

# THE INSPECTORATE'S REPORT ON CPS CHESHIRE

REPORT 04/01

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## **PREFACE**

Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) was established by the Crown Prosecution Service Inspectorate Act 2000, which came into effect on 1 October 2000, as an independent statutory body. Previously, the Inspectorate had been a unit within the Crown Prosecution Service (CPS) Headquarters. The Chief Inspector is appointed by and reports to the Attorney General.

HMCPSI's role is to promote the efficiency and effectiveness of the CPS through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice. It achieves this primarily through an Area inspection programme operating a two-year cycle during which it visits and publishes reports on each of the 42 CPS Areas and the Casework and Policy Directorates at CPS Headquarters. It also maintains a programme of thematic reviews and each year conducts a number of inspections jointly with other criminal justice inspectorates.

Although the inspection process focuses mainly on the quality of casework decision making and casework handling, the Inspectorate also looks at matters that go to support the casework process. Business management inspectors are specialists in the fields of management, human and financial resources, and corporate planning; they examine aspects of the Areas' performance based on themes relating to management and operations; these are in addition to the more casework-orientated themes that are examined by legal inspectors.

HMCPSI also invites suitably informed members of the public nominated by national organisations to join the inspection process as lay inspectors. These inspectors are unpaid volunteers who examine the way in which the CPS relates to the public, through its dealings with victims and witnesses, its external communication and liaison, its handling of complaints and its applications of the public interest test contained in the Code for Crown Prosecutors.

HMCPSI employs 37 members of staff and has offices in London and York. The London office has two groups which undertake Area inspections in the Midlands and Wales, and in Southern England. The group based in York undertakes Area inspections of Northern England. Both offices undertake thematic reviews and joint inspections with other criminal justice inspectorates. At any given time, HMCPSI is likely to be conducting six Area inspections and two thematic reviews, as well as joint inspections with the other criminal justice inspectorates.

The Inspectorate's reports commend high quality work, identify good practice and make suggestions and recommendations where CPS performance needs to be improved. The distinction between recommendations and suggestions lies in the degree of priority that HMCPSI considers should be attached to the proposals, with those matters meriting highest priority forming the basis of recommendations.

## **INTRODUCTION**

- 1.1 CPS Cheshire serves the area covered by the Cheshire Constabulary. It has its headquarters at Chester. On 23 October 2000, it employed the equivalent of 82.8 full time staff: the CCP and 30 other prosecutors; the Area Business Manager (ABM); 3.6 Designated Caseworkers (DCWs); 38 caseworkers; and 9.2 administrative staff.
- 1.2 CPS Cheshire was one of the original 31 Areas created when the CPS was established in 1986. When the CPS reorganised in 1993 to 13 Areas, Cheshire merged with Greater Manchester to become CPS North West. Then, as now, Chester and Warrington were separate Branches. Following the latest reorganisation of the CPS in April 1999, Cheshire once again became a CPS Area.

### **Staffing and structure**

- 1.3 The Area Secretariat is based in Chester. It comprises the CCP, the ABM, one caseworker and one member of administrative staff.
- 1.4 The Area has two Branches. The Chester Branch employs 37.8 staff: the BCP and 14.6 other lawyers; 1.6 DCWs; 18 caseworkers and 2.6 administrative staff. The Branch is responsible for prosecutions in the magistrates' courts at Chester (Chester and Ellesmere Port and Neston Petty Sessional Divisions), Crewe and Congleton (South Cheshire) and Northwich and Winsford (Vale Royal).
- 1.5 The Warrington and Macclesfield Branch, located at Warrington, employs 41 staff: the BCP and 13.4 other lawyers; 2 DCWs; 19 caseworkers and 5.6 administrative staff. The Branch is responsible for prosecutions in the magistrates' courts at Runcorn (Halton), Macclesfield and Warrington.

### **Caseload**

- 1.6 In the year ending 30 September 2000, the Area dealt with 21,861 defendants in the magistrates' courts and 2,381 defendants in the Crown Court. In a further 1,356 cases, advice was given to the police before charge.
- 1.7 Casework figures suggest that the Area has a high caseload of more serious offences compared with the national picture. Motoring offences (34.2%) are slightly lower than the national average of 37.1%. The proportion of other summary offences (13%) is significantly lower than the national figure of 18.2%. Either way and indictable offences represent 46.2% of the Area's caseload, whereas the national average is 40.2%. Indictable only offences, however, are almost the same as the national average (22.5% and 22.7% respectively).
- 1.8 The number of defendants electing to be tried in the Crown Court accounts for 6.4% of committals against a national average of 14.5%; magistrates direct trial in 44.2% against the national figure of 32.8%.

## **The inspection process**

- 1.9 The inspection team examined a total of 306 cases, ranging from those where an acquittal was directed by the judge, through to those where the prosecution discontinued proceedings, to those where the defendant pleaded guilty. Details of the file sample are at Annex 1. The team interviewed members of staff in the Area, and criminal law practitioners and local representatives of the criminal justice agencies. A list of individuals from whom we received comments is at Annex 3. The team also carried out extensive observations of the performance of advocates in both magistrates' courts and the Crown Court.
- 1.10 The inspection team comprised three legal inspectors and one casework inspector. The role of business management inspector was shared by the team. The team visited the Area for ten days between 23 October and 10 November 2000.
- 1.11 Two lay inspectors assisted with this inspection. They were Teg Lloyd and Brian Turner, both nominated by Victim Support. Their role is described in the preface. They scrutinised the public interest decisions in a number of cases and reviewed files that had been the subject of complaints from members of the public. They also visited some courts and spoke to some witnesses after they had given their evidence. The lay inspectors provided a different viewpoint on these important areas of CPS activity and a perceptive insight into the inspection process. Their contribution was greatly valued. Their views and findings are reflected within the body of the report. They gave their time on a purely voluntary basis, and the Chief Inspector and the inspection team is grateful for the effort and assistance they provided in undertaking this inspection.

## **Overview**

- 1.12 The CCP and the ABM were both new to the Area when appointed in April 1999. At that time, because the Area had formed two separate Branches within the former CPS North West Area, there was no sense of Area identity. The CCP has made considerable efforts to bring the two Branches closer together. Current priorities do not allow many opportunities to bring staff together, though a weekend training event earlier in the year allowed staff from both Branches to meet. However, the priorities inherent in restructuring the Area following the recommendations of the Glidewell report have caused staff to focus their attention more on their own concerns.
- 1.13 The creation of the Area and the immediate need to plan and implement a programme of reorganisation have caused the CCP to be proactive in most aspects of management, although working closely with the ABM. The CCP now finds that he is able to assume more casework responsibilities and leave more management issues to the ABM. The CCP prosecutes in the magistrates' courts and advises the police in some of the more serious casework.

- 1.14 Each Branch currently has two teams whose responsibilities are based on magistrates' court centres. At the beginning of the year, the Chester Branch formed a separate trials unit with responsibility for committal preparation and the handling of all Crown Court cases. Shortages of staff, however, caused the experiment to be abandoned temporarily, although Crown Court caseworkers are still located within the Crewe team and have retained responsibility for all Crown Court cases.
- 1.15 The Area is making preparations for restructuring into a separate trials unit, which will handle all committal preparation and Crown Court casework, and a criminal justice unit which will be responsible for prosecutions in the magistrates' courts. The numbers and locations of teams within each unit have not yet been settled and, until they are, the consequent uncertainty is affecting staff morale.
- 1.16 We found, nevertheless, that staff were committed and dedicated and took pride in what they did, despite the pressures they felt. The Area has effective casework systems in place which are generally efficiently operated, though we refer in the report to our concerns about the disclosure of unused material and procedures for monitoring custody time limits.
- 1.17 Although we found errors in the recording of casework information, the rate of error was lower than we have usually encountered, and the Area continues to make efforts to improve the accuracy of its performance indicators. We were also particularly impressed with the quality of instructions to counsel and the way in which adverse cases in the Crown Court were analysed to learn lessons from the Area's casework.
- 1.18 External relationships are very good. Representatives from other criminal justice agencies to whom we spoke commended Area staff for their ability and dedication despite the obvious pressures brought about by reorganisation. The Area has shown a particular commitment to equality issues and the CCP has been particularly proactive in promoting the CPS within minority ethnic communities.
- 1.19 We comment on individual aspects of the Area's performance at relevant sections of the report. The following table draws together key statistical information about the Area's performance particularly in relation to targets that have been set nationally in support of the Service's objectives, and in relation to Government targets.

## TABLE OF PERFORMANCE AGAINST TARGETS

CPS PERFORMANCE MEASURES	National target	National outcome	Area Target	Area Outcome
<p><b>Objective : To deal with prosecution cases in a timely and efficient manner in partnership with other agencies</b></p> <p>Committal papers sent to the defence within agreed time guidelines</p> <p>Briefs delivered to counsel within agreed time guidelines</p>	2000-2001	April -Sept 2000	2000 -2001	April – Sept 2000
	66%	70.9%	73%	48.8%
	73%	77.2%	89%	87.5%
<p><b>Objective : To ensure that the charges proceeded with are appropriate to the evidence and to the seriousness of the offending by the consistent, fair and independent review in accordance with the Code for Crown Prosecutors</b></p> <p>Cases dismissed on a submission of no case to answer in the magistrates' courts which are attributable to failure in the review process (self-assessment by CPS)</p> <p>Non-jury acquittals in the Crown Court which are attributable to failures in the review process (self-assessment by CPS)</p> <p>Prosecution decisions examined during inspection by HMCPSI as complying with the evidential test as set out in the Code for Crown Prosecutors (random sample)</p> <p>Prosecution decisions examined during inspection by HMCPSI as complying with the public interest test as set out in the Code for Crown Prosecutors (random sample)</p> <p>Advices given to the police and examined during inspection by HMCPSI complying with the tests set out in the Code for Crown Prosecutors</p> <p>Decisions to discontinue examined during inspection by HMCPSI complying with the tests set out in the Code for Crown Prosecutors</p> <p>Cases in the adverse sample examined during the inspection by HMCPSI, where the outcome was foreseeable, but no remediable action was taken</p>	0.009%	0.007%	0.008%	0.008%
	0.7%	0.6%	1.00%	0.9%
		<b>Inspection cycle 2000-2002</b>		<b>This inspection</b>
	ZZ	98.2%**		100%***
	ZZ	99.8%**		100%***
	ZZ	95.2%**		100%***
	ZZ	93.2%**		96%***
	BB	13.5%		24.3%***
<p><b>Objective: to enable the court to reach just decisions by fairly, thoroughly and timely presenting prosecution cases, rigorously testing defence cases and scrupulously complying with the duty of disclosure</b></p> <p>Advocates who fail to meet the CPS standards of advocacy, as assessed by HMCPSI</p>		<b>Inspection Cycle 2000-2002</b>		<b>This inspection</b>
	Below 2.5%	0.6%**		0%***



	<b>National target</b>	<b>National outcome</b>	<b>Area target</b>	<b>Area outcome</b>
Cases where the prosecution has properly discharged its statutory duties regarding primary disclosure	AA	76.2**		68%***
Cases where the prosecution has properly discharged its statutory duties regarding secondary disclosure.	AA	71.8%**		31.6%***
<b>Objective: To meet the needs of victims and witnesses in the CJS in co-operation with other agencies</b>	<b>2000-2001</b>	<b>Apr-Sep 2000</b>	<b>2000-2001</b>	<b>Apr-Sep 2000</b>
Witness expenses paid within 10 days**	98%	97.4%	100%	100%*
Complaints replied to within 10 days	89%	92%	100%	99.2%
<b>Improving productivity:</b>				
Undisputed invoices paid within terms or 30 days	100%	96.6%*	100%*	99.7%*
Reduce sick absence rate per member of staff	8.5 days by 31/03/01		9.1 days	17.2 days
<b>CITIZENS CHARTER COMMITMENT</b>				
% of MPs correspondence replied to within 15 days	100%	97.2%	100%	100%

\* Denotes performance of Service Centre and is not specific to Area.

\*\* Average performance of Areas inspected in inspection cycle 2000-2002 based on samples of cases examined and observations at court.

\*\*\* Area performance based on sample of cases examined and observations at court in this inspection.

AA The CPS constantly seeks to improve its performance and to increase the percentage of these cases but has set no targets.

BB The CPS undertakes self assessment (see above) of such cases which are attributable to failures in the review process.

<b>CJS PERFORMANCE MEASURES (shared between Home Office, Lord Chancellor's Department and CPS)</b>	<b>National target 2000-2001</b>	<b>National outcome</b>	<b>Area target</b>	<b>Area Outcome</b>
<b>Youth Justice</b>		<b>Quarter ending Sep 2000</b>		<b>Quarter ending Sep 2000</b>
To halve the time from arrest to sentence for persistent young offenders from 142 days to 71 days by 31 March 2002	71 days	92 days	99 days	139 days

1.21 The CPS does not have targets in relation to conviction rates. The information is collected and we set it out for comparison purposes.

	<b>CPS Cheshire outcome 1999-2000</b>	<b>National outcome 1999-2000</b>
Conviction rate in magistrates' courts	98%	98.3%
Conviction rate in Crown Court	88%	88.6%

The percentage is of total caseload; convictions include guilty pleas.

### **Structure of this report**

1.22 Our scrutiny of casework focuses on the four main functions of the CPS: the provision of pre-charge advice; the review of evidence and application of the Code for Crown Prosecutors; case preparation, and case presentation. Chapters 2 to 5 examine each of those issues. We set out in relation to each theme what we were looking for and our findings. Chapter 6 looks at management issues.

## **PROVIDING ADVICE**

### **General**

- 2.1 The provision of pre-charge advice to the police is a modest but important aspect of CPS casework. The performance indicators for the Area show that, in the year ending 30 September 2000, pre-charge advice was provided in 1,356 cases (5.8% of the caseload compared with the national average of 3.5%). The figure for the Chester Branch (6.6%) is almost twice the national average. That for Warrington Branch is 5.1%.
- 2.2 Our inspection was primarily concerned with the quality and timeliness of the advice provided. We also examined the arrangements between the police and the CPS for ensuring that the right cases are being submitted for advice and that advice informally given is properly recorded. These arrangements help to ensure that appropriate resources are allocated to those cases that most require them.

### **Appropriateness of requests for advice**

- 2.3 We have commented above on the high rate of advice compared with the national picture. Lawyers told us that the police often submit inappropriate cases and that most of them would be returned without advice being given. We examined 20 cases in which the police had requested pre-charge advice and felt that the request need not have been made in one. We felt that the decision was obvious in another two cases but concluded that there were circumstances peculiar to each case which did not make submission inappropriate.
- 2.4 It is not entirely clear why the advice rate remains so high. A number of reasons have been suggested, the principal being the close working relationship between the CPS and the police established over many years. The Area also provides advice to the Greater Manchester police in cases involving allegations of criminal offences against police officers, though these are relatively few in number. Recent changes in the arrangements for the supervision of police files following the implementation of Narey, led to a decrease in quality and more requests for advice. The police have acknowledged problems and are encouraging file supervisors in the File Management Unit to take decisions themselves more often.
- 2.5 In May of 1998, the Chester Branch of what was then CPS North West was inspected. The Branch advice rate at that time was a little over twice the national average and Inspectors recommended in the subsequent report that agreement should be reached with the police on the types of case which should be submitted for advice. Appropriate criteria were agreed in correspondence between the Branch and the Police, which were reinforced to some extent when the CCP took up post in April 1999. We found, however, that prosecutors' awareness and understanding of the agreement was mixed and it was not clear to what extent and how the agreement was promulgated. The Inspectorate's Report on the Review of Advice cases (Thematic report number 3 of 1998) did not recommend formal protocols as such. The Report emphasised that a formal agreement could only be effective if it was properly promulgated and fully implemented. The lack of awareness and uncertainty concerning the status of the existing arrangements in the Area give rise to the need for clarification. It is important that the police should be encouraged to seek

advice from the CPS at an early stage in the more difficult and complex cases. It is equally important to ensure that advice is only sought when it is appropriate and necessary.

- 2.6 We suggest that Area managers, in consultation with the police, reconsider the existing criteria for the submission of files for advice and reissue guidance, with any necessary revisions, to ensure that advice before charge is provided in all appropriate cases.**

### **Quality of advice**

- 2.7 We examined 20 advice cases and were satisfied in each case that the advice provided was consistent with the principles set out in the Code for Crown Prosecutors. The quality of the advice provided was good. It was typed and addressed the issues on which advice was sought logically and comprehensively.
- 2.8 PTLs allocate advice cases to all lawyers and take account of any special experience or training which lawyers may have. There is a tendency, however, for most PTLs to deal with the majority of advice cases themselves. Although the quality of advice cases can be assured in this way, it allows fewer opportunities for team lawyers to develop their experience generally and in particular types of casework.
- 2.9 We suggest that Area managers should introduce a uniform system of allocating advice cases which ensures that all lawyers, under supervision where appropriate, gain experience of dealing with all types of casework, particularly those requiring specialism.**
- 2.10 The quality of advice is monitored though there is no consistent approach. In one team in Chester, all advices are returned to the police through the PTL who reads and signs them. The other PTL reads a sample of cases regularly. A similar approach is taken by the BCP in Warrington. In addition, most advice cases are reviewed by the PTLs at Warrington. Advice cases were also monitored on a sample basis as part of a recent Area Performance Review.
- 2.11 Both Branches have a system which ensures that advice files are linked with any subsequent prosecution file that is submitted.

