns when we make decisions.

## **B CPS Core Quality Standards Monitoring questions**

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- 1 The early investigative advice was of good quality.
- 2 The pre-charging decision applied the correct Code test (full or threshold) and the decision to charge was compliant with the Code test.
- 3 All relevant CPS policies were applied at the pre-charge stage.
- 4 The MG3<sup>9</sup> included proper case analysis and case strategy.
- 5 The MG3 made reference to all relevant applications and ancillary matters.
- 6 The MG3 included appropriate instructions and guidance to the court prosecutor.
- 7 The file endorsements clearly set out what happened in court in relation to bail.
- 8 All reasonable efforts were made to prevent the release on bail of a defendant who posed a risk to the victim or the public generally.
- 9 The case was correctly recorded on CMS.
- 10 File endorsements (other than bail) and file housekeeping were accurately and appropriately maintained.
- 11 The case was reviewed properly while it was in the magistrates' court (including committal).
- 12 The case was reviewed properly once it had moved into the Crown Court (including sending).
- 13 The decision to end any charge was compliant with the Code test.
- 14 Where an unsuccessful outcome was foreseeable, everything practicable was done to prevent it.
- 15 Case progression was carried out effectively, including in accordance with the Criminal Procedure Rules.
- 16 Where an ineffective trial was foreseeable, everything practicable was done to prevent it.
- 17 The indictment was correctly drafted in all respects.
- 18 Sufficient written instructions were prepared for the advocate.
- 19 The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedule (but not including timeliness of disclosure).
- 20 The prosecutor complied with the duty of continuing disclosure, including the correct endorsement of the schedule (but not including timeliness of disclosure).
- 21 The sensitive material schedule and any sensitive material were handled appropriately.
- 22 There was an appropriate audit trail of disclosure decisions on the disclosure record sheet.

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<sup>9</sup> The MG3 is the written record of the charging advice given by the CPS to the police.

- 23 The prosecution discharged its duties of disclosure in a timely fashion.
- 24 Where CTLs applied, the preparation was prioritised to make sure that the trial could start or committal take place within the CTL, or we could say that we acted with all due diligence and expedition when asking the court to extend the time limit.
- 25 Where CTLs applied, the case was monitored and handled in accordance with national standards.
- 26 The prosecution was right to accept the pleas offered and/or to accept the basis of plea.
- 27 Any basis of plea was in writing and signed by the prosecution and defence.
- 28 The Victims' Code, Prosecutors' Pledge and any other policy guidance on the treatment of witnesses was complied with.
- 29 In cases involving a death, the prosecutor offered to meet the victim's family from an early stage to explain how the case would be handled and what would be expected to happen at each court hearing.
- 30 When proposing to stop the case or to alter the charges substantially, where it was practicable to do so, the police or other investigators were consulted before reaching a final decision.
- 31 There was timely DCV communication when required.
- 32 The DCV communication was of a high standard.
- 33 The Probation Service or Youth Offending Team was supplied with an appropriate and timely summary of the case to help them prepare a pre-sentence report for the court.
- 34 Where necessary, a written submission was provided to the court outlining the relevant sentencing provisions and guidelines, any available ancillary orders and any other relevant information.

