

CPS DERBYSHIRE

THE INSPECTORATE'S REPORT ON
CPS DERBYSHIRE

AUGUST 2007

*Promoting Improvement
in Criminal Justice*

HMcp*si*
HM Crown Prosecution Service Inspectorate





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HM Crown Prosecution Service Inspectorate

Area Office

Derby

Other Office

Chesterfield

Magistrates' Courts

High Peak (Buxton)

North East Derbyshire & Dales (Chesterfield)

Southern Derbyshire (Derby & Ilkeston)

Crown Court

Derby

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PREFACE

Her Majesty's Crown Prosecution Service Inspectorate (HMCPISI) was established by the Crown Prosecution Service Inspectorate Act 2000 as an independent statutory body. The Chief Inspector is appointed by, and reports to, the Attorney General.

HMCPISI's purpose is to promote continuous improvement in the efficiency, effectiveness and fairness of the prosecution services within a joined-up criminal justice system (CJS), through a process of inspection and evaluation; the provision of advice; and the identification of good practice. It works in partnership with other criminal justice inspectorates and agencies, including the Crown Prosecution Service (CPS) itself, but without compromising its robust independence.

The main focus of the HMCPISI work programme is the inspection of business units within the CPS – the 42 Areas and Headquarters Directorates. HMCPISI has now undertaken two full cycles of inspection, and an overall performance assessment of CPS Areas. We are now undertaking a programme of risk-based Area effectiveness inspections during 2006-07. The Areas to be inspected include the four assessed as "Poor" in the overall performance assessments and those which had Poor aspects of performance within their assessment. A risk model has been developed and updated performance information has been used to identify the Areas to be the subject of inspection. Our new Area Effectiveness Inspection Framework is designed primarily to stimulate improvement in performance; and also enable assurance to be provided as to whether performance has improved since Areas were last assessed. We have incorporated requirements to ensure that our inspection process covers matters contained in the inspection template promulgated by the Commission for Racial Equality.

In 2005-06 we undertook the overall performance assessment (OPA) of all 42 CPS Areas and published a summative report examining the performance across the CPS as a whole. In those reports we assessed the individual CPS Areas as "Excellent", "Good", "Fair" or "Poor". We will seek to assess improvement in performance achieved by them. However, as our evidence base will be wider than in those assessments, and as our risk-based inspections will not cover the whole range of performance in those Areas, we will not draw direct comparisons or rate Areas in these terms. We propose to undertake a second programme of OPAs in 2007-08 which will include transparent ratings.

This series of inspections will not cover all CPS Areas, in particular we will not be inspecting those assessed as Good or Excellent in our OPAs. Those Areas may nevertheless be visited in the course of a rolling programme of casework quality assessment or as part of thematic reviews.

The Government has initiated a range of measures to develop cohesion and better co-ordinated working arrangements amongst the criminal justice agencies so that the system overall can operate in a more holistic manner. Public Service Agreements between HM Treasury and the relevant Departments set out the expectations which the Government has of the CJS at national level. However, it is our experience that the targets can frequently be achieved notwithstanding significant inefficiencies in the processes and without work necessarily being of a suitable standard. HMCPISI does not therefore necessarily accept that simply meeting the targets is indicative of satisfactory performance and we have made clear in our Framework the standards which we consider are applicable. The point also needs to be made that comparisons with the national average do not

necessarily mean that the national average is considered an acceptable standard. If a particular aspect of performance represents a weakness across CPS Areas generally, it would be possible for an Area to meet or exceed the national average without attaining the appropriate standard.

The framework within which the CJS is managed nationally is reflected in each of the 42 criminal justice areas by a Local Criminal Justice Board. HMCPSI places great emphasis on the effectiveness of CPS relationships with other criminal justice agencies and its contribution to the work of these Boards. For this purpose, HMCPSI will work closely with other criminal justice inspectorates and conducts a number of joint inspections of CJS areas during each year.

The inspection process will focus heavily on the quality of casework decision-making and casework handling that leads to successful outcomes in individual cases. It will continue to extend to overall CPS performance. Consistently good casework is invariably underpinned by sound systems, good management and structured monitoring of performance. Inspection teams comprise legal and business management inspectors working closely together. HMCPSI also invites suitably informed members of the public, nominated by national organisations, to join the 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 witnesses and victims, its engagement with the community including minority groups, its handling of complaints and the application of the public interest test contained in the Code for Crown Prosecutors.

HMCPSI has offices in London and York. The London office houses the Southern Group and the Northern and Wales Group is based in York. Both groups undertake thematic reviews and joint inspections with other criminal justice inspectorates. At any given time, HMCPSI is likely to be conducting up to six geographically-based or Directorate inspections and two thematic reviews, as well as joint inspections.

The Inspection Framework we have developed can be found summarised at Annex A. The chapter headings in this report relate to the standards and the sub-headings relate to the criteria against which we measure CPS Areas.

The Inspectorate's reports identify strengths and aspects for improvement, draw attention to good practice, and make recommendations in respect of those aspects of the performance which most need to be improved. The definitions of these terms may be found in the glossary at Annex I.

I INTRODUCTION

- I.1 This is Her Majesty's Crown Prosecution Service Inspectorate's (HMCPSI) report about CPS Derbyshire (the Area) which serves the area covered by the Derbyshire Constabulary. It has two offices, one in Derby and the other in Chesterfield. The Area Headquarters (Secretariat) is based at the Derby office.
- I.2 Area business is divided on functional and geographical lines. The Trials Unit (TU) covers all Crown Court preparation and is based in the Derby office, along with the South Criminal Justice Unit (South CJU) which handles cases before the Derby and Ilkeston Magistrates' Courts. The North Criminal Justice Unit (North CJU), which is co-located with the police, is based in Chesterfield and deals with the cases at Chesterfield and Buxton Magistrates' Courts.
- I.3 At the time of the inspection in April 2007 the Area employed the equivalent of 109.5 full-time staff. The Secretariat comprises the Chief Crown Prosecutor (CCP), Area Business Manager (ABM) and the full-time equivalent of seven other staff. Details of staffing of the other units are set out below and a detailed breakdown of staffing and structure can be found at Annex B.

Grade	North CJU	South CJU	Trials Unit	Witness Care
Level E	-	-	1	-
Level D	1	1	-	-
Level C lawyers	7.9	12.6	10.6	-
Designated caseworkers	1	4	-	-
Level B3 and B2 caseworkers	-	-	1	-
Level B1 caseworkers	1	2	14.8	1
Level A caseworkers	6.8	13.7	12.5	8.6
TOTAL	17.7	33.3	39.9	9.6

- I.4 A detailed breakdown of staffing and structure can be found at Annex B.

1.5 Details of the Area's caseload in the year to 31 March 2007 are as follows:

Category	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge decisions	11,745	41.2	35
Advice	1	0	0.1
Summary	10,620	37.3	40.1
Either way and indictable only	6,123	21.5	24.6
Other proceedings	0	0	0.2
TOTAL	28,489	100%	100%

1.6 These figures include the cases set out in the next table, as all Crown Court cases commence in the magistrates' courts. In 5,474 of the 11,745 Area pre-charge decisions (46.6%), the decision was that there should be no prosecution. Overall, decisions not to prosecute account for 24.6% of Derbyshire's caseload. Where pre-charge advice results in the institution of proceedings, the case will also be counted under the relevant category of summary or either way/indictable in the caseload numbers.

1.7 The Area's Crown Court caseload in the year to 31 March 2007 was:

Crown Court cases

	Area numbers	Area % of total caseload	National % of total caseload
Indictable only	503	23.1	28.9
Either way offences	887	40.8	43.6
Appeals against conviction or sentence	290	13.3	10.8
Committals for sentence	493	22.7	16.8
TOTAL	2,173	100%	100%

1.8 A more detailed table of caseloads and case outcomes compared to the national average is attached at Annex C and a table of caseload in relation to Area resources is at Annex D. These identify the continuing increases in budget provided to Derbyshire to drive up performance and deliver new initiatives. It has benefited from a budget increase of 26.1% since our last inspection in January 2003 from £3,781,262, to £4,769,015. Overall staff numbers have increased from 94.4 to 109.5 and the number of lawyers in post has increased from 30.7 to 36.0 (including a level E and a level D lawyer in the Secretariat). This has resulted in a decrease in the number of contested magistrates' courts' trials per lawyer from 40.7 to 38.2 and a decrease in the number of committals or "sent" cases from 53.0 to 46.3.

The report, methodology and nature of the inspection

- I.9 The inspection process is based on the Inspection Framework summarised at Annex A. The chapter headings in this report relate to the standards and the section headings relate to the criteria against which we measure CPS Areas. The italicised sub-headings identify particular issues within those criteria.
- I.10 There are two types of inspection. A full one considers each aspect of Area performance within the Framework, while a risk-based inspection considers in detail only those aspects assessed as requiring scrutiny. This is based on our overall performance assessment (OPA) and other key data.
- I.11 The OPA of CPS Derbyshire, undertaken in December 2005, assessed the Area as "Fair". As a result of this and recent performance data it was determined that the inspection should be a tailored one. In the light of that, the inspection did not include detailed consideration of the service to victims and witnesses, delivering change, managing performance to improve, and leadership.
- I.12 Our OPA report identified a total of 25 aspects for improvement. In the course of this inspection we have assessed the extent to which these have been addressed and a synopsis is included at Annex E.
- I.13 Our methodology combined examination of 128 cases finalised between 1 October 2006 and 31 January 2007 and interviews with members of CPS staff at all levels, criminal law practitioners and local representatives of criminal justice agencies. Our file sample was made up of pre-charge decision cases, magistrates' courts and Crown Court trials (whether acquittals or convictions), and some specific types of cases. A detailed breakdown of our file sample is shown at Annex F.
- I.14 We make a number of assessments about the quality of decision-making and case handling in the course of the file examination. Key assessments are shown in tables at the start of Chapters 3, 4 and 5. The Area's performance is compared to the findings across the inspections we have carried out in the programme to date.
- I.15 A list of individuals we met or from whom we received comments is at Annex G. The team carried out observations of the performance of advocates and the delivery of service at court in both the magistrates' courts and the Crown Court. We also carried out observations at charging centres.
- I.16 Inspectors visited the Area between 26 March-3 April 2007. The lay inspector was Michael Gray, who was nominated by the Witness Service. The role of the lay inspector is described in the Preface. He examined files that had been the subject of particular public interest considerations or complaints from members of the public and considered letters written by CPS staff to victims following the reduction or discontinuance of a charge. He also visited some courts and had the opportunity to speak to some of the witnesses after they had given evidence. This was a valuable contribution to the inspection process. The views and findings of the lay inspector have been included in the report as a whole, rather than separately reported. He gave his time on a purely voluntary basis, and the Chief Inspector is grateful for his effort and assistance.

I.17 The purpose and aims of the Inspectorate are set out in Annex H and a glossary of the terms used in this report is contained in Annex I.

2 SUMMARY OF INSPECTION FINDINGS AND RECOMMENDATIONS

- 2.1 This summary provides an overview of the inspection findings as a whole. It includes sub-headings that mirror the chapters in the report, based upon our Inspection Framework which was developed taking into account key issues across the criminal justice system (CJS) and CPS initiatives (see Annex A). Other sub-headings deal with the extent to which the CPS adds value within the local CJS and equality and diversity issues.

Overview

- 2.2 Since the overall performance assessment (OPA) CPS Derbyshire (the Area) has experienced relative stability, in that its management style and organisational structure have remained largely unchanged. This has allowed the management team to focus on the development of joint agency working, performance management, and community engagement.
- 2.3 Relationships with criminal justice partners and the Local Criminal Justice Board (LCJB) remain positive at all levels, while some progress has been made towards a joint prosecution team approach with the police. This has assisted the Area in the implementation of statutory charging and in resolving some of the systemic and quality issues which have subsequently arisen.
- 2.4 The Area has focused on joint and internal performance management, with the recent recruitment of a temporary senior project manager and a performance analyst who works closely with the LCJB performance manager. Some aspects of casework performance have shown improvement, for example, the rates of successful outcomes in the magistrates' courts and convictions in the Crown Court are now above national average. However, the variable quality of the Area's legal decision-making is still a cause for concern and the timeliness of case preparation needs to be tackled effectively. These matters have yet to be robustly addressed. Some aspects of performance management are too narrowly focused, and the Area should consider the potential benefits of the development and documentation of an overarching performance strategy to deal with them. Similarly, quality assurance systems are employed, but a more integrated approach might secure greater benefits in relation to improved legal decision-making and casework processes. The lack of case 'ownership' in the Criminal Justice Units (CJUs) also has a significant impact on the Area's ability to identify performance issues accurately and resolve them.
- 2.5 The Area management style involves retention of authority for staffing, budget control and project management by the Chief Crown Prosecutor (CCP) and Area Business Manager (ABM). Some authority is devolved to Unit Heads but demarcation is not always clear.
- 2.6 Since the statutory charging implementation project was completed in April 2007, the Area has taken a lead role in the multi-agency simulation modelling project which is being conducted in Derbyshire by the Office of Criminal Justice Reform (OCJR). The Area has also successfully implemented conditional cautioning in one Basic Command Unit and it is expected that Criminal Justice; Simple, Speedy, Summary (CJSSS) will be fully rolled-out throughout Derbyshire by the end of December 2007, in accordance with the timetable set down by OCJR. However, substantial concerns remain over the issue of delay in the magistrates' courts, and the Area will need to consider further robust action with its partners to reduce the risk that this poses to CJSSS.

Pre-charge advice and decisions

- 2.7 Statutory charging was formally implemented in June 2006. It has subsequently become absorbed into business as usual and responsibility has now devolved from the project manager to the CJU Heads. The Prosecution Team Performance Management system is working well and the 'prosecution team' ethos has largely been adopted in charging. Performance against statutory charging target indicators appears to be improving as a result, although there is room for improvement.
- 2.8 The quality of charging advice and decisions needs urgent and substantial attention. The monitoring, analysis and training work that was started by the project manager in August 2006 should be developed, documented and embedded. Also, there is an urgent need to review, jointly with the police, the arrangements for case referral and access to the duty prosecutor which can impact on the quality of charging advice and decisions.

Casework in the magistrates' courts

- 2.9 There is work to be done on the standard of decision-making and the recording of reviews on files, although the level of charges and application of policy to decisions made on cases are good. There has been clear progress on the rate of successful outcomes, which is mainly due to a reduction in discontinuances. Lack of robustness in casework quality assurance (CQA) checks and in the analysis of failed cases may be hampering improvement in the other categories of unsuccessful outcomes. The quality and timeliness of discontinuances in the file sample we examined showed some room for improvement.
- 2.10 Committal and trial preparation are significant causes for concern and are impacting on the Area's standing with partners. The lack of case ownership in the CJUs impacts on trial preparation. The rate of ineffective trials is consistently worse than nationally, although the Area has performed slightly better than national average on cracked trials for the first time in a number of years.