### **Timeliness of advice**

- 2.12 The CPS nationally has agreed with the police service a time guideline for dealing with requests for advice from the police of no more than two weeks from the receipt of an adequate file. Area performance in this respect is above average. Advice was provided promptly in 15 of the 20 cases examined. The worst example we saw was in respect of advice which was two weeks late. The police told us that they had no concerns over the timeliness of the provision of advice.
- 2.13 Both Branches have a system of monitoring to ensure that advice is timely, although some lawyers said they were never notified when cases were approaching the deadline. Files that we examined generally had the date of receipt and target date for return endorsed on the front, though it was not unusual for one or other of these to be missing.

- 2.14 Some files contain insufficient information to allow a decision to be taken. Lawyers return these files to the police for further enquiry so that a proper decision can be made when the file is returned. It is not clear from our enquiries of Area staff, how these files are recorded for PI purposes. Although there were some inconsistencies in what we were told, it seems apparent that files are recorded as concluded when they are first returned to the police. This may be because a proportion of them are never returned. There is clearly the possibility that resubmitted files are recorded twice in the Area PIs, giving a distorted picture. Although the numbers are not significant, this may contribute to the higher than average advice rate for the Area.
- 2.15 We suggest that the CCP should ensure that advice cases which are returned to the police for further information are consistently and accurately recorded for PI purposes in a manner which avoids double counting.**

#### **Informal advice**

- 2.16 Lawyers do not encourage requests for advice by telephone. In many cases, a request for informal advice will result in a request for a file to be submitted if the advice relates to a substantive issue or a particular defendant. If the advice requested is more general and is dealt with informally, lawyers should record it on a log sheet which is passed to support staff so that it can be entered in the Area PIs. The log sheet contains a column for the nature of the advice given to be recorded though the space available does not allow much detail to be provided.
- 2.17 The log sheet is used purely as an accounting document for PI purposes. Each sheet will contain details of a number of advices. Details are not, therefore, attached to any later advice or prosecution file which may be submitted. Moreover, the nature of the advice given is not confirmed in writing to the police. The Inspectorate's Report on the Review of Advice Cases commented on the importance of ensuring that significant advice provided informally should be recorded and a copy sent to the police, to assist them in any further enquiries and to avoid misunderstandings.
- 2.18 We recommend that the CCP should ensure that records of telephone and other informal advice give sufficient details of the nature of the advice provided and are subsequently confirmed in writing to the police; the arrangements should also ensure that such advice is married up with any subsequent prosecution file.**

#### **Advice from Counsel**

- 2.19 Area managers are aware of the circumstances in which it is appropriate to seek advice from counsel prior to charge. We were told that it was rare to seek such advice though one or two recent instances could be recalled in relation to serious cases with significant evidential issues. The approval of the BCP or a PTL must be sought before counsel is instructed to ensure advice is sought only in appropriate cases.
- 2.20 We were also told of at least two cases in which counsel was instructed shortly after charge and prior to committal to assist with management of the case. One was a case of murder in which the evidence against the defendant was purely circumstantial and the other was a recent case of manslaughter. Counsel and the police felt that early involvement was beneficial to the later stages of case progress.

## REVIEWING CASES

### Introduction

- 3.1 We examined the quality and timeliness of the decision-making at the various stages in the progress of the cases within our file sample and some that featured in our court observations and on-site work. Prosecutors are required to take all such decisions in accordance with the principles set out in the Code for Crown Prosecutors (the Code) promulgated by the DPP under Section 10 of the Prosecution of Offences Act 1985. The most fundamental aspect of the Code is the twin criteria for the institution or continuation of proceedings: first, there must be sufficient evidence to afford a realistic prospect of conviction; secondly, the circumstances must be such that a prosecution would be in the public interest. Apart from the Code there is also specific guidance relating to other issues such as mode of trial.
- 3.2 The decision whether to institute criminal proceedings rests, other than in exceptional circumstances, with the police albeit they may seek advice from the CPS before taking the decision. Following the institution of proceedings, the police submit a file to the Crown Prosecution Service which should be subject to an initial review to see whether it should be accepted for prosecution. In some cases this may lead to a decision to terminate the proceedings at the outset. Where a case proceeds, it must be subject to continuous review. The initial assessment may have an element of provisionality about it, especially if it occurs before the police have concluded and submitted the report of an investigation; the evidential position or surrounding circumstances may change during the life of any case and the CPS must respond quickly and positively to review the case again and reassess it.
- 3.3 Our file sample covered the full range of cases but focused especially on certain categories of case which consistently attract a high degree of public interest (eg. discontinued cases) or those which have proved problematic and may therefore hold important information about the quality of decision-making. We usually refer to the latter as “adverse cases”. They fall into four broad categories namely cases:
- \* discharged by magistrates following consideration of evidence and a ruling that it is insufficient to justify committal to the Crown Court;
  - \* where all charges are dismissed on the basis that there is no case to answer at the conclusion of the prosecution case in a summary trial;
  - \* where a trial judge at the Crown Court orders that an acquittal should be entered following a decision by the prosecution prior to the calling of evidence or the empanelling of a jury that the case should not proceed; and
  - \* where a trial judge in Crown Court proceedings rules, following the commencement of the evidence, that it is insufficient for the Crown to proceed and directs the jury to acquit.

- 3.4 We try to assess whether the outcome of adverse cases reflects a deficiency in the initial decision to prosecute or whether it is attributable to a change in the evidential position or other circumstances. We also consider at what point the likelihood of an adverse outcome became foreseeable and whether CPS staff identified and responded in a timely fashion to those changed circumstances so that any necessary termination took place at the earliest appropriate moment. Although the public interest requires that offenders be prosecuted fairly and firmly, it is also important to avoid continued unnecessary public expenditure on prosecutions which have ceased to be viable.
- 3.5 Our inspection process examines not only the substantive decision whether to prosecute but also a number of ancillary decisions eg. whether or not to oppose bail. Other issues considered are the extent to which the police succeed in identifying the correct charge at the outset and, if not, how effective prosecutors are in making timely rectification; the handling of particularly sensitive categories of offence; how effective the Area is in ensuring that lessons from cases with adverse outcomes are shared with all lawyers; and the soundness of its systems for recording (or endorsing) decisions on files and the reasons.
- 3.6 Assessing the quality of legal decision-making is difficult. Decisions frequently turn on legal or evidential issues which are essentially matters of professional judgment. It frequently occurs that different lawyers do, for perfectly proper reasons, take different views in relation to the same case. Our assessments in relation to quality of decision-making therefore consider whether the decision taken was one which was properly open to a reasonable prosecutor having regard to the principles set out in the Code for Crown Prosecutors and other relevant guidance. A statement that we disagree with a decision therefore means that we consider it was wrong in principle; we do not “disagree” merely because inspectors might have come to a different conclusion.
- 3.7 Against this background, we set out our findings.

### **Quality and timeliness of initial review**

- 3.8 The standard of decision making is very sound and reliable. We examined the quality of review decision in 60 files, covering cases that proceeded in the magistrates’ courts, the youth courts and the Crown Court. We consider that the evidential and public interest tests of the Code for Crown Prosecutors were correctly applied in each case. Some concern was expressed about cases alleging assaults occasioning actual bodily harm, in which there was an equal balance of evidence, which were said to proceed to trial when an acquittal seemed inevitable. We saw no examples of this and the general view of representatives of other criminal justice agencies was that cases were well reviewed.
- 3.9 Since the implementation of the Narey provisions, the majority of files are reviewed promptly before court on the day of the hearing. Although the police acknowledged that the quality of files might have suffered to some extent, the majority of files were of a sufficient standard to be reviewed properly and proceed at the first hearing. We saw one or two examples of cases not reviewed until after the first appearance, but these were a minority.

### **Selection of the appropriate charge and charging standards**

- 3.10 In general, representatives of other criminal justice agencies consider that cases proceed on appropriate charges. We were told of isolated examples of cases in which the charges were perceived to be too high or too low. More than one interviewee told us of more common instances of cases proceeding in the Crown Court on charges of violent disorder (apparently because there was evidence of three people being involved) when lesser charges would have been more appropriate.
- 3.11 If initial charges were incorrect, they were usually amended promptly by reviewing lawyers. We were told, however, that a significant proportion of assault and public order cases resulted in pleas by the defendant to reduced charges being accepted at trial. In our file sample, the initial police charge was incorrect in nine cases out of 60 and was correctly amended at the first opportunity in eight of them. The level of charge was reduced in three cases and increased in one. The remaining four related to minor drafting errors.
- 3.12 The CPS and the police nationally have agreed charging standards for assaults, public order offences and some driving offences. These were correctly applied by prosecutors in all but three of 71 relevant cases. Each case concerned a charge of assault occasioning actual bodily where the degree of injury was more appropriate to a charge of common assault.

### **Discontinuance**

- 3.13 In the year to September 2000, the Area's discontinuance rate (10%) was significantly below the national average of 12.5%. The rate in Chester Branch was 8.9% compared with Warrington's 11.1%
- 3.14 The Area submitted 100 files in this sample. Seventeen of these were incorrectly categorised. We analysed 83 cases. Fifty-three (63.9%) were discontinued by formal notice under Section 23 of the Prosecution of Offences Act 1985. The remaining cases were dropped in court. The reasons for discontinuance are set out in the following table.



Terminated for evidential reasons Total = 43		Terminated for public interest reasons Total = 18		Prosecution unable to proceed Total = 16		Driving documents produced at court Total = 0		Other Total = 6	
Legal element missing	22	Nominal penalty	9	Civilian witness refused to give evidence	10		0		6
Identification difficulties	11	Caution appropriate	2	Absence of police witnesses	1				
Conflict of evidence	2	Loss/harm either rectified and/or very minor	4	Case not ready/ adjournment refused	2				
Unreliability of witness	7	Long delay between offence and trial	1	Victim fails to attend court	3				
Inadmissible evidence	1	Effect on victim's health	1						
		Effect on defendant's health	1						

- 3.15 The police are happy with the degree of consultation in cases which it is proposed to discontinue. Files are referred by the police AJU to the appropriate operational unit so that the officer in the case can make his or her views on the proposals known. We found evidence of consultation in 63 of the 83 cases (75.9%) we considered. The police did not object in any.
- 3.16 We examined 50 terminated cases in detail to ascertain whether the decision to discontinue accorded with the principles set out in the Code. We felt that the decision was clearly wrong in two cases, both of which were dropped on public interest grounds and in similar circumstances.
- 3.17 In the first case, the defendant was driving a car with a stolen excise licence which had been folded to hide the registration number. He gave no explanation when interviewed for his possession of the excise licence. The case was accepted for prosecution but was discontinued after the defendant elected to be tried in the Crown Court on the grounds that the charge did not “justify Crown Court trial in the public interest having regard to the likely penalty”.

- 3.18 In the second case the defendant was charged with stealing a 35p bar of chocolate. He had an extensive criminal record for dishonesty and was on licence from prison following his last sentence for offences of theft. The initial review endorsement indicated that the case should proceed despite the low value of the property involved. The defendant elected trial and the case was discontinued on the ground that it was no longer in the public interest to proceed “taking the election into account”.
- 3.19 The evidential and the public interest tests of the Code must be applied consistently. There is no distinction to be made according to the venue of trial.
- 3.20 Decisions to terminate proceedings should be taken promptly and casework procedures should support this objective. The police are usually given an action date by which to respond to proposals to discontinue and both Branches have a system designed to pursue responses not received by the appropriate date. However, this often happens some time after the due date and sometimes not at all, with the result that the process takes longer than it need on many occasions. In some cases there is further delay between receipt of the response from the police and action being taken to discontinue. This accounts in part for the high proportion of cases dropped in court rather than being discontinued by formal notice.
- 3.21 We considered that eight of the 50 cases we looked at could have been terminated earlier. Two were the result of failure to take prompt casework decisions. In the remaining six cases, the delay was procedural. In one case, the police responded after four weeks, and there was a further two-week delay before the case was discontinued. In another case, the police did not respond to a request for further information following initial review. CPS did not pursue the matter until it was too late to do anything and the case was discontinued four months after initial review.
- 3.22 We recommend that Area managers ensure that procedures for monitoring responses to proposals to terminate cases elicit a prompt response from the police and action by reviewing lawyers to discontinue at the earliest opportunity.**
- 3.23 We were told that magistrates were given brief reasons if a case was dropped in court and there were no concerns that inappropriate decisions were being made.

### **Venue for trial**

- 3.24 We were able to determine that the reviewer’s decision on mode of trial was correct in 30 out of 37 relevant cases within our file sample. However, only 10 files had mode of trial considerations endorsed on the file at review. We refer to this in more detail at paragraph 3.46.
- 3.25 Representatives from other criminal justice agencies told us that prosecutors’ representations on mode of trial were realistic and appropriate. They accorded with the Lord Chief Justice’s Guidelines which were often quoted. There were some instances where prosecutors did not indicate their view on venue, but apprised the magistrates of the relevant considerations. We were also told that prosecutors used the provisions of section 53 of the Children and Young Persons Act 1933 appropriately in cases involving youths charged with grave crimes.

## **Bail**

- 3.26 The overwhelming view of other court users is that prosecutors make independent and appropriate decisions in individual cases whether to apply to remand a defendant in custody or on bail. Some prosecutors were considered to be more robust in their approach to applications for remands in custody than others. This, however, was a reflection of their own attitudes rather than evidence of a lack of independence in their decisions. We considered that the correct decision had been made in all but one of 19 relevant cases that we examined. Prosecutors also take an independent approach in considering bail conditions imposed by the police after charge. The appropriate decision in this respect was made in all 17 relevant cases.
- 3.27 Applications for remand in custody are structured and thorough and the magistrates are given all the relevant information to enable them to make their decision. More than one person felt that prosecutors could take a more robust approach in respect of petty offenders who were constantly reoffending, though this was not a significant issue.
- 3.28 The Bail (Amendment) Act 1993 allows the prosecution to appeal to the Crown Court, in a limited range of cases, against a decision by magistrates to grant bail. There have been examples of such appeals, though they are rare. We were told by Area staff and representatives of other agencies that the provisions of the Act were invoked appropriately.

## **Magistrates' courts: no case to answer in summary trials**

- 3.29 The Area rate of cases where magistrates found no case to answer (0.1%) is half the national average of 0.2%. In the year ending 30 September 2000, there were 19 such cases in the Area. The PIs for the period from which our file sample was taken did not show any defendants whose cases fell within this category. We were, nevertheless, sent one file. The evidence contained in the witness statements was sufficient for a realistic prospect of conviction. At trial, however, the victim did not come up to proof and the magistrates upheld a defence submission at the end of the prosecution case that there was no case to answer.

## **Judge ordered and judge directed acquittals**

- 3.30 The Area rate of judge ordered acquittals is 8.9%, which is significantly lower than the national average of 11.6%. The rate for each Branch is virtually the same. In the 12 months ending 30 September 2000, 154 cases were not proceeded with in the Crown Court (judge ordered acquittals). We examined 27 of these. We considered that the acquittal was foreseeable in 13 cases. We found evidence of action being taken in nine to avoid the acquittal, though we felt that more could have been done in six cases.
- 3.31 We disagreed with the initial decision to proceed in two cases on evidential grounds. Both were accepted for prosecution although the initial evidence available was insufficient. Further evidence was requested but both cases were committed to the Crown Court without the evidence. In fact no further evidence became available and, ultimately and inevitably, no evidence was offered.

- 3.32 We disagreed with the decision to proceed in a third case on public interest grounds, although this was not connected to the reason for the acquittal. The defendant was committed for sentence to the Crown Court on charges of possessing drugs with intent to supply, supplying drugs and simple possession of drugs. At Crown Court, he maintained his pleas in respect of possession of and supplying drugs, but changed his plea to not guilty in respect of the possession with intent to supply. That case was then remitted to the magistrates' court for a committal for trial. At Crown Court, the police officers, to whom the defendant had allegedly admitted possession of the drug intending to sell it, could not attend court and were unlikely to be able to do so for some time. The prosecution offered no evidence and the defendant was sentenced in respect of the other two charges. The count of possession with intent to supply related to a small quantity of cannabis and, having regard to the likely (and eventual) sentence for the other matters, should not have proceeded.
- 3.33 The Area rate of judge directed acquittals (3.5%) is above the national average of 2.4%. The rate for Chester Branch is 4.2% compared with 3% for Warrington. In the 12 months ending 30 September 2000, the judge directed an acquittal after the start of the trial in 54 cases. We looked at nine and were satisfied that the Code tests had been properly applied in each case. We felt that the result was foreseeable in one case. We considered that nothing could have been done to avoid acquittal, though the decision to proceed was correct, in our view.
- 3.34 The majority of cases failed because of witness problems. Five of the judge directed acquittals related to events at trial when witnesses gave evidence which conflicted with each other or with their previous written statements. These acquittals were unforeseeable and the original decisions to proceed were correct on the evidence available.
- 3.35 Of greater concern is the fact that the witnesses, including the victim in some cases, in 12 of the judge ordered acquittals refused to give evidence or failed to attend the trial. In some instances this was unforeseeable. In other cases, this had been identified as a potential problem. We were pleased to note in these cases that the police and the CPS made great efforts to contact witnesses as the case progressed to ensure their attendance and to offer support and assistance where possible.
- 3.36 We observed three cases in which the prosecution offered no evidence because a co-accused had pleaded guilty to the indictment. In two cases this was the partner of the defendant. The file endorsements indicated that the involvement of the defendants against whom proceedings had been dropped was peripheral, although there was clearly some evidence of criminality. We have not been critical of these cases, given the individual circumstances of each decision. We were pleased to observe that Branch managers had also noted these cases and had highlighted them in reports to the CCP and for discussion with prosecutors.

