



HM Crown Prosecution
Service Inspectorate

Custody Time Limits

Follow-up review of the handling of custody time limits
by the Crown Prosecution Service

July 2013



Chief Inspector's foreword

The Crown Prosecution Service plays a vital role in ensuring that those remanded by the courts remain lawfully in custody and are not released due to failures on the part of the CPS administrative systems. With increasing pressure on staff resources it is vital that the CPS continue to monitor custody time limits (CTLs) in all cases and apply, if necessary, in good time to extend the expiry date. The consequences of not doing so and a defendant being bailed, may put victims, witnesses and the general public in danger. I therefore agreed, given the risks associated with custody time limit failures, that it was important for HMCPSI to follow-up the 2010 audit report.

This review has assessed whether the CPS has made progress to implement the recommendations we set out in 2010. The personal interest that the Director of Public Prosecutions takes in the Service's compliance with custody time limits has undoubtedly resulted in improved compliance and focus. It is pleasing to be able to report that the CPS has responded positively and has implemented the majority of the recommendations. This includes the culture change that was recommended in the last report to involve a wider range of staff in taking responsibility in CTL cases, an improvement has been seen in the standard of written area systems and the

introduction of the peer reviews has seen areas identifying issues and taking action to improve performance in handling CTL cases. However, this review has found that whilst some significant improvements have been made, further work is necessary. I have made two additional recommendations to help direct the priorities for the CPS.

I acknowledge that the significant change proposed by the CPS to implement national standard operating procedures will provide the opportunity to consolidate the improvements made as a result of a mandatory national standard for custody time limits. Such a move, provided the procedures are effectively implemented by the CPS, should ensure a consistent quality in handling custody time limit cases.



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Executive summary

The Crown Prosecution Service (CPS) has responded positively to the findings of the previous report into custody time limits (CTLs) by Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI)¹. CPS Headquarters quickly implemented the recommendations, many of which required amendment of the national standard. However, this review has found that whilst there is evidence of improvements in CPS areas, further work is necessary to ensure that the areas have fully adopted the changes outlined in the national standard and that CTL cases are dealt with effectively.

There has been a significant improvement in the involvement of CPS prosecutors at the first remand hearing calculating and announcing the expiry date in court. This had not been universally adopted at the time of the last review but has now become standard practice. In this audit there were fewer miscalculations noted and where these had occurred, they were corrected at the initial checks. This is an improved position from 2010.

There have been improvements in the quality of file endorsements relating to CTLs. Lawyer managers are proactive in quality assuring file endorsements and follow up any issues found; again a significant improvement from the position in 2010.

Regular internal peer reviews have raised awareness by giving CPS areas an objective view of their CTL performance and of any issues arising from the review, as well as being a means by which to give an assurance to CPS Headquarters on performance.

Case progression in CTL cases is an aspect of work which would benefit from some formal prioritisation. The CPS needs to ensure that target dates are set for the police when requesting further work and that these are followed up if necessary. It was not universal to find CTL cases prioritised.

CPS Headquarters and Her Majesty's Courts and Tribunals Service (HMCTS) share information regarding CTL failures and listing issues in CTL cases. However, at a local level the involvement of the courts in CTL monitoring remains limited. Further liaison is necessary at this level if this is to more accurately reflect the protocol in place between the CPS and HMCTS, which was recently amended and signed on 5 February 2013. The revised protocol will provide an opportunity for this to be taken forward locally.

The national standard which was amended in line with the recommendations of the last report has been kept up to date with changes in law and practice. This document forms a sound basis for the production of standard operating procedures being developed by the CPS in the near future.

There has been an improvement in the quality of written CTL systems seen which were comprehensive with clearly assigned responsibilities. The area systems were more compliant with the national system though each area had formatted the system in a different way, some of which were easier to work with than others.

¹ A report relating to the handling of custody time limits by the Crown Prosecution Service, March 2010.

Recent developments in the way in which the CPS works is posing a number of challenges in dealing with CTL cases. The delivery of overnight remand files to prosecutors in court has created issues since the move to digital working. Whilst the majority of other files are transferred electronically to the CPS, technical issues mean that overnight remand cases are delivered to court in a paper format. It has also led to issues in ensuring that the prosecutor in court is aware of the fact one of their files has a custody time limit. These issues are yet to be fully resolved.

The introduction of a national electronic calculator for CTLs allows quick and accurate calculation and can also provide an audit trail if it is saved onto the file. However, further work is necessary to improve staff awareness of and confidence in this tool and if the use of it were to be made compulsory, it would further improve the accuracy of calculations.

Conclusion and recommendations

The fact that the Director of Public Prosecutions takes a personal interest in failures to comply with CTLs has understandably led to improved compliance and greater focus on this aspect of work. The positive work done since the last report has led to a number of improvements in the handling of CTL cases. This work needs to be taken forward to provide the foundation for an effective standard operating procedure which will produce a consistent and effective basis for handling CTL cases across the country.

Encouraging a greater involvement of the police and the courts in managing and progressing CTL cases will contribute to more efficient handling and should aim to ensure that they can be dealt with within the original expiry date in the majority of cases.

Recommendations

1 Prosecutors in court should use the electronic calculator to calculate the expiry date and the result saved and retained on the electronic or paper file and on the case management system (paragraph 3.10).

2 Custody time limit training for all counsel included on the Advocate Panel scheme should be made mandatory (paragraph 7.20).

Good practice

1 In some areas where digital working has become common practice prosecutors are asked to email electronic hearing record sheets for cases with a custody time limit individually to the CPS office to allow staff to prioritise action on these cases (paragraph 6.7).

2 When upgraded files of evidence are received on cases with a custody time limit, these cases are given priority in preparing them for trial or committal rather than being dealt with in court date order (paragraph 6.8).

3 Correspondence was sent to the police at the point at which a defendant was remanded in custody which contained paragraphs that informed them of the custody time limit expiry date and their responsibilities regarding case progression (paragraph 6.15).

4 Some custody time limit area champions were proactive in providing additional training for staff when new issues arose in relation to handling custody time limit cases (paragraph 7.19).

Part 1: Introduction and background

1 Introduction

1.1 This review is a follow-up to a report published in March 2010 on the handling of custody time limits by the CPS. The review examines the progress made in relation to the recommendations in the previous report and evaluates the current performance in relation to CTLs.