Casework in the Crown Court

- 2.11 There needs to be closer monitoring to ensure that improvements are made in the standard of decision-making and that decisions are evidenced fully on the file. Successful outcomes are better than the national average and improving, although attention needs to be paid to the rates for guilty pleas and acquittals after trial which have both worsened over the last year. The analysis of adverse outcomes lacks robustness, and could be used to drive forward improvements much more effectively.
- 2.12 Case preparation is more effective than in magistrates' courts' cases. There has been considerable improvement in the rate of ineffective trials which, although it still remains slightly worse than the national average, is better than both Area and national targets. There has been only marginal improvement in the rate of cracked trials. More systematic analysis of the reasons for both is needed to ensure that the progress that has been made is maintained and built on.

Presenting and progressing cases at court

- 2.13 Steps to ensure the effectiveness of court hearings have yet to become embedded and further work is necessary with partner agencies. The standard of advocacy is generally satisfactory but there is no systematic monitoring of advocacy standards of in-house or external advocates. There is scope to widen the range of work done by Higher Court Advocates (HCAs) and to increase the usage of designated caseworkers (DCWs).

Sensitive cases and hate crime

- 2.14 A number of sensitive cases in the file sample examined by inspectors failed to meet required standards for either the application of the Code for Crown Prosecutors' tests or steps taken to avoid foreseeable adverse outcomes. Two of the causes might be the lack of a formal system for ensuring that specialists see sensitive cases at charging and the lack of case ownership in the CJUs.
- 2.15 The proportion of such cases resulting in conviction has improved but is still behind national performance. Analysis of the outcomes for sensitive cases, particularly for racially and religiously aggravated offences, is still not embedded or effective. Champions are not set clear expectations and this allows inconsistency in their approaches to the role.

Disclosure of unused material

- 2.16 Disclosure performance has improved from the low base noted in the last full inspection, particularly in relation to initial disclosure in the Crown Court. However, continuing disclosure performance is poor across the Area. Compliance with procedures for dealing with sensitive material is better but timeliness issues need to be addressed. There is a general need for further joint and internal training and improved CQA in all units. A more clearly defined role for the new Area Disclosure Champion would assist in strategic performance monitoring and training.

Custody time limits

- 2.17 The first custody time limit failure for two years occurred in the South CJU in January 2007. Like the previous failures in 2004-05, the cause was case-specific rather than a systemic failing. The subsequent enquiry identified the causes and appropriate remedial action has been taken. Area systems are compliant with national policy.

The service to victims and witnesses

- 2.18 Assessed as "Fair" in the OPA, the service to victims and witnesses was inspected on an exception basis. In accordance with this approach we noted that the Area is considering combining the jointly staffed and managed Witness Care Units into a single unit. This would assist CPS and police managers to work more efficiently and allow shared access to their IT systems.

Delivering change

- 2.19 Assessed as "Good" in the OPA, this was inspected on an exception basis.

Managing resources

- 2.20 The Area is performing relatively well in relation to its overall budget, which is mainly due to a reduction in prosecution costs in 2006-07. Also, HCA savings have improved substantially following a correction to the counting method employed. There are sound plans to reduce agent usage by recruiting in-house lawyers, however, the Area should continue to review its DCW strategy to maximise efficiency. Some staffing issues need urgent attention. These include the management of staffing levels and work allocation, particularly in the CJUs. Also, staff sickness levels are too high and the quality of sickness management needs to be improved.

Managing performance to improve

- 2.21 Assessed as "Good" in the OPA, this was inspected on an exception basis. In accordance with this approach we found that the CQA system is not always applied robustly or consistently between the units. We also identified an aspect for improvement relating to the format of the Area's strategic performance information.

Leadership

- 2.22 Assessed as "Good" in the OPA, leadership was inspected on an exception basis, however, we identified one aspect for improvement relating to the clarification of the roles of unit managers.

Community confidence

- 2.23 The OPA rated performance as "Good". It found that the Area had laid a sound foundation for future community engagement and we therefore inspected this aspect of performance with a lighter touch. However, we found one aspect of improvement relating to the need to engage with black and minority ethnic community groups and certain victim interest groups.

Added value of the CPS locally

- 2.24 Some unit-based strategies such as the early 'housekeeping' conferences in homicide cases provide significant added value. The Area also works hard at engagement with some sections of the community and its profile has been raised as a result. There are some examples of good individual casework work being done, particularly in the charging stations. However, this should be viewed in the context of the generally variable quality of decision-making.

Equality and diversity issues

- 2.25 The Area has demonstrated a commitment to serving the community as a whole although more could be done to engage with organisations like the Derbyshire Rape Crisis. It positively promotes equality in recruitment and its equality and diversity aims are met by management and staff alike.

Follow-up from previous report

- 2.26 There were 25 aspects for improvement (AFIs) identified at the time of the OPA. One is no longer relevant and none have been fully achieved, although substantial progress has been made in four. Whilst some action may have been taken on the others, this has resulted in limited or no progress being made against the aim of the individual AFIs. These have not been included in the text of the report but managers will need to continue to monitor their progress.

Recommendations and aspects for improvement

2.27 We make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance, which we consider to merit the highest priority, and have made eight recommendations to help improve the Area's performance.

1 The Area should develop a documented system for monitoring and improving the quality of pre-charge advice and decision-making. It should also ensure correct application of the threshold test and review its systems for ensuring prompt full Code for Crown Prosecutors' test review of threshold test charging decisions (paragraph 3.8).

2 The Trials Unit Head needs to ensure that systems are in place to ensure the timely review and preparation of committals, and the accurate recording of data for discharged committals (paragraph 4.21).

3 The Area should re-evaluate the systems and processes for the effective and timely preparation for trial in the magistrates' courts. This should involve a review of the decision to remove case ownership, including an evaluation of the perceived benefits of that decision against the disadvantages to the smooth running of the Criminal Justice Units (paragraph 4.32).

4 Analysis of cracked and ineffective trials should be made more robust and effective so as to drive forward needed improvements, particularly in the rate of ineffective trials (paragraph 4.43).

5 The Area should ensure that all adverse outcomes are examined systematically and robustly, and in conjunction with the police, with a view to identifying where police or CPS action could have avoided the outcome, and so that any lessons that can be learned are identified and disseminated to all relevant staff (paragraph 5.11).

6 The Area should ensure that it plays its part in reducing the rate of cracked and ineffective trials, including more systematic analysis of the cases where prosecution action or inaction has led to the outcome (paragraph 5.29).

7 The Area should take urgent steps to improve disclosure performance by:

- Improving the robustness of casework quality assurance analysis.
- Dip-sampling sensitive cases to monitor compliance with sensitive disclosure procedures.
- Preparing a strategic training plan on disclosure jointly with the police.
- Providing the Area champion with the means to co-ordinate monitoring, training, and performance analysis across the units (paragraph 8.14).

- 8 The Area needs to ensure that managers deal with sickness issues relating to individuals in a systematic and appropriate manner (paragraph 12.18).
-

2.28 We additionally identified 11 aspects for improvement.

- 1 The Area should consider urgent improvements to its statutory charging system, including:
- an Area-wide appointment system;
 - the monitoring and enforcement of the gate-keeping system and a forum for duty prosecutors to raise issues as they arise; and
 - a tailored escalation system (paragraph 3.17).
-
- 2 There is insufficient monitoring and feedback on the quality of police file building and compliance with action plans (paragraph 4.31).
-
- 3 Measures to ensure that cases progress at each hearing are not embedded, nor is their effectiveness assessed by managers (paragraph 6.5).
-
- 4 The Area should establish links with the local Safeguarding Children Board with a view to embedding protection within their systems and decision-making (paragraph 7.21).
-
- 5 Disclosure performance in the magistrates' courts needs to be given higher priority.
Continuing disclosure performance in the Crown Court needs attention (paragraph 8.7).
-
- 6 The Area should ensure that an early request for sensitive third party material is always made where such material might have an impact on the outcome of the case (paragraph 8.11).
-
- 7 The Area should consider granting overall responsibility for custody time limits to a member of the Senior Management Team to ensure accountability at the appropriate level (paragraph 9.7).
-
- 8 The Area would benefit from establishing with its managers a system for raising matters relating to staffing and budget issues (paragraph 12.20).
-
- 9 The Area should prepare a more structured and strategic performance framework and pack to include both local and national information, which would allow benchmarking between its units and other CPS Areas (paragraph 13.5).
-

-
- 10 The Area needs to clarify the roles and responsibilities of its managers in relation to budgetary issues, prioritisation and project management (paragraph 14.2).
-
- 11 The Area needs to make further efforts to engage black and minority ethnic representative groups (paragraph 15.3).
-

Good practice and strengths

2.29 We have identified three aspects of good practice that might warrant adoption nationally.

-
- 1 In the North Criminal Justice Unit advocates complete a form after each ineffective trial which lists the reasons, along with the details of witnesses who failed to attend. The witnesses are then sent a questionnaire to find out why they did not attend (paragraph 4.42).
-
- 2 In the Trials Unit, early 'housekeeping' conferences are held in murder cases. All interested parties are invited so that strategic and evidential issues can be considered from the outset (paragraph 5.12).
-
- 3 In the Trials Unit, a useful resource pack is provided for staff setting out many areas of practice and law in Crown Court cases on, amongst other things, evidence, procedure, charging standards and unit systems (paragraph 5.24).
-

2.30 We also found two strengths.

-
- 1 The Area provides a high level of face-to-face pre-charge advice (paragraph 3.17).
-
- 2 The data pack provided by the Area's performance analyst provides a sound basis for the monthly Prosecution Team Performance Management meetings, which are well attended and effective as a forum for joint agency working (paragraph 3.19).
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3 PRE-CHARGE ADVICE AND DECISIONS

Formal migration to statutory charging occurred in June 2006 under the supervision of a project manager. In April 2007, it became 'business as usual' and responsibility has now devolved to the Criminal Justice Unit Heads. The Prosecution Team Performance Management system is working well and the 'prosecution team' ethos has largely been adopted. However, the quality of charging advice and decisions is currently variable. The monitoring, analysis and training work that was started by the project manager in August 2006 needs to be developed, documented and embedded. Also, there is an urgent need to jointly develop the arrangements for case referral and access to the duty prosecutor.

Quality of advice and decisions

- 3.1 We examined a sample of case files from the Area and our findings on the quality of pre-charge advice and decisions are set out in the table below.

Pre-charge	Performance in the inspection programme to date	Area Performance
Advice and decisions complying with evidential test in the Code	96.2%	93.0%
Advice and decisions complying with public interest test in the Code	98.7%	100%
Appropriate alternative disposals and ancillary orders were considered and acted upon	65.9%	35.7%
Prosecutor was active in identifying and remedying evidential defects	72.4%	57.6%

- 3.2 Although the Code for Crown Prosecutors' (the Code) public interest test was correctly applied in all relevant cases, the evidential test was incorrectly applied in seven out of 100 pre-charge decisions. This means that it was correct to charge the defendant in only 93% of cases, which is low compared to the performance of other Areas inspected in this programme to date.
- 3.3 Even where the decision to charge was correct, our file examination revealed that in 15 out of 90 such cases (16.7%), the charge selected by the duty prosecutor needed to be significantly amended later on.

- 3.4 Aside from the accuracy of the actual charging decision, only 19 out of 33 relevant cases (57.6%) benefited from advice on remedying evidential defects. The Area has already noted that this aspect of statutory charging needs urgent attention because it impacts on the rate of unsuccessful outcomes generally, and on the rate of discharged committals in particular. We also noted that records of charging decisions (MG3 forms) sometimes lack detail on case strategy and do not always include reference to victim and witness needs. In only five out of 14 relevant cases (35.7%) were alternative disposals and ancillary orders advised and acted upon. These are all missed opportunities to add value.
- 3.5 The temporary charging project manager has done some creditable work in trying to drive up the quality of pre-charge decision-making. This has included research into specific charging issues raised by the Prosecution Team Performance Management (PTPM) meetings, such as the quality of advice in domestic violence, theft, and assault cases. The project manager has then provided feedback and guidance individually and to the whole prosecution team through the monthly newsletter and desk top instructions.
- 3.6 The responsibility for charging work has now devolved from the charging project manager to the CJU Heads following its conversion into business as usual. The Area should therefore ensure that any improving impetus is maintained. In particular, the Senior Management Team should consider reviewing the work done to date by the project manager, with the aim of broadening its focus and linking it to other strategic development. The system should then be documented to provide specific and consistent direction to the CJU Heads.

Bail/custody decisions

- 3.7 The Code threshold test was correctly applied and reviewed in only six out of the 12 relevant cases (50%). Of the six others, the test was wrongly applied in one because the suspect was actually entitled to bail; in the remaining five cases, the threshold test was correctly applied, but there was no timely post-charge review.
- 3.8 Bail periods are set by the agreement of the officer in the case and the duty prosecutor. The ongoing case analysis is being positively monitored and managed jointly by PTPM.

RECOMMENDATION

The Area should develop a documented system for monitoring and improving the quality of pre-charge advice and decision-making. It should also ensure correct application of the threshold test and review its systems for ensuring prompt full Code for Crown Prosecutors' test review of threshold test charging decisions.

Operation of the charging scheme

- 3.9 In the nine months that statutory charging has been in effect (since June 2006) 12,716 pre-charge decisions have been made, of which 11,508 can be traced back to a specific charging station. The split of work between the two CPS offices covering the four charging centres is illustrated in the following table:

Charging centre	CPS office	Daily prosecutor coverage	Caseload since June 2006	Average daily caseload per duty prosecutor
Ripley (A Division)	Derby	1	2,462	9.7
Buxton (B Division)	Chesterfield	1	1,515	6.0
Chesterfield (C Division)	Chesterfield	1	2,604	10.3
Derby (D Division)	Derby	3	4,927	6.5
TOTAL	4	6	11,508	7.6

- 3.10 The basic requirements for the operation of statutory charging are in place. There is face-to-face coverage at all charging stations in office hours and there is a good relationship with CPS Direct. The electronic forms containing the advice (MG3) are generally completed to an adequate standard on the case management system (CMS) and hard copies of the advice are evident on case files. Administrative finalisation (whereby cases are marked off on CMS without a specific outcome) is apparently under control and the Area is using PTPM data to identify finalisation issues, as well as to monitor police compliance with action plans. The quality of decisions to take no further action (NFA) is monitored by police managers who refer questionable decisions to the PTPM meetings. These are then analysed by the relevant CJU Head, who feeds back to the next meeting and provides training as appropriate.
- 3.11 However, the statutory charging model in Derbyshire has yet to develop fully. In particular, it lacks a robust allocation and appointment system, which is negatively affecting the quality of charging advice. The lack of an appointment system means that officers physically queue to see the duty prosecutor. Prioritisation is therefore ad hoc and prosecutors can find themselves under substantial time pressure when there are a number of officers waiting, sometimes for urgent advice. Some officers will have travelled for advice with no guarantee of receiving it, and we saw one officer queuing for charging advice one hour before the bail-back time because she had failed to reach the front of the queue on her two previous attempts. Therefore, in some cases, the prosecutor will not have time to give more than basic advice. The opportunity to add value is significantly reduced and the quality of action plans is compromised.
- 3.12 The Area has conducted some through-put analysis work and this has resulted in an increase in coverage in Derby (D Division). On Mondays and Tuesdays there are now three lawyers in the charging station and on the remaining days of the week there are two, with the third duty prosecutor based in the Area office providing telephone advice and face-to-face consultation with officers on complex cases. However, the CPS should urgently conclude its consideration (with the police) of an Area-wide appointment scheme so that the benefits of good face-to-face coverage can be maximised.
- 3.13 Police Evidence Review Officers (EROs) act as 'gate-keepers'. Investigating officers are only formally allowed access to the duty prosecutor when the MG3 report has been stamped by the ERO to show that authorisation for the referral has been given. However, we saw examples of police officers gaining informal access to the duty prosecutor without a stamped MG3.