## Learning from experience

- 3.37 The Area is keenly aware of the importance of learning lessons from its casework and has in place a number of systems to ensure that appropriate issues are highlighted.
- 3.38 Caseworkers prepare a brief report in respect of adverse cases in the Crown Court. The report, which identifies the reasons for the acquittal, is passed to the reviewing lawyer and then to the PTL for comment. Although procedures may vary slightly, the PTL provides a report, usually typed, to the BCP. The BCPs examine all adverse cases and prepare a report each month for the CCP. The CCP responds with his own comments on individual cases. We have looked at examples of the reports and consider them to be of the highest quality. They contain a detailed analysis of the factors which led to acquittal in individual cases and seek to determine whether the result was foreseeable or avoidable. Review errors are highlighted and considered constructively. The Area is ready to accept responsibility for error when this is appropriate. This attitude, which is by no means the norm in our experience, gives confidence that Area managers are anxious to learn lessons from casework errors.
- 3.39 The principal purpose of the reports to the CCP is to form the basis of discussion with the police at monthly Joint Performance Management meetings. Copies are also provided to the PTLs in both Branches. In addition, the reports are circulated amongst lawyers at the Chester Branch, though this does not occur at Warrington. Any general issues of significance are discussed in team meetings, as, indeed, they are at Chester. If a review error led or contributed to the acquittal, the PTL will discuss the matter with the individual lawyer.
- 3.40 We think that the reports are an excellent way of promulgating casework issues and would like to see them made more widely available to all lawyers and caseworkers. We have one concern, however. Instances of review errors by named staff should not be promulgated generally. There have been some concerns expressed internally that a “blame culture” exists. Whilst our own observations do not completely support this view, the reports can be circulated in a way which obviates further concerns.
- 3.41 We recommend that Area managers should circulate copies of the monthly Branch reports to the CCP on adverse cases to all lawyers and caseworkers to ensure that appropriate casework lessons are learned.**
- 3.42 The CCP has recently introduced a system to ensure that procedural as well as legal lessons can be learned from all aspects of magistrates’ court casework. Whenever the CCP, BCPs and PTLs prosecute magistrates’ court lists, they prepare a court attendance note which details any problems they find in respect of the files within their court relating to procedural or review issues. Points from the notes are then discussed in team meetings to ensure that all staff are aware of the problems encountered and action can be initiated to prevent recurrences.

3.43 The Area also produces its own Casework Bulletin. This is published on a quarterly basis and contains details of local cases as well as national legal developments. It is compiled by the BCP at Warrington. We have been impressed by the quality of the bulletins we have seen. They provide an effective way of keeping up to date on legal matters of national importance as well as local casework issues.

### **Review endorsements**

3.44 The Inspection Report on the Chester Branch two years ago commented upon poor performance in respect of review endorsements. Only 42% of files contained a note of the evidential issues at review and only 32% contained a note of the public interest factors. Many files contained no analysis of the case issues. In the wake of the report and following the appointment of the CCP in April 1999, an Area Review Standard was introduced to improve the standard of review and review endorsements. We have noted an improvement but the overall standard could still be much better. The evidential factors considered at review were noted in 31 cases (51.7%). The public interest factors were endorsed in 36 cases (60%).

3.45 Many review endorsements contained a full discussion of the evidence and relevant public interest factors as well as a detailed analysis of the case issues. Others touched on these points in less detail and some made no reference at all, although letters to the police requesting further information or evidence suggested that a more thorough review had occurred than the endorsement reflected. We found very little evidence by way of endorsement of any continuing or further review other than formal summary trial or committal review.

3.46 Currently, most review decisions are endorsed on a Narey Review Form which allows lawyers and caseworkers to record the review decision and record details of the events at the first hearing. The review section of the form contains specific sections for the evidential and public interest factors taken into account in the decision but has no identified section for mode of trial considerations. The evidence from our file sample showed that they were consequently rarely recorded. Area staff confirmed that mode of trial considerations were not always noted at review if the case was suitable for summary trial. They were set out, however, if mode of trial was a significant issue or Crown Court trial was appropriate.

3.47 We refer later in this report (paragraphs 4.82-4.83) to court endorsements and consider that the standard could be improved. Our recommendation deals with this aspect as well.

**3.48 We recommend that the CCP should ensure that file endorsements contain a clear and legible record of:**

**\* the evidential issues and public interest factors taken into account by the reviewer;**

**\* the reviewer's recommendation on mode of trial and supporting considerations;**

- \* **details of all further review undertaken at all subsequent stages of case progress;**
- \* **clear and accurate details of events and actions at court hearings in respect of each defendant.**

3.49 Files were generally maintained in good order. The contents were logically arranged in all but one of the magistrates' court cases and in all 30 Crown Court cases that we looked at. Correspondence was located separately within files in date order and disclosure documents were kept in a separate folder.

### **Sensitive and aggravated offences**

3.50 The CPS nationally recognises that certain types of offence require particular care and attention in handling because they are of a sensitive nature. The principal categories are cases involving child abuse, domestic violence and racially aggravated offences.

3.51 Most lawyers have received specialist training in handling child abuse offences. Representatives of other agencies praised lawyers and caseworkers for the way in which they dealt with such cases. Appropriate cases are transferred promptly to the Crown Court and applications to use video evidence and television link in court for the evidence of child witnesses are promptly made in appropriate cases. Area staff are proactive in ensuring that cases proceed speedily in the Crown Court.

3.52 Special attention is given to domestic violence cases. If a victim indicates that she (most usually) no longer wishes to proceed with her complaint, the police are notified and asked to see her to ensure that no undue pressure has been put on her by, or on behalf of, the defendant. In some cases, there is other sufficient evidence to proceed without the evidence of the victim. Prosecutors consider carefully whether to proceed in such instances, balancing the general desirability of proceeding in the public interest against the circumstances and interests of the victim. Section 23 of the Criminal Justice Act 1988, which allows the statement of the victim to be read to the court if, for example, the victim is in fear of giving evidence is rarely considered to be appropriate.

3.53 The Area has recently developed an action plan for handling domestic violence cases to ensure that they proceed swiftly and are dealt with sensitively.

3.54 Prosecutors have received training in the law relating to racially aggravated offences and bring aggravating features of cases to the notice of the court when prosecuting. Such offences are rare in the Area but are handled appropriately when they occur.

### **Youth justice**

3.55 Youth justice has a high priority within the criminal justice system. Youth cases are generally handled sympathetically by prosecutors. Many have received special training in handling youth cases, though youth courts are not prosecuted exclusively by specialists.

- 3.56 The Government has set a target of dealing with cases involving persistent young offenders in 71 days from arrest to sentence. Improvements in performance can only be achieved with the co-operation of all agencies.
- 3.57 In the second quarter of 2000, cases involving persistent young offenders took an average 105 days from arrest to sentence in Cheshire, an improvement on the previous quarter's 121 days average. Figures since then, however, have shown a sharp drop. The latest figures available at the time of this report, 140 days in July, 100 days in August, and 151 in September 2000, continue to give cause for concern.
- 3.58 The Area is trying to improve its performance but feels that it has not had sufficient co-operation from other agencies in the past. Some court centres hold too few youth courts which are consequently overlisted. As a result, some trials are adjourned for want of time. One court centre holds only one youth court per week and trials have to be specially listed. In addition, It is not unusual for youth offenders to face a series of offences committed at different times over a short period. There is pressure on the youth court from the defence to adjourn cases so that the same tribunal can sentence in respect of all offences on the same occasion. Area managers reflect with irony that many youth offenders come from neighbouring larger Areas.
- 3.59 Understandably, youth courts want to accord all youth cases equal priority rather than distinguish those involving persistent offenders. In the Crown Court, PYO cases compete for priority with child abuse cases and cases where the defendant is in custody.
- 3.60 The Area acknowledges the acute nature of the problem. There has been wide variation in the Area figures and it was not until June 2000 that Area managers became aware of the significant downturn in performance. Since then, the Area has been active in trying to improve the situation. Representation on the Area Youth Group has recently been raised to the level of BCP who will have responsibility for liaising with the other agencies to improve overall performance. We are mindful of this but take the view that the issue is of such significance that we must also make a recommendation for action.
- 3.61 We recommend that the Area should take urgent steps, in conjunction with other agencies, to ensure that cases involving persistent young offenders are dealt with expeditiously so that Government targets are met.**



## **PREPARING CASES**

### **General**

- 4.1 Good quality decision making is of limited value if the subsequent handling of cases is not thorough and professional. In this section of our report we consider the performance of the Area in relation to specific stages in the progress of cases from institution of proceedings through to their conclusion. Some aspects of case handling relate only to cases in the Crown Court, while some relate to both. They range from the provision of advance information through compliance with prosecution obligations in relation to disclosure, committal preparation, quality of indictments, instructions to counsel, arrangements for plea and directions hearings and the presence of the CPS in the Crown Court.

### **Advance Information**

- 4.2 The law requires advance information to be provided to the defence in all either way cases. The CPS guideline for service is within seven days of receipt of the file and notification of the name of the defence solicitor. The Area's target for the year ending 31 March 2000 was 91%. It achieved timely service in 89.3% which was only slightly below target but above the national outcome of 86.6%.
- 4.3 The majority of advance information is served in Narey cases. Advance information is usually handed over to the defence solicitor (or unrepresented defendant) in court. The prosecutor should endorse the file confirming the fact and date of service, though we noted some instances where this was not done. We were able to ascertain that service was timely in 37 out of 49 cases that we examined (75.5%). We could find no record in the remaining 12 cases. Assuming the same rate of compliance in those cases with no record, this suggests a drop in timeliness overall.
- 4.4 The Area and the police have agreed guidelines for the contents of the package to be served on the defence. It is generally agreed that in most cases the material served, which usually reflects all the material available to the prosecution at the time, is sufficient to allow the defence to advise their client. The contents are reviewed by the prosecuting lawyer or DCW before it is served to remove inappropriate items.
- 4.5 Prior to the implementation of Narey, the provision of advance information was accompanied by a notice to the defence which set out details of the material comprised in the package. Following implementation, a decision was taken not to require a notice to be attached to the police prepared package when it is handed over in court. Thus, no record is kept of what items have been served, save for the implication that the material replicates the prosecution papers. Without such a record, however, the Area cannot monitor the quality of packages, nor can it determine whether additional material or evidence should be served. It cannot deal with any subsequent issues arising as to the timeliness or completeness of the information served. We noted from the file sample that a copy of a notice to the defence listing the material served is still sent out in non-Narey cases, and a copy retained on file. We can see no reason to draw any distinction in the procedure.

**4.6 We recommend that the CCP should ensure that a record of what is served as advance information is kept in all cases.**

4.7 It was acknowledged that there was sometimes a delay in providing advance information in non-Narey cases. This was sometimes due to problems in linking defence requests to the appropriate file but we were also told that staff had become used to the automatic provision in Narey cases being the norm.

4.8 We were told by Area staff and defence solicitors that advance information has for some time been served in summary only cases. The police draw no distinction in Narey cases between summary and either way offences, and prepare advance information automatically for service on the defence. In addition, some form of early disclosure is given in indictable only cases.

4.9 We were pleased to note that the police are currently considering how they might supply the defence with a copy of the defendant's taped interview with the advance information package.

#### **Narey and fast-tracked cases**

4.10 Under the Narey initiative, the initial hearing takes one of two forms. The Early First Hearing (EFH) deals mainly with straightforward cases where a guilty plea is anticipated. These may be prosecuted by a DCW. The Early Administrative Hearing (EAH) deals with cases which are more complex or where a trial is anticipated. These hearings are dealt with by lawyers.

4.11 Close inter-agency co-operation ensured that Narey was successfully implemented and continues to operate smoothly. The period between charge and first appearance varies between court centres from three to five days. In some cases it is governed by the sitting patterns of smaller courts.

4.12 Narey courts are held in the afternoon. Lawyers and DCWs review cases in the morning before court at four of the six police stations in the Area. DCWs collect files from two police stations to review in the CPS office because of lack of available space to review them in the police station. EAHs and EFHs are held in tandem and the caseload in each is such that courts finish at approximately the same time and frequently sit for more than three hours.

4.13 DCWs are used effectively. In addition to reviewing and prosecuting cases in EFH courts, they review and prosecute minor road traffic offences, including cases which are proved in the absence of the defendant. They also prosecute before District Judges (Magistrates' Courts) formerly known Stipendiary Magistrates.

4.14 One advantage of the scheme, in addition to expediting cases, is to reduce the number of court sessions dealt with by lawyers to allow them more time to concentrate on reviewing more complex casework. It is a measure of the close co-operation we refer to above that the Area has successfully negotiated for a separate road traffic court to be held at Crewe. This is prosecuted by a DCW, thus freeing up a further lawyer session each week.

## **Disclosure of unused material**

### ***General***

4.15 CPS lawyers and caseworkers have an understanding of the principles of disclosure of unused material and are aware of the importance of this aspect of casework. They are concerned, however, that existing resources do not allow them to deal with disclosure as scrupulously as the CPS Aim and Objectives require. The police are also aware of shortcomings in their performance which they are seeking to address. A Police and CPS joint Area review of disclosure was undertaken a year ago. This led to the production of an action plan which addressed many of the issues we refer to in this section. However, implementation was initially deferred pending the appointment of the new head of the police Administration of Justice Unit. Following his appointment, implementation was further delayed because of anticipated imminent further national guidance, which was issued shortly after our visit to the Area.

### ***Primary disclosure***

4.16 The police provided a schedule of non-sensitive unused material (MG6C) in all 50 relevant cases within our file sample. We considered, however, that 20 of them (40%) contained insufficient detail in respect of the items disclosed to enable prosecutors to make carefully considered and informed decisions on disclosure. Nevertheless, it was rare for a schedule to be returned for further detail and prosecutors were prepared to consider disclosure on the basis of the information available. We observed some examples of schedules endorsed to the effect that the material revealed did not “appear” to undermine the prosecution case. We considered that primary disclosure had been properly considered in 34 cases (68%).

4.17 Representatives of other agencies told us that greater consideration appeared to be given to disclosure in the more serious or complex cases. The police appoint an experienced officer as disclosure officer in such cases whose sole responsibilities relate to consideration of unused material.

4.18 The police sometimes automatically provide copies of some material such as custody records, crime reports or computer logged messages with the schedule when the full file is submitted. This does not occur in every case and there is no apparent consistent approach throughout the Area.

4.19 We were told that primary disclosure occurs at the time of committal (or later in rare cases where there may be an issue to resolve). Disclosure is accompanied by a letter to the defence which includes a copy of the MG6C endorsed with the prosecutor’s decision. The letter is typed but should be undated so that the prosecutor at committal can manually insert the date in the original letter to the defence as well as the file copy. Prosecutors accepted, however, that the file copy and, sometimes, the original letter were not always dated. We concluded that disclosure was timely in 43 of the 50 cases we examined. We noted, however, that some letters bore the date of actual typing, which was usually some days in advance of the committal date. The timing of disclosure is important for a number of reasons and it is equally important that the file should accurately record when disclosure has occurred.

### ***Secondary disclosure***

- 4.20 It is rare that the defence respond to primary disclosure in summary trials by submitting a defence statement. We saw one example in the 20 summary trials that we examined.
- 4.21 Defence statements in the Crown Court are considered by prosecutors. Judges at PDH ensure that defence statements are sufficiently detailed to enable the prosecution to determine whether any material is likely to assist the defendant's case. A copy of the defence statement is forwarded to the police. However, we were told that the police did not always respond and Area staff acknowledge that they do not always pursue the matter. We found that a defence statement was submitted to the police in 21 cases but could find evidence of a police response in only five cases. Secondary disclosure, occurred, however, in six cases.
- 4.22 Representatives of Crown Court users told us that prosecutors were often strict in applying the tests in the Criminal Procedure and Investigations Act and that it was rare for any material to be disclosed at either primary or secondary disclosure. Overall, inspectors found proper discharge of the statutory duties relating to secondary disclosure in 31.6% of cases. Once the formal procedure had been concluded, however, disclosure "took on a life of its own". Requests for disclosure of specific items on the MG6C were usually complied with and disclosure of material was often agreed between prosecuting and defence counsel. This confirmed our own observations from the files that we examined.

### ***Sensitive material***

- 4.23 The police submitted a schedule of sensitive material (MG6D) in each of 34 relevant cases. We considered that prosecutors gave it proper consideration in all but five of them.
- 4.24 Area prosecutors and caseworkers understand the legal and procedural issues surrounding the disclosure of sensitive material. Representatives of other criminal justice agencies had no concerns about the way in which issues relating to sensitive material were handled. There was praise for the way in which the police dealt with cases in which an informant was involved, though we were told that there was a tendency to be over-cautious in other instances and include non-sensitive material on the MG6D.
- 4.25 This cautious approach continued in the Crown Court in respect of applications not to disclose sensitive material on public interest grounds. There was a feeling that many unnecessary applications were made in respect of material or issues which were not relevant to the case. This view was shared by Area prosecutors who said that many applications were made on counsel's instructions, as a means of having added assurance.