1.2 Progress against recommendations has been assessed and we have rated the CPS's response to each using the following measures:

- **Achieved** - the CPS has accomplished what was required
- **Substantial progress** - the CPS has made real headway in taking forward its planned actions in relation to the recommendation
- **Limited progress** - the CPS has done something to address the recommendation
- **Not progressed** - the CPS cannot demonstrate any progress
- **No longer applicable** - where there has been a change in circumstance which makes the issue no longer relevant

	Recommendation	Progress
1	It is suggested that the good practice points in chapter 4 are added to the national standard	Achieved
2	Consideration should be given to redesigning the CPS file jacket in the Magistrates' Courts sections and the Crown Court to allow consistent use of the file for CTL monitoring	No longer applicable
3	CPS Headquarters should consider amending the national standard to set out more fully the proactive role required of paralegal officers at the Crown Court	Achieved
4	Cases should only be removed from the monitoring system by staff with authorisation to do so	Limited progress
5	CPS Headquarters should consider whether the definition of a failure should be further extended to include cases in which a decision is taken by the lawyer not to apply for an extension as it would not be possible to demonstrate CPS had acted with due diligence	Not progressed
6	Areas should ensure that the culture change aimed at engaging a wider range of staff in CTL expiry monitoring responsibilities has been achieved	Substantial progress
7	CPS Headquarters and CPS areas should consider how case progression fits into the role of CTL expiry monitoring	Achieved
8	CPS Headquarters should provide clearer guidance about the handling of CTL cases in relation to the optimum business model which ensures that there is clear and workable ownership of responsibility for CTL actions	Achieved

Recommendation	Progress
9 Consideration should be given to adding to the national standard the action to be taken when a decision is taken not to apply for an extension	Achieved
10 CPS Headquarters may wish to consider guidance to areas advising that in particular types of case, written applications for an extension should be made at the appropriate point, even if it seems that there is no reason for the case not to be dealt with within the expiry date	Achieved
11 Consideration should be given to offering inter-agency training on an area or family group basis with the courts' staff and with counsels' chambers	Limited progress

Background and context

1.3 In June 2012 there were 8,590 cases registered within the CPS case management system with defendants in custody. This compares with 10,725 cases which were registered in June 2009 (when the last audit was carried out). This fall in defendants in custody may be as a result of a reduction in the CPS caseload of 9.7 per cent nationally in the Magistrates' Court and 2.5 per cent in the Crown Court. However, it must also be noted that between 2009-10 to 2011-12 there has been a decrease in CPS staff numbers of 11.9 per cent.

1.4 Custody time limits were introduced in the Prosecution of Offences Act 1985 to ensure that accused persons are not deprived of their liberty for longer than is reasonable. The Act sets a maximum for the length of time an unconvicted accused person can be held in custody before trial in the Magistrates' Courts and the Crown Court (see annex A).

1.5 The legislation requires the CPS to make an application in good time to extend the CTL if the case is not finalised within the initial expiry date. In order to grant the extension the court has strict criteria which the CPS must satisfy. This includes having a good reason for the extension and being able to demonstrate that the case has been handled with due diligence and expedition.

1.6 CPS areas developed monitoring systems to ensure that applications are made in good time. Shortly before the last review, the CPS had produced an updated CTL national standard with which all systems operating in its areas were expected to comply.

1.7 Effective monitoring of CTLs is a priority as failure to apply to extend the expiry date or a failure to satisfy the criteria for an extension will result in the defendant being released on bail regardless of the nature of the crime. Clearly this may have serious consequences for the victims and witnesses involved in the case and possibly for the safety of the public at large.

1.8 The previous report highlighted the complexity of the CTL regime particularly when a defendant is in custody on several cases in which each charge will attract its own expiry date. Whilst there has been no change in the legislation to simplify the regulations, the monitoring of CTLs will be simplified to some degree when the process of committing cases to the Crown Court is abolished and the regulations are being updated to reflect this. At this point the need to monitor the CTL in the Magistrates' Court prior to the case being committed will no longer be necessary.

1.9 Other criminal justice agencies need to be aware of the CTL expiry date as they also influence how soon a case is ready for trial. The police are key in providing the evidence without which the progress of the case will be delayed. The CPS needs to ensure that the police are informed of the expiry date and the potential consequences of the case not being ready to proceed within that timeframe.

1.10 The court also has an influence on whether a case can be dealt with within the initial expiry date. Pressures on listing cases may result in a trial being fixed outside the original CTL. However, despite the case being ready for trial, the prosecution still must apply to the court to extend the time limit and establish a good and sufficient cause for doing so.

1.11 Case law has established that "routine listing difficulties" do not constitute a good and sufficient cause for granting an extension to the CTL. Within the last year in two cases² the Administrative Court has confirmed this by quashing the original court's decision to extend the CTL due to difficulties listing the case within the initial expiry date. This has emphasised that in cases that are considered "routine", the court must investigate all other ways to have the trial listed within the expiry date otherwise the defendant must be released on bail.

Methodology

1.12 The review team visited five offices in four CPS areas and one Headquarters casework division. In each area we examined six Crown Court and four Magistrates' Court files in which custody time limits applied and looked at six cases in the casework division. The team also spoke to CPS staff to establish how the systems for monitoring CTL files operated.

² *R v Coventry Crown Court (ex p McAuley)* [2012] EWHC 680 (Admin) and *R v Luton Crown Court (ex p Raeside)* [2012] EWHC 1064 (Admin).



Part 2: Inspection findings

2 Effective written system

2.1 A comprehensive written system, clearly set out and available to all staff is the basis for effective monitoring of CTLs. At the time of the last review, CPS area written systems varied greatly in quality and did not always clearly set out the responsibilities of staff. Most of the systems seen in this review were of a better quality, more compliant with the national standard and clearly specified the responsibilities of staff involved in CTL monitoring.

Compliance with the national standard

2.2 A national standard for the handling of custody time limit cases within CPS was in place prior to the last report in 2010. It has been compulsory since December 2008. The standard sets out the essential aspects to be incorporated into area systems.

2.3 All the systems seen from the six offices visited as part of this review were tailored to the area's organisational structure and had assigned roles and duties to particular grades of staff. Apart from two units visited within the same area, the systems had totally unique formats. All apart from one were broadly compliant with the national standard. Although none of the systems seen incorporated all the points it contains, the omissions were not critical. The system which did not comply with the national standard was designed to provide the basic duties of each grade of staff involved in the CTL system, however, there was no reference in the document to the national standard as a source of further information.

2.4 All the systems seen had some form of paragraph numbering so as to allow easy reference to particular points. Three out of the five systems had version numbers or a date when the document was created or amended. This is essential to allow staff to be certain they are working with an up to date version.

Responsibilities

2.5 The last report highlighted the lack of clarity in some area systems regarding who was responsible for making the decision to apply to extend the CTL. This is a decision that must be taken by a lawyer and in all the systems seen, this was clear.

Adoption of good practice

2010 Recommendation 1

Achieved

It is suggested that the good practice points in chapter 4 (of the 2010 audit) are added to the national standard.

2.6 The two examples of good practice highlighted in the 2010 report had been incorporated into the national standard as directed by the recommendation. However, even though these were contained in the national standard the good practice was not always included in the area systems examined.

2.7 The first good practice point set out the action required if the decision is taken to discontinue a case in which the defendant is in custody. Only two of the five systems examined had incorporated this into the written area system.

2.8 The other point of good practice noted was to ensure that contingency arrangements were in place to cover the absence of any key staff in the CTL monitoring system. This has been added to the national standard but only one of the area systems examined had included this requirement. However, all the areas visited had arrangements in place to cover staff absence, although this was not recorded in all area systems.

The impact of digital working

2.9 The national standard was updated in April 2012 and anticipated the introduction of digital working in the CPS. The amended standard takes into account that in future cases will no longer be in the form of a paper file but will be in an electronic format. All of the areas visited had not as yet fully incorporated this into their written systems though all were aware and were planning to do this as soon as digital working processes had been more firmly established.

2.10 The need for individual areas to amend their written systems to encompass digital working may be overtaken by the intention of the CPS to establish standard practices across the organisation. A standard operating procedure for CTLs will be introduced to ensure processes are consistent nationwide. To avoid any potentially unnecessary work by areas on amending current written systems, CPS Headquarters should inform them when the national operating instruction for CTL cases will be published.