In Buxton and Chesterfield (B and C Divisions), this problem has been dealt with by ensuring that investigating officers can only gain physical access to the duty prosecutor's office through the ERO's room. Similar arrangements should be considered in the other two divisions. A system for reporting inappropriate and informal approaches from officers should be put in place so that continuing problems can be correctly identified and jointly resolved.

- 3.14 Some joint training of custody sergeants and EROs has taken place to promote consistency and understanding of the duty prosecutor's role and, as a result, the NFA rate is now improving. However, the quality of gate-keeping is variable. We found that EROs sometimes take a less robust approach in certain types of case, particularly domestic violence. The recent rise in finalisations quoting "essential legal element missing" as the reason for no charge may support this conclusion. The Area should therefore consider developing a system for actively monitoring the quality of gate-keeping with a view to minimising the number of inappropriate referrals by EROs.
- 3.15 The Area correctly identified allocation and appointment issues as matters for joint resolution some months ago, however, significant progress has yet to be achieved.
- 3.16 The CPS should also consider the resource implications of maintaining a duty prosecutor during office hours at Buxton, given that only 36% of the charging work in the north of Derbyshire is dealt with there, against 64% done by a single duty prosecutor in Chesterfield.
- 3.17 The Area employs the Director of Public Prosecution's Guidance on escalation but an informal referral system tends to take precedence where the police disagree with charging advice. The Area should consider introducing a formal but tailored system to maintain the benefits of the current arrangements, while allowing the number of referrals to be properly logged and reviewed.

STRENGTHS

The Area provides a high level of face-to-face pre-charge advice.

ASPECTS FOR IMPROVEMENT

The Area should consider urgent improvements to its statutory charging system, including:

- an Area-wide appointment system;
 - the monitoring and enforcement of the gate-keeping system and a forum for duty prosecutors to raise issues as they arise; and
 - a tailored escalation system.
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Realising the benefits of pre-charge decision-making

3.18 In the year to December 2006 there were 11,970 pre-charge decision (PCD) cases in Derbyshire, which amounted to 42.3% of overall caseload, against the national figure of 34.3%. Most of the benefits of the charging scheme are being realised, although the discontinuance rate is failing to respond in a similar manner: It was one percent better than the national average in the fourth quarter of 2006-07, but was 3.5% behind target for the same period. This performance is likely to be linked to the variable quality of charging decisions, which is referred to at paragraph 3.2 above. The most recent key outcomes against which the CPS measures performance are shown in the table below:

	Magistrates' courts' cases				Crown Court cases			
	National target March 2007	National performance Q4 2006-07	Area target March 2007	Area performance Q4 2006-07	National target March 2007	National performance Q4 2006-07	Area target March 2007	Area performance Q4 2006-07
Discontinuance rate	11%	15.4%	11.0%	14.5%	11%	13.2%	15.0%	10.3%
Guilty plea rate	52%	70.0%	72.0%	71.3%	68%	67.0%	72.0%	76.8%
Attrition rate	31%	21.5%	31.0%	21.5%	23%	22.2%	23.0%	15.4%

3.19 Performance is well driven by joint PTPM meetings which are held monthly in the north and south of the Area and are well attended at an appropriate level. Sound data is provided for them in monthly performance packs which are prepared by the CPS performance analyst in conjunction with the LCJB performance manager, who also attends.

STRENGTHS

The data pack provided by the Area's performance analyst provides a sound basis for the monthly Prosecution Team Performance Management meetings, which are well attended and effective as a forum for joint agency working.

4 CASEWORK IN THE MAGISTRATES' COURTS

The level of charges is generally appropriate, as is the application of policy to decisions made on cases. There is work to be done on the standard of decision-making and the recording of reviews on files. The proportion of successful outcomes has improved, wholly due to a reduction in the discontinuance rate, although the quality and timeliness of discontinuances in our file sample showed some room for improvement. The less consistent performance in other categories of unsuccessful outcomes is not helped by a lack of robustness in casework quality assurance checks, and in the analysis of failed cases generally. The timeliness of committal and trial preparation is a significant cause for concern and is impacting on the quality of casework and the Area's standing with its partners. The lack of case 'ownership' in the Criminal Justice Units significantly affects the standard and timeliness of trial preparation. The rate of ineffective trials is consistently worse than nationally and this may in turn have a negative impact on the proportion of unsuccessful outcomes. A reduction in the proportion of cracked trials means that the Area is performing slightly better than nationally for the first time in a number of years.

Quality of case decisions and continuing review

4.1 We examined 57 case files from the Area and our findings are set out in the following table.

Magistrates' courts and youth court casework

	Performance in the inspection programme to date	Area performance
Case preparation		
Cases ready for PTR/CMH	75.9%	50.0%
Court orders complied with on time, or application made to court	18.26%	0% (0 out of 5 cases)
Correspondence from the defence dealt with appropriately	76.9%	76%
Instructions to agents were satisfactory	63.9%	66.7%
Level of charge		
Charges that were determined by the prosecutor and proceeded without amendment	89.7%	87.8%
Cases that proceeded to trial or guilty plea on the correct level of charge	97.1%	92.5%
Discontinuance		
Discontinuance was timely	67.6%	60%
Decisions to discontinue complying with the Code test	94.1%	92.8%
Discontinued cases where the prosecutor had properly sought additional evidence/information before discontinuing the case	79%	33.3%

	Performance in the inspection programme to date	Area performance
Cracked and ineffective summary trials		
Cracked or ineffective trials that were foreseeable and the CPS took action to avoid the outcome	66.7%	100%
Summary trial		
Decisions to proceed to trial complying with the evidential test	95.2%	90.2%
Decisions to proceed to trial complying with the public interest test	99.2%	100%
Cases with timely summary trial review and properly recorded	69.4%	57.8%
No case to answers that were foreseeable, and the CPS took action to avoid the outcome	34.6%	25%

- 4.2 The standard of decision-making displays room for improvement. At the trial review stage, there were four cases out of 41 where the sufficiency of evidence test was wrongly assessed as having been met. All four appear to have originated from the same police division and will therefore have been reviewed within the same CJU. In three of the cases, submissions of no case to answer succeeded.
- 4.3 In the first case, evidence had not been obtained from the victim to address aspects of the defendant's account. In the second, there was no admissible evidence to prove the terms of the anti-social behaviour order (ASBO) which was said to have been breached. In the third, a domestic violence incident, the charge should have been amended to reflect the full scope of the victim's account. Had this been done, the case would not have failed the Code test and a different outcome would have been likely. While in the fourth case, there was no evidence to prove an essential requirement of the racially aggravated offence and this was not noted in the review.
- 4.4 The recording of reviews on the file itself was poor, with only 57.8% of cases having a summary trial review apparent, although endorsements were satisfactory in most cases.
- 4.5 Cases generally proceeded to trial on the correct level of charge, and charges were amended in just over 12% of the files seen. Relevant CPS policy was applied to nearly 95% of cases, which was higher than in Crown Court cases.
- 4.6 In relation to timeliness and quality of pre-trial checks, the Area is below the standard found to date in this round of inspections, except in relation to application of the Code public interest test, where it is better. Performance in taking action to avoid adverse outcomes was better in relation to cracked trials, but worse in relation to no case to answers.

- 4.7 The overall conviction rate in the magistrates' courts is 85.3%, which represents a clear improvement on the year before, when the Area performed less well than nationally. The key outcomes are shown in the following table.

Case outcomes in the magistrates' courts

	National performance 12 months to March 2007	Area performance 12 months to March 2007
Discontinuance and bindovers	10.8%	9.7%
No case to answer	0.2%	0.3%
Dismissed after trial	1.9%	2.5%
Discharged committals	0.2%	0.7%
Warrants	2.6%	1.4%
Overall conviction rate	84.3%	85.3%

- 4.8 The Area's success in this aspect of performance is entirely dependent on the falling rate of discontinuances, which is lower than national levels and improving. Performance was better in 2006-07 than 2005-06, although the rate of discharged committals has been increasing over this period (this issue is addressed below). However, it is hard to discern a clear pattern of improvement in the other categories that go to make up the overall figure. The guilty plea rate has fallen since last year and the acquittal rate has been consistently worse than the national one for three years, although it is better now than it was 2005-06.
- 4.9 The Area's own assessment and monitoring of decision-making and failed cases need to be more robust. Rates for unsuccessful outcomes are included in the units' performance reports, and some work is done on individual cases, but there is no evidence of trending or assessment against the units' or Area's past performance and national rates. There are also concerns about the robustness of adverse outcomes analysis, which we discuss in more detail in paragraph 5.8. The gaps in analysis reduce the opportunities for learning lessons and disseminating them to staff.
- 4.10 The CPS has set itself a combined target for reducing the rate of unsuccessful outcomes in magistrates' courts and Crown Court cases. We have transposed this in the table below into terms of successful outcomes, that is the overall conviction rate.

Successful outcomes (as a % of completed magistrates' courts and Crown Court cases)

National target 2006-07	National performance 2006-07	Area performance 2006-07
83%	83.7%	85.2%

Offences brought to justice

- 4.11 The target for increasing the number of offences brought to justice (OBTJ) is shared with criminal justice partners. The performance is largely driven by police, although there is scope for the CPS to influence it.

Offences brought to justice

		CJS area performance rolling to Feb 2007	
Against 2001-02 baseline		-5.2%	
Number		21,524	
OBTJ made up of	National average to Sept 2006	Area figure to Sept 2006	Area figure Jan 2007
Convictions	50%	54%	52%
TICs	9%	12%	13%
Cautions	26%	25%	25%
Fixed penalty notice	10%	6%	8%
Formal warnings for drugs	6%	2%	2%

- 4.12 The proportion of offences brought to justice which is made up of convictions is better than nationally (54% compared to 50% in the year to September 2006) but overall it fell in the last year by slightly more than the national drop over the same period. The Derbyshire Local Criminal Justice Board reports that low crime levels are making the OBTJ target unachievable, and it has challenged that target.

Discontinuances in the magistrates' courts

- 4.13 As noted in paragraph 4.8, the Area discontinuance rate is improving, although the quality of decisions to discontinue is variable. The decision to discontinue on public interest grounds was not compliant with the Code in two of the eight cases in the discontinuance file sample. In one, an allegation of common assault, the level of charge was chosen on a faulty reasoning on causation and the charge ought to have been an assault occasioning actual bodily harm. Had the causation issue been correctly analysed, and the right charge chosen, it is unlikely that the charge would have been dropped on public interest grounds. In the second, also an assault, the offence was too serious for a final warning and, in any event, it was not admitted by the defendant, so was not suitable for that disposal.
- 4.14 There were six cases where further information should have been sought before discontinuing, but in only two of those were the enquiries made, and in 40% of relevant cases in the file sample discontinuance was not timely.

- 4.15 The Area uses casework quality assurance (CQA) to monitor, on a random sampling basis, the quality of discontinuances. However we have concerns about the robustness of that analysis, as set out in paragraph 13.3. In the North CJU, all proposed discontinuance notices should be routed through the Unit Head.

Committal preparation and discharged committals

- 4.16 The rate of discharged committals has been high for some time and is worse now than it was in 2004-05. In 2006, they accounted for 0.7% of Derbyshire's overall caseload, against 0.2% nationally. The Area rate actually represents 9.9% of cases which were initially destined to be committed to the Crown Court during the same period. It also represents a virtual doubling of the rate since 2004-05, when it accounted for 0.4% of the overall caseload.
- 4.17 The CMS data on discharged committals for the early part of 2007 has been rendered unreliable by the practice of re-instating all discharged committals on the system as soon as they come back from court, and prior to any consideration by a lawyer as to whether they ought to be re-instated. As a result, it may be that the rate for 2006-07 will actually be higher than 0.7%.
- 4.18 Committal preparation is handled by the Trials Unit. Files and correspondence are therefore passed there once the case has been adjourned for committal. The files go first to a typist to input witness and exhibit lists, after which they are passed to a caseworker for drafting of much of the case preparation package, then on to the lawyer for review and checking.
- 4.19 Any delay in the process will exacerbate the situation, but even in routine cases committal review is taking place at a very late stage, which in turn leads to prosecution applications for adjournments to obtain additional evidence from the police. Better use and monitoring of action plans at charging would alleviate some of the pressure. Also, the Area should consider utilising the PTPM forum to tackle any police contribution to the rate in terms of file quality.
- 4.20 In the file sample, four discharged committals were examined. In three of those, we considered that the CPS could have been more proactive in ensuring that the case was ready for committal. In two, a proactive decision to discontinue should have been taken. We were told that a week before committal was considered too late for a discontinuance notice, so that cases would be left to run to discharge at that stage. This approach has an artificially beneficial impact on the discontinuance rate.
- 4.21 Re-instatement of committals is not subject to effective monitoring and some lie inactive for months waiting either for material from the police which is not being chased, or for a decision to be made.

RECOMMENDATION

The Trials Unit Head needs to ensure that systems are in place to ensure the timely review and preparation of committals, and the accurate recording of data for discharged committals.

Youth cases

- 4.22 The South CJU has a dedicated youth team of two lawyers and two administrators. Each lawyer takes responsibility for one of the youth courts, while the administrators ensure that actions are completed.
- 4.23 The table below indicates that the Area is performing slightly worse than nationally for the timeliness of youth guilty pleas, but noticeably worse for youth trials.

***Time intervals/targets for criminal proceeding in youth courts
Charged and summoned cases only, December 2006***

	Initial guilty plea target 59 days		Trials target 176 days		Committals target 101 days	
	Cases within target (%)	Sample size (No. of defendants)	Cases within target (%)	Sample size (No. of defendants)	Cases within target (%)	Sample size (No. of defendants)
National	89%	5,605	90%	2,901	95%	218
Area	85%	96	79%	52	–	5

Persistent young offenders

- 4.24 The Government pledged to halve the time taken in 1996 to deal with cases involving persistent young offenders (PYOs) to 71 days from arrest to sentence. This was achieved nationally in 2001. The table below shows recent performance data.

Overall persistent young performance (arrest to sentence)

National target	National performance (3 month rolling average Oct-Dec 2006)	Area performance (3 month rolling average Oct-Dec 2006)
71 days	72 days	72 days

- 4.25 After some poor performance on PYOs Derbyshire's rate was picking up and the three month rolling average to October 2006 was 67 days against target of 71, which was commendable. The rolling quarter figures to December 2006 gave the Area and national rates both at 72 days and more recently those to March 2007 show continued improvement, at 58 days.

Case progression and effective hearings*Case preparation*

- 4.26 Timeliness and effectiveness of case preparation are major issues for the Area, and ones that are causing considerable concern to their criminal justice partners.