## C Inspection file sample composition compared to CPS caseload

	CPS caseload Jan-Dec 2011		CPS caseload Jan-May 2011		HMCSI file sample	
	Number	% of total	Number	% of total	Number	% of sample
Total caseload (finalised cases excl. motoring) or sample size	637,510	100	260,513	100	861	100
<b>Outcomes</b>						
Successful outcomes	534,163	83.79	218,407	83.84	674	78.28
Unsuccessful outcomes	103,347	16.21	42,106	16.16	187	21.72
<b>Total outcomes</b>	<b>637,510</b>	<b>100</b>	<b>260,513</b>	<b>100</b>	<b>861</b>	<b>100</b>
<b>Sensitive cases</b>						
Rape <sup>10</sup>	3,982	0.62	1,744	0.67	36	4.18
Other sexual offences (not rape) <sup>10</sup>	8,465	1.33	3,452	1.33	22	2.56
Other VAW <sup>10</sup>	79,955	12.54	32,677	12.54	194	22.53
<b>Total VAW</b>	<b>92,402</b>	<b>14.49</b>	<b>37,873</b>	<b>14.54</b>	<b>252</b>	<b>29.27</b>
Disability hate crime	677	0.11	329	0.13	5	0.58
Homophobic hate crime	1,192	0.19	453	0.17	1	0.12
Racially or religiously aggravated	12,414	1.95	5,177	1.99	42	4.88
<b>Total hate crime</b>	<b>14,283</b>	<b>2.24</b>	<b>5,959</b>	<b>2.29</b>	<b>48</b>	<b>5.57</b>
<b>Total sensitive crime</b>	<b>106,685</b>	<b>16.73</b>	<b>43,832</b>	<b>16.83</b>	<b>300</b>	<b>34.84</b>
<b>Ethnicity of defendants</b>						
A Asian or Asian British	6	0.001	2	0.001	0	0
A1 Indian	6,258	0.98	2,621	1.01	15	1.74
A2 Pakistani	10,996	1.72	4,572	1.75	24	2.79
A3 Bangladeshi	4,149	0.65	1,686	0.65	5	0.58
A9 Any other Asian background	7,733	1.21	3,162	1.21	17	1.97
B1 Caribbean	20,040	3.14	8,096	3.11	26	3.02
B2 African	15,192	2.38	6,200	2.38	15	1.74
B9 Any other Black background	11,401	1.79	4,575	1.76	9	1.05
M1 White and Black Caribbean	9,109	1.43	3,724	1.43	16	1.86
M2 White and Black African	1,897	0.30	795	0.31	2	0.23
M3 White and Asian	1,502	0.24	628	0.24	3	0.35
M9 Any other Mixed background	4,331	0.68	1,790	0.69	6	0.70
NP Not provided or not stated	52,743	8.27	20,480	7.86	47	5.46
O1 Chinese	997	0.16	455	0.17	0	0
O9 Any other ethnic group	5,684	0.89	2,286	0.88	1	0.12
W White	11	0.002	10	0.004	0	0
W1 British	444,771	69.77	182,844	70.19	635	73.75
W2 Irish	5,382	0.84	2,202	0.85	8	0.93
W9 Any other White background	35,308	5.54	14,385	5.52	32	3.72
<b>Gender of defendants</b>						
Male	553,373	86.80	225,951	86.73	746	86.64
Female	83,935	13.17	34,490	13.24	115	13.36
Unknown	202	0.03	72	0.03	0	0
<b>Age of defendant (from CPS recorded age bands)</b>						
Adult	553,058	86.75	225,302	86.48	740	85.95
Youth	79,465	12.46	33,089	12.70	120	13.94
Unknown	4,987	0.78	2,122	0.81	1	0.12
<b>Total defendants</b>	<b>637,510</b>	<b>100</b>	<b>260,513</b>	<b>100</b>	<b>861</b>	<b>100</b>

## D Summary of casework findings

Summary of weighted scores from answers given by CPS reviewers and inspectors, and the difference between them; proportion of unreasonable answers by CPS reviewers as a percentage of all answers given.

		Weighted scores and difference		Unreasonable answers as % of all answers
		CPS	HMCPSI	
All questions	Weighted	87.1	76.6	10.4
	Difference	10.5		
1 The early investigative advice was of good quality.	Weighted	88.4	77.8	13.2
	Difference	10.6		
2 The pre-charging decision applied the correct Code test (full or threshold) and the decision to charge was compliant with the Code test.	Weighted	95.2	93.6	11.3
	Difference	1.6		
3 All relevant CPS policies were applied at the pre-charge stage.	Weighted	94.5	88.3	13.9
	Difference	6.2		
4 The MG3 included proper case analysis and case strategy.	Weighted	90.7	79.8	19.2
	Difference	10.9		
5 The MG3 made reference to all relevant applications and ancillary matters.	Weighted	80.5	71.4	15.7
	Difference	9.1		
6 The MG3 included appropriate instructions and guidance to the court prosecutor.	Weighted	84.7	72.5	16.5
	Difference	12.2		
7 The file endorsements clearly set out what happened in court in relation to bail.	Weighted	87.9	82.3	9.6
	Difference	5.6		
8 All reasonable efforts were made to prevent the release on bail of a defendant who posed a risk to the victim or the public generally.	Weighted	97.0	97.8	3.6
	Difference	-0.8		
9 The case was correctly recorded on CMS.	Weighted	95.2	87.5	13.2
	Difference	7.7		
10 File endorsements (other than bail) and file housekeeping were accurately and appropriately maintained.	Weighted	92.4	83.2	11.7
	Difference	9.2		
11 The case was reviewed properly while it was in the magistrates' court (including committal).	Weighted	82.4	62.7	27.9
	Difference	19.7		
12 The case was reviewed properly once it had moved into the Crown Court (including sending).	Weighted	81.4	49.1	11.5
	Difference	32.3		
13 The decision to end any charge was compliant with the Code test.	Weighted	94.8	92.7	12.0
	Difference	2.1		