3 Identification, notation and calculation

3.1 The previous report highlighted shortcomings in the standard of file endorsements relating to CTLs and a lack of quality assurance to identify and rectify these issues. It also raised the concern that calculations were not always done by the prosecutor and agreed in court but were left for administrative staff to work out when the file was returned to the office. This review found a higher standard of file endorsements though further improvement is required in some aspects. There was also evidence that quality assurance by managers has been effective in driving improvement in the quality of file endorsements. There had been clear improvements in prosecutors calculating the expiry date in court and recording this on the file. The accuracy of calculations was also better.

File endorsements

3.2 It is essential that file endorsements clearly highlight that the defendant has been remanded in custody so that the expiry date can be monitored. All but one of the five area systems had included this instruction.

3.3 The practice of the prosecutor at the first remand hearing calculating the CTL date and noting this on the file was seen in all areas visited though it was better established in Magistrates' Court files than those in the Crown Court. In order to ensure that the court is aware of the expiry date, the prosecutor is expected to announce the date in court and confirm in the file endorsement that this has been done. We found this had been done at the first remand hearing in 30 of the 36 (83.3 per cent) of the Magistrates' Courts cases examined and in 20 of the 32 (62.5 per cent) Crown Court cases where this was relevant.

3.4 Further improvement is necessary in confirming the expiry date in court at subsequent hearings and endorsing this on the file. In the Magistrates' Court cases only 47.2 per cent of files were endorsed to this effect and in 48.1 per cent of Crown Court cases.

3.5 The quality of endorsements was variable but in relation to the CTL, the standard of initial remand endorsements had improved. The legibility of endorsements was better with only two files in the Magistrates' Courts being of concern. One area, West Mercia, in particular stood out for the quality of endorsements relating to custody time limits which were clear and consistent, containing concise standard information for each court appearance.

3.6 Quality assurance of the file endorsements has improved. Most areas visited have a system whereby any poor endorsements would be referred to the individual's manager for action to be taken. Consistently poor file endorsement is treated as a performance issue for individuals. In addition to this, managers in most areas were carrying out a weekly spot check of a small number of CTL cases to ensure that the standard of endorsements was satisfactory and in line with the requirement in the national standard. The findings from this exercise were included in a weekly assurance certificate to senior area managers.

3.7 There has been a significant increase in the recording of full details of bail applications in both the Magistrates' Courts files examined, seen to go up from 50.0 per cent to 72.4 per cent and up to 87.0 per cent in the Crown Court cases from less than half in the previous report.

Calculation

3.8 All the files examined apart from one had the correct expiry date marked on the file. This is an improvement from the last report when nine incorrect expiry dates were found. The incorrect calculation was the expiry date in the Magistrates' Court where the 70 day limit rather than the 56 day had been applied before the mode of trial hearing. However this had been altered when the expiry date was checked after court. On the same case confusion regarding the date on which the case was committed to the Crown Court made the expiry date on the file uncertain.

3.9 All area systems referred to the use of the national 'ready reckoner' to calculate initial expiry dates in court and in double checking the calculation when the file was returned to the office. Staff in the areas visited were encouraged in their systems to use the ready reckoner rather than to manually calculate the expiry date.

3.10 CPS Headquarters issues an electronic calculator to allow staff to easily and accurately work out expiry dates. Evidence of how the calculation was made can be printed off or stored electronically on the case file. This was seen in some files in four of the six offices visited. However, prosecutors in court were routinely using the ready reckoner to calculate the date and the electronic calculator was only being used to verify the calculation. There was some mistrust of this new tool since a minor amendment had been required in the 2012 version. Use of the electronic calculator as the primary means by which to work out expiry dates would be more effective and bring less risk of miscalculation.

Recommendation

Prosecutors in court should use the electronic calculator to calculate the expiry date and the result saved and retained on the electronic or paper file and on the case management system.

3.11 In most of the areas visited, protocols were in place with the courts to facilitate an exchange of information regarding the expiry dates in CTL cases. This should ensure that both agencies were working to the same expiry date and avoid any confusion if an extension becomes necessary. However, though the CPS was forwarding this information to the courts, it was evident in only one area of anything being sent to the CPS by the courts.

3.12 There were no cases in the file sample in which a defendant had been released on bail after an initial remand in custody before being remanded again on the same charge, so we did not see any examples of recalculated expiry dates. CPS Headquarters has advised use of the electronic calculator for such recalculations but staff spoken to preferred to work out this date manually and some used the electronic calculator as a double check. This is a duplication of effort and creates additional cost.

3.13 In those cases in which the defendant had been bailed after a period in custody, only two of the eight Magistrates' Court files had the number of days spent in custody recorded in the court endorsement but it had been endorsed in three of the four Crown Court files. The protocol with the courts requires that the prosecution announce in court the number of days spent in custody when the defendant is bailed and that the defence and the court agree

this. This information is important particularly if the defendant fails to answer bail as it should be included on the warrant issued by the court. Working out this figure can be quite time consuming in court but if done using the electronic calculator, it is quick and accurate.

Methods of notation

3.14 All areas visited had a clear marker on the front of the paper file which highlighted that the case had a custody time limit. This was often in the form of an orange sticker which contained the expiry date. Information on or around this sticker often included the date the CTL commenced and a note of which time limit had been applied (56, 70, 112 or 182 days). Both these were highlighted as aspects for improvement in the last report. The start date and the number of days applied was noted on the front of the file in almost all files seen.

3.15 The issue of concern was in regard to those cases in the sample which were in an electronic format. At present the fact that a CTL applies stands out as there is a coloured sticker or other identifying marker on the front of the paper file. However, this instantly recognisable marker is not present on electronic files. The only identifying marker on electronic files is a red banner on the court hearing record sheets but these would have to be accessed within the electronic file for the custody status to become apparent. Files with a CTL can be quickly identified on the CPS case management system but when electronic files are prepared for court there is no such marker available to alert the prosecutor to the custody status. The loss of this marker needs to be considered by those forming the digital working processes so that CTL files continue to be treated as a priority for case progress and preparation.

2010 Recommendation 2

No longer applicable

Consideration should be given to redesigning the CPS file jacket in the Magistrates' Courts sections and the Crown Court to allow consistent use of the file for CTL monitoring.

3.16 At the time of our visits most areas had introduced a digital format for files in the Magistrates' Court. However, difficulties in dealing with files with a CTL were apparent. Providing an overnight remand case to a prosecutor in court in a digital form was not possible so a paper file has to be provided. In most instances, the file remained in that format for the life of the case. This is clearly something that the CPS will be addressing as part of their work to embed full digital working.

Technical bail

3.17 In cases where a defendant is already a serving prisoner or is remanded in custody on other matters, the court may grant technical bail rather than remanding the defendant in custody for those offences as well. However, there is a risk to this in that the sentence the defendant is serving may end whilst the new case is progressing or the remand on other cases may cease if the case is concluded. For this reason, CPS Headquarters issued guidance stating that prosecutors should no longer consent to technical bail if this was being offered by the court.

3.18 In the file sample we found three cases in three different areas where technical bail had been applied at some point during the case. CPS Headquarters should issue a reminder to staff to ensure that technical bail is not granted to avoid the risk of the release of a defendant who would otherwise have been retained in custody.