### ***Third party material***

- 4.26 Prosecutors are aware of the principles relating to the disclosure of third party material. We were not told of any significant problems. The issue of third party material often arises in respect of Social Services records in child abuse cases. We were told that such cases usually provoke an atmosphere of co-operation between all agencies, thereby ensuring that issues are resolved easily and speedily

4.27 We were told of some problems experienced by the Warrington Branch in respect of hospital records. Attempts were made to agree a protocol in cases where access to hospital records was an issue but the matter remains unresolved.

### ***Conclusions***

4.28 Most of the issues we discuss in this section were covered in the Inspectorate's "Report on the Disclosure of Unused Material" (Thematic Report 2/2000). They are now dealt with in the Attorney General's Guidelines on Disclosure of Information in Criminal Proceedings which were published on 29 November 2000.

**4.29 We recommend that Area managers should reconsider with the police the conclusions of their joint review of disclosure procedures in the light of the Attorney General's Guidelines on Disclosure and introduce revised arrangements to ensure that prosecutors and the police fully discharge their statutory duties and those under the guidelines.**

### **Summary trial preparation**

4.30 Summary trials are generally well prepared. The reviewer gives instructions for trial on a pro forma which lists the witnesses who will be required to attend court and those whose statements can be served on the defence. Instructions are prepared as soon as the case is adjourned for trial (or pre-trial review) on the basis of the information available on the initial file. At the same time, a full file is requested and trial instructions are updated as necessary when it is received.

4.31 Instructions for trial were correct in all 20 cases examined and action was prompt, so far as we could tell in all but one case. We were told that CPS do not always give the police sufficient notice of trial dates, so that they are sometimes under pressure to provide full files quickly though our file sample did not reveal any example of this.

4.32 Administrative staff in both Branches carry out a two week pre-trial check to ensure that all necessary action has been taken.

### **Pre-trial reviews**

4.33 Although the CPS does not keep its own figures, it is acknowledged that the Area has a high rate of cracked and ineffective trials in the magistrates' courts. Some courts double list, and even treble list, trials in an effort to ensure that court time is used effectively. However, this can add to the problem when trials listed are to proceed as such and there is insufficient time to deal with each one.

4.34 Most courts served by the Area have pre-trial reviews (PTRs) though there is no consistent format. They are not held simply as a means of reducing cracked and ineffective trials. Their main purpose is to identify the issues in each case, settle witness requirements and assess the length of trial.

- 4.35 In the courts served by the Chester Branch, PTRs are part of the normal court list, conducted by magistrates with the defendant present. In the Warrington Branch courts, PTRs are held half an hour before the start of the normal list and the defendant is usually excused attendance.
- 4.36 We were told, that PTRs have become something of a ritual, amounting to little more than “a date-setting exercise”. The defence rarely have full instructions from their client, a situation exacerbated by the absence of the defendant in some instances, and some defence solicitors are not available for those PTRs scheduled for a 9.30 start. Although CPS are generally prepared for the PTR, some prosecutors are not prepared to take decision in other prosecutors’ cases so issues are not always fully resolved.
- 4.37 The principal reasons for cracked and ineffective trials include witnesses failing to attend and late pleas of guilty, sometimes to reduced charges, which could not be canvassed earlier because of the defence lack of instructions.
- 4.38 PTRs are now conducted according to a pro forma which deals with the relevant issues such as witness requirements and disclosure. The form was only recently introduced in July 2000 and may lead to improvements in the conduct of PTRs. However, it will not provide a complete solution in itself.
- 4.39 We have commented in previous reports that properly prepared PTRs which are robustly conducted provide an effective method of identifying and resolving trial issues and exploring the possibility of acceptable pleas.
- 4.40 We recommend that the Area should co-operate with other agencies to ensure that a consistent approach is taken to PTRs in summary trials and that they are conducted in a manner which assists the progress of the trial and reduces the incidence of cracked and ineffective trials.**

### **Committal preparation**

- 4.41 In the Chester Branch, committals are prepared almost exclusively by lawyers. At Warrington, caseworkers prepare some committals though the reviewing lawyer may carry out an initial assessment and pass the file with recommendations to the caseworker to prepare the committal. It is generally acknowledged that committals are well prepared. Our file sample showed that committal bundles were correctly prepared in all 30 relevant cases.
- 4.42 The CPS nationally has set a target of serving committal papers on the defence within 14 days of receiving the complete file from the police when the defendant is on bail, and within ten days if the defendant is in custody. In the year ending 31 March 2000, the Area served 71.1% of committal papers on the defence within agreed timescales, exceeding the Area target of 69% and the national outcome of 62.7%.

- 4.43 Perceptions of CPS performance, in this respect varied, however, and Area figures for the first half of 2000/2001 show a sharp drop to 48.8%. Committal papers were served within the guidelines in 17 out of the 30 cases (56.7%) we examined; we could not ascertain the time of service in five cases. We were told by some representatives of other agencies that papers were usually served well in advance of the committal hearing. The majority view was that between 50% and 60% of papers were served on the day of committal or a few days before. Most cases, nevertheless, proceed to committal although an adjournment may be necessary in some bigger cases.
- 4.44 Area managers are keenly aware of their obligations in respect of this CPS objective and have for some time been monitoring performance in order to seek improvement. They believe that the principal reason for the recent decline in performance is the reduction of the number of available lawyers at Chester due to sick absence. There is clearly support for this view in that the figures for Chester Branch for the first half of the current year show performance at a level of 45.5% compared with 70.6% at Warrington. We are mindful of the difficulties but the current level of performance requires significant improvement if the Area is to achieve its target of 73%.
- 4.45 We recommend that Area managers take urgent steps to improve Area performance in respect of the timely preparation and service of committal papers within national guidelines**

#### **Instructions to counsel**

- 4.46 The overall standard of instructions to counsel was better than average in our experience. Briefs in 23 of the 30 cases we examined were of an acceptable standard or better. The Area is now using a short form version of the national Crown Court Case Preparation Package. This produces a brief which concentrates more on the individual case issues. Twenty two briefs contained an adequate summary of the prosecution case and an analysis of the issues. Many of the case summaries we saw were very full and contained a detailed discussion of the likely evidential issues. We were concerned, however, that only five briefs dealt with the issue of acceptable pleas out of 17 cases where it would have been appropriate to give specific instructions.
- 4.47 The quality of briefs is monitored by BCPs and commented upon in Branch Performance Reports. Court attendance notes prepared by senior lawyers attending the Crown Court also contain commentary upon the quality of briefs. BCPs take account of the quality of briefs when they review Crown Court adverse cases.
- 4.48 The CPS and the Bar have agreed time guidelines for the delivery of briefs to counsel. The Area delivered 91.6% of briefs to counsel within the guidelines in the year ending 31 March 2000, exceeding its own target of 89% and the national outcome of 71.1%. Performance to the end of September 2000 has dropped to 87.5%, which is below the current Area target of 89%. We were told that some briefs in more complex cases are delivered late, often just before the PDH. The briefs in 26 cases that we examined were delivered within the agreed guidelines. We could not tell when two of the remaining four were delivered.

- 4.49 Prosecutors prepare a short separate case summary with the brief to assist the Crown Court in allocating the case to the appropriate court. We found that the quality of the summary varied, though overall they were helpful in setting out the nature of the case and the likely issues.

### **Quality of indictments**

- 4.50 Representatives of Crown Court users told us that indictments were generally well prepared. We concluded that 29 of the 30 indictments in our file sample allowed the case to be properly and clearly presented. The exception related to a case of sexual abuse by a father against his son over a period of four years. The original indictment drafted by the reviewing lawyer alleged three offences. Counsel rightly amended to add other counts, some alleging sexual offences of a different nature, to reflect the criminality of the matter more appropriately.
- 4.51 We were told that indictments were sometimes amended though this was not an indication of any tendency towards poor quality. Many amendments were made to accord with individual counsel's preference in case presentation. This occurred particularly in cases involving allegations of sexual abuse or fraud which had occurred over a period of time. In other case, indictments were amended to accommodate offers of plea. Ten of the indictments we examined (33%) required amendment. Although this is above average, no case gave rise to any concern about a lack of appreciation of the principles involved in drafting indictments. Senior caseworkers monitor the number of amendments, and the reasons for them, to ensure that any appropriate lessons are learned.
- 4.52 The law allows 28 days for the prosecution to lodge an indictment with the Crown Court though the period can be extended with leave of the Court. The CPS Crown Court file jacket contains a section on the front cover to record the date when the indictment is lodged, though this was not always completed. We found that indictments were generally lodged with the Crown Court promptly. Eighteen of the indictments within our file sample were lodged in time. We could not tell when the remaining indictments were lodged.

### **Plea and directions hearings (PDHs)**

- 4.53 PDHs are conducted thoroughly and robustly and Crown Court judges are proactive in giving directions to ensure that cases progress speedily. We were told that CPS complied with directions promptly in most cases, although directions relating to disclosure of unused material sometimes caused delays. There was praise for the quality and efficiency of Area caseworkers generally and particularly in ensuring that orders and directions were complied with.
- 4.54 The events at PDHs were properly recorded on the file in all appropriate cases within our sample. The prosecution complied with specific directions in each relevant case and compliance was timely in all but one, as far as we could tell.



- 4.55 Caseworkers in both Branches monitor compliance. The Area Crown Court case tracking system has a facility for action dating PDH compliance. Some caseworkers use their own manual system. The Crown Court at Chester has recently appointed a Case Progression Officer (CPO) to ensure that cases are ready to proceed to trial. The CPO checks that both prosecution and defence have complied with specific directions.
- 4.56 It was the practice at both Branches to send a lawyer to PDHs to assist with general casework queries and to deal with offers of plea. This was generally regarded as beneficial in assisting the management of cases and preventing some unnecessary adjournments. Although the practice continues at Warrington, lawyer shortages led to its abandonment at Chester. The Chester Branch has recently recruited two lawyers, and anticipates a resumption of the practice though there are no immediate plans.
- 4.57 At Warrington, the BCP or PTLs attend PDHs. Similarly at Chester, the BCP or PTLs attended the PDHs, sometimes in their capacity as Higher Court Advocates dealing with individual cases. Other lawyers rarely, if ever, attend PDHs. We accept that the issues which arise require a senior and experienced prosecutor to deal with them. There are many such prosecutors in the Area and attendance at PDHs should be an important part of their development.
- 4.58 We suggest that the CCP should take steps to ensure that all lawyers of appropriate experience and seniority have the opportunity to attend PDHs in the Crown Court to develop their experience of Crown Court casework.**

### **CPS in the Crown Court**

- 4.59 The Area commits its cases to the Crown Court sitting at Chester and Warrington and the majority of cases are heard at those centres. Although cases from each Branch are usually heard at the local Crown Court centre, some Warrington cases may be heard at Chester and vice versa. In addition, some cases from each centre are transferred to Knutsford, and to Mold which is in the neighbouring CPS Area of North Wales. Some cases from North Wales are regularly transferred to Chester.
- 4.60 Crown Court caseworker managers at Warrington and Chester prepare weekly rotas, allocating caseworkers to particular courts. This is done in conjunction with the North Wales Area with the object of ensuring that each Branch covers all cases in its local court centre, even though they may originate from elsewhere. This is not always completely achieved.
- 4.61 As far as possible, caseworker managers try to ensure that a caseworker is present in each court. We were told that this is achieved more often than not although the caseworker may leave court from time to time to attend to other duties. Other agencies told us that it was rare at Warrington for the same caseworker to attend each day throughout the longer trials. It is important in such cases for the efficient management of the trial and particularly for the assistance of witnesses to provide continuity of caseworker coverage. We appreciate that office working arrangements will not always permit this and, therefore, make no recommendation. However, Branch managers will no doubt wish to give this issue particular attention.

- 4.62 Day to day case management in the Crown Court is undertaken by caseworkers. Lawyers retain a keen interest in their cases and, in addition to being kept informed of general progress, will deal with some correspondence and take decisions on significant issues. They attend appropriate conferences with counsel and, whenever possible, will attend Crown Court at significant stages of their more important cases. Branch managers will arrange magistrates' court rotas to assist in this respect.
- 4.63 A recent Area initiative has enabled some less senior caseworkers, who wish to develop their experience of casework, to volunteer to attend the Crown Court, to provide support to a senior colleague and under their supervision.

### **Custody time limits**

#### ***General***

- 4.64 Custody time limit provisions regulate the length of time during which an accused may be remanded in custody. Failure to monitor the time limits, and, where appropriate, to make an application to extend them, may result in a defendant being released on bail who should otherwise remain in custody. We were told of one failure in the Area in the year to September 2000.
- 4.65 Area managers and staff are keenly aware of their responsibilities in this important aspect of CPS work. The failure referred to in the preceding paragraph led to immediate appropriate action being taken to prevent a recurrence. The Area also took a fresh look at its monitoring system and recently issued fresh guidance to staff. We refer to this later. Nevertheless, we do have major concerns about the way in which custody time limits are monitored in Cheshire.

#### ***Calculation of expiry dates***

- 4.66 We examined 20 files which were subject to a custody time limit. Ten of those files related to proceedings in the Crown Court as well as the magistrates' court. The expiry date was clearly marked on all of the files examined. Neither Branch routinely mark the review date on the front of the file.
- 4.67 The expiry date had been incorrectly calculated on eight magistrates' court files. Four cases in the sample from the Warrington Branch showed incorrect calculation ranging from one day beyond the correct expiry date to one month beyond. Chester Branch had four cases in which the expiry date was between one and six days beyond the correct expiry date. In one case the expiry date was one day too early. In another case the time limit need not have been activated as the defendant had pleaded guilty on the first appearance. In another case, a 56 day expiry date was recorded in circumstances in which a 70 day limit applied.
- 4.68 There were three Crown Court cases in which the expiry date was incorrect. They included one from the Chester Branch in which the date was one day too early, and two from the Warrington Branch showing expiry dates one day and three days too late.

- 4.69 Time limits are calculated using a nationally issued ready reckoner which allows expiry dates to be calculated automatically according to the date of custody or committal. We refer above to expiry dates being calculated a day late. We have found this to be common in other inspections and believe it to be the result of a misunderstanding.
- 4.70 The law provides that the time limit commences the day after the date of first appearance. In fact, guidance in the CPS Prosecution Manual provides “Time periods begin from the day after the date of first appearance until midnight on the day of expiry”. A few sentences later, the Manual says “Time periods must be calculated by reference to the nationally issued ready reckoner...”. Although the ready reckoner has been compiled so that the expiry date is calculated from the date of custody (which means custody imposed by the relevant court), some members of staff have interpreted the guidance in the Manual as requiring calculation from the day after. Area managers have told us that the apparently misleading guidance had already been noted by one of the PTLs, though the implications as far as the Area was concerned were not fully appreciated until our visit.
- 4.71 We understand that Area managers have now brought this issue to the attention of all staff and have referred their concerns about the wording of the national guidance to CPS Headquarters. The apparent widespread nature of the misunderstanding requires urgent action at national level.
- 4.72 We recommend that the Policy Directorate should review the current guidance in the CPS Prosecution Manual relating to the calculation of custody time limits and issue further guidance which makes clear the way in which custody time limits are to be calculated.**

### *Monitoring systems*

- 4.73 In October 1999 a set of guidelines was published by CPS Management Audit Services (MAS) which, whilst not prescriptive, identified good practice in relation to monitoring custody time limits. These include:
- \* Initial calculation of the expiry date by the lawyer or caseworker handling the case;
  - \* Recalculation by the caseworker entering expiry dates on the monitoring system;
  - \* Management checks for accuracy by a senior caseworker or lawyer;
  - \* Use of duplicate systems for monitoring time limits;
  - \* Clear endorsement on files of expiry dates.
- 4.74 The Area has incorporated most of the procedures in the guidelines within its monitoring system though they are not consistently and universally applied throughout the Area. In particular, we found no evidence in either Branch that expiry dates were checked for accuracy. We were pleased to note, however, that expiry dates were endorsed on files by use of a coloured sticker. In addition, Warrington Branch files clearly distinguished expiry dates relating to individual defendants in cases where more than one was in custody. We **commend** this as good practice.

- 4.75 We make a recommendation at paragraph 4.81 about the Area custody time limits system. Area managers will wish to take account of the MAS guidance in implementing this recommendation.
- 4.76 The systems in place do not routinely ensure that cases in which custody time limits no longer apply are removed from the monitoring system. This can create unnecessary work in checking and retrieving files when what was the review date is reached.