**Time intervals/targets for criminal proceeding in magistrates' courts
Charged cases only, December 2006**

	Initial guilty plea target 59 days		Trials target 143 days		Committals target 101 days	
	Cases within target (%)	Sample size (No. of defendants)	Cases within target (%)	Sample size (No. of defendants)	Cases within target (%)	Sample size (No. of defendants)
National	85%	5,241	67%	2,194	93%	950
Area	78%	93	60%	55	–	19

- 4.27 Other data, such as the timeliness of discontinuance, presents a similar picture. As a percentage of all cases dropped, those dropped after the third or later hearing is consistently worse than nationally (80.6% for the year to December 2006 compared to 60.8%). The average number of hearings in pre-charge advice cases with unsuccessful outcomes was 4.8 in February 2007. In only one of the four cases in the file sample with foreseeable submissions of no case to answer was action taken to avoid the outcome.
- 4.28 Cases for trial in the next two months are stored chronologically and lawyers are tasked to prepare those files. In the South CJU, two lawyers are allocated specifically to trial preparation for a month at a time, whereas in the North CJU a lawyer is allocated day-by-day. Neither system involves case ownership.
- 4.29 In neither unit is the system robust or resilient, and performance has been erratic in both, with periods where cases are prepared the day before trial or not at all and, at best, are prepared a few weeks ahead of the trial date. Where gaps in the evidence are identified, the lateness of preparation means that there is virtually no opportunity for remedial work to be carried out before the set trial date. Unused material is often served on the defence very late; sometimes served on the day of trial and sometimes not at all.
- 4.30 The lack of preparation is hampering what would otherwise be an efficient system for joint agency work on case progression with the police and courts. The case progression officers are enthusiastic, committed and effective in their roles as far as they are able to be in the circumstances, and liaison is constructive and focused.
- 4.31 We discovered concerns about the standard of police files and about the efficiency and enthusiasm with which officers act on requests for additional evidence. Effective action planning at point of charge would assist. Also, the lack of monitoring and feedback on police file quality issues should be dealt with.

ASPECTS FOR IMPROVEMENT

There is insufficient monitoring and feedback on the quality of police file building and compliance with action plans.

- 4.32 The lack of file ownership in the CJUs is significantly impacting on efficient preparation and review particularly, but not exclusively, for trial. It also prevents effective performance analysis and the efficient resolution of resource and staffing issues as they arise.
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RECOMMENDATION

The Area should re-evaluate the systems and processes for the effective and timely preparation for trial in the magistrates' courts. This should involve a review of the decision to remove case ownership, including an evaluation of the perceived benefits of that decision against the disadvantages to the smooth running of the Criminal Justice Units.

- 4.33 The data collected by HM Courts Service on time intervals for adult cases indicates that on guilty pleas and trials the Area is under-performing when compared to the national average. Discharged committals are discussed at paragraphs 4.16 to 4.21 above.
- 4.34 For several months at the end of 2006 and start of 2007, 'blitz courts' were run in an effort to reduce the backlog of trials in Derby Magistrates' Courts. As the name might suggest, the list for each of these courts was expanded to contain some 20 hours of trial work each day. Whilst this undoubtedly had some impact on trial preparation, extra funding was made available to the CPS to help assuage the workload effects caused by employing experienced agents to cover the courts.
- 4.35 There is very late service of notices and unused material on the defence, however this appears to have surprisingly little effect on the timeliness of proceedings and defence applications to adjourn for time to consider notices and applications are rare. The amount of correspondence from the defence appears slight compared to other Areas inspected, but the rate of 76% for a proper response to such correspondence is almost identical to that found in this round of inspections to date.

Effective, ineffective and cracked trials

- 4.36 There is a shared target to reduce the rate of ineffective trials, which adversely affect victims and witnesses if they have attended court, and delay the conclusion of the individual cases. We consider it important to raise the rate of effective trials and reduce the rate of cracked trials.

Trial rates in the magistrates' courts

	National target 2006–07	National performance year ending December 2006	Area target 2006–07	Area performance year ending December 2006
Effective	N/A	43.7%	N/A	39.2%
Ineffective	19.4%	19.4%	24.0%	24.5%
Cracked	N/A	37.0%	N/A	36.2%

- 4.37 The rate of ineffective trials is worse than nationally and has been so consistently for the past three years. Although this year's data shows an improvement of 5% since last year, the fall is less than 3% when compared to two years ago.
- 4.38 The rate of ineffective trials attributable to the conduct of the prosecution is falling and is now marginally better than nationally (36.6% compared to 37.1%). When police witness issues are discounted the Area does not perform as well as nationally, however, the proportion of ineffective trials caused by civilian witness non-attendance is higher than nationally.
- 4.39 The tolerant approach by the defence to the extremely late service of unused material may be keeping the ineffective trial rate lower than it would otherwise be.
- 4.40 The cracked trial rate in 2005-06 was virtually the same as nationally; it has improved very slightly and is now slightly better than the national figure (36.2% compared to 36.9%).
- 4.41 The Area has concerns about the accuracy of the courts' recording of reasons for cracked and ineffective trials. All advocates are meant to check the form at court, but it is not clear that this happens consistently. To date, effective systems for agreeing the accuracy of the forms have not been established. Self-carbonated forms are to be introduced which will enable the CJUs to have a copy for the file and check any records suspected of being inaccurate.
- 4.42 In the meantime in the North CJU steps have been taken to address inaccuracies. The Unit Head, having identified this and also the impact that witness non-attendance was having on outcomes, has devised a monitoring form for completion by advocates to capture both. The witness information on it will be used to send questionnaires to those who have not attended, in an effort to capture reasons and drive forward improvements. This is **good practice**.
- 4.43 There is some work done to look at the reasons for ineffective trials on both CJUs, largely in the monthly case progression meetings. The reasons are broken down for the unit reports, but neither unit has the data to identify any themes or trends, or measure performance against comparators, internally or externally. The level of the contribution by the prosecution to ineffective or cracked trials varies month-by-month, as do the reasons within that overall category, but there appears to be little work done to assess these on a systematic basis and to drive forward improvements as a result.

RECOMMENDATION

Analysis of cracked and ineffective trials should be made more robust and effective so as to drive forward needed improvements, particularly in the rate of ineffective trials.

Use of the case management system – Compass CMS

- 4.44 The rate for completion of full file reviews on CMS has been consistently better than national levels, however the file sample suggests that a number of reviews are not transferred to the file itself.

5 CASEWORK IN THE CROWN COURT

There needs to be closer monitoring to ensure that improvements are made in the standard of decision-making and that decisions are fully evidenced on the file. The analysis of adverse outcomes lacks robustness and could be used to drive forward improvements much more effectively. Successful outcomes are better than the national average and improving, although attention needs to be paid to the rates for guilty pleas and acquittals after trial which have both worsened over the last year. Case preparation is more effective than in magistrates' courts' cases, and instructions to counsel are generally better than in the Areas inspected to date in this cycle. The rates of judge ordered and judge directed acquittals are both better than national performance and there has been considerable improvement in the rate of ineffective trials which, although slightly worse than the national average, is better than both Area and national targets. There has been only marginal improvement in the rate of cracked trials. More systematic analysis of the reasons for both is needed to ensure that progress is maintained and built on.

The quality of case decisions and continuing review

5.1 We examined 58 Crown Court case files from the Area and our findings are set out below.

Crown Court casework

	Performance in the inspection programme to date	Area performance
Committal and service of prosecution papers		
Decisions to proceed at committal or service of prosecution case stage complying with evidential test	96.4%	92.3%
Decisions to proceed at committal or service of prosecution case stage complying with public interest test	99.5%	100%
Cases with timely review before committal, or service of prosecution case	77.7%	48.2%
Instructions to counsel that were satisfactory	Brief 63.1% Pleas 39.27%	Brief 75.9% Pleas 69.2%
Case preparation		
Cases ready for PCMH	91.0%	87.8%
Court orders complied with on time, or application made to court	80.8%	74.1%
Correspondence from defence dealt with appropriately	86.8%	83.3%
Cracked and ineffective trials		
Cracked or ineffective trials that were foreseeable and the CPS took action to avoid the outcome	58.0%	60% (3 out of 5 cases)

Level of charge		
Indictments that were appropriate and did not require amendment	81.7%	79.6%
Cases that proceeded to trial or guilty plea on the correct level of charge	97.4%	98.2%
Judge ordered and judge directed acquittals		
JOA/JDAs that were foreseeable and the CPS took action to avoid the outcome	78.6%	45.5% (5 out of 11 cases)
Trials		
Acquittals that were foreseeable and the CPS took action to strengthen the case (or drop it sooner)	23.9%	60% (6 out of 10 cases)

- 5.2 Our findings indicate that decision-making standards are in need of closer monitoring and improvement. At the committal or service of the prosecution case stage four out of 52 relevant cases failed on assessment of the sufficiency of evidence. All were also non-compliant with the Code evidential test at the pre-charge advice stage, although they had all been charged. Two demonstrated a failure to review the evidence against each of several defendants carefully enough and the other two were simple failures to recognise the inherent weaknesses in the evidence. Three of the four led to judge ordered acquittals and the fourth, a sensitive case, to a judge directed acquittal.
- 5.3 Whereas the Area's compliance with the Code evidential test at pre-committal/service of papers stage was 4% worse than that shown in this round of inspections to date, the application of the Code public interest test was about the same at 100%.
- 5.4 As with magistrates' courts' cases there was an issue with recording reviews, with just 48.2% of cases having a full file review recorded on the file. The quality of endorsements was generally satisfactory, although there were a few instances where it was impossible to tell from the file what had happened at a hearing or what the final disposal was.
- 5.5 Indictments were subject to significant amendment in just over 20% of cases, but the level of charge reflected the seriousness of the case in over 98% of cases. Relevant local or national policies were applied in 88.5% of cases, which is lower than in magistrates' courts' cases.

Successful outcomes

- 5.6 The overall conviction rate in the Crown Court is 83.5%, which compares favourably to the national average of 77.7% and represents an improvement on the figure for 2005-06, which was 80.9%. The key outcomes for this year are shown in the following table.

Case outcomes in the Crown Court

	National performance March 2007	Area performance March 2007
Judge ordered acquittals	13.1%	9.5%
Warrants	1.3%	1.1%
Judge directed acquittals	1.4%	1.0%
Acquittals after trial	6.5%	4.8%
Overall conviction rate	77.7%	83.5%

- 5.7 The rates for acquittals after trials, judge ordered acquittals (JOAs) and judge directed acquittals (JDAs) are better than nationally and improving. Guilty pleas and acquittals after trial are worse than last year, by 2.5% and 1.8% respectively. Although both are out-performing the national rate, the trend needs to be monitored so that the reasons for any continuing downturn can be identified.
- 5.8 The analysis of adverse case outcomes in the Trials Unit is in need of some improvement. Some adverse case reports are completed by the Unit Business Manager then seen by the Unit Head and other files are seen by a champion or the charging project manager. They do not necessarily go to the lawyer for comments, nor do they systematically include any remarks as to whether the police or the CPS could have taken action to avoid the outcome. In several instances, when we examined case reports against the file, we found that the report lacked robustness and also found that they failed to identify opportunities to add value which had been missed.
- 5.9 Recently the Trials Unit has asked counsel to provide a report on each case where there has been an adverse outcome. However, there is no evidence that the reports are systematically analysed or logged for trend analysis. In any event the reporting, whilst a useful practice, cannot be taken to be a substitute for rigorous analysis within the CPS. Such analysis is important if, for example, the Area is to successfully identify the reasons for the drop-off in convictions after trial.

Discontinued cases and judge ordered acquittals

- 5.10 There were three instances in the file sample of sent cases discontinued before service of the prosecution case and we agreed with the decision to discontinue in each. Of the 17 JOAs examined nine were foreseeable, but in only five of those had the CPS taken action to avoid the outcome. Of the 20 cases ending in discontinuance or JOA, the termination was timely in 75%.
- 5.11 In just under half of the cases dropped by the CPS there had been no material change in circumstances since charging advice had been given, and in over half the reasons were apparent at the time of charging.

RECOMMENDATION

The Area should ensure that all adverse outcomes are examined systematically and robustly, and in conjunction with the police, with a view to identifying where police or CPS action could have avoided the outcome, and so that any lessons that can be learned are identified and disseminated to all relevant staff.

Serious and complex cases

- 5.12 Serious cases receive the attention of suitably experienced prosecutors and counsel and are the subject of early, albeit informal, consultation and advice. The Area has introduced a practice of holding early 'housekeeping' conferences for the lawyer, caseworker, counsel, police and any other relevant parties, such as forensic or other specialist or expert witnesses. The conferences are currently held for murder cases and they are in the course of being evaluated. If they represent value for money, they will be extended to cover other serious casework. This is **good practice**.

- 5.13 Only one case so far has necessitated the use of the Area Case Management Panel and this then fell outside the criteria after some of the defendants pleaded guilty and the time estimate for the trial fell. Staff have been supplied with information about the panel and when it ought to be used.

Youth cases

- 5.14 All youth cases in the Crown Court are listed for an early hearing seven to 14 days after they have been committed or sent. A tracker is kept for PYOs, which is discussed at monthly case progression meetings, although there are few cases in the Crown Court. One case adversely affected the timeliness for PYOs as sentence was deferred for several months.

Appeals and committals for sentence

- 5.15 Appeals and committals for sentence are rare and no specific issues have arisen.

References to the Court of Appeal in relation to unduly lenient sentences

- 5.16 References to the Court of Appeal in relation to unduly lenient sentences are identified and dealt with appropriately and there is comprehensive guidance supplied to staff. Of the four cases passed to CPS Headquarters for consideration in 2006, three were referred to the Court of Appeal (Criminal Division) by the Attorney General.

Asset recovery (proceeds of crime)

- 5.17 Prosecutors rarely consider asset recovery with police at the pre-charge stage and this is consistent with the relative lack of advice on ancillary matters which is referred to at paragraph 3.4. However, the procedural and training issues raised by this are for joint consideration and the Area should consider raising them with the police at an appropriate level. When the financial circumstances of a charged defendant have been investigated by the police, the CPS then prepares and handles applications for confiscation of the proceeds of crime.

- 5.18 Post-charge asset recovery is championed in a committed and enthusiastic manner and relevant information is circulated to staff. The champion has also made efforts to liaise with the court regarding their involvement in the making of orders. The Area exceeded its target of 83 orders in 2006-07, but missed the monetary value target, largely due to delay in one significant case. Performance should improve further when asset recovery is dealt with more consistently at the pre-charge advice stage.

Case progression and effective hearings

- 5.19 Case preparation is markedly more effective in the Crown Court than in the magistrates' courts and the case progression meetings with the Court are regular and productive. The CPS case progression officer is widely respected and thought to be effective by criminal justice partners.
- 5.20 Until recently, there were paper plea and directions hearings in the Crown Court. Full plea and case management hearings have now been introduced with the requirement that certificates of readiness be served, with the expectation that they may impact on the rate of effective trials.
- 5.21 The court endeavours to address some case progression issues on the day of hearing before the case is called on. These include the arranging of trial dates, so that when cases come before the Judge, the time is used to best effect. There have been concerns that caseworkers are not assisting as fully with this process as they might. For example, they appear reluctant to convey the information on the witness availability forms to the court case progression officer; or to engage in fixing a date, and hand over the forms instead. This does not present as inflexibility; rather it may be attributable to lack of experience or confidence, or could be a training issue.