4 Operation of custody time limit monitoring systems

4.1 The previous review reported on practices in areas which were not in accordance with their own written system. Evidence seen on the files in this review indicates that practices more closely reflect the written system. In the last review, the involvement of managers in the operation of the system found that there was no consistency in the grade of those involved or the role expected of them. This had improved by the time of this review with managers being involved in overseeing the system and providing a report to more senior area managers. Whilst information is being exchanged at a national Headquarters level between the CPS and HMCTS, the protocols with the local courts have not fully embedded with the exchange of information between the courts and the CPS often being one-way, as mentioned earlier.

Monitoring systems

4.2 All the areas had monitoring systems in place which would initiate action at a review date. All complied with the national standard which requires that two monitoring systems operate in tandem, one being electronic and the other paper based. All areas used the CPS electronic case management system (CMS) to monitor the review and expiry dates but, in addition, diaries, log sheets and whiteboards were used as the paper based system. Three areas used more than two systems and, as we observed in the previous report, this creates additional work in maintaining systems which should be unnecessary.

4.3 CMS automatically ceases or suspends the CTL when the defendant status is altered to bail or a guilty plea is entered. Most areas updated the paper based system immediately with any change which affected the CTL but in some, the diary or log sheet was not updated until the review date was reached at which point checks would be made to confirm if the CTL was still active. This method leaves cases in the monitoring system needlessly for longer than is necessary.

2010 Recommendation 4

Limited progress

Cases should only be removed from the monitoring system by staff with authorisation to do so.

4.4 It was recommended in the last report that only authorised staff should remove cases from the CTL monitoring system. We found that three area systems set out that only those staff authorised by their Chief Crown Prosecutor (CCP) could remove details from the monitoring system. However, it was not clear in all areas that this was adhered to. Administrative staff when updating CMS would cross through the details in the diary without referral to a manager to check. There are risks to the system if CTLs are removed without checking and clear accountabilities, it is all well and good to set this out in the system, but it needs to be effectively managed and implemented if it is to reduce the risk of error.

Checks on the initial calculation

4.5 All the written systems examined required a check on this calculation when the file was returned to the office after court to ensure that the expiry date was accurate. Most area written systems seen directed staff to use the national ready reckoner and not the electronic calculator which can provide a useful audit trail (see paragraph 3.10).

4.6 In all the written systems assessed, it was stated that where the prosecutor in court had not noted the expiry date, that it should be calculated by the administrator in the office and then checked by a manager. All written systems seen also set out that a similar check needed to be undertaken if expiry dates were recalculated.

4.7 Accurate entry into the monitoring system is essential and in all the area systems seen the information entered was double checked at registration except in one area where the details are checked on a weekly basis thereafter. We found two incorrect entries in another area, in one of which the details of the case were missing from the paper based system.

Responsibility for custody time limit monitoring

4.8 In order to minimise the risk of failures, it is important that a range of staff have a duty for ensuring CTLs are monitored correctly. This was a recommendation for a change in culture within the CPS in our last report.

2010 Recommendation 6

Substantial progress

Areas should ensure that the culture change aimed at engaging a wider range of staff in CTL monitoring responsibilities has been achieved.

4.9 The national standard now expects that all prosecutors and paralegal officers in the Crown Court assure themselves that the CTL is correct on any files they are taking to court. All area systems seen had adopted this guidance though we saw no evidence of this process on the files.

4.10 As a result of our previous recommendation, greater involvement in the monitoring system by managers had been included in the national standard. This was seen in all of the areas visited. Lawyer managers carried out spot checks on a small number of CTL files each week, confirming that the case was being handled properly. These checks formed part of a report to senior managers in the area up to the level of the CCP confirming that action had been taken on all CTL cases reaching the review date. All area systems seen required that this report was provided. This practice is more consistent across the areas than was found in the last report.

Involvement of the courts

4.11 Most areas had protocols in place with the courts which set out the role of the court in monitoring CTLs. However, these had been agreed some years before and were not particularly effective.

4.12 In all areas visited, it was evident from the file endorsements that the prosecutor was calculating and announcing the CTL in court. We were told that the expiry date announced in court was rarely challenged by the court or the defence.

4.13 Five of the six offices visited sent details of CTL cases at some point to the courts. The areas usually sent a copy of the CMS printout detailing CTL cases, often those which had reached the review date. CPS staff were not aware of any courts except in one area that forwarded similar information to the CPS in order to cross-reference the expiry dates in accordance with the protocol.

4.14 An updated protocol has been agreed between the CPS and HMCTS which provides the opportunity for the CPS to liaise locally with the courts to revisit local arrangements. Areas should provide information to CPS Headquarters on the effectiveness of that agreement.



5 Custody time limit extensions

5.1 The last review found that action was not always taken within 24 hours of the CTL review date and few areas had formal systems to ensure this happened. This review shows that there are still issues to be addressed in this respect. The previous report found a lack of consistency in allocation of files at the review date and despite clearer guidance having been issued by CPS Headquarters, there are still different approaches in place. Improvements have been seen in areas applying in writing to the court for an extension where the CTL expiry date is a few days after the date set for trial.

Action at the review date

5.2 The statutory regulations require that notice to apply to extend the expiry date is served on the court and the defence two days before the hearing in the Magistrates' Court and five days in the Crown Court. In certain circumstances this notice may be waived. Review dates must therefore allow time to consider whether to make an application and to serve the notices in accordance with the requirements.

5.3 All the area systems examined conformed to the national standard which requires review dates to be set at least two weeks in advance of the expiry date in Magistrates' Court cases and four weeks in Crown Court files. However in practice in some areas the files were checked at the review date and additional reviews set for every week thereafter. All files had the correct review date except in one case which would have been picked up by CMS at the correct review date regardless.

5.4 A system was in place in all areas to check on a weekly basis those cases reaching the review date. However there was often little evidence of the action taken noted in the diary but it would often be recorded by hand on the CMS printout and/or on the weekly assurance form.

5.5 In all the area systems seen, action was required within 24 hours of the review date to retrieve the file and pass it to a lawyer to consider whether an application should be made. However once this initial action had been taken, those considering the extension were not always required to prepare an extension within the 24 hours as set out in the national standard. In two areas, 48 hours were allowed whereas in others no target was defined.

5.6 Only one area had a formal system in place to ensure that the lawyer had considered the extension and taken the appropriate action within 24 hours. In other areas, monitoring progress was less formal and relied on an individual. The files examined showed that 12 of the 15 relevant cases in the Magistrates' Court had been reviewed within 24 hours and 12 of the 16 cases in the Crown Court. This is not in line with the national standard which requires the file to be reviewed within 24 hours of the review date.

Allocation

5.7 Since the CPS introduced the optimum business model (OBM), the majority of cases are no longer individually allocated to a named responsible lawyer. The effect of this was highlighted in the last report which recommended that guidance was issued to clarify the responsibilities for action on CTL cases. This was addressed in the revised national standard which set out the type of cases in which CTLs applied that should, as a minimum, be allocated to a specific lawyer. Other CTL cases could be handled by the OBM unit. This was being applied in most areas visited.

2010 Recommendation 8

Achieved

CPS Headquarters should provide clearer guidance about the handling of CTL cases in relation to the optimum business model which ensures that there is clear and workable ownership of responsibility for CTL actions.

5.8 In the areas visited, a decision is made at the review date, usually by the lawyer manager who would decide who should consider whether an extension was appropriate and draft the application. In two areas we found that the lawyer manager for reasons of expediency, would personally make the decision and draft the application. Whilst this ensures action is taken in a timely manner, it removes the opportunity for other lawyers to gain this experience.