#### *Applications to extend custody time limits*

- 4.77 Applications to extend a custody time limited in the magistrates' courts are always considered by a lawyer to ensure that the statutory criteria can be satisfied. Applications in the Crown Court are usually considered by caseworkers. We examined two magistrates' court and two Crown Court files in which it was necessary to apply for an extension to the custody time limit. The correct procedures had been followed in all four.
- 4.78 The Area has an established protocol with the Crown Court that application to extend the time limit will be made at PDH in cases where a trial is fixed for a date after expiry of the custody time limit. We considered two cases involving an extension at the Crown Court. In one, the time limit was extended at a subsequent hearing, after the trial had been fixed at PDH. In the other case we could find no evidence that any application to extend the time limit had been made, although the appropriate notices had been served in accordance with the protocol. The file bore the original expiry date.
- 4.79 At the time the inspection team was visiting the Area, staff had been recently issued with an Area custody time limit desk guide in booklet form, setting out tasks and identifying levels of responsibility. The system, whilst comprehensive, does not address some of the problems highlighted above. We were also given to understand that the booklet was issued to staff without any programme of introduction or training about its application.

#### *Conclusions*

- 4.80 Some of the issues we refer to in this section were the result of misunderstandings and errors in recording. Nevertheless, these, together with what we consider to be deficiencies in the Area systems, indicate that urgent action should be taken.
- 4.81 We recommend that the CCP should urgently commission a review of custody time limit monitoring procedures, taking account of guidance issued by MAS, and including an audit of a sample of files subject to custody time limits. Training should be provided to all staff to ensure that custody time limits are accurately recorded and monitored.**

#### **File endorsements and file management**

- 4.82 Endorsements of magistrates' courts hearings provided a clear and accurate record of events in 47 out of the 60 cases we examined. Many endorsements did not give full details of bail conditions and distinguish clearly between defendants in multi-handed cases. The standard of Crown Court hearing endorsements was better. Only three cases out of 30 had court hearing endorsements which were deficient in some respect.

- 4.83 The standard of court endorsements can clearly be improved. It is vital to efficient case management that files contain an accurate record of all actions and events at court. This is of particular importance in the situations we describe in the preceding paragraph. We have referred to the quality of review endorsements at paragraphs 3.44-3.48. Our recommendation at paragraph 3.48 deals also with court endorsements.
- 4.84 We found plenty of evidence that out of court actions and case discussions, including telephone calls with the police and defence were recorded at appropriate points in the file. Magistrates' court files contained a record of such matters in all but seven cases that we examined. Out of court actions and discussions were noted on the file in 29 Crown Court cases.

### **Provision of information to the Probation Service**

- 4.85 The quality of PSR packages is good though Probation Service figures show that 20% of reports are prepared without sight of the package. Area managers believe that the Area's performance is better than the figures suggest with a significant proportion of those cases being attributable to the internal routing of papers once they have been made available to the Probation Service. Whatever the cause, the issue needs to be addressed. We are pleased to note that a service level agreement is currently being developed. This will regulate the provision of pre-sentence disclosure and two joint audits are planned in January and April 2001 to check timeliness of provision of PSR packages.
- 4.86 Our file examination showed that a PSR package was provided in 20 out of 30 relevant cases. We could not ascertain the position in the other ten. Better recording would enable the CPS to provide a more definite response to the high percentage of reports prepared without sight of the prosecution papers.

## **PRESENTING CASES**

### **Advocacy standards**

- 5.1 Advocacy and case presentation in the courts is the public's opportunity to see representatives of the CPS and assess the performance of those who prosecute on their behalf. It is the most visible function of the CPS and its quality has to be assured. Any assessment must be measured against fixed standards and the inspection team used the CPS National Standards of Advocacy.
- 5.2 The standards identify several key areas of advocacy in respect of which performance is to be assessed. They are professional ethics; planning and preparation; courtroom etiquette; rules of evidence; rules of court procedure; presentational skills; and case presentation. Nevertheless, wherever possible, every advocate observed by the inspection team was assessed against each of the seven categories.
- 5.3 During our inspection we observed a total of 24 advocates, including CPS lawyers, DCWs and counsel, in the Crown Court, magistrates' courts and youth courts.

### **The quality of advocacy in the magistrates' courts**

#### ***Crown Prosecutors***

- 5.4 We visited six magistrates' courts and observed 12 CPS lawyers prosecuting. Representatives of other agencies thought that the quality of CPS lawyer advocates was very good. The Area has a high number of senior and experienced prosecutors who are very able advocates. Some were described as excellent. Case preparation is thorough, particularly in trials, and cases are presented fairly. Our observations confirmed this view. We considered six of those lawyers we observed to be above average competence. We felt that only one was less than competent in some respects, which appeared to be due to some lack of proper preparation. We were able to observe one trial and felt that the case was competently presented. Cross-examination was sharp and relevant to the points in issue.

#### ***Designated Caseworkers***

- 5.5 The Area has four designated caseworkers. Other court users praised the standard of DCWs and told us that they had been well received. Magistrates no longer perceive any distinction between lawyers and DCWs. They have established very good relationships with defence lawyers. They are considered to be very thorough in their court preparation, though there were some frustrations that they could not take some decisions without reference to a Crown Prosecutor. We observed two DCWs prosecuting in the magistrates' courts and were impressed with the standard of presentation, which was competent in all respects.

### *Agents in the magistrates' courts*

- 5.6 Although solicitors from private practice are instructed as agents, largely by the Warrington Branch, the majority of agents prosecuting in the magistrates' courts are junior counsel from Chester. The Area has an arrangement with local chambers whereby counsel are booked to undertake a week's lists in the magistrates' court.
- 5.7 The majority of lists undertaken by agents are trial courts. Comments from other magistrates' courts users about the standard of agents were generally encouraging, although some, we were told, did not appear to have the right level of experience. We observed two counsel in the magistrates' court and considered them to be competent prosecutors. Recent pressures have meant an increase in the use of agents. This has had a positive effect in that agents become more familiar with prosecution files and more experienced in prosecuting cases, and magistrates become familiar with individuals. However, we were told that courts would prefer to see fewer agents prosecuting. CPS lawyers are able, and more ready, to take decisions in cases which assist the overall progress of the court.
- 5.8 There is no specific induction package or programme for agents. However, as a separate initiative, recently qualified barristers spend a week in the Chester Branch office, working closely with a lawyer. The purpose is to gain familiarity with CPS work and procedures, which is valuable if they subsequently undertake agency work.
- 5.9 There are no special arrangements for checking agents' files before or after court. They receive the same attention as other files for court. In our experience the reduced familiarity of agents with CPS procedures makes it desirable that files should be checked for necessary action promptly on return to the office.

### *Magistrates' courts listing arrangements*

- 5.10 The Area case tracking system allows each Branch to know which cases are required for individual court centres on a particular day, and files can be marshalled in advance. However, Branches rely on the magistrates' courts listing offices to confirm which files are in individual courtrooms in each centre. Without this information, caseworkers cannot allocate the appropriate files to lawyers, except in the case of some trial files or centres with just one court sitting.
- 5.11 The Area does not receive daily lists from some courts until late in the afternoon before court, and sometimes not at all. This means that some cases are handed to lawyers at a late stage allowing little time for preparation. It also leads to the late transfer of many cases on the day of the court. If advocates do not know which cases they are handling, and are therefore unable to prepare them, this is likely to lead to lower quality advocacy and the risk of serious mistakes occurring in the handling of prosecutions. Some inaccuracies in court lists at Chester mean that some files are missed from court lists altogether, although the Branch has the file available. We observed one case at court where the defendant appeared but was unable to find a record of his case being listed, even though his solicitor and the prosecution had their respective files.

- 5.12 The Area is well aware of the problem and has discussed ways of trying to resolve it, so far with little success. One solution considered is to have a link in Branch offices with the court's computer. The Area, however, is reluctant to make this investment until improvements are made to the courts' procedures for updating files. Nevertheless, this issue continues to affect the efficiency of Area operations and attempts to address the problem should continue.
- 5.13 We suggest that Area managers seek to discuss with magistrates' court managers ways in which the detailed lists of individual courts can be communicated to Branch offices at least 24 hours before the court.**

### **The Quality of advocacy in the Crown Court**

#### *Crown Prosecutors and Higher Court Advocates*

- 5.14 Crown Prosecutors deal with Crown Court bail appeals. They prepare cases thoroughly and deal with them competently.
- 5.15 The Area has five Higher Court Advocates. Each of the Area's HCAs is a senior lawyer with management responsibilities which make particular demands on their time. Additionally, current priorities and staff shortages, especially in respect of lawyers at Chester, have meant that they have not appeared in the Crown Court for some time. They undertook PDHs, committals for sentence and appeals against conviction and sentence. We were told that they are very competent and were always well prepared. They are highly regarded by other Crown Court users.
- 5.16 We consider it to be a matter of great importance that CPS HCAs should maintain a high profile prosecuting in the Crown Court and it is right to say that Area managers share this view. We appreciate the reasons for the situation which existed at the time of our inspection and have taken note of Area proposals to reintroduce HCAs to the Crown Court as soon as circumstances allow. The CPS has recently been given greater flexibility in allocating funds, and increased funding for the CPS in the financial year 2001/02 will give Area managers greater opportunity in this respect. Nevertheless, we think that this matter should be given priority.
- 5.17 We recommend that the CCP should give urgent consideration to implementing the planned Area programme for the reintroduction of Higher Court Advocates to prosecuting cases in the Crown Court.**

#### *Counsel*

- 5.18 CPS is generally able to instruct counsel appropriate to the type of case being prosecuted. Counsel are usually selected by the casework manager, though caseworkers and lawyers often express their preference or suggestion of individual counsel for particular cases. We observed eight counsel prosecuting in the Crown Court. We considered that one of them was above average competence and displayed great sensitivity in prosecuting a rape trial in which one witness had disabilities. We were disappointed with the performance of another counsel who appeared to be unfamiliar with the issues in a case he was presenting at PDH.



- 5.19 The majority of counsel are from local chambers in Chester. The Chester Bar is relatively small. We were told that current prosecution fee scales sometimes restrict the numbers of counsel available to prosecute and have an effect on the rate of returned briefs. There is a perception that less experienced counsel are being instructed in some more serious cases on the basis that the brief will attract a lower fee. We were also told, however, that, in some instances, CPS overestimate the importance of a case and instruct counsel of a seniority higher than is appropriate to the case.

### **Monitoring of advocacy standards**

- 5.20 Line managers monitor lawyer advocates and DCWs though there is an acknowledgement that monitoring does not occur as often or as thoroughly as is required to fulfil its objective. PTLs monitor advocates on an ad hoc basis when they attend courts to prosecute. Staffing levels have meant that they have not been able to monitor advocates over a complete court session.
- 5.21 Magistrates and court clerks are not asked for their views of advocates for the purpose of formal monitoring though they make their views known if they think that performance deserves especial praise or otherwise. Comments are usually positive.
- 5.22 Counsel are also monitored informally by caseworkers. Special attention is given to counsel who are applying to be upgraded.
- 5.23 There are proposals, outlined in the Area Business Plan, to introduce the regular monitoring of counsel, agents, CPS advocates and HCAs, and to record the results. Line managers will be responsible for monitoring advocates over a 12 month period. We welcome this.

### **Returned Briefs**

- 5.24 The Area is concerned at the numbers of returned briefs, particularly in respect of the more serious casework. Counsel try to deal with their own cases but court listing arrangements and transfer of cases often frustrates this objective. Any new counsel is agreed by the caseworker manager or a senior caseworker. Some returned briefs are passed to Counsel in different chambers.
- 5.25 Counsel originally instructed by the prosecution appeared at PDH in only 12 of the 30 relevant cases within our file sample. Original counsel dealt with only 11 of the 20 contested trials we considered and trial counsel appeared for the prosecution at a subsequent sentencing hearing in only six out of 16 relevant cases.
- 5.26 Under an arrangement between the CPS and the Bar, individual chambers monitor the numbers of returned briefs and the figures are forwarded to Areas served by the relevant chambers. The Area has also recently started its own monitoring system. We have recognised that many returns occur for reasons beyond the control of counsel and their clerks. We hope that the proposed monitoring will identify the main causes and lead to a reduction in the number of returned briefs. In the meantime it is important that, when returns occur, the case should continue to be handled by counsel of suitable calibre and experience. Area managers are generally happy with the quality of replacement counsel, particularly in the more serious cases.

## **MANAGEMENT ISSUES**

### **Management of the Area**

- 6.1 Cheshire became a separate CPS Area in April 1999 with the implementation of the recommendations of the Glidewell report. The CCP and the ABM were appointed at that time and were both new to Cheshire. The Chester and Warrington Branches had previously been part of the larger Area of CPS North West which comprised the areas covered by the Greater Manchester and Cheshire Constabularies.
- 6.2 The Area Management Team comprises the CCP, ABM and the two BCPs. Until recently, the PTLs from both Branches were included within the team but all members concluded that they could contribute their views as effectively through the BCPs. AMT meetings are held every four to six weeks. The minutes are circulated to all team members and BCPs make them available to all Branch staff. Important items are discussed individually at Branch team meetings.
- 6.3 The Area Business Plan sets out the Area's proposals for achievement of the CPS national objectives and its targets for the ensuing year. It details the Area's proposals to meet the CPS national objectives. The plan acknowledges the changes that have already occurred and recognises the challenges which the Area faces in restructuring into trial units and criminal justice units. It reflects the Area's close relationship with other criminal justice agencies and emphasises the need for effective co-operation with those agencies. The plan is available for all staff should they wish to read it but a summary has been produced which has been presented at Branch offices by the CCP and ABM. The Plan is a standing item for discussion at AMT meetings which monitor progress towards achievement of objectives and targets. BCPs are now required to produce quarterly Branch Performance Reports. These are the subject of formal discussion between the CCP, ABM and individual BCP.
- 6.4 The reorganisation of the CPS into 42 Areas and the programme of internal restructuring have brought a significant increase in management activity over the last eighteen months. The programme of change has led to the establishment of a significant number of internal working groups involving numbers of staff at all levels. They are often working to tight deadlines. The involvement of staff in these working groups has been deliberate. Senior managers feel it is vital that staff should be consulted about, and have the opportunity to influence, decisions affecting their future. On the other hand, many staff feel that they have been distracted from performing the core business of the Service and feel under considerable pressure in trying to prioritise their responsibilities. There is, however a fine, and often very difficult, balance to be drawn by Area managers in this context.

### ***Internal Communication***

- 6.5 The Area has a Communications Strategy which has been sent to all staff. The Area received IiP accreditation in March 2000 and an action plan has been prepared to implement the recommendations of the IiP assessor.

- 6.6 Although the Communications Strategy refers to regular Branch and team meetings, we found that these were not held as often as might be desirable though efforts are being made to ensure that frequency is increased. Each office has a white board for staff to put forward agenda items for team meetings.
- 6.7 There is also an Area Sounding Board, representing staff at all levels, which is considered to be moderately effective as a means of communication. This meets every four to six weeks and receives contributions to its agenda from all staff. Minutes of meetings are circulated throughout the Area. Membership is rotated regularly to give everyone the chance to contribute directly.

### **Management of financial resources**

- 6.8 The Area has effective systems in place for ensuring that expenditure is closely and effectively monitored.
- 6.9 Monthly management reports, provided by national headquarters, which detail actual expenditure, are circulated to all budget holders to assist them in budget monitoring. Any items of concern will be highlighted by the Area Secretariat. BCPs are required to complete a monthly Budget Performance Report setting out details of Branch expenditure, including spending forecasts and action to deal with overspends. PTLs have some responsibility for financial delegation. They are responsible for instructing agents in the magistrates' courts and expert witnesses.
- 6.10 Area expenditure is discussed and monitored at AMT meetings and the North West Business Centre also assists in budgetary control.

### **Management of human resources**

- 6.11 We found that the Area has deployed its staff as efficiently as sometimes conflicting priorities allow. The two offices are 20 miles apart and staff are often reluctant to transfer, even on a short term basis. The Area supports the principle of part-time working and employs a number of part-time staff. Wherever possible, working hours reflect individual preferences but these cannot always be accommodated if the Area is to fulfil its obligations properly.
- 6.12 The Area also employs a number of staff on short-term casual contracts. This is partly due to budgetary considerations, but principally because of the uncertainty over the staffing of the new criminal justice and trials units.
- 6.13 The Area experiences significant difficulties caused by staff absences due to sickness. The level of absence for the last financial year was 17.2 working days per employee compared with the national average of 10.2 days. The Area does its best to manage absence through illness and receives assistance in this respect from the North West Business Centre. However, the situation is aggravated by an unusually high level of long-term sick absence. The Area has a target for the current financial year of reducing sickness levels to 9.1 days per employee though the current situation is likely to make achievement of the target very difficult.

6.14 Staff shortages have led in the past to cancellation of leave for some staff.

### ***Morale***

6.15 We were told by Area staff and representatives from other criminal justice agencies that morale was low. We found a more positive picture. Although there were concerns about the current uncertainties relating to restructuring, staff remain cheerful, committed and dedicated, and supportive of each other. Despite the pressures, they maintain a pride in what they do. This has been a big factor in ensuring that a consistent level of performance has been maintained in a difficult period.

### ***Training***

6.16 Training is organised on a regional basis by the North West Business Centre. Each Branch has a training liaison officer who attends Area training meetings. Staff training needs are identified from individual personal development plans which are agreed between them and their line manager. A training matrix has been developed to assist this process.

6.17 Although the Area recognises the importance of, and is keen to promote, training, staff shortages have led to a reduction in the numbers of staff available to attend courses. Priority is given to the more essential courses but others take a lower priority. Some lawyers have not yet taken part in the national training programme for the Human Rights Act which came into effect in October 2000.