Case preparation

- 5.22 There is work to be done with the police to improve the quality of the full file. Also, the Area needs to ensure that there is a positive attitude to providing additional evidence and that the prosecution team ethos is embedded. Systematic joint monitoring of police file standards has ceased, which can only hamper improvement.
- 5.23 Timeliness of case preparation shows some room for improvement, but generally the picture is much more satisfactory than in magistrates' courts' casework. In the file sample examined, the CPS was ready for the pre-trial review or plea and case management hearing in 87.8% of cases, but in only 74.1% were orders complied with or the case referred back to court. Correspondence from the defence was dealt with appropriately in 83.3% of cases. However, the table at paragraph 5.1 above shows that Area performance in relation to all these aspects is less satisfactory than that shown in this round of inspections to date.
- 5.24 The Trials Unit Head has produced guidance for lawyers in her unit. Whilst it is called an introductory pack, it contains much information that is useful whatever one's level of experience and length of time in the unit, and is a convenient resource for many areas of practice and law in Crown Court cases. It covers evidence, procedure, charging standards and unit systems, amongst other topics, and is regularly updated. This is **good practice**.

5.25 The standard of instructions to counsel was adequate in 75.9% of cases, which leaves room for improvement, as does the satisfactory consideration of pleas in the brief, which was low at 69.2%. The Area's assessment of these measures from its casework quality assurance was much more positive, tending to cast doubt on its robustness. In any event, performance in relation to these aspects is substantially better than that shown in this round of inspections to date.

Effective, ineffective and cracked trials

5.26 There is a shared target with CJS partners to reduce the level of ineffective trials, which adversely affect victims and witnesses if they have attended court, delay the conclusion of individual cases and waste available court time.

Trial rates in the Crown Court

	National target 2006-07	National performance year ending December 2006	Area target 2006-07	Area performance year ending December 2006
Effective	N/A	48.3%	N/A	40.1%
Ineffective	14.2%	12.5%	13.5%	12.9%
Cracked	N/A	39.2%	N/A	47.0%

5.27 The rate for ineffective trials has improved from 17.7% in 2005-06 to 12.9% in the year to December 2006, against a national rate of 12.5% for the same period. Within this category, the proportion of ineffective trials caused by the prosecution has deteriorated to 32.8% which is a cause for concern, although it is now better than the national rate of 38.1%.

5.28 The rate for cracked trials has shown marginal improvement to 47.0% for the year to December 2006, however it remains noticeably worse than the national average of 39.2%. It is this which is holding the rate of effective trials down to 40.1%; significantly less satisfactory than national performance.

5.29 There are a number of factors which may be influencing cracked and ineffective trials, such as the lack of a prosecution team ethos, witness issues, late guilty pleas, the effectiveness of pre-trial hearings, late acceptance of lesser charges, etc. The case progression meetings have very recently started to look more closely at the reasons and to determine whether more could have been done by any agency to avoid the result. In addition, the TU Head looks at individual cases. However, more work needs to be done to identify trends, to assess where the prosecution were at fault and to bring about improvements.

RECOMMENDATION

The Area should ensure that it plays its part in reducing the rate of cracked and ineffective trials, including more systematic analysis of the cases where prosecution action or inaction has led to the outcome.

Use of case management system – Compass CMS

- 5.30 The data gathered centrally for the CPS for the rate of usage of CMS for indictments in 2005-06 was high (93.8%) and better than nationally (89.8%). The Area considers that the data does not accurately reflect their usage of CMS for indictments, which they put at 100%. The measure for 2006-07 of Crown Court reviews is also better than nationally (95.5% compared to 88.5%), but as with magistrates' courts' files, reviews are not being transferred to the file itself.
- 5.31 Monitoring of tasks and backlogs of administrative functions on CMS could be improved. The unit managers have task lists for staff available to them, but some tasks for some staff are of considerable age and ought to have been addressed and cleared by effective monitoring some time ago.

6 PRESENTING AND PROGRESSING CASES AT COURT

Steps to ensure the effectiveness of court hearings have yet to become embedded and further work is necessary with partner agencies. The standard of advocacy is generally satisfactory, but there is no systematic monitoring of advocacy standards of in-house or external advocates. There is scope to widen the range of work done by Higher Court Advocates and to increase the usage of designated caseworkers.

- 6.1 The CPS has set standards for its advocates, internal or external. These National Standards of Advocacy were updated in August 2003 and contain standards, guidance and prompts. Paramount is that prosecution advocates act, and are seen to act, in the public interest, independently of all other interests, fairly, fearlessly and in a manner that supports a transparent system that brings offenders to justice, respects the rights of the defendant and protects the innocent. We assess advocates against these standards, bearing in mind that the court sessions will vary from trials to bail applications to pleas of guilty and remand courts.

Advocates ensure cases progress and hearings are effective

- 6.2 Historically, there has been a culture of agreed adjournments at first hearing for further disclosure following service of advance information. In fact, the file received from the police following such an adjournment is often not much more than a typed version of the statements already served and further disclosure therefore serves no real purpose in many cases. The Heads of the two CJUs have now issued written instructions to advocates directing them to resist defence applications where appropriate. However, there appears to have been little follow-up by managers and the instructions are not universally known or applied. Our court observations showed performance to be improving from the position noted in the file sample, however unnecessary agreed adjournments for further disclosure are still common and the Area should consider further action to deal with this.
- 6.3 The CPS has considerably more work to do with partner agencies in the Derbyshire criminal justice system to embed joint working and to ensure that essential items, such as CCTV videos or exhibits, are available at court when needed. It is important to develop a prosecution team ethos with the police. Changes to the list of hearings need to be minimised so as not to waste preparation time. The transfer of cases from one court to another is an ongoing issue that impacts on the working relationship between the CPS and the Crown Court.
- 6.4 The Area aspires to deliver files to agents three days in advance to allow time for thorough preparation. However, with the delays referred to in paragraphs 4.28 to 4.32 above, trials are often not prepared until the day before, so agents have much less time to read their files. This is aside from the fact that it is every advocate's duty to be ready for each hearing and we are aware that some agents do not take sufficient steps to ensure this. Requests are having to be made on the morning of trial to read papers. Whilst this may be due to a combination of factors, such as the late delivery of papers, late changes to court lists, and lack of preparation in advance, it is causing delay in progressing the court business.

- 6.5 Court endorsements are generally of a good standard and the Area has systems in place to report poor endorsements.

ASPECTS FOR IMPROVEMENT

Measures to ensure that cases progress at each hearing are not embedded, nor is their effectiveness assessed by managers.

The standard of advocacy

- 6.6 We observed a number of advocates in different courts. Our findings are set out in the table below.

Advocacy standards

		CPS advocates/ designated caseworkers in the magistrates' courts	Counsel/solicitor agents in the magistrates' courts	Higher Court Advocates and other CPS advocates in the Crown Court	Counsel in the Crown Court
	Level	Number	Number	Number	Number
Assessed as above	1	-	-	-	-
normal requirements	2	-	-	-	1
Against CPS	3+	1	2	1	5
National Standards	3	6	2	-	-
of Advocacy	3-	1	1	-	-
And those assessed as	4	-	-	-	-
less than competent	5	-	-	-	-

Assessment:

1 = Outstanding; 2 = Very good, above average in many respects

3+ = Above average in some respects; 3 = Competent in all respects

3- = Technically competent, but lacking in presence or lacklustre

4 = Less than competent in many respects; 5 = Very poor indeed, entirely unacceptable

- 6.7 The standard of advocacy as reported by interviewees and observed at court was generally fully satisfactory. Where concerns have been expressed, it has most often been regarding agents in the magistrates' courts. Designated caseworkers are well-regarded, although there remains room for further negotiation with the court to maximise their usage.

- 6.8 All lawyers in the Trials Unit cover bail applications and preliminary hearings in the Crown Court. Higher Court Advocates (HCAs) are used for a range of work which includes appeals and committals for sentence, although there is scope to widen this out to cover more plea and case management hearings and the subsequent jury trials. However, the Area should

remain sensitive to the need for individual HCAs to gain sufficient experience before embarking on the more serious and complex cases. Also, the rota for the deployment of HCAs and caseworkers in the Crown Court would benefit from careful review in order to reduce the number of late changes necessitated by conflicting work commitments.

- 6.9 Monitoring of advocates is not consistent or regular. The Area uses the same agents as far as possible and depends on partner agencies to report any concerns. Where such reports are received, they are acted upon. Counsel are assessed for re-grading purposes only. The monitoring of in-house advocates is variable and, where it is done, it is not formally recorded.
- 6.10 There is one-to-one coverage of courtrooms by caseworkers at the Crown Court and facilities at the court are fully satisfactory, as are those at the magistrates' courts in Derby and Chesterfield. There are no facilities available at Buxton Magistrates' Court, including no specific room set aside for the CPS to use, which hampers the effective use of 'down time' at court. Steps have been taken to add to the facilities available at the police station for staff to use after court has finished.

7 SENSITIVE CASES AND HATE CRIMES

A number of sensitive cases in the file sample examined by inspectors failed to meet required standards for either the application of Code tests or steps taken to avoid adverse outcomes. Two of the causes might be the lack of a formal system for ensuring that specialists see sensitive cases at charging and the lack of case ownership in the Criminal Justice Units. Unsuccessful outcomes have improved but are still worse than nationally. Analysis of the outcomes for sensitive cases, particularly for racially and religiously aggravated offences, is still not embedded or effective. Champions are not set clear expectations and this allows inconsistency in their approaches to the role.

Quality of advice and decisions

- 7.1 Sensitive cases include offences of homicide, rape and child abuse, as well as those which include an application for (or breach of) an anti-social behaviour order (ASBO). Hate crime includes domestic violence and racially and religiously aggravated and homophobic offences.
- 7.2 We selected 115 files in total, of which 35 were chosen specifically because they were sensitive, and 19 of those selected for separate reasons were also sensitive, so the sample contained 54 of these cases in all. The quality of decision-making in sensitive cases is variable. Two failed the Code tests both at the pre-charge and pre-trial/committal stages and were both subsequently discontinued. Two other cases also failed the Code tests at pre-trial/committal stage and another two were subsequently discontinued even though there had been no change in circumstances since charge.
- 7.3 Further, where sensitive cases had been appropriately proceeded with, we found five where more could have been done to avoid an adverse outcome such as a finding of no case to answer or a judge directed acquittal.
- 7.4 Sensitive cases ought to receive specialist attention from prosecutors (see paragraph 7.9 below). The incidences of non-compliance at pre-charge and later stages, and the absence of robust continuing review, suggest there remains scope for improvement.
- 7.5 In the charging centres the duty prosecutors' resource pack contains key national and local policies. Systematic implementation of, and adherence to, thematic review recommendations is less apparent. However, the Rape Champion is working with other CPS Areas in the family group to implement the recommendations of the rape thematic inspection.
- 7.6 There is a specialist domestic violence court held every Wednesday morning at Derby Magistrates' Court at which there is a specialist prosecutor. Support officers from the local authority and representatives from the police domestic violence unit also attend.

- 7.7 There are instances of the Area being responsive to concerns expressed by the police about certain categories of offences, such as the comprehensive charging guidance for harassment offences. However, the Area needs to monitor the referral of domestic violence cases to the duty prosecutor to ensure that the threshold test is being properly applied in all cases by the custody officer and police Evidence Review Officer.

Specialists and experts

- 7.8 Champions are allocated for all categories of specialist and sensitive casework, but there are no clear expectations set as to the exact nature of the role. They are also not routinely supplied with the outcome data or adverse case reports for their field of expertise and as a result their work lacks an overall strategy, and their input into case handling, improvements in performance and policy development is inconsistent. For example, there is only limited evidence to show that Derbyshire's practice is regularly measured against national policies and thematic reviews in some categories.

- 7.9 Although there is a system for allocation of specialist pre-charge advice, this is not always followed. In fact, police Senior Investigating Officers in specialist units tend to make informal contact with specialist lawyers that they have previously dealt with. Alternatively, duty prosecutors tend to allocate informally between themselves. This is partly a function of the lack of appointments in charging centres, which we discuss at paragraph 3.11. Lack of case ownership in the CJUs also means that magistrates' courts' cases do not necessarily receive specialist attention after charge, although there is a reasonable spread of specialists across the units in each of the key categories.

Outcomes

- 7.10 The rate for unsuccessful outcomes for hate crime for 2006-07 is 32.9%, which is better than the Area target of 40% and around the national average. The trend is one of improvement, since last year's performance was 43.0% against a national average of 38%. There is a similar picture for unsuccessful outcomes in domestic violence cases, where there has been an improvement on last year. Performance for 2006-07 is 34.3%, which is around the national average.
- 7.11 The monthly unit performance reports contain some data on domestic violence cases, racially and religiously aggravated offences and homophobic crime. The reports give the numbers of cases finalised and the number of unsuccessful outcomes, but frequently omit details of progress on the various action plans.
- 7.12 Analysis of sensitive cases is not embedded and the unit reports do not routinely report on reasons for failed cases or any lessons to be learned, although the reporting template calls for this information. A one-off survey was done of six rape cases which had ended unsuccessfully, but the analysis as to whether the CPS could have prevented the outcome was superficial. An analysis of eight failed domestic violence cases was more challenging, in that it examined the actions of other agencies as well as the CPS, and made recommendations flowing from its findings.

- 7.13 Racial incident data sheets are collated and reported on to CPS Headquarters, but there is no analysis done within the Area, or any checks on their accuracy.

Anti-social behaviour orders

- 7.14 The ASBO co-ordinator receives notification of all breach cases and uses this data to compile the relevant section of the monthly unit report, which is placed before Senior Management Team. However, this section of the reports is not always completed.
- 7.15 A separate report prepared by the champion contains details of work done and future actions needed and this is updated with progress regularly. Developments are circulated to lawyers as appropriate.

Identification and management of sensitive cases

- 7.16 Desk instructions have been issued in both CJUs in the form of a checklist for actions needed on new files. Lawyers are instructed to flag cases at the pre-charge advice stage and staff in the Trials Unit have been reminded to check cases coming into the unit to ensure that they have been correctly flagged.
- 7.17 The CJU Business Managers carry out a monthly 'dip-sample' of the flagging of domestic violence cases, since that was identified as a particular issue. In the North CJU, the Business Manager also checks the flagging of racially aggravated cases against a list of all such offences shown on the case management system.
- 7.18 In the file sample read by inspectors the flagging of domestic violence cases, homicides and fatal road traffic incidents was satisfactory. In other categories, there were instances of missing flags; in racially or religiously aggravated cases, four out of 12 cases were not flagged, in rape cases it was three out of eight and in child abuse cases, two out of six.