5.9 In one area the lawyer manager was not involved in all decisions to allocate cases to lawyers to consider an extension as is set out in the national standard. At the review date for Magistrates' Court cases, the file is handed to a lawyer with knowledge of the file where possible. In Crown Court cases, the application may be prepared by the paralegal officer but this has to be checked by a lawyer.

The decision to extend

5.10 In all of the 11 cases in the Crown Court and in six of the seven Magistrates' Court cases in which an extension became relevant, the decision whether or not to extend was taken by a lawyer. It was not clear whether the decision to extend in one Magistrates' Court case had been taken by a lawyer or an associate prosecutor at court when an oral application to extend was made.

5.11 All extensions are now required to have the approval of the lawyer manager before they are sent to the court and the defence. This was found in only two of the six written applications in the Magistrates' Court cases and in six of the eight Crown Court cases.

5.12 CPS Headquarters has issued a new template for applications. This prompts the completion of a level of detail including links to relevant cases and judgements which, if followed, should ensure a good quality application. It also includes a section to record the lawyer manager's approval. However, use of this document was not compulsory at the time of the review and it was found in three of the eight written Crown Court cases with extensions and in none of the six relevant Magistrates' Court cases.

5.13 Most of the CPS staff spoken with felt that the new template was useful though one area highlighted some technical difficulties with it which CPS Headquarters resolved after the problem was reported by areas. However, there appears to be no reason not to make use of this document compulsory across the CPS as it provides a consistent template for applications.

5.14 The national standard now contains an outline of the content of an application to extend. Only two area written systems contained or referred to this useful guidance.

5.15 The quality of the applications and the chronology which accompanies them were variable. In the Magistrates' Court cases, the chronologies contained sufficient detail but in two of the ten Crown Court cases, they were inadequate. In both of these, the details given as to case progression and the state of readiness of the case were insufficient and did not fully support the application.

Applications to extend

5.16 All written applications for an extension in the Crown Court and four of the five relevant applications in the Magistrates' Court had been served in accordance with the statutory requirements.

5.17 Following a recommendation in the last report, the national standard was amended to include the action to be taken when a decision was taken at the review date not to apply to extend the CTL expiry date. It emphasises that the reasoning for such a decision should be fully endorsed on the file and that it should be approved by at least lawyer manager or at a higher level as determined by the CCP. Three of the area systems seen had required approval at lawyer manager level at least for this decision.

2010 Recommendation 9

Achieved

Consideration should be given to adding to the national standard the action to be taken when a decision is taken not to apply for an extension.

5.18 We saw only one file in the sample where the decision had been taken not to apply to retain the defendant in custody. The reasoning for the decision was contained only in the notice to apply for the extension. However, it was clear on the file that the decision had been approved by the lawyer manager.

5.19 The national standard was updated following another recommendation made in the last report regarding the circumstances in which the CPS ought to apply for an extension in writing at the appropriate point even if there appeared to be no reason that the case would not proceed within the expiry date. This advice was included in only two of the five written systems seen.

2010 Recommendation 10

Achieved

CPS Headquarters may wish to consider guidance to areas advising that in particular types of case, written applications for an extension should be made at the appropriate point, even if it seems that there is no reason for the case not to be dealt with within the expiry date.

5.20 In the file sample, in six Magistrates' Court cases in which an extension had been served, five were on the basis that the application should be made if the case did not progress as planned on the day. In the nine written Crown Court applications seen, only two had been prepared just in case the proceedings were not finalised on the day. However, the cases did not fall into the categories set out by the national guidance which would have made a written application necessary.

5.21 Preparation of an application just in case an adjournment is required but is not expected and the expiry date is shortly after the hearing, is a sensible approach. The file will have been reviewed by a lawyer as the expiry approaches in any event and, having put the defence and the court on notice that an extension may be required, should allow the application to be heard on the day rather than possibly having to adjourn the case for a separate extension hearing.

6 Case progression

6.1 At the time of the last review we found that some CPS areas were overburdening the CTL monitoring system by using it to drive case progression. Improvement was seen in this review on this point. It was also noted in the last report that the CPS were not routinely engaging the police to ensure that the case was ready to be dealt with before the CTL expired by informing them of the expiry date and by setting target dates for work required of the police. Some improvement was noted in this but further improvement is necessary. The court's ability to list cases for trial within the CTL expiry date, particularly in the Crown Court, was highlighted as a future issue for concern in the previous review especially as case law indicated that this would not necessarily provide a good and sufficient cause when considering an extension. This review has found there is still some room for improvement in this respect.

Review dates and case progression

6.2 In our last report we recommended that CPS Headquarters and areas should consider how the need to drive case progression fitted in with the role of monitoring CTLs. This was addressed in the national standard by a clear direction that CTL review dates should be kept separate from those concerned with case progression.

2010 Recommendation 7

Achieved

CPS Headquarters and CPS areas should consider how case progression fits into the role of CTL expiry monitoring.

6.3 Action to progress the case in all areas visited was a separate function to monitoring the CTLs. In the area systems examined we found the majority included review dates as set out by the guidance. Review dates were set two weeks prior to expiry in the Magistrates' Court and four weeks in Crown Court. In one area we found that Magistrates' Court files had review dates triggered unnecessarily early at 28 days before the expiry.

Effective case progression

6.4 Effective case progression is crucial in ensuring CTL cases are dealt with within the expiry date. Failure to effectively progress these cases can result in the defendant being released if the court does not accept the prosecution's arguments that it has acted with all due diligence and expedition in preparing a case. In such cases, whilst CPS Headquarters should receive a report from the area which is given careful consideration and may not be counted as a failure against the area, the result is the same - a defendant, who would otherwise have been retained in custody until the case was concluded, is released.

6.5 Driving progress in the case is necessary at all stages of the process. This includes how quickly CMS is updated after court hearings and any necessary action taken. The CPS has a target of updating cases after court within 24 hours. In the files seen this had been achieved in 55.5 per cent of Magistrates' Court cases and in 58.8 per cent of the Crown Court cases.

6.6 Initiating any action necessary as soon as possible after the court hearing is an aspect of work which we found requires improvement. This had been done within 24 hours in 45.6 per cent of cases in the Magistrates' Court files and in 39.1 per cent of Crown Court files.

6.7 In some areas where digital working had become common practice in the Magistrates' Court, in order to ensure that CTL cases were treated as priority, prosecutors had been asked to email the hearing record sheets individually to the office where action could be taken immediately rather than sending them back in a large batch with other cases from the same court. This is a practical means of ensuring priority treatment for CTL cases and is **good practice**.

6.8 Another aspect of **good practice** noted in one CPS area was when the upgraded file of evidence was received from the police, the preparation of that case for trial or committal was given priority over other cases awaiting preparation. In normal circumstances, the OBM unit will prepare cases in order according to the next court date. Prioritisation of CTL cases makes sense in terms of being able to state that the CPS have acted with due diligence.

Engaging the police

6.9 As part of the prosecution team the police have an important part to play in ensuring cases are ready to progress at court. It is imperative that they are aware of their role and of the dates by which they need to provide the necessary evidence and information to the CPS.

6.10 The police may also be reliant on other agencies such as those providing forensic science services or they may need to analyse lengthy mobile phone evidence which increases the risk of delays in being ready to deal with the case at court within the CTL.