6.18 The Area has an induction training programme for all new staff. Line managers are responsible for taking new job holders through the induction programme. The emphasis is on familiarising staff with the requirements of their new job. Staff are provided with a desk pack which includes desk instructions relating to the performance of their duties. They are also shown the CPS Equality and Diversity video. Additionally, all new lawyers have a senior lawyer assigned to them as a mentor to assist in their introduction to the CPS. Applicants for internal promotions attend a half day seminar dealing with the CPS national competency framework to assist them with completing their applications. The Area is currently putting together a training course on PIs with the help of Internal Resources and Performance Branch to tackle inaccuracies in recording case outcomes.

### ***Health, safety and disability***

6.19 The Area employs no staff with disabilities. Although Windsor House has access for the disabled, this is at the rear of the building and is not signed at the front. The front entrance is located at the top of a small flight of steps. Access from outside is via intercom and, as such, relies on the ability of the visitor to speak and hear.

6.20 Prosecutors and caseworkers are required to transport their own files to court and we refer to the security aspects of this later. However, the weight of files causes problems for many members of staff and some attribute back injuries to this. These have led to sick absences. Area managers plan to show a video on safe manual handling to all staff and are considering other methods to ease the difficulties of carrying files to court.

### ***Performance appraisal***

- 6.21 The Area completed 94% of all performance appraisal reports for the reporting period 1999/2000 by the target date. This compares very favourably with the national average of 60%, especially since a number of reports could not be completed due to staff being unavailable because of long term sickness.
- 6.22 Performance appraisal is an important aspect of staff development. Completion of annual appraisal reports requires a considerable investment in terms of time on the part of both the job holder and line manager. However, there is a perception amongst some staff that other priorities are more demanding and that annual appraisal is more of a ritual than a carefully considered process. There is an inconsistent approach to interim appraisals. Most staff acknowledge that they have at least one interim appraisal per year. Others recall more than one. Most job holders said that interim appraisals were very short.
- 6.23 The standard of individual performance is measured according to a competency framework. Many line managers and job holders have found the framework difficult to understand. The framework is the basis of the appraisal system and it is vital that all staff should understand how it is to be applied in assessing performance. The Area has in the past run a series of courses to train staff in using the competency framework though the training programme is currently in abeyance because of lack of resources.

### **Victims and witnesses**

- 6.24 The Area has well established links with the Witness Service and Victim Support, both direct and in a number of joint forums which include the Crown Court Liaison Group, Trials Issues Group and the Area Criminal Justice Strategy Committee. Both the Witness Service and Victim Support have an excellent working relationship with the CPS
- 6.25 There is no Witness Service presence in the magistrates' courts though the Service has operated in the Crown Court for a number of years. Area caseworkers were praised for their professionalism and helpfulness in dealing with witnesses and the professional respect they accorded to members of the Witness Service. Caseworkers take time to speak to witnesses to explain events at Court. The situation whereby counsel were traditionally reluctant for professional reasons to speak to witnesses is gradually improving since the Bar Council changed its rules to make it clear that contact with witnesses is not improper.
- 6.26 There are some aspects of the service provided to victims and witnesses which could be improved by joint agency co-operation.
- 6.27 The CPS forwards a copy of the LWAC (list of witnesses to attend court) to the Witness Service prior to the PDH. At PDH, the court seeks to determine which witness on the list are in fact required to attend to give evidence. There is no further notification, however, until the caseworker attends court on the day of the trial and informs the Witness Service representative which witnesses are attending. Advance warning would allow the Witness Service to assess its attendance requirements more accurately.

- 6.28 The arrangements for phasing of witnesses should be capable of improvement through greater liaison between the prosecution, defence and respective counsel to reduce court waiting time for witnesses. A recent survey conducted by the Witness Service showed that 60% of witness in the Crown Court at Chester wait more than a day and a half to give their evidence. This is quite unacceptable. Some of the problem is caused by Crown Court listing arrangements.
- 6.29 There was sometimes a delay in vulnerable victims being notified of the grant of bail to a defendant who had previously been remanded in custody or whose bail conditions had been changed. We were also told that the Witness Service was rarely given advance notice when cases were transferred to another Crown Court centre.
- 6.30 These are clearly important issues which should be addressed. However, we do not think it necessary to do more in this report than highlight them for the Area to take note of. The relationship between the witness agencies and the CPS, and the existing channels of communication, are such that we are confident the problems can be discussed and resolved.
- 6.31 We have said that the Witness Service is not currently present in the magistrates' court. The effect of this is that witness care at court is largely the responsibility of CPS prosecutors. They appreciate the importance of victim and witness care and make every effort to speak to witnesses and assist them by allowing them to refresh their memories from a copy of their statement and generally keeping them informed of case progress.

## **External communication and liaison**

### ***General***

- 6.32 We deal in this section with the working relationships between the Area and its local partners in the criminal justice system. However, it is important to mention also the Area's profile within the local community. Area managers are keen to raise awareness of the CPS and to promote the Area as an integral and efficient part of the criminal justice system. It has regular contact with local press and radio. Senior Area managers have established relationships with various community groups and local schools. The Area provides work experience annually for many local school pupils and students. The CCP regularly attends the College of Law at Chester to speak to students.

### ***Crown Court***

- 6.33 There are very close and well established working relationships between the Area and the Crown Court which allow issues to be discussed formally and informally at appropriate levels within each organisation.
- 6.34 The CCP and the Resident Judges at both Crown Court centres meet every three months and the Crown Court Manager at Chester liaises closely with the ABM.

- 6.35 The Crown Court at Chester has arranged an exchange programme with the Chester Branch which involves support staff from each organisation spending time working in each other's offices to provide a better understanding of the respective roles, especially in relation to those aspects where conflicts may arise. In addition, the BCP meets the Resident Judge informally when any issues need to be addressed.
- 6.36 Warrington Crown Court holds court user meetings every six months. Crown Court managers and the Resident Judge meet the BCP in advance of the meeting to discuss issues affecting the two organisations.

### *Magistrates' courts*

- 6.37 The Area enjoys a similarly good working relationship with the magistrates' courts. The atmosphere of mutual co-operation enabled the CCP recently to negotiate some readjustments to court listing patterns to accommodate the Area's difficulties caused by lawyer shortages. The numbers of individual courts was reduced by 15% and a dedicated road traffic court was established at Crewe which is prosecuted by a DCW.

### *Police (including JPM)*

- 6.38 Relationships between the police and the Area are particularly good at all levels. The head of the police AJU liaises informally with senior CPS staff on a daily basis and meets often with BCPs to discuss issues of current concern.
- 6.39 JPM meetings are held monthly. They involve the PTLs and divisional crime managers (Detective Chief Inspectors). Meetings are considered to be very productive in highlighting and resolving issues.
- 6.40 The police and CPS monitor file quality and timely submission through JPM. The police attach TQ1 forms, which monitor quality and the timeliness of submission, to all upgraded files. Prosecutors are required to complete and return the forms with their comments on both issues. Many forms, however, are not returned by CPS and, until recently, the police did not keep a record of submissions and returns, although estimates suggested that only 50% were received. As a result, measurement of police performance was inaccurate and did not provide a proper basis for improvement. The police now ensure that proper records are maintained so that accurate assessments of file quality can be made in future.
- 6.41 The Area acknowledges deficiencies in completing and returning TQ1 forms and we noted examples of uncompleted forms on files within our sample.
- 6.42 We recommend that the CCP should take urgent steps to assist the police in making improvements in the quality and timely submission of files by ensuring that prosecutors complete and return TQ forms promptly in all appropriate cases.**

### ***Defence solicitors***

- 6.43 Relationships with local defence practitioners are cordial and professional. There is formal liaison at court user meetings and at the Cheshire Youth Justice Forum.
- 6.44 Some concerns were expressed that occasionally relationships led to a greater degree of co-operation than might be desirable, particularly in respect of consents to adjournments. We were also told that there was a degree of acquiescence from the courts in this respect. Although we observed the high level of co-operation ourselves, it did not go beyond what is proper.

### ***Probation Service***

- 6.45 The restructuring of the CPS to create the Cheshire Area has strengthened and focused working relationships. Immediate issues of concern are raised either locally or with Area managers as appropriate. Local managers from the CPS and the Probation Service meet at court user groups.
- 6.46 A Service Level Agreement has recently been developed to address the provision of pre-sentence information by the CPS to the Probation service which proposes a twice yearly review of working arrangements.

### ***Youth Offending Team***

- 6.47 Although the YOT has been in existence for just a year, it already enjoys a constructive relationship with the Area. There is a feeling that CPS could do more to reduce delay in youth cases, but this criticism is not exclusive to CPS. CPS representatives on inter agency-groups are of sufficient seniority to make decisions, though this has been a problem in the past.

### **Security**

- 6.48 Internal security is generally well regulated, though we refer to shortcomings in enforcing a clear desk policy in paragraph 6.52. All visitors to the offices at Warrington and Chester must report to reception where they are issued with a visitor's pass which they must wear during their time on the premises. CPS staff are not required to wear their identification passes in the office. Staff know each other and security systems for entry to the offices make the wearing of passes unnecessary. They must, however, carry their passes at all times and produce them if challenged.
- 6.49 Although there have been no particular problems, the security of files in transit to and from some courts could be improved. Although, Warrington Branch employs a van driver who is sometimes available to take files to courts some distance away, prosecutors are generally responsible for taking files to courts themselves often in very visible circumstances.



- 6.50 There have been no formally reported incidents involving threats to Area staff attending court, though some staff have been the victims of some mild abuse from defendants at court. Personal attack alarms are available for staff if they want them. CPS have a secure private room at most magistrates' courts and Crown Court centres in the Area. However, we were told of, and observed, security lapses in this respect.
- 6.51 Videos of child witnesses and any sensitive unused material which may be stored in Branch offices are kept in secure cabinets.
- 6.52 The Area has a clear desk policy, though it is acknowledged that this is not enforced. Even when desks are cleared at the end of the working day, cabinets used to store files are not always locked. There are sufficient lockable cabinets to enforce the policy and the CCP has called for compliance by the end of November 2000.
- 6.53 It is important for the credibility and integrity of the CPS that all security measures are implemented and enforced. Whereas the Area strives to ensure that security is not compromised in any way, we think there are aspects in which improvements could be made.
- 6.54 We suggest that the CCP should cause a review to be made of security arrangements in CPS office premises and CPS occupied rooms at courts to ensure that CPS national security policy is complied with at all times.**

### **Accommodation**

- 6.55 Windsor House at Chester provides accommodation for the Area Secretariat, the Chester and Crewe Branch and the personnel section of the North West Business Centre. The existing lease has another 14 years to run. The premises are pleasant and some parts give an impression of spaciousness. However, other parts house higher concentrations of staff and the external shape of the building does not allow some corner offices to make the best use of space. There are no rooms set aside for private interviews, which usually have to be conducted in a spare office or in the library which is also used for watching videos of children's evidence.
- 6.56 There is parking for four cars at Windsor House though the Area pays for additional spaces at a nearby car park. The office is convenient for the magistrates' court and the Crown Court at Chester.
- 6.57 It is currently planned to locate lawyers on the Crewe team in a Criminal Justice Unit at Crewe police station. There are also proposals to relocate the Business Centre staff currently in Windsor House to CPS Merseyside Area offices in Liverpool. These initiatives will free up more space for staff remaining in Windsor House.
- 6.58 The lease on the Warrington office premises has a similar period left to run. The office is spacious and provides a pleasant working atmosphere. There is ample car parking space outside the office and the magistrates' court and Crown Court are nearby.

## Equality

- 6.59 The Area is proactive in promoting equality issues. The CCP is a co-founder of the Cheshire Race Issues Group which is chaired by the local director of the Commission for Racial Equality. The group acts as a platform for promoting race issues by liaising and speaking with local ethnic groups. It has recently secured Government funding to employ 1.5 staff to target recruitment into organisations such as CPS, the police and the fire service from local minority ethnic communities.
- 6.60 The Area mentors students from minority ethnic groups and has achieved its target of employing one member of staff from a minority ethnic community.
- 6.61 The majority of staff have seen the CPS Equality and Diversity video. The CCP and ABM held a presentation in each office and led discussion of the issues raised after the showing. However, although the video has been made available to those members of staff who were unable to attend the presentations, some have not yet seen it.
- 6.62 We recommend that the CCP and ABM take urgent steps to ensure that all staff see the CPS video on Equality and Diversity at the earliest opportunity**
- 6.63 The CPS requires all staff to have a personal objective in their forward job plan which is linked to the national Equality and Diversity Plan. It is not part of the inspection process to consider the forward job plans of individuals. However, it was apparent that some members of staff were not aware of this requirement.

## Performance indicators (PIs)

- 6.64 Casework information and outcomes in magistrates' courts cases are recorded and produced electronically by the Area case tracking system which produces team based figures. Crown Court PIs are compiled manually. BCPs and PTLs study their PIs for trends and investigate problems. PIs are discussed at Branch and team meetings.
- 6.65 We noted some inaccuracies in the recording of PIs reflected in errors in the file samples sent to us. Area staff have recognised the importance of having accurate casework information and Area managers have recently completed an overview of PI recording systems. The Area is currently compiling a training package for all lawyers and caseworkers. It is seeking to involve lawyers more in recording appropriate PI codes on files which they prosecute to assist support staff in updating the case tracking system.

## Handling of complaints

- 6.66 The Area has a system which ensures that complaints are dealt with promptly and at the appropriate level. National guidelines require replies to complaints to be sent within ten days of receipt. The Area responded to all complaints within the guidelines in the year ending 31 March 2000, exceeding its target of 97%. The national outcome was 87.7%. The Area's current performance shows a slight drop to 99.2%.

- 6.67 Complaints are usually dealt with by the BCPs unless they require the personal attention of the CCP. A report is prepared for the BCP by the lawyer who handled the relevant case. Each BCP maintains a complaints log and monitors individual complaints to ensure that they are acknowledged and responded to within national guidelines.
- 6.68 We found that complaints were sensitively handled. CPS responses showed a helpful and informative approach. It was apparent from files that responses were well researched with a particular attention to detail. Any promises to respond further with additional information or action were followed up promptly.

## **CONCLUSIONS, GOOD PRACTICE, RECOMMENDATIONS AND SUGGESTIONS**

### **Conclusions**

- 7.1 Casework decision making and case management is generally sound. This is not always reflected in the subsequent preparation and handling of cases. There are improvements to be made in respect of disclosure of unused material, where we feel that prosecutors should be more proactive with the police to ensure that they fulfil their statutory responsibilities. The difference in performance of the two Branches in the timely preparation and service of committal papers should be addressed in order to improve Area performance overall. Procedures for recording and monitoring of custody time limits require urgent consideration.
- 7.2 A good standard of advocacy is achieved despite some difficulties experienced in preparing courts as the result of late notification of listing details.
- 7.3 The Area is experiencing significant staffing problems, particularly at Chester and this, together with the uncertainties brought about by the current restructuring, have had an effect on staff morale. Nevertheless, there remains an atmosphere of commitment and dedication which has earned the Area the respect of its partners in the criminal justice system.
- 7.4 There is an unsatisfactory delay in the handling of cases involving persistent young offenders. The Area must work urgently in close co-operation with criminal justice partners to address this. There is also a need for action to improve some aspects of the treatment of victims and witnesses, notably the time the latter spend waiting to give evidence at the Crown Court.
- 7.5 The CCP and the Area Management Team faced considerable challenges when the Area was re-formed following CPS reorganisation in 1999. A particular priority was to create a cohesive organisation with a single identity after what was perceived by many to be the fragmentation of the original Cheshire Area as a result of the CPS restructuring in 1993. Current achievements towards this goal have been considerable but there is still a need to focus on initiatives which will bring the two Branches closer together.
- 7.6 Cheshire is a large Area with a mix of larger urban centres of population and smaller rural centres. The Branch offices are twenty miles apart though traffic conditions at peak periods can lengthen considerably the journey time between the two. The magistrates' courts served by the Area are spread throughout the county. Lawyers spend much time travelling to and from courts to the extent that they may not see the Branch office for some days. This contributes to the difficulties already being experienced by staff shortages and the pressures experienced by all staff. Despite this, representatives from other agencies experienced fewer problems of communication than might have been expected.

## Good practice

- 7.7 It is appropriate that we should draw attention to those Area practices which might be regarded as good practice:
- 7.8 **Adverse case reports** (paragraphs 3.38-3.40) – monthly reports prepared by the BCPs to the CCP analysing the reasons for failed cases in the Crown Court are amongst the best we have seen. They provide a careful detailed analysis of the relevant issues, identify any trends and provide a valuable vehicle for discussion in JPM.
- 7.9 **Court attendance notes** (paragraph 3.42) – the CCP, BCPs and PTLs complete a form whenever they prosecute in the magistrates’ court highlighting issues of significance, whether positive or negative, in the files or encountered at court so that they can be discussed in team meetings.
- 7.10 **The Area Casework Bulletin** (paragraph 3.43) - This is compiled by one of the BCPs and published on a quarterly basis. It contains details of local cases as well as national legal developments.
- 7.11 **Identifying individual defendants in custody in multi-defendant cases** (paragraph 4.74) – Warrington Branch makes it clear on coloured stickers showing expiry dates, attached to files in custody time limits cases, which date applies to individual defendants when there is more than one in custody.
- 7.12 **Work shadowing by the Bar** (paragraph 5.8) – the Area has an arrangement with local chambers which allows recently qualified counsel to spend a week in the Chester office work shadowing a lawyer. This gives them a valuable insight into the work of the CPS and prepares them for any agency work they might subsequently undertake.
- 7.13 **Community links** (paragraph 6.32) – the Area has established firm links with local community organisations, such as educational establishments and ethnic minority groups. Area personnel regularly give their time to speak to groups about the work of the CPS.