Safeguarding children

- 7.19 No child abuse cases examined by inspectors failed on application of the Code test, but there was one where more could have been done to avoid a judge directed acquittal. Recording of the reviews on the files, readiness for case management hearings, responses to defence requests and additional evidence from the police, and compliance with court orders, were all better for child abuse cases than for the file sample as a whole. However, there are issues relating to sensitive third party material which are dealt with below at paragraph 8.9 below.
- 7.20 Compliance with the Direct Communication with Victims scheme was worse for child abuse cases than for the sample as a whole, as was the timeliness of such communication. The timeliness of special measures applications generally is poor.
- 7.21 The Area has yet to establish a link with the local Safeguarding Children Board.

ASPECTS FOR IMPROVEMENT

The Area should establish links with the local Safeguarding Children Board with a view to embedding protection within their systems and decision-making.

8 DISCLOSURE OF UNUSED MATERIAL

Disclosure performance has improved from the low base noted in the last full inspection, particularly in relation to initial disclosure in the Crown Court. However continuing disclosure performance is poor across the Area. Compliance with sensitive disclosure procedures is better but timeliness issues need to be addressed. There is a general need for further joint and internal training and improved casework quality assurance in all units. A more clearly defined role for the new Area Disclosure Champion would assist in strategic performance monitoring and training.

Decision-making and compliance with the duties of disclosure

- 8.1 The quality of decision-making and compliance with the duties of disclosure has improved since the overall performance assessment (OPA) in November 2005. However, performance remains "Fair" and there is substantial room for improvement. The following table illustrates the performance trends.

	Area performance in last inspection (February 2003)	Overall findings for all CPS Areas 2002–04 programme	Area performance in the inspection cycle to date	Area performance in this inspection
Initial (or primary) disclosure dealt with properly in magistrates' courts' cases	22%	71.6%	64.1%	67.4%
Continuing (or secondary) disclosure dealt with properly in magistrates' courts' cases	No assessment	No assessment	56.25%	50% (1 out of 2 cases)
Initial (or primary) disclosure dealt with properly in Crown Court cases	66.7%	79.9%	76.4%	90.6%
Continuing (or secondary) disclosure dealt with properly in Crown Court cases	16.7%	59.4%	71.1%	51.2%
Disclosure of sensitive material dealt with properly in magistrates' courts' cases	No assessment	60%	63.1%	50% (2 out of 4 cases)
Disclosure of sensitive material dealt with properly in Crown Court cases	No assessment	77.8%	67.9%	75% (21 out of 28 cases)

- 8.2 The results of our file examination indicate that the handling of initial disclosure has improved substantially since the OPA, when only 22% of magistrates' courts and 66% of Crown Court cases (out of a small file sample) were compliant. The Trials Unit is performing well relative to the Areas inspected in this cycle to date, but there is still substantial room for improvement in the magistrates' courts.

- 8.3 Non-sensitive unused material schedules are properly endorsed and provided in good time by the police in 88% of Crown Court cases. The material is sorted by a caseworker and then properly reviewed and served by the reviewing lawyer in 90.6% of cases. We found evidence that missing items are often chased and that inadequately completed schedules are sometimes returned to the police to be corrected.
- 8.4 Performance is less good in the magistrates' courts where there is only 67.4% compliance with initial disclosure, despite the provision of compliant schedules in 75% of cases by the police. The lack of timely pre-trial review in magistrates' courts' cases (which is dealt with in Chapter 4) is undoubtedly having a negative impact on disclosure performance. However, we also found significant evidence that disclosure is given lower priority in the CJUs than it is in the Trials Unit, which needs to be addressed by CJU Heads.
- 8.5 The most common cause of non-compliance with the initial disclosure rules is a failure to chase, properly endorse and then serve, schedules of unused material. There is also the occasional failure to keep the unused schedule and material separately on the file.
- 8.6 Although it has improved since the OPA, the handling of continuing disclosure is still poor in the Crown Court and magistrates' courts. Our file examination revealed that one out of two relevant cases (50%) in the magistrates' courts and 21 out of 41 (51.2%) in the Crown Court were compliant, with entries on the disclosure record sheets often ending at the service of initial/primary disclosure. Where continuing disclosure is made it is generally late. Letters confirming that the defence case statement has triggered no further disclosure are extremely rare. However, we saw evidence that reviewing lawyers apply the relevant law in relation to inadequate defence case statements.
- 8.7 The main reasons for non-compliance with the continuing disclosure rules include a failure to chase, review and serve continuing disclosure on receipt of an adequate defence case statement. Although the defence rarely press a request for continuing disclosure, the overall compliance rate of 51.2% is unsatisfactory and Unit Heads need to address this in concert with the Area champion.

ASPECTS FOR IMPROVEMENT

Disclosure performance in the magistrates' courts needs to be given higher priority.

Continuing disclosure performance in the Crown Court needs attention.

Sensitive material

- 8.8 Our file examination showed that sensitive disclosure was dealt with properly in 71.9% of cases. Two out of four cases in the magistrates' courts (50%) were compliant; the other 28 were in the Crown Court and 21 (75%) were compliant.

- 8.9 Although reviewing lawyers and caseworkers are generally alive to the law and issues surrounding sensitive material, our file examination highlighted a tendency to request such material late. Given that such documentation can have a decisive impact on the case, a delayed request for potentially relevant sensitive material can negatively affect victims, witnesses and defendants, as well as performance statistics. In two of the Crown Court sensitive cases we examined, the prosecution eventually offered no evidence following the late supply of sensitive third party material which undermined the prosecution case. In both cases the issue had been missed at pre-charge decision and pre-committal review stage.
- 8.10 The Area has recently negotiated an agreement with the police for provision of potentially undermining sensitive items at the pre-charge stage in appropriate child abuse cases. Unit Heads and the Area champion should also consider highlighting the need to make early requests for such material in all charged cases where it might have an impact on the eventual outcome. They should also consider dip-sampling child abuse and rape cases to monitor compliance with this specific issue.
- 8.11 Our file examination and on-site observations showed that the keeping of unused material and schedules is generally compliant with the provisions of the Disclosure Manual. Unused material schedules are generally kept on separate coloured wallets marked “sensitive” and “non-sensitive” within the main file, along with copies of disclosed material and disclosure record sheets. Sensitive material is kept securely, although there is no comprehensive log, which should be addressed by the Trials Unit Head. A compliant public interest immunity application log is kept in the Trials Unit.

ASPECTS FOR IMPROVEMENT

The Area should ensure that an early request for sensitive third party material is always made where such material might have an impact on the outcome of the case.

Action to improve

- 8.12 A Trials Unit lawyer has recently been appointed as Area Disclosure Champion, the post having been vacant for a number of months. She currently lacks strategic guidance and specialist support in the CJUs.
- 8.13 The then Disclosure Champion conducted some basic training on the new Disclosure Manual when it was issued in 2006. Since then, some CJU lawyers have undertaken disclosure “e-learning” but this has yet to be fully adopted in the Trials Unit. There is only limited evidence of joint training with the police over the last year. The Area should therefore consider developing a strategic training plan jointly with the police, as suggested in the OPA.

8.14 Unit Heads need to consider the robustness of their CQA analysis in relation to all aspects of disclosure. Our file examination showed 80.2% compliance with initial disclosure against the Area's own CQA return of 92.8% for the year to December 2006. Given that the Trials Unit return stands within 3% of our figure in the Crown Court, the conclusion must be that CQA analysis in the magistrates' courts lacks robustness, particularly in the north where the compliance rate is said to be 27.7% higher than our figure. In relation to continuing disclosure, the Area CQA return showed a compliance rate that was 44.7% higher than our rate disclosed by our file examination. The same issue arises in relation to sensitive disclosure where the Area return shows a rate that is 13% above that found in our file examination.

RECOMMENDATION

The Area should take urgent steps to improve disclosure performance by:

- Improving the robustness of casework quality assurance analysis.
 - Dip-sampling sensitive cases to monitor compliance with sensitive disclosure procedures.
 - Preparing a strategic training plan on disclosure jointly with the police.
 - Providing the Area champion with the means to co-ordinate monitoring, training, and performance analysis across the units.
-

9 CUSTODY TIME LIMITS

The first custody time limit failure for two years occurred in the South CJU in January 2007. Like the previous failures in 2004-05 the cause was case-specific rather than a systems failing. The subsequent enquiry identified the causes and appropriate remedial action has been taken. Area systems are compliant with national policy.

- 9.1 There have been three custody time limit (CTL) failures since 2004. In 2004-05 there were two in the Trials Unit, which led to an agreement with Derby Crown Court that all expiry dates would subsequently be agreed in open court at first hearing. This clearly happens routinely and there have been no further failures in the Trials Unit.
- 9.2 The only failure since 2005 was in January 2007 in the South CJU. This arose from the failure of the unit to re-calculate the new expiry date when the defendant was remanded in custody following a breach of bail conditions. Opportunities to re-calculate the date were missed after each of three separate hearings because the file was not placed in the correct tray until late on the expiry date itself.
- 9.3 The failure was followed by a prompt and thorough investigation which identified the causes. The system was then tightened accordingly and all relevant staff were personally reminded of their responsibility to comply with the system for CTL compliance. The Chief Crown Prosecutor also visited both CJUs to restate the importance of compliance and a full report was sent to CPS Headquarters.
- 9.4 Applications to extend custody time limits are properly prepared in accordance with case law and agreed local practice.

Area custody time limit systems

- 9.5 There is a written system which complies with national policy. It requires that files are fully and accurately endorsed and that diaries and CMS are correctly used and checked at least weekly, and usually daily. Each individual unit tailors its own system to meet local needs, but only insofar as it remains compliant with the Area system. The Unit Business Managers are responsible for compliance in the CJUs and the Area champion fulfils this role in the Trials Unit. There is a robust system for ensuring that the relevant dates are accurately and promptly passed from the CJUs to the Trials Unit when a case is adjourned for committal.
- 9.6 We examined five 'live' files on-site in which CTLs applied and they were all correctly endorsed, although court endorsements made by advocates in the South CJU sometimes lack clarity. The diaries contained the correct entries and there was evidence that they were checked at least weekly, and usually daily, by the Unit Business Manager. Lawyers and caseworkers are fully aware of their responsibility for ensuring compliance.

- 9.7 The Area champion is a caseworker located in the Trials Unit. She is effective in monitoring the day-to-day compliance and training needs of the units and has been instrumental in ensuring that there have been no failures in the Trials Unit since 2005. However, the role does not currently include involvement at the strategic level. She was not asked to participate in the CTL failure investigation in January 2007 and is not always consulted on systems development outside the Trials Unit. The Area should therefore consider ownership of the CTL issue at a more strategic level.

ASPECTS FOR IMPROVEMENT

The Area should consider granting overall responsibility for custody time limits to a member of the Senior Management Team to ensure accountability at the appropriate level.

10 THE SERVICE TO VICTIMS AND WITNESSES

Assessed as “Fair” in the OPA, this was inspected on an exception basis. In accordance with this approach we noted that the Area is considering combining the jointly staffed and managed Witness Care Units into a single unit, which would assist CPS and police managers to work more efficiently and allow shared access to their IT systems.

Meeting the needs of victims and witnesses

Case decision-making

- 10.1 In some cases victims' views and needs assessments are being obtained. However, there is evidence that this is not being done routinely and that they often lack sufficient detail. It is accepted by both the CPS and police that further work is still required, although both agencies consider that performance is improving.

Special measures

- 10.2 The Witness Care Units provide a representative at all case progression meetings where special measures and victims' needs are considered. These are also attended by representatives from the police and courts.
- 10.3 There is satisfactory liaison with both the Witness Service and Victim Support, who are generally happy with the timeliness of information, however, they expressed concern at the lack of sufficient detail.

Witness Care Units

- 10.4 There are three Witness Care Units in two sites which are jointly staffed by the CPS and police. Although the police staff are managed by three police managers (who are split between the units, with other responsibilities elsewhere in addition), there is only one CPS manager to cover CPS staff in both sites, which is perceived to hamper the management of them. Therefore, the CPS and police are jointly considering combining the units. This would resolve the management issue and also allow shared access to IT systems, which is desirable but currently unavailable.
- 10.5 In our file sample, 93.6% of relevant cases were referred to the Witness Care Unit. This compares well to the 90.17% achieved by the other Areas inspected in this cycle to date.
- 10.6 Witness attendance at court is improving. The proportion of trial hearings which are ineffective due to witness non-attendance in the magistrates' courts has reduced from 5.9% in 2004-05 to 3.4% in quarter ending December 2006; slightly above the national rate of 3.2%. The same measure in the Crown Court also shows improvement from 3.9% in 2004-05 to 2.7%, which is again slightly above the national rate (2.3%).

Direct Communication with Victims

- 10.7 The Direct Communication with Victims (DCV) protocol requires that the Area communicate with the identified victim when a charge is dropped or significantly reduced. There is a prescribed time-frame for communication, which depends on the nature of the case, but is usually five days from the date of the decision. Under certain circumstances the identified victim must also be offered a personal meeting. In 58.3% of relevant cases in the file sample either the victim was not notified at all in accordance with DCV, or an appropriate meeting was not offered. Additionally, in 54.3% of cases the victims' views were not considered in any consultation on whether to discontinue. In one case of this type, the victim and police were not consulted on a decision to caution and no DCV letter was sent out. When a letter of complaint was sent to CPS the reply contained an admission that an error had been made but there was no apology.
- 10.8 According to the centrally generated data, for the three months to November 2006 letters were not sent within the prescribed timescale in 28.6% of relevant cases. In our file sample, communication to the victim or witness was not timely in 32.6% of relevant cases.
- 10.9 There is a national and Area "proxy" target for DCV compliance. The Area target for the number of communications over a given period is set by reference to the number of cases which are expected to be discontinued (or involve significant variation of the charge) during the same period. Therefore, the target can change from time-to-time. However, the counting method takes no account of the content of DCV communications and the sending of a letter is recorded as a compliance, even if it does not offer a meeting, as is sometimes required. This explains the difference between the figures set out in paragraph 10.7 and those relating to proxy target performance. In Derbyshire performance against the proxy target has improved since the OPA when it stood at 62%. In the quarter to November 2006 the Area achieved 70.2% of its current proxy target, although this is still below the national average of 77.4%, which means that in an estimated 30% of cases the victim is not receiving the required communication.

11 DELIVERING CHANGE

Assessed as “Good” in the OPA, this was inspected on an exception basis.

Purpose and planning

- 11.1 The Area Business Plan outlines in some detail what the Area needs to achieve and covers all relevant targets. Objectives, milestones and some quantifiable targets are in place. Each objective is allocated to a named individual who has the responsibility for achieving it and reporting to the Senior Management Team on progress. Updating of the plan is sporadic and new initiatives, such as CJSSS, conditional cautioning and the NSPIS/CMS interface have not been added to date, although they are all imminent or in the process of being rolled-out.
- 11.2 Staff are set personal objectives, but a significant proportion state they are not given feedback on their performance against those objectives. We found evidence of performance information being given to staff in the form of a unit report. However, the majority of staff state that they do not have time to examine the information, or to assess it and relate it to their own performance. There is no monitoring to check that the report has been read by staff, that they understand it, and that lessons are learnt.
- 11.3 A significant amount of planning is conducted through the Local Criminal Justice Board and there is some good evidence of joint working. This includes the delivery of statutory charging, implementation of the police and CPS computer systems' interface and the implementation of blitz courts to remove a significant case backlog (referred to at paragraph 4.34).