6.11 The national standard requires that all correspondence to the police contains the CTL expiry date. In the files seen, all of the correspondence on 43.8 per cent of the Magistrates' Courts files contained the CTL expiry date and in 26.9 per cent of Crown Court cases. In most cases, standard minutes to the police contained the expiry date. However, in less formal email correspondence, the expiry date was often absent.

6.12 The absence of the expiry date from emails and other less formal correspondence is something that needs to be addressed as a priority to ensure that the police are informed of a target date for response and reminded when the CTL expires, as email correspondence in particular, often requires more urgent action.

6.13 Individual areas can alter the settings on CMS to automatically input the CTL expiry date on minutes to the police. This alteration had not been made in some areas. CPS Headquarters has requested an update to CMS to make this an automatic function across all CPS areas. However, this has not yet been implemented though it is clearly necessary and should be progressed with some urgency.

6.14 Target dates for the police to deliver work to the CPS should be set and monitored according to the national standard. All area systems seen complied in this aspect. However, target dates were missing in some correspondence seen on the files in 28.1 per cent of Magistrates' Court cases and in 42.3 per cent of Crown Court cases. Where it was necessary to chase up outstanding work, this was seen to be done in two thirds of Magistrates' Court cases and in 70.1 per cent of Crown Court cases. A more proactive approach to chasing up outstanding work is required or an improvement in the recording of action taken at review dates.

6.15 In some areas a paragraph had been added into correspondence with the police which set out that should an extension to the CTL become necessary, the prosecution team (of which the police are part) would need to demonstrate a good reason for the extension and provide evidence that they had acted with due diligence and expedition. In one area, a notice was sent to the police at the point the defendant was remanded in custody to inform the police of the expiry date and of their responsibilities regarding case progression. This is **good practice** as it ensures that a vital part of the prosecution team is aware and can work towards important target dates. However, we do recognise that in large areas with large numbers of CTL cases that an automatically generated minute to the police with this information would be a more appropriate solution.

Involvement of the courts

6.16 In managing the case and in making orders for the prosecution and the defence, the courts play a part in directing case progression. The recording of compliance with court orders was not always clear on the CPS files and there was little evidence of the courts following up any orders that had not been met.

6.17 The other influence the court has on the progression of the case is how quickly it is able to list trials which can be vital when a CTL is involved. Where the court is unable to list a trial within the expiry date, the CPS must apply to extend it. Previous case law has set out that the inability to list a trial in 'routine' cases should not be a reason to grant an extension. This was confirmed in 2012 by two cases which were subject of appeals at the Administrative Court³.

6.18 There was only one case in the files examined in which the need for an extension was due to the court being unable to list the trial within the initial expiry date. In most areas we were told that the courts appeared to be aware of the recent cases and were making efforts to list trials within the expiry date either by negotiating with other courts to take the case or by moving other trials which did not have the same urgency to a different date.

³ *R v Coventry Crown Court (ex p McAuley)* [2012] EWHC 680 (Admin) and *R v Luton Crown Court (ex p Raeside)* [2012] EWHC 1064 (Admin).

6.19 CPS Headquarters has amended the national standard to strengthen the prosecution's position when applying for an extension which is necessary purely because the court cannot list the case within the expiry date. Prosecuting advocates in the Crown Court are expected to be proactive in assisting the court in finding a means to list the trial date within the expiry date, but the court's responsibilities has been underlined. Areas are required to obtain a statement from the listing officer outlining the action they have taken to list the case within the time limit should that be the only reason an extension is necessary.

in which a plea of not guilty is anticipated are targeted. As this process is not purely administrative and requires a review of the number of witnesses likely to be called, we also suggest that the person reviewing the upgraded file of evidence makes a preliminary assessment of this and notes it on the file so the information can be included in the letter by administrative staff. This would render a separate review for this purpose unnecessary.

2010 Recommendation 3

Achieved

CPS Headquarters should consider amending the national standard to set out more fully the proactive role required of paralegal officers at the Crown Court.

6.20 In some areas visited the CPS were taking a proactive role in assisting the court in listing CTL cases. A letter to the court informs it of the expiry date and gives an indication of how many witnesses the prosecution would require should the case come to trial. Whilst this is seen as an effective approach, in some areas we were told that the volume of CTL cases in the Crown Court would render this practice too onerous. However, we would suggest that in order to reduce the number of CTL cases in which this would be necessary, only those

7 Role of CPS Headquarters

7.1 CPS Headquarters amended the national standard in line with the recommendations of the last report and has kept the document up to date with changes in law and practice. Area compliance with the national standard has been monitored to some extent by the introduction of peer reviews by areas which report their findings to Headquarters. CTL failures are still required to be reported to Headquarters and the number of failures reported has fallen dramatically. A mandatory CTL e-learning package has been introduced since the last report which addresses the issues of inconsistencies in provision and content of training for staff. The provision of training to external counsel as recommended in the last report has not been progressed significantly by CPS areas.

A national standard

7.2 A national standard for CTL systems was already in place at the time of the last review. Although area systems were expected to comply with this standard, the previous review found many that did not. In this review only one area written system not comply with the national standard.

7.3 With the introduction of digital working in the CPS, the standard has been updated to take into account new ways of working that will become universal and will affect the way in which CTL files are handled in future. However, the issue of overnight remand files being delivered to the prosecutor in a paper format has not been addressed and a means of highlighting electronic files as having a CTL will also need to be included.

Regular peer reviews

7.4 Since the last report, the CPS has introduced and carried out three reviews of area performance in relation to CTL monitoring. In the last review in May 2012, areas were asked to examine ten per cent of their CTL cases against a questionnaire and send the results to CPS Headquarters. Lawyers who carried out the assessment examined files from a different office than where they were based.

7.5 The results of these peer reviews are collated and a summary provided to the Director of Public Prosecutions (DPP). Each area sets out what action it plans to take in order to address any issues arising from the findings. This is a useful though resource intensive exercise. As resource pressures increase it would be helpful if this type of exercise could be carried out periodically, particularly during a time of change in working practices in order to ensure that systems are coping well with the changes.

Dealing with custody time limit failures

7.6 CPS Headquarters has continued to require reports of instances where the CPS fails to obtain an extension to the expiry date. The area must also detail what action it has taken to avoid a repetition. These reports are assessed to determine if the failure should be registered. In some circumstances, if it is felt that the area could not have done any more than it had to progress the case, a failure on due diligence grounds will not be recorded. The log of reported failures is examined by CPS Headquarters to identify any trends or learning points that can be disseminated to the areas.

Reason	2008-09	2009-10	2010-11	2011-12	2012-13 (to Feb 13)
System failure	24	11	12	6	4
Due diligence	11	33	38	22	3
Total	35	44	50	28	7

7.7 Whilst reporting of CTL failures is mandatory, examples of unreported failures have been found during other HMCPSI inspection work. These are referred to the area concerned to report to CPS Headquarters.

7.8 The table above sets out the recorded performance in recent years. Reported failures to make an application due to a system error have reduced dramatically over the last five years although, until this year, there was no such significant reduction in the number of failures to extend the expiry date because of deficiencies in the CPS providing evidence of due diligence. The significant drop in the number of due diligence failures is to be commended but the reasons for this improvement are not clear.