		Weighted scores and difference		Unreasonable answers as % of all answers
		CPS	HMCPSP	
14	Where an unsuccessful outcome was foreseeable, everything practicable was done to prevent it.	Weighted Difference	67.9 50.0 17.9	9.6
15	Case progression was carried out effectively, including in accordance with the Criminal Procedure Rules.	Weighted Difference	85.7 71.1 14.6	18.5
16	Where an ineffective trial was foreseeable, everything practicable was done to prevent it.	Weighted Difference	66.7 45.3 21.4	5.3
17	The indictment was correctly drafted in all respects.	Weighted Difference	92.8 87.6 5.2	5.5
18	Sufficient written instructions were prepared for the advocate.	Weighted Difference	83.2 62.1 21.1	14.3
19	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedule (but not including timeliness of disclosure).	Weighted Difference	81.4 67.7 13.7	15.4
20	The prosecutor complied with the duty of continuing disclosure, including the correct endorsement of the schedule (but not including timeliness of disclosure).	Weighted Difference	83.9 69.8 14.1	10.9
21	The sensitive material schedule and any sensitive material were handled appropriately.	Weighted Difference	76.8 66.1 10.7	20.3
22	There was an appropriate audit trail of disclosure decisions on the disclosure record sheet.	Weighted Difference	70.4 59.1 11.3	12.5
23	The prosecution discharged its duties of disclosure in a timely fashion.	Weighted Difference	75.4 62.6 12.8	12.1
24	Where CTLs applied, the preparation was prioritised to make sure that the trial could start or committal take place within the CTL, or we could say that we acted with all due diligence and expedition when asking the court to extend the time limit.	Weighted Difference	94.3 82.7 11.6	2.6
25	Where CTLs applied, the case was monitored and handled in accordance with national standards.	Weighted Difference	83.5 71.1 12.4	3.5
26	The prosecution was right to accept the pleas offered and/or to accept the basis of plea.	Weighted Difference	96.3 85.7 10.6	5.0
27	Any basis of plea was in writing and signed by the prosecution and defence.	Weighted Difference	71.7 39.1 32.6	2.7
28	The Victims' Code, Prosecutors' Pledge and any other policy guidance on the treatment of witnesses was complied with.	Weighted Difference	95.5 88.3 7.2	11.1
29	In cases involving a death, the prosecutor offered to meet the victim's family from an early stage to explain how the case would be handled and what would be expected to happen at each court hearing.	Weighted Difference	75.0 100.0 -25.0	0.1

		Weighted scores and difference		Unreasonable answers as % of all answers	
		CPS	HMCPSI		
30	When proposing to stop the case or to alter the charges substantially, where it was practicable to do so, the police or other investigators were consulted before reaching a final decision.	Weighted	89.2	70.9	8.7
		Difference	18.3		
31	There was timely DCV communication when required.	Weighted	80.6	61.9	6.5
		Difference	18.7		
32	The DCV communication was of a high standard.	Weighted	88.5	77.1	5.0
		Difference	11.4		
33	The Probation Service or Youth Offending Team was supplied with an appropriate and timely summary of the case to help them prepare a pre-sentence report for the court.	Weighted	98.1	99.0	4.1
		Difference	-0.9		
34	Where necessary, a written submission was provided to the court outlining the relevant sentencing provisions and guidelines, any available ancillary orders and any other relevant information.	Weighted	91.3	81.1	1.7
		Difference	10.2		

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