## Recommendations and suggestions

- 7.14 The distinction between recommendations and suggestions lies in the degree of priority that the Inspectorate considers should attach to its proposals. Those meriting highest priority form the basis of recommendations.
- 7.15 With a view to improving area performance, we make the following recommendations:
- 1 the CCP should ensure that records of telephone and other informal advice give sufficient details of the nature of the advice provided and are subsequently confirmed in writing to the police; the arrangements should also ensure that such advice is married up with any subsequent prosecution file (paragraph 2.18);

- 2 Area managers should ensure that procedures for monitoring responses to proposals to terminate cases elicit a prompt response from the police and action by reviewing lawyers to discontinue at the earliest opportunity (paragraph 3.22);
- 3 Area managers should circulate copies of the monthly Branch reports to the CCP on adverse cases to all lawyers and caseworkers to ensure that appropriate casework lessons are learned (Paragraph 3.41);
- 4 the CCP should ensure that review endorsements contain a record of:
  - \* the evidential issues and public interest factors taken into account by the reviewer;
  - \* the reviewer's recommendation on mode of trial and supporting considerations;
  - \* details of all further review undertaken at all subsequent stages of case progress
  - \* clear and accurate details of events and actions at court hearings in respect of each defendant (Paragraph 3.48);
- 5 the Area should take urgent steps, in conjunction with other agencies, to ensure that cases involving persistent young offenders are dealt with expeditiously so that Government targets are met (paragraph 3.61);
- 6 the CCP should ensure that a record of what is served as advance information is kept in all cases (paragraph 4.6);
- 7 Area managers should reconsider with the police the conclusions of their joint review of disclosure procedures in the light of the Attorney General's Guidelines on Disclosure and introduce revised arrangements to ensure that prosecutors and the police fully discharge their statutory duties and those under the guidelines (paragraph 4.29);
- 8 Area managers should co-operate with other agencies to ensure that a consistent approach is taken to PTRs in summary trials and that they are conducted in a manner which assists the progress of the trial and reduces the incidence of cracked and ineffective trials (paragraph 4.40);
- 9 Area managers take urgent steps to improve Area performance in respect of the timely preparation and service of committal papers within national guidelines (paragraph 4.45);
- 10 the CCP should urgently commission a review of custody time limit monitoring procedures, taking account of guidance issued by MAS, and including an audit of a sample of files subject to custody time limits. Training should be provided to all staff to ensure that custody time limits are accurately recorded and monitored (paragraph 4.81);

- 11 the CCP should give urgent consideration to implementing the planned Area programme for the reintroduction of Higher Court Advocates to prosecuting cases in the Crown Court (paragraph 5.17);
- 12 the CCP should take urgent steps to assist the police in making improvements in the quality and timely submission of files by ensuring that prosecutors complete and return TQ forms promptly in all appropriate cases (paragraph 6.42);
- 13 the CCP and ABM take urgent steps to ensure that all staff see the CPS video on Equality and Diversity at the earliest opportunity (paragraph 6.62).

7.16 We also make the following suggestions:

- 1 Area managers, in consultation with the police, reconsider the existing criteria for the submission of files for advice and reissue guidance, with any necessary revisions, to ensure that advice before charge is provided in all appropriate cases (paragraph 2.6);
- 2 Area managers should introduce a uniform system of allocating advice cases which ensures that all lawyers, under supervision where appropriate, gain experience of dealing with all types of casework, particularly those requiring specialism (paragraph 2.9);
- 3 the CCP should ensure that advice cases which are returned to the police for further information are consistently and accurately recorded for PI purposes in a manner which avoids double counting (paragraph 2.15);
- 4 the CCP should take steps to ensure that all lawyers of appropriate experience and seniority have the opportunity to attend PDHs in the Crown Court to develop their experience of Crown Court casework (paragraph 4.58);
- 5 Area managers seek to discuss with magistrates' courts managers ways in which the lists of individual courts can be communicated to Branch offices at least 24 hours before the court (paragraph 5.13);
- 6 the CCP should cause a review to be made of security arrangements in CPS office premises and at CPS occupied rooms at courts to ensure that CPS national security policy is complied with at all times Paragraph 6.54).

7.17 In addition, we make the following recommendation to CPS Headquarters:

- 1 the Policy Directorate should review the current guidance in the CPS Prosecution Manual relating to the calculation of custody time limits and issue further guidance which makes clear the way in which custody time limits are to be calculated (paragraph 4.72).

## **KEY STATISTICS**

- 8.1 The charts in Annex 2 set out the Key statistics about the Area's casework in the magistrates' courts and in the Crown Court for the year ending 30 September 2000.

## **EXTERNAL CONSULTATION**

- 9.1 Annex 3 is a list of the local representatives of criminal justice agencies who assisted in our inspection.



**TOTAL NUMBER OF FILES EXAMINED FOR  
CPS CHESHIRE**

<b>Type of file</b>	<b>Number of files examined</b>
Pre-charge advice	20
Magistrates' courts no case to answer	1
Discharged committals	0
Judge ordered acquittal	25
Judge directed acquittals	7
Magistrates' courts terminated cases – reason for decision	83
Stationary or moving motoring trials	20
Magistrates' court acquittals	10
Crown Court jury acquittals	10
Magistrates' court guilty pleas	10
Magistrates' court convictions	10
Crown Court guilty pleas	10
Crown Court convictions	10
Magistrates' court terminated cases – quality of decision	50
Custody time limits	20
Committals for sentence	10
Appeals against conviction	10
<b>Total</b>	<b>306</b>

## ANNEX 2

**Table for chart 1**  
**Types of case**

	Cheshire		National	
	Number	Percentage	Number	Percentage
Advice	1,356	5.8	50,024	3.5
Summary motoring	7,942	34.2	525,392	37.1
Summary non-motoring	3,021	13.0	257,828	18.2
Either way & indictable	10,733	46.2	570,121	40.2
Other proceedings	165	0.7	13,942	1.0
<b>Total</b>	<b>23,217</b>	<b>100</b>	<b>1,417,307</b>	<b>100</b>

**Table for chart 2**  
**Completed cases**

	Cheshire		National	
	Number	Percentage	Number	Percentage
Hearings	16,447	75.8	987,230	72.9
Discontinuances	2,169	10.0	168,606	12.5
Committals	1,500	6.9	84,755	6.3
Other disposals	1,580	7.3	112,750	8.3
<b>Total</b>	<b>21,696</b>	<b>100</b>	<b>1,353,341</b>	<b>100</b>

**Table for chart 3**  
**Case results**

	Cheshire		National	
	Number	Percentage	Number	Percentage
Guilty pleas	14,238	86.4	813,545	82.1
Proofs in absence	1,034	6.3	119,291	12.0
Convictions after trial	900	5.5	41,378	4.2
Acquittals: after trial	279	1.7	15,143	1.5
Acquittals: no case to answer	19	0.1	1,778	0.2
<b>Total</b>	<b>16,470</b>	<b>100</b>	<b>991,135</b>	<b>100</b>

**Table for chart 4**  
**Types of case**

	Cheshire		National	
	Number	Percentage	Number	Percentage
Indictable only	536	22.5	28,072	22.7
Either way: defence election	152	6.4	17,954	14.5
Either way: magistrates' direction	1,052	44.2	40,540	32.8
Summary: appeals; committals for sentence	641	26.9	36,942	29.9
<b>Total</b>	<b>2,381</b>	<b>100</b>	<b>123,508</b>	<b>100</b>

**Table for chart 5**  
**Completed cases**

	<b>Cheshire</b>		<b>National</b>	
	<b>Number</b>	<b>Percentage</b>	<b>Number</b>	<b>Percentage</b>
Trials (including guilty pleas)	1,508	86.7	73,518	84.9
Cases not proceeded with	154	8.9	10,050	11.6
Bind overs	26	1.5	1,502	1.7
Other disposals	52	3.0	1,496	1.7
<b>Total</b>	<b>1,740</b>	<b>100</b>	<b>86,566</b>	<b>100</b>

**Table for chart 6**  
**Case results**

	<b>Cheshire</b>		<b>National</b>	
	<b>Number</b>	<b>Percentage</b>	<b>Number</b>	<b>Percentage</b>
Guilty pleas	1,154	75.1	55,057	73.5
Convictions after trial	187	12.2	11,254	15.0
Jury acquittals	142	9.2	6,754	9.0
Judge directed acquittals	54	3.5	1,811	2.4
<b>Total</b>	<b>1,537</b>	<b>100</b>	<b>74,876</b>	<b>100</b>

**Chart 1: Magistrates' Courts - Types of**

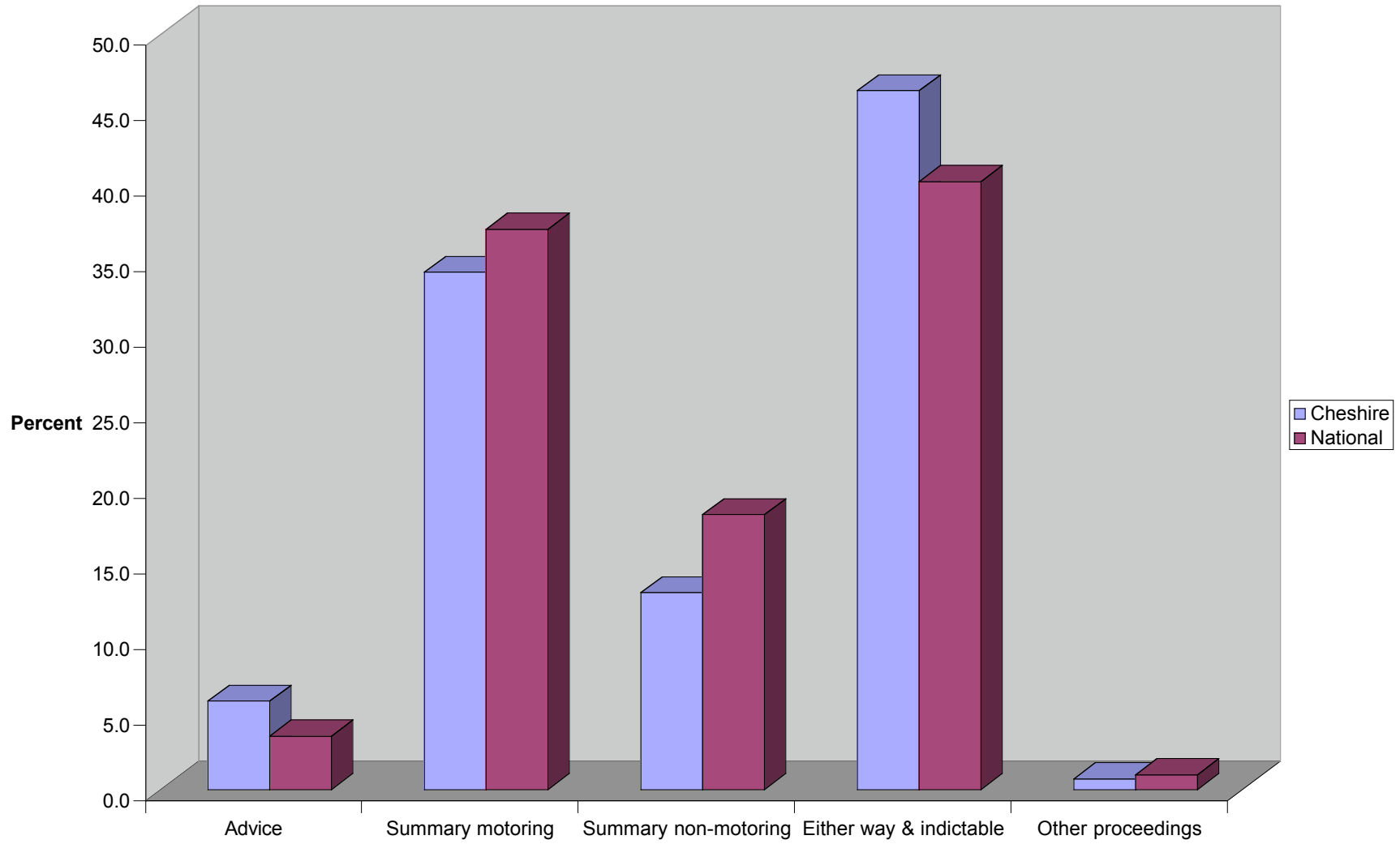


Chart 2: Magistrates' Court - Completed cases

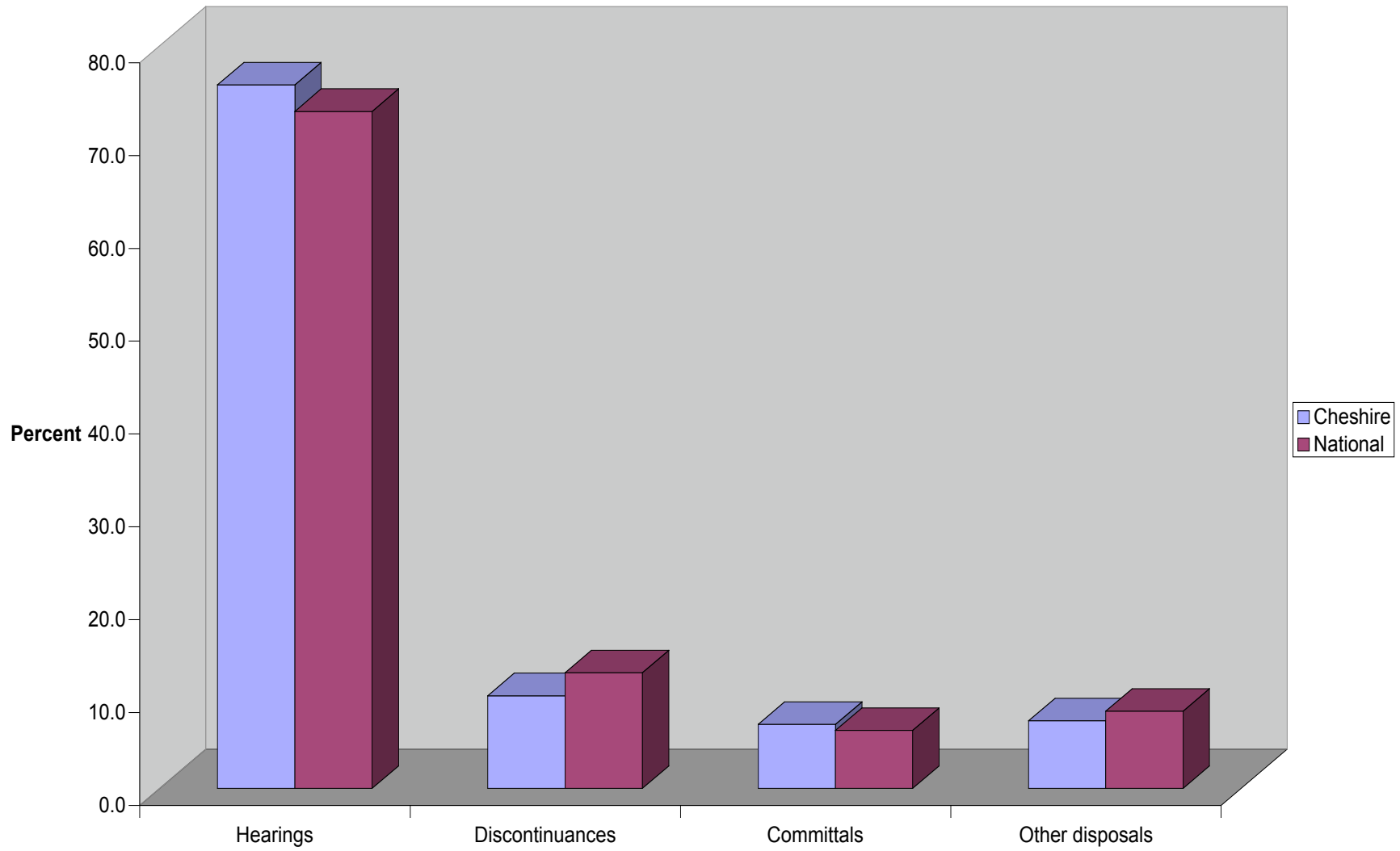
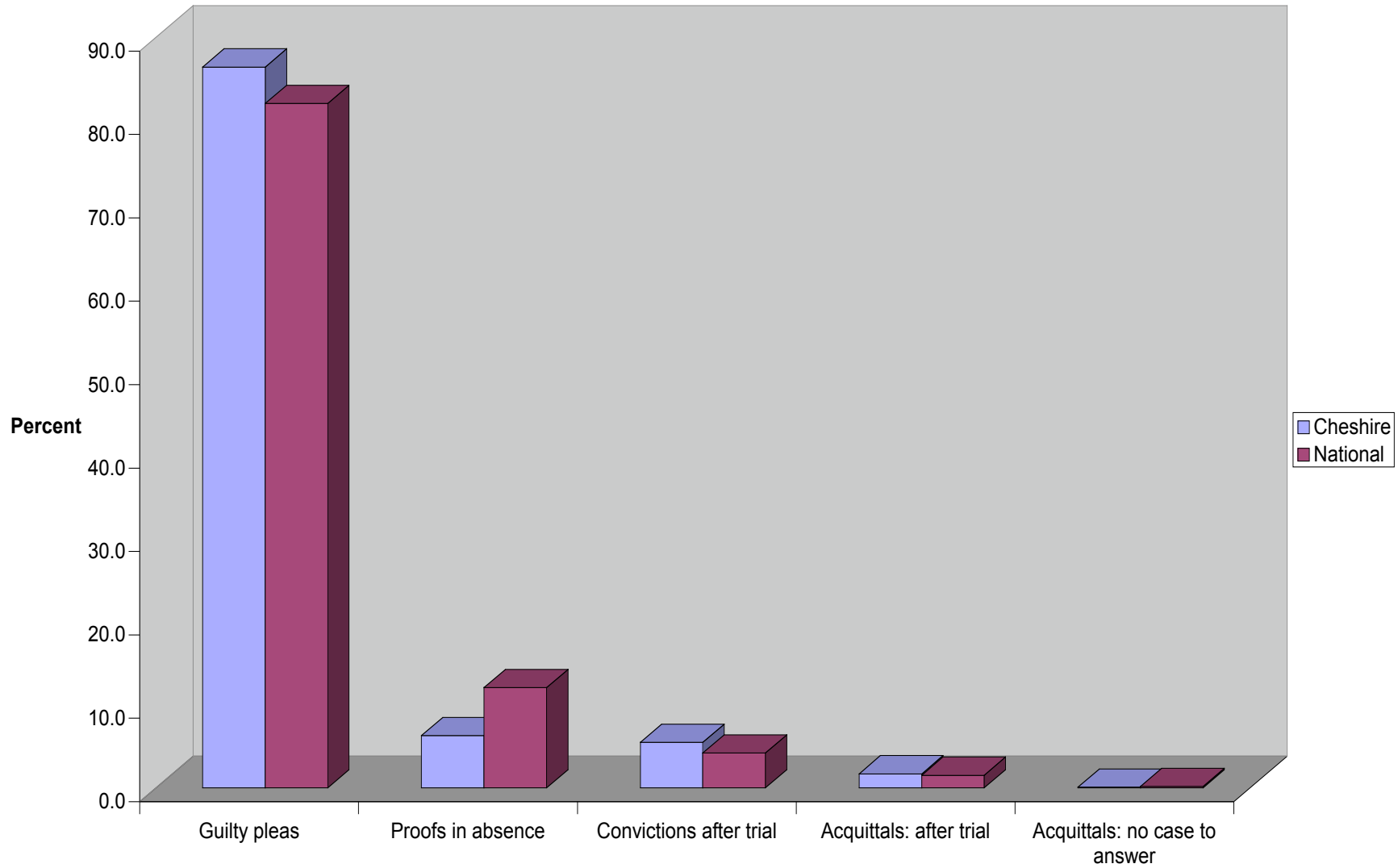