7.9 A recommendation in the last report proposed that CPS Headquarters should consider extending the definition of a failure to include those cases in which the decision was taken by the lawyer not to apply for an extension as it would not be possible to demonstrate that the CPS has acted with due diligence. This recommendation was rejected by the CPS with the view being taken that in cases in which the reasons for retaining the defendant in custody remained unchanged, even where the CPS were of the opinion that they would not be able to demonstrate due diligence, the argument should be put to the court to make the decision.

2010 Recommendation 5

Not progressed

CPS Headquarters should consider whether the definition of a failure should be further extended to include cases in which a decision is taken by the lawyer not to apply for an extension as it is not possible to demonstrate CPS had acted with due diligence.

7.10 However, paragraphs were added to the national standard which made it clear that in these circumstances an application must be made if it was believed that the defendant posed a substantial continuing risk if given bail.

7.11 The consequences of areas reporting failures in CTL monitoring or applications is severe. A report must be provided to the DPP and the area's performance rating is downgraded. Whilst such action reflects the serious nature of a CTL failure, it may not fully encourage a culture whereby the CPS is able to learn from mistakes as an organisation.

Development of standard operating procedures

7.12 The CPS is developing a set of standard procedures for all of its operating systems that will be implemented nationwide. CTL systems will be covered by this development.

7.13 The Headquarters staff who have been involved in developing and maintaining the national standard are also to be involved in the development of the standard operating procedure for CTLs. The timeframe for completion and implementation of this system has not yet been fixed.

Area custody time limit champions

7.14 The network of area champions is now well established. Though the CPS areas have amalgamated from 42 to 13, the former regions have retained their own champion and one has been appointed to represent the area overall. This should ensure a consistent application of the area's written system and ensure that the same messages are disseminated area-wide.

7.15 All the champions spoken to adopted the role as set out in the national standard in that they were regarded as the area expert in CTLs and the contact point for queries.

7.16 The bulletin board which is available on the CPS intranet for all staff to publicise information regarding CTLs or for staff to ask any CTL related questions is not well used even by the area champions. However, it is a potentially useful resource and should be retained if it is cost neutral.

7.17 Some area champions spoken to felt that a meeting of the champions would be a useful forum for discussing ideas and issues they may have in their area to ascertain if other areas had encountered similar problems and find out what they had done to resolve them. Such meetings may be useful until a national operating procedure is in place.

Training in the CPS areas

7.18 The CPS now has mandatory e-learning courses for CTLs that must be completed by all members of staff. There are different modules for different levels of staff. Line managers must ensure that their staff have completed the necessary courses to the required standard. CTL champions were not kept up to date as to whether all staff had undertaken this training.

7.19 We found that levels of other CTL training in the areas varied. In some, the area champion was more active in providing additional training for staff as and when it was necessary. This is **good practice**. Guidance would otherwise be sent out to staff to inform them of any important developments.

Inter-agency training

7.20 The last report had recommended that consideration should be given to areas offering inter-agency training to courts' staff and to counsels' chambers. Of the five areas visited only one had provided any face to face training with counsel. However, instructing counsel who are well informed about handling CTL cases is seen as essential in future as there is unlikely to be the same level of support for counsel in court from CPS paralegal officers.

2010 Recommendation 11

Limited progress

Consideration should be given to offering inter-agency training on an area or family group basis with the courts' staff and with counsels' chambers.

Recommendation

Custody time limit training for all counsel included on the Advocate Panel scheme⁴ should be made mandatory.

Complex nature of the custody time limit scheme

7.21 The last report raised the issue of the overly complex nature of the CTL scheme which, linked with increased pressure to progress cases with complicated procedures and investigative techniques, could lead to an increased risk of errors in monitoring CTLs. This would require legislative change and, as yet, there has been no move to alter the current CTL regulations though work is currently being undertaken to update and simplify the regulations by removing the reference to committals which will cease from 28 May 2013.

4 Since 2012 all external advocates instructed to prosecute on behalf of the Crown in the Crown Court and Higher Courts must have been selected to be members of the quality-controlled Advocate Panel.

Annexes

A Custody time limits

Magistrates' Courts

Summary only offences - 56 days from first appearance to start of summary trial.

Either way offences - 70 days from first appearance to committal⁵ for trial, unless mode of trial is determined as summary trial before the expiry of 56 days in which case the time limit shall be 56 days.

Crown Court

Either way offences in the Crown Court - 112 days from the date of committal to the start of trial.

Indictable only cases sent to the Crown Court - 182 days from first appearance in the Magistrates' Court to the start of the Crown Court trial.

Youth offenders

Homicide cases - 70 days from first appearance to committal.

Other indictable only offences - 56 days from first appearance if, within that time, the case is deemed suitable for trial in the youth court. If such determination is made after 56 days, or the court decides to commit the case to Crown Court, the limit is 70 days.

Either way offences - 56 days from first appearance to trial if a plea is entered within that period; 70 days if no plea has been entered within the 56 day period.

Summary only offences - 56 days from first appearance to start of trial.

⁵ As of 28 May 2013 all cases that would have previously been committed are now sent to the Crown Court.

In all cases, the regulations provide that, if a custody time limit would expire on a Saturday, Sunday, Christmas Day, Good Friday or other Bank Holiday, it shall be treated as expiring the previous day.



B Glossary

Area Business Manager

The most senior non-legal manager at CPS area level.

Associate Prosecutor

A CPS employee who is trained to present cases in the Magistrates' Court on pleas of guilty, to prove them where the defendant does not attend or to conduct trials of non-imprisonable offences.

Case management system (CMS)

IT system for case management used by the CPS. Through links with police systems CMS receives electronic case material. Such material is intended to progressively replace paper files as part of the T3 implementation. *See also transforming through technology (T3).*

Case progression manager (CPM)

An administrative member of CPS staff who manages the progression of cases through the optimum business model system. They oversee and manage the prioritisation of OBM cases; ensuring cases are ready for trial on their trial date. *See also optimum business model (OBM).*

Code for Crown Prosecutors (the Code)

The public document that sets out the framework for prosecution decision-making. Crown prosecutors have the Director of Public Prosecutions' power to determine cases delegated to them, but must exercise them in accordance with the Code and its two stage test - the evidential and the public interest stages. Cases should only proceed if, firstly, there is sufficient evidence to provide a realistic prospect of conviction and, secondly, if the prosecution is required in the public interest. *See also threshold test.*

Committal

Procedure whereby a defendant in an either way case is moved from the Magistrates' Court to the Crown Court for trial, usually upon service of the prosecution evidence on the defence, but occasionally after consideration of the evidence by the magistrates. *See also either way offences.*

Complex Casework Unit (CCU)

A unit set up within each CPS area which handles the most serious cases, such as organised crime, people or drug trafficking, and complex frauds.

Conditional caution

A caution which is given in respect of an offence committed by the offender and which has conditions attached to it (Criminal Justice Act 2003).

Contested case

A case where the defendant elects to plead not guilty, or declines to enter a plea, thereby requiring the case to go to trial.

CPS core quality standards (CQS)

Standards which set out the quality of service that the public are entitled to expect. The standards reflect legal and professional obligations.

CPS Direct (CPSD)

This is a scheme to support areas' decision-making under the charging scheme. Lawyers are available on a single national telephone number out of normal office hours so that advice can be obtained at any time. It is available to all areas.