Change management

- 11.4 CPS Derbyshire is considering a major organisational re-structure. It has yet to fully develop the strategic purpose for this, partly because the shape of the re-structure is dependant on analysis which is being conducted at present. However, a sound strategic purpose will need to be fully defined before embarking on such a programme. The Area knows it will also need to liaise with its partner agencies to ensure that the benefits can be realised jointly. Such a project will need to be well planned and documented. Its impact on the implementation of other projects such as CJSSS will need to be considered to ensure that any inter-dependencies are dealt with appropriately. On completion of a simulation model, which is due in the early autumn of 2007, the Area will decide whether to proceed with the re-structure.
- 11.5 Responsibility for change projects is designated to managers with the appropriate skills and each report to a senior manager on progress. The majority of projects are overseen by the Area Business Manager. Any inter-dependencies or overlaps in the projects are taken to the Performance Management Group to consider.
- 11.6 In general the Area has adequate channels for staff to contribute their views on local change. This was confirmed by 64% of staff in the 2006 staff survey, against 50% nationally, however only 19% felt that change was managed well.

Staff skills and training

- 11.7 The Area has catered well for legal training on aspects such as confiscation of assets and statutory charging. The Proactive Prosecutor Programme training was undertaken jointly with CPS Leicestershire. Part II of the course will be also be jointly conducted and some training on domestic violence issues will be given immediately afterwards.
- 11.8 The Area maintains training records for all staff. However, it could not demonstrate equality of access to training, or show any analysis of the effectiveness of the training. The staff survey indicated that most staff feel they have the opportunity for development and that their development would be supported. However, some indicated that they would benefit from further management training.

12 MANAGING RESOURCES

The Area is performing relatively well in relation to its overall budget, which is mainly due to a reduction in prosecution costs in 2006-07. Also, Higher Court Advocate savings have improved substantially following a correction to the counting method employed. The Area also has sound plans to reduce agent usage by recruiting in-house lawyers. However, it should continue to review its designated caseworker strategy to maximise efficiency. Some staffing issues need urgent attention, including the management of staffing levels and work allocation, particularly in the CJUs. Also, staff sickness levels are too high and the quality of sickness management needs to improve.

Use of resources and budget control

- 12.1 The Area has re-established a firm grip on its prosecution costs for 2006-07, having overspent in 2005-06 by 11.9%. The prosecution costs at the end of the 2006-07 financial year were 96.4% of budget. Profiling against the non-ring fenced budget for 2006-07 indicates that the Area continued to perform well, with a 0.3% overspend to March 2007. The result is an overall combined underspend of 0.8% for the financial year 2006-07.
- 12.2 Key financial decisions and overall budget control are retained by the Chief Crown Prosecutor (CCP) and Area Business Manager (ABM). The Secretariat Business Manager provides monthly management reports to the ABM with detailed information on the budget position, including any variance and a comparison of actual spend against profiled spend.
- 12.3 There is some evidence that resources and staffing are considered at the top level, but Senior Management Team meetings have no set agenda item on these issues and managers are not sufficiently updated on the budget position.
- 12.4 Unit Heads have certain limited budgetary responsibility, including the authorisation of conferences with counsel. However, there is confusion about whether they are able to authorise overtime, which is currently authorised by the Secretariat Business Manager. This issue needs resolving.

Value for money principles

- 12.5 The Area uses various means to ensure that value for money principles are applied in its day-to-day business. For example, meetings (including conferences with counsel) are held in the location that would minimise travel and overtime. Lawyers cover charging centres in the area where they reside for the same reason, and financial criteria are now applied in the selection of expert witnesses.
- 12.6 The level of agent usage was among the highest in the country, at 39% in 2006-07. The Area has considered ways to reduce significantly this figure in 2007 and it has now decided to recruit two, or possibly three, additional in-house lawyers and to reduce agent usage in 2007-08 to 60 days across the Area.

- 12.7 Timeliness of graduated fee scheme (GFS) payments was the weakest in the country in the third quarter of 2006-07, with only 13% being paid within the first month against a national average of 61% for the same period, and only 62% being paid within four months (nationally 90%). The Area was aware of the problem, which had been captured in the Business Plan objectives, and it assigned two administrative managers to identify and eliminate blockages in the system. The new target required that in 95% of relevant cases GFS payments be made within ten days of receipt. Performance has improved in the fourth quarter of 2006-07 and timeliness of payment is now 53% within one month (above the national average of 50%) and 79% within four months.
- 12.8 There is further opportunity for the Area to deliver value for money by implementing the recommendations and aspects for improvement around improving sickness absence, better use of staff through changes to allocation of work, and clarity in roles and responsibilities.

Staff deployment

- 12.9 The staff profile indicates fewer lawyers and more administrative staff than would be expected. Although the Area is carrying some high level posts which require funding, the deployment of lawyer staff in some units is stretched so that Unit Heads sometimes undertake additional casework themselves. This is compounded by the high levels of sickness which is discussed at paragraph 12.16. Our observations indicate that there is scope for the Area to improve arrangements for file ownership. This should be considered urgently, and particularly in conjunction with the plans to re-structure.
- 12.10 In 2006 the Area persuaded the magistrates' courts to double list (rather than triple list) trial courts in order to reduce pressure on resources, and is in the process of negotiating extra designated caseworker (DCW) and Higher Court Advocate (HCA) sessions for the same reason.
- 12.11 The Area made good use of additional funds which allowed the provision of agents for the operation of blitz courts at Derby Magistrates' Court. Extra funding was obtained via the Local Criminal Justice Board which was then used to provide agent coverage in the courts, allowing CPS prosecutors further trial preparation time.

<i>Designated caseworker deployment (as % of magistrates' courts' sessions)</i>			<i>Higher Court Advocate savings (per session)</i>	
National target 2006-07	National performance 2006-07	Area performance 2006-07	National performance Q4 2006-07	Area performance Q4 2006-07
17.2%	14.7%	14.3%	£355	£375

- 12.12 At the time of inspection there were five DCWs. Expected court coverage for each of them of six sessions per week equates to 126 sessions per DCW (for 2006-07). To achieve 100% coverage the Area would need to provide DCWs for 630 court sessions. In fact, they covered 948 sessions, which equates to 150.4% of available DCW time.

12.13 Conversely, DCW usage for 2006-07 as a percentage of total magistrates' courts' sessions is 14.3%, just below the national average of 14.7%. The Area target of 19% and national target of 17.2% have not been met. This is solely due to the impact of maternity leave and long term sick leave and the rate of coverage is expected to rise quickly when the absent DCWs return to work, subject to the Area's ability to negotiate more DCW courts.

12.14 The rate of savings from HCA deployment was the third lowest in the country at the time of the inspection. At £212 per session it represented 95.4% of the Area target, and was well below the national average of £346 per session. However, the Area figure was largely based on the total HCA time spent in the court building, rather than on the number of HCA court sessions in which advocates actually appeared or acted as duty prosecutor. The counting method has now been amended and performance has risen in the fourth quarter to £375 per session, 21.1% above the Area target. The Area has averaged £272 per session for 2006-07.

12.15 Derbyshire utilises the equivalent of two full-time HCAs and is looking to increase this; 266 HCA sessions were covered in 2006-07.

Sickness absence (per employee per year)

National target 2006	National performance December 2006	Area performance December 2006
7.5 days	8.5 days	13.9 days

12.16 Sickness levels continue to be high at 13.9 days in the year to December 2006. Over the same period, 62% of the sickness absence was classified as long term, against a national average of 52.8%. This issue was also raised in the OPA in 2005 and the rate has shown no improvement since 2004. It is apparent that the sickness level is continuing to have a significant impact on the Area's ability to cover essential tasks.

12.17 Sick leave issues are currently dealt with by way of "back to work" interviews which are undertaken within two working days of return. Managers, who have received relevant training, are completing the necessary forms, but there are concerns that meetings may be undertaken simply to complete the form. However, managers are now using oral warnings to break what is now seen as a sickness culture.

12.18 Unit Heads and Business Managers have been provided with sickness information complete with trending and basic analysis. CPS Headquarters Human Resources department has also provided assistance. However, it is clear that there is still a significant lack of understanding about how to manage sickness issues. In particular, there have been limited attempts to identify underlying causes for sickness, and no use of trend information to inform action.

RECOMMENDATION

The Area needs to ensure that managers deal with sickness issues relating to individuals in a systematic and appropriate manner.

- 12.19 Unit Heads arrange their own cover for annual leave and short term sickness. This often requires the temporary exchange of staff between units (especially CJUs), sometimes at short notice. The system works quite well but some perceive that this is subject to occasional imbalance and believe some units borrow more staff than they lend.
- 12.20 Conversely, Unit Heads do not have the authority to deal effectively with problems caused by more long term staff shortages, or staffing imbalances between the units. There is a lack of clarity on how such issues should be raised or resolved. Furthermore, the impact of staff shortages is accentuated by the willingness of Unit Heads to undertake the resulting extra casework themselves, rather than to delegate it to others. This reduces the time available for management duties and can hamper the ability of Unit Heads to manage their units effectively.

ASPECTS FOR IMPROVEMENT

The Area would benefit from establishing with its managers a system for raising matters relating to staffing and budget issues.

- 12.21 The Area has been able to accommodate a number of staff who wish to adopt part-time and flexible (such as term-time) working patterns. In the main, this works well, although the staffing balance between units should continue to be monitored to ensure that the arrangements are meeting the business need.
- 12.22 The Area should also consider rotating administrative staff onto different tasks to develop multi-skilling and maintain interest, job satisfaction and morale.

13 MANAGING PERFORMANCE TO IMPROVE

Assessed as “Good” in the OPA, this was inspected on an exception basis. In accordance with this approach we found that the casework quality assurance system is not always applied robustly or consistently between the units. We also identified an aspect for improvement relating to the format of the Area’s strategic performance information.

Accountability for performance

- 13.1 Managing performance is about practical ways to improve how things are done in order to deliver better quality services and to improve accountability. It is not just about information systems, targets, indicators and plans; it is also about getting the right focus, leadership and culture in place. There are some key issues in developing effective performance management arrangements:
- focus and strategy;
 - defining and measuring achievement;
 - reviewing and learning to sustain improvement; and
 - managing activities and resources.
- 13.2 Unit Heads are held accountable for their unit performance and are asked to produce performance packs for circulation prior to Senior Management Team meetings. The Unit Business Managers produce packs which drill down to individual level. However, they are too detailed to inform strategic direction and miss some important management areas of discussion, such as sickness.
- 13.3 Casework quality assurance is undertaken, however, the system is not always applied robustly or consistently between the units. Checking the performance of individuals is difficult, as there is no file ownership in the CJUs and a number of staff will have dealt with any given file. The lack of ownership also hampers continuity, monitoring standards and performance, as well as the ability of staff to learn lessons from adverse outcomes.
- 13.4 The performance information produced for Prosecution Team Performance Management meetings is generally sound and is used to inform discussion. It assists in the identification of areas for improvement and enables further detailed analysis to be undertaken. Issues are fed back to staff direct and their Unit Heads are informed separately.
- 13.5 The Area employs a performance analyst to produce a large amount of performance information. However, some of the information lacks analysis and focus on strategic aspects. There is also insufficient benchmarking with similar CPS Areas and national performance. The Area is aware of these issues and work is being done to improve them.

ASPECTS FOR IMPROVEMENT

The Area should prepare a more structured and strategic performance framework and pack to include both local and national information, which would allow benchmarking between its units and other CPS Areas.

14 LEADERSHIP

Assessed as “Good” in the OPA, leadership was inspected on an exception basis. In accordance with this approach we found one aspect for improvement relating to the clarification of the roles of unit managers.

Vision and management

- 14.1 Visions and values are incorporated in the Area Business Plan and most managers have been assigned ownership of one or more of its objectives.
- 14.2 A good majority of managers were unclear as to the extent of their authority to make decisions on budget and staff planning. Other staff were concerned that their managers were not always able to deal effectively with issues including sickness, conflict, and delegation of work. These matters need immediate attention and it is important that managers receive the clarification they require for their roles and responsibilities, and that senior management provide the support necessary to enable sound decision-making to take place.

ASPECTS FOR IMPROVEMENT

The Area needs to clarify the roles and responsibilities of its managers in relation to budgetary issues, prioritisation and project management.

Governance

- 14.3 Senior Management Team meetings are held monthly. The meetings have an agenda, but in most, discussion relates to the lower level issues. Once managers have been given clarity on their roles and responsibilities, there will be benefit in establishing a set agenda with items to inform strategic updates and discussion on finance, personnel and performance.
- 14.4 Managers tend to spend a disproportionate amount of time covering tasks which should be completed by their staff. For example, Unit Heads regularly undertake more than their allocated share of casework. All senior lawyers also cover extra magistrates' courts' sessions from time-to-time when there is a staff shortage. It follows that the pressure of work is increased on each individual and that there is less time for consideration of managerial issues and conduct of management business.
- 14.5 There are regular meetings with staff and most confirmed that they were effective and that a two-way dialogue occurs. Most staff confirmed that performance information given did not set out Area performance against national or other Areas' performance.

14.6 The staff survey confirmed that only a third of Derbyshire's staff believed the CPS as a whole to be well managed, although this was higher than the national figure of 27%. Additionally, only a third believed their team to be well managed, against the national figure of 51%. The survey also indicated that 87% of staff did not think there was an effective system in place to recognise good performance. This was confirmed by our interviews with staff members; however we did find some evidence of good work being promoted or commended in the Area's newsletters.

15 SECURING COMMUNITY CONFIDENCE

The OPA rated Derbyshire's performance as "Good". It was found that the Area had laid a sound foundation for future community engagement and we therefore inspected this aspect of performance with a light touch. We found the Area to have put further substantial thought and effort into raising its profile in conjunction with criminal justice partners. In particular, it has worked hard to raise its media profile, and public confidence in Derbyshire was higher than the national average when it was last measured in June 2006. However, more needs to be done to engage with black and minority ethnic community groups and certain other victim interest groups.

Engagement with the community

- 15.1 We found evidence of significant efforts by CPS Derbyshire to engage with the local community. The Area's community engagement log records frequent participation in events held by local associations, as well as lectures and training sessions conducted for minority groups by lawyers, Business Managers, Unit Heads and specialist lawyers. The Area also has a good relationship with the Local Education Authority and plays a part in delivering its citizenship programme, while providing work experience placements to local schools.
- 15.2 Community engagement is written into the Area Business Plan and the recruitment policy is specifically targeted in an effort to ensure that the staff reflect the local community. The Area is also committed to compliance with the Local Criminal Justice Board's community engagement plan and there is clear evidence of contribution to jointly organised community events.

Minority ethnic communities

- 15.3 Feedback from internal and external interviewees suggests that there are substantial gaps in coverage of black and minority ethnic groups. This issue was highlighted as an aspect for improvement in the OPA in 2005, and it appears that little progress has been made since then, despite attempts by the Area to engage effectively with Derby Racial Equality Council. In particular, there is a need for the Area to raise its profile with external groups, some of whom have already been effectively engaged by the police. There is also evidence that the Area has failed to take up standing invitations to engage with another victim interest group and this is a cause for concern.