Chart 3: Magistrates' Courts - Case results



**Chart 4: Crown Court - Caseload**

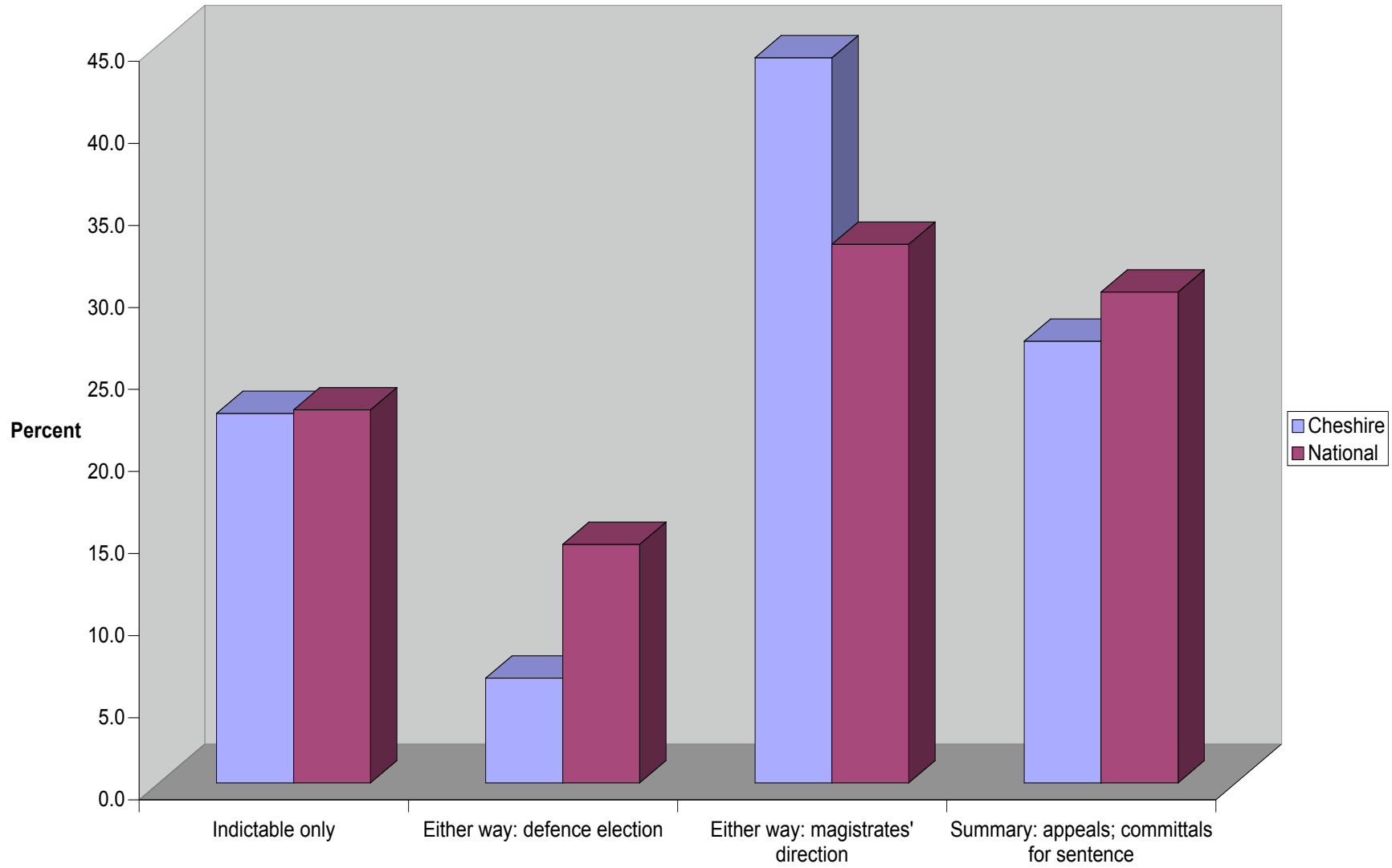
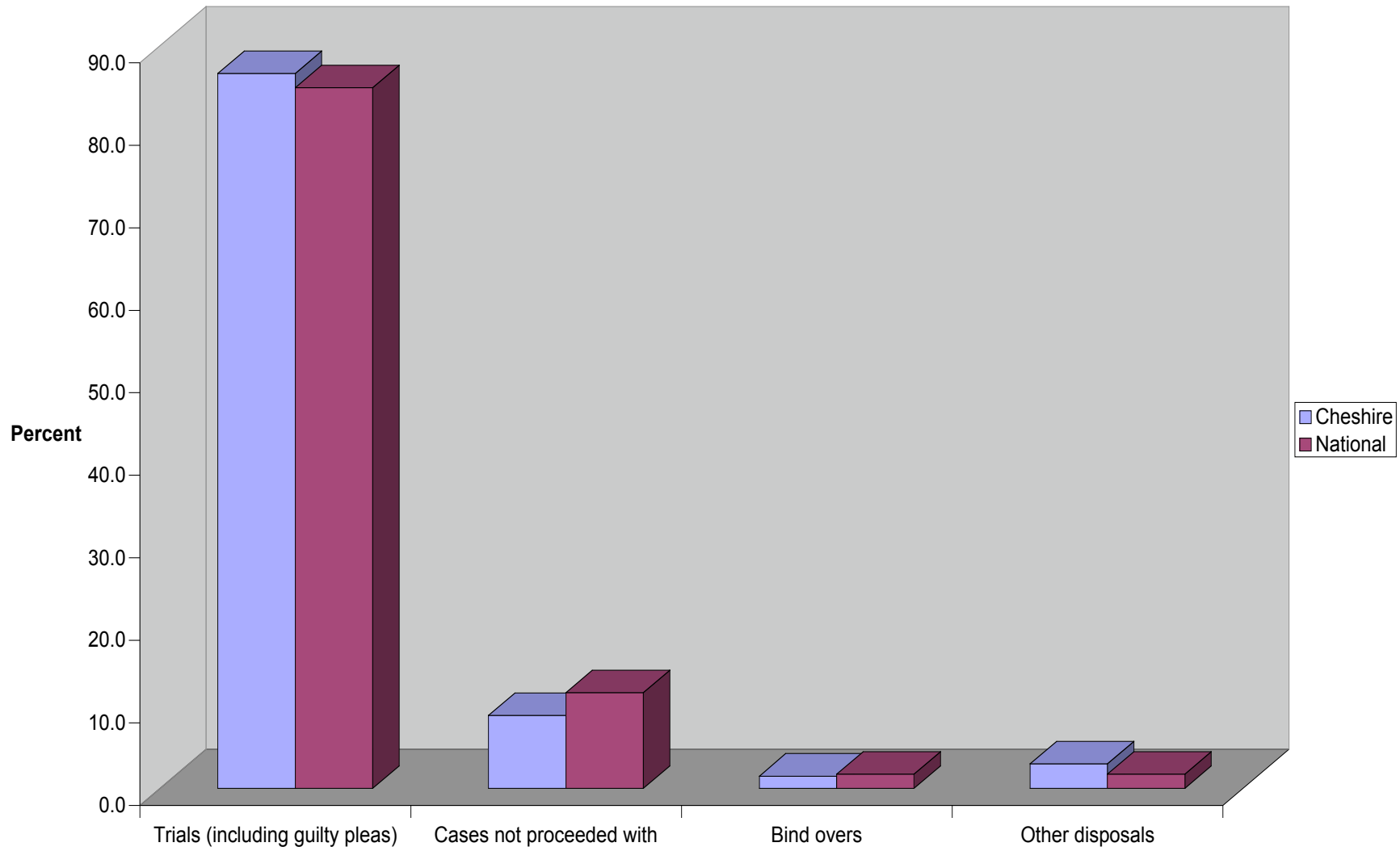
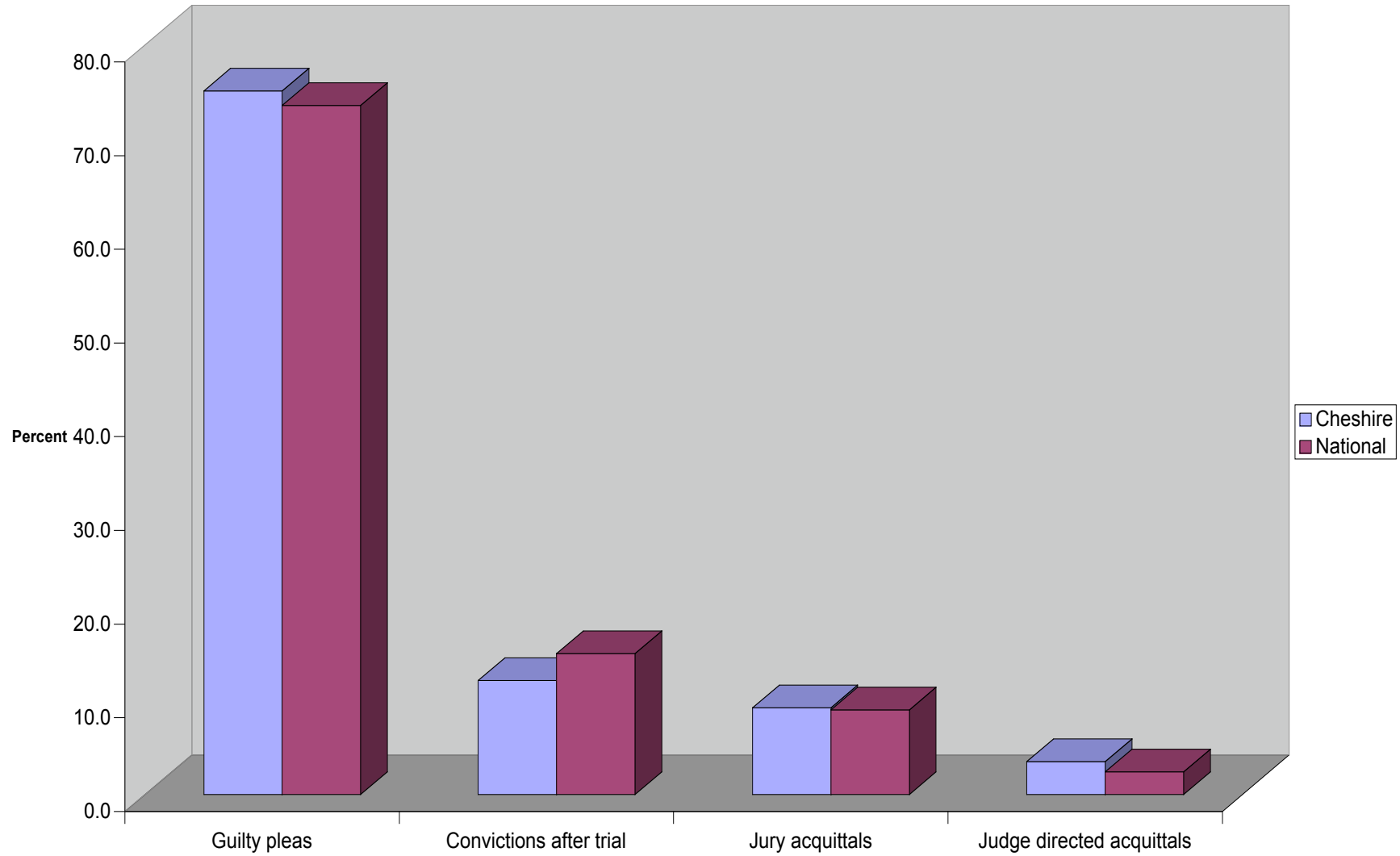


Chart 5: Crown Court - Completed cases





**Chart 6: Crown Court - Case results**



**LIST OF LOCAL REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES WHO ASSISTED IN OUR INSPECTION**

**Judges**

His Honour Judge Edwards

His Honour Judge Hale

**Crown Court**

Mrs W Ferguson, Court Manager, Chester

Mr G Russell, Listing Officer, Chester

Mrs C Cliff, Court Manager, Warrington

Ms K Clough, Listing Officer, Warrington

**Chairman of the Magistrates' Courts Committee**

Mr P Fletcher JP

**Justices' Chief Executive**

Mr C Turner

**District Judge (Crime)**

Mr P K Dodd

**Magistrates**

Mr J Atherton JP, Chairman of the Halton Youth Panel

Mr J Bache JP, Chairman of the South Cheshire Youth Panel

Miss C Baines JP, Chester

Mrs B Brookes JP, Chairman of the Macclesfield Youth Panel

Dr A Campbell JP, Chairman of the Chester Youth Panel

Mrs R Downes JP, Chairman of the Vale Royal Youth Panel

Mrs P Green JP, Chester

Mrs J Griffiths JP, Chairman of the Macclesfield Bench

Mrs H Owen JP, Chairman of the Warrington Youth Panel

Mr P Pownall JP, Chairman of the Ellesmere Port and Neston Youth Panel

Mr R Squires JP, Chairman of the Halton Bench

Mrs H Stalker JP, Chairman of the South Cheshire Bench

## **Justices' Clerks**

Mr S Walsh, Clerk to the Justices, Chester  
Mr J Koziarski, Legal Manager, Macclesfield

## **Police**

Mr G Gerrard, Assistant Chief Constable (Crime Policy, Cheshire Constabulary  
Mr M Holland, Head of the Administration of Justice Unit, Cheshire Constabulary

## **Defence solicitors**

Mr T Birchall  
Mr B de Haas  
Ms R Oakes  
Mr Q Querelle  
Mr A Shaw

## **Counsel**

Lord Carlisle of Berriew QC  
Mr S Everett  
Mr A Jebb  
Mr S Medland

## **Probation Service**

Mr A Taylor, Chief Probation Officer

## **Witness Service**

Mrs V Baxter  
Mr D May

## **Victim Support**

Mrs S Connolly  
Mrs A Crewe  
Mrs L Gaffney  
Ms P Gouldon

## **Youth Offending Team**

Mrs A Shepherd, Head of Youth Offending Services

## HM CROWN PROSECUTION SERVICE INSPECTORATE

### Statement of purpose

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

### Aims

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