Core quality standards monitoring (CQSM)

A system of internal monitoring against the standards, whereby each area undertakes an examination of a sample of completed cases to assess compliance.

Court orders/directions

An order or direction made by the court at a case progression hearing requiring the prosecution to comply with a timetable of preparatory work for a trial. These orders are often made under the Criminal Procedure Rules.

Cracked trial

A case listed for a contested trial which does not proceed, either because the defendant changes his plea to guilty, or pleads to an alternative charge, or because the prosecution offer no evidence.

Criminal Justice: Simple, Speedy, Summary (CJSSS)

An initiative introducing more efficient ways of working by all parts of the criminal justice system, working together with the judiciary, so that cases brought to the Magistrates' Courts are dealt with more quickly. In particular it aims to reduce the number of hearings in a case and the time from charge to case completion.

Criminal Procedure Rules (CPR)

Criminal Procedure Rules determine the way a case is managed as it progresses through the criminal courts in England and Wales. The rules apply in all Magistrates' Courts, the Crown Court and the Court of Appeal (Criminal Division).

Crown Advocate (CA)

A lawyer employed by the CPS who has a right of audience in the Crown Court.

Custody time limits (CTLs)

The statutory time limit for keeping a defendant in custody awaiting trial. May be extended by the court in certain circumstances.

Direct communication with victims (DCV)

A CPS scheme requiring that victims be informed of decisions to discontinue or alter substantially any charges. In some case categories a meeting will be offered to the victim or their family to explain these decisions.

Discharged committal

A case where the prosecution is not ready to commit the defendant to the Crown Court, but the Magistrates' Court refuses to adjourn the case.

Discontinuance

The formal dropping of a case by the CPS through written notice (under section 23 Prosecution of Offences Act 1985).

Early Guilty Plea Scheme (EGP)

A scheme introduced by the Senior Presiding Judge in a number of Crown Court centres which aims to identify cases where a guilty plea is likely. The aim is to separate these cases into EGP courts which expedite the plea and sentence thereby avoiding unnecessary preparation work.

Either way offences

Offences of middle range seriousness which can be heard either in the Magistrates or Crown Court. The defendant retains a right to choose jury trial at Crown Court but otherwise the venue for trial is determined by the magistrates.

File endorsements

Notes on a case file that either explain events or decisions in court or that provide a written record of out of court activity.

Indictable only, indictment

Cases involving offences which can be heard only at the Crown Court (e.g. rape, murder, serious assaults). The details of the charge(s) are set out in a formal document called the “indictment”.

Ineffective trial

A case listed for a contested trial that is unable to proceed as expected and which is adjourned to a later date.

Instructions to counsel

The papers which go to counsel setting out the history of a case and how it should be dealt with at court, together with case reports. These are sometimes referred to as the “brief to counsel”.

Judge directed acquittal (JDA)

Where the judge directs a jury to find a defendant not guilty after the trial has started.

Judge ordered acquittal (JOA)

Where the judge dismisses a case as a result of the prosecution offering no evidence before a jury is empanelled.

No case to answer (NCTA)

Where magistrates dismiss a case at the close of the prosecution evidence because they do not consider that the prosecution have made out a case for the defendant to answer.

Optimum business model (OBM)

A CPS initiative for handling its casework. The model sets out a framework of structures, roles and processes, and aims to standardise these across different units and areas to improve efficiency and effectiveness.

Paralegal Career Family Structure

A new CPS career structure which defines the roles and responsibilities for non-legal staff from paralegal assistant to Associate Prosecutor.

Paralegal officer (PO)

A member of CPS Crown Court staff who deals with, or manages, day-to-day conduct of prosecution cases under the supervision of a CPS lawyer. The PO often attends court to assist the advocate.

Plea and case management hearing (PCMH)

A plea and case management hearing takes place in every case in the Crown Court and is often the first hearing after committal or sending in indictable only cases. Its purpose is twofold: to take a plea from the defendant, and to ensure that all necessary steps are taken in preparation for trial or sentence and that sufficient information has been provided for a trial date or sentencing hearing to be arranged.

Pre-charge decision (PCD)

Since the Criminal Justice Act 2003, this is the process by which the police and CPS decide whether there is sufficient evidence for a suspect to be prosecuted. The process is governed by the Director’s guidance, the latest edition of which came into effect in early 2011.

Pre-trial application

An application usually made by the prosecution to the court to introduce certain forms of evidence in a trial (e.g. bad character, hearsay etc).

Proceeds of Crime Act 2002 (POCA)

Contains forfeiture and confiscation provisions and money laundering offences, which facilitate the recovery of assets from criminals.

Prosecution Team Performance Management (PTPM)

Joint analysis of performance by the CPS and police locally, used to consider the outcomes of charging and other joint processes.

Prosecutor's duty of disclosure

The prosecution has a duty to disclose to the defence material gathered during the investigation of a criminal offence, which is not intended to be used as evidence against the defendant, but which may undermine the prosecution case or assist the defence case. Initial (formerly known as "primary") disclosure is supplied routinely in all contested cases. Continuing (formerly "secondary") disclosure is supplied after service of a defence statement. Timeliness of the provision of disclosure is covered in the Criminal Procedure Rules. *See also unused material.*

Review, (initial, continuing, summary trial, full file etc)

The process whereby a crown prosecutor determines that a case received from the police satisfies and continues to satisfy the legal test for prosecution in the Code for Crown Prosecutors. One of the most important functions of the CPS.

Section 51 Crime and Disorder Act 1998

A procedure for fast-tracking indictable only cases to the Crown Court, which now deals with such cases from a very early stage - the defendant is sent to the Crown Court by the magistrates.

Sensitive material

Any relevant material in a police investigative file not forming part of the case against the defendant, the disclosure of which may not be in the public interest.

Special measures applications

The Youth Justice and Criminal Evidence Act 1999 provides for a range of special measures to enable vulnerable or intimidated witnesses in a criminal trial to give their best evidence. Measures include giving evidence through a live TV link, screens around the witness box and intermediaries. A special measures application is made to the court within set time limits and can be made by the prosecution or defence.

Streamlined process (Director's guidance)

Procedures agreed between the CPS and police to streamline the content of prosecution case files; a restricted amount of information and evidence is initially included where there is an expectation that the defendant will plead guilty.

Summary offences

Offences which can only be dealt with in the Magistrates' Courts, e.g. most motoring offences, minor public order and assault offences.

Threshold test

The Code for Crown Prosecutors provides that where it is not appropriate to release a defendant on bail after charge, but the evidence to apply the full Code test is not yet available, the threshold test should be applied.

Transforming through technology (T3)

A national CPS programme introducing electronic working and aiming to provide, through the use of enhanced technology, a more efficient Service. The CPS proposes to change its business processes by moving to full digital working by April 2013.

It involves electronic files being put together by the police and being sent digitally to the CPS. Cases will then be prepared electronically and prosecuted from laptops or tablets in court.

Unused material

Material collected by the police during an investigation but which is not being used as evidence in any prosecution. The prosecutor must consider whether or not to disclose it to the defendant.

Upgraded file

The full case file provided by the police for a contested hearing.

Witness care unit (WCU)

Unit responsible for managing the care of victims and prosecution witnesses from a point of charge to the conclusion of a case. Staffed by witness care officers and other support workers whose role it is to keep witnesses informed of progress during the course of their case. Units have often a combination of police and CPS staff (joint units).

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