ASPECTS FOR IMPROVEMENT

The Area needs to make further efforts to engage black and minority ethnic representative groups.

Complaints

- 15.4 We examined the complaint log and found that complaints are generally dealt with in a satisfactory manner, although in one case timeliness and quality of response were unsatisfactory.

Public confidence in the criminal justice system

**Public confidence in effectiveness of criminal justice agencies in bringing offenders to justice
(British Crime Survey)**

CJS area baseline 2002-03	Most recent CJS area figures in 2006-07
41%	45.1%

15.5 There is no measure of public confidence specific to the CPS, but it contributes to the public's confidence in the criminal justice system through undertaking its prosecution functions, and by engaging with the public directly and through the media. Derbyshire's media engagement log shows that the number of press statements and radio interviews has increased year-on-year since March 2004. This is sound evidence that senior managers are taking effective steps to raise the profile of the CPS and Local Criminal Justice Board in the local media. According to the British Crime Survey, public confidence stood at 45.1% in September 2006 against a national average of 44.2%.

ANNEX A: AREA EFFECTIVENESS INSPECTION FRAMEWORK

Standards and Criteria

1 Pre-charge advice and decisions

Standard: *Pre-charge advice and decisions are of high quality; an effective pre-charge decision scheme has been fully implemented and resourced within the Area; and benefits are being realised.*

Criteria 1A: Pre-charge advice and decisions are of high quality, in accordance with the Director's Guidance, the Code, charging standards and policy guidelines.

Criteria 1B: Pre-charge decision-making operates effectively at police charging centres and is accurately documented and recorded.

Criteria 1C: The Area is realising the benefits of the charging scheme.

2 Case decision-making and handling to ensure successful outcomes in the magistrates' courts

Standard: *Magistrates' courts' cases are reviewed, prepared and managed to high standards so that the proportion of successful outcomes increases, and hearings are effective.*

Criteria 2A: Case decisions are of high quality and successful outcomes are increasing.

Criteria 2B: Cases progress at each court appearance.

Criteria 2C: The Area contributes effectively to reducing cracked and ineffective trials and increasing the proportion of effective trials.

Criteria 2D: The Area uses CMS to contribute to the effective management of cases.

3 Case decision-making and handling to ensure successful outcomes in the crown court

Standard: *Crown Court cases are continuously reviewed, prepared and managed to high standards, so that the proportion of successful outcomes increases, and hearings are effective.*

Criteria 3A: Case decisions are of high quality and successful outcomes are increasing.

Criteria 3B: Cases progress at each court appearance.

Criteria 3C: The Area contributes effectively to reducing cracked and ineffective trials, and increasing the proportion of effective trials.

Criteria 3D: The Area uses CMS to contribute to the effective management of cases.

4 Presenting and progressing cases at court

Standard: *Prosecution advocates ensure that every hearing is effective, and that cases are presented fairly, thoroughly and firmly, and defence cases are rigorously tested.*

Criteria 4A: Advocates are active at court in ensuring cases progress and hearings are effective.

Criteria 4B: The standard of advocacy is of high quality and in accordance with national standards.

5 Sensitive cases and hate crimes

Standard: *The Area makes high quality decisions and deals with specialised and sensitive cases, and hate crimes effectively.*

Criteria 5A: Area advice and decisions in specialised and sensitive cases, and hate crimes are of high quality, in accordance with the Code and policy guidance.

Criteria 5B: The Area identifies and manages sensitive cases effectively.

6 Disclosure

Standard: *The Area complies with the prosecution's duties of disclosure of unused material and disclosure is handled scrupulously.*

Criteria 6A: The Area's decision-making and handling of unused material complies with the prosecution's duties of disclosure.

7 Custody time limits

Standard: *In all cases, custody time limits are adhered to.*

Criteria 7A: Custody time limits are adhered to in all relevant cases.

Criteria 7B: Area custody time limit systems comply with current CPS guidance and case law.

8 The service to victims and witnesses

Standard: *The Area considers victims' and witnesses' needs throughout the entirety of the prosecution process and appropriate liaison, information and support is provided at the right time.*

Criteria 8A: The Area ensures timely and effective consideration and progression of victim and witness needs.

Criteria 8B: The Area, with its criminal justice partners, has implemented the "No Witness No Justice" scheme effectively.

9 Delivering change

Standard: *The Area plans effectively, and manages change, to ensure business is well delivered to meet CPS and CJS priorities.*

Criteria 9A: The Area has a clear sense of purpose supported by relevant plans.

Criteria 9B: A coherent and co-ordinated change management strategy exists.

Criteria 9C: Area staff have the skills, knowledge and competences to meet the business need.

10 Managing resources

Standard: *The Area allocates and manages resources to deliver effective performance and provide value for money.*

Criteria 10A: The Area seeks to achieve value for money, and operates within budget.

Criteria 10B: All Area staff are deployed efficiently.

11 Managing performance to improve

Standard: *The Area systematically monitors, analyses and reports on performance, and uses performance information to promote continuous improvement and inform future decisions.*

Criteria 11A: Managers are held accountable for performance.

Criteria 11B: The Area is committed to managing performance jointly with CJS partners.

Criteria 11C: Performance management arrangements enable a complete assessment of Area performance, and information is accurate, timely, concise and user-friendly.

Criteria 11D: Internal systems for improving/raising the quality of casework are robust and founded on reliable and accurate analysis.

12 Leadership

Standard: *The behaviour and actions of senior managers promote and inspire CPS staff and CJS partners to achieve Area and national objectives.*

Criteria 12A: The management team communicates the vision, values and direction of the Area well.

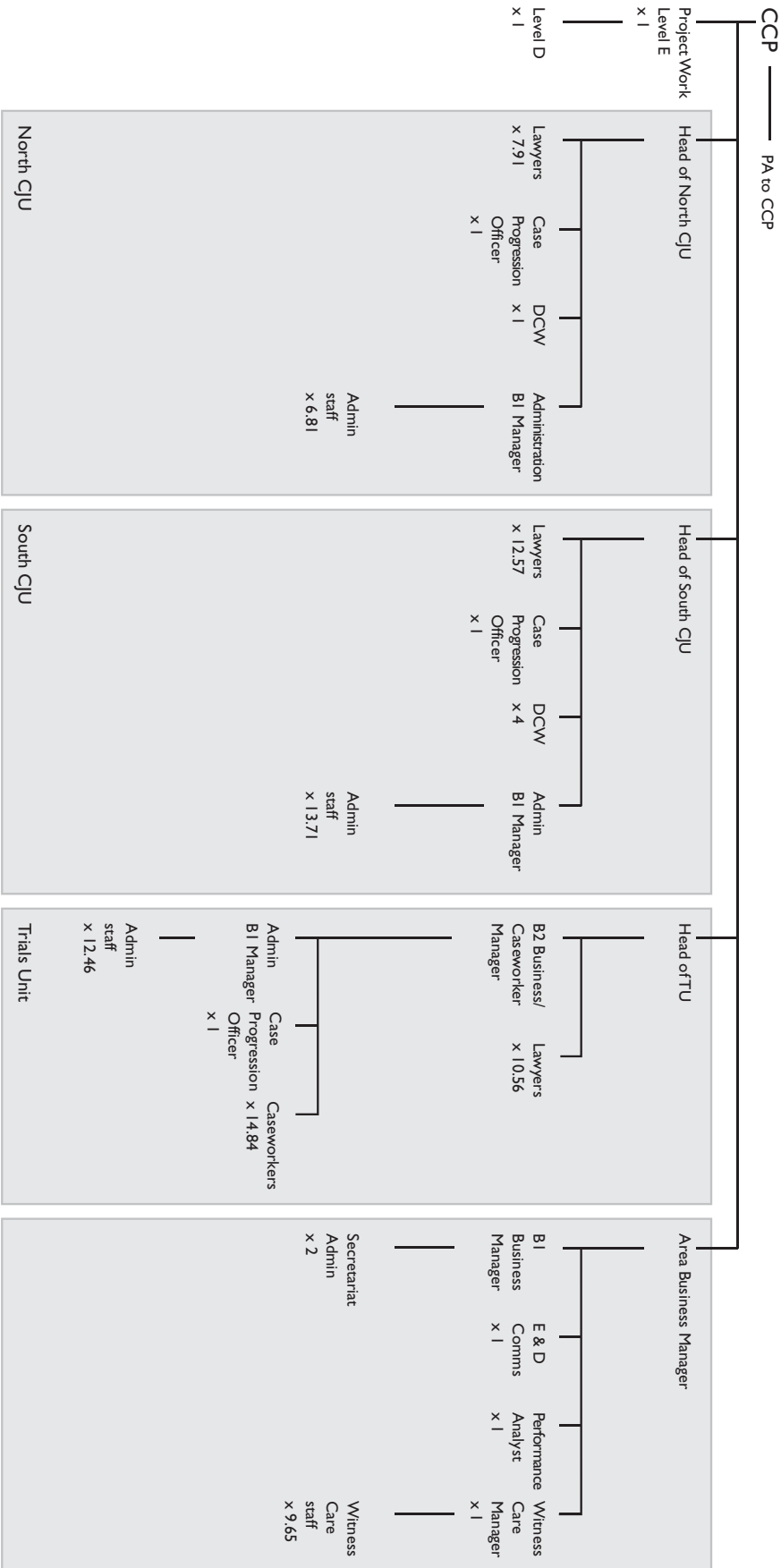
Criteria 12B: Senior managers act as role models for the ethics, values and aims of the Area and the CPS, and demonstrate a commitment to equality and diversity policies.

13 Securing community confidence

Standard: *The CPS is engaging positively and effectively with the communities it serves, and public confidence in the criminal justice system is improving.*

Criteria 13A: The Area is working pro-actively to secure the confidence of the community.

ANNEX B: ORGANISATION CHART



ANNEX C: CASEWORK PERFORMANCE DATA

Caseloads and outcomes for 12 months ending March 2007	DERBYSHIRE		NATIONAL	
	Number	Percentage	Number	Percentage
1. Magistrates' Court – Types of case				
Pre-charge decision	11,745	41.2	581,613	35.0
Advice	1	0.0	1,442	0.1
Summary	10,620	37.3	666,729	40.1
Either way and indictable	6,123	21.5	409,743	24.6
Other proceedings	0	0.0	3,873	0.2
Total	28,489	100	1,663,400	100
2. Magistrates' Courts – Completed cases				
Discontinuances and bindovers	1,526	9.7	107,245	10.8
Warrants	223	1.4	25,984	2.6
Dismissed no case to answer	46	0.3	2,280	0.2
Acquittals: after trial	396	2.5	18,569	1.9
Discharged	110	0.7	2,324	0.2
Total Unsuccessful Outcomes	2,301	14.7	156,402	15.7
Convictions	13,402	85.3	839,068	84.3
Total	15,703	100	995,471	100
Committed for trial in the Crown Court	1,262		91,699	
3. Magistrates' Courts – Case results				
Guilty pleas	10,124	73.1	643,925	74.9
Proofs in absence	2,346	16.9	150,135	17.5
Convictions after trial	932	6.7	45,009	5.2
Acquittals after trial	396	2.9	18,569	2.2
Acquittals: no case to answer	46	0.3	2,280	0.3
Total	13,844	100	859,918	100
4. Crown Court -Types of case				
Indictable only	503	23.1	35,570	28.9
Either way: defence election	45	2.1	5,421	4.4
Either way: magistrates' direction	842	38.7	48,230	39.2
Summary: appeals; committals for sentence	783	36.0	33,955	27.6
Total	2,173	100	123,176	100
5. Crown Court – Completed cases				
Judge ordered acquittals and bind overs	136	9.5	12,088	13.1
Warrants	16	1.1	1,186	1.3
Judge directed acquittals	14	1.0	1,314	1.4
Acquittals after trial	69	4.8	5,986	6.5
Total Unsuccessful Outcomes	235	16.5	20,574	22.3
Convictions	1,193	83.5	71,561	77.7
Total	1,428	100	92,135	100
6. Crown Court – Case results				
Guilty pleas	1,083	84.9	60,775	77.1
Convictions after trial	110	8.6	10,786	13.7
Acquittals after trial	69	5.4	5,986	7.6
Judge directed acquittals	14	1.1	1,314	1.7
Total	1,276	100	78,861	100

ANNEX D: RESOURCES AND CASELOADS

Area caseload/staffing CPS Derbyshire		
	April 2007	September 2002
Staff in post	109.6	94.4
Lawyers in post (excluding CCP)	34.0	30.7
Pre-charge decisions/advices per lawyer (excluding CCP)	325.9	N/A
DCWs in post	5.0	3.8
Magistrates' courts' cases per lawyer and DCW (excluding CCP)	408.0	684.0
Magistrates' courts' contested trials per lawyer (excluding CCP)	90.6	41.0
Committals for trial and "sent" cases per lawyer (excluding CCP)	46.3	53.0
Crown Court contested trials per lawyer (excluding CCP)	5.4	9.6
Level B1, B2, B3 caseworkers in post (excluding DCWs)	19.8	16.2
Committals for trial and "sent" cases per level B caseworker	84.2	73.7
Crown Court contested trials per level B caseworker	9.7	13.3
Level A1 and A2 staff in post	41.6	29.0
Cases per level A staff	558.3	869.8
Running costs (non-ring fenced)	£4,769,015	£3,781,262

NB: Caseload data represents an annual figure for each relevant member of staff. Crown Court cases are counted within the magistrates' courts' cases total. Where the advice is that proceedings should be instituted, that case will also be included as a summary/either way/indictable case in the statistics relating to the magistrates' courts or the Crown Court as appropriate.

Cases = magistrates' courts' cases excluding pre-charge decisions and advices.

ANNEX E: IMPLEMENTATION OF ASPECTS FOR IMPROVEMENT FROM REPORT PUBLISHED IN DECEMBER 2005

Aspects for improvement	Position in April 2007
<p data-bbox="188 499 1299 533"><i>IC The Area is able to demonstrate the benefits of its involvement in pre-charge decision-making.</i></p> <p data-bbox="261 555 751 1032">There is regular liaison with the police on the implementation and operation of the scheme but some persistent issues need further work to resolve. Resolution of these issues by the Area with the police would assist in the smooth migration to the statutory scheme. Despite the CPS having undertaken extensive training with the police, there remains a degree of misunderstanding on the part of some police officers as to the role of the CPS duty prosecutors, the police Investigation Support Officers and the appeals process.</p> <p data-bbox="261 1151 778 1294">More needs to be done to monitor cases on which further work is needed, and there are issues with the number of times suspects are bailed back to the police station.</p> <p data-bbox="261 1339 778 1554">The Area has not yet realised the benefits from PCD in the rate of discontinuances in the magistrates' courts. The rate, at 15.8%, is noticeably higher than the national target of 11%, although it is slightly better than the national average (16.3%).</p>	<p data-bbox="831 555 1369 1106">Substantial progress. The PTPM meetings provide an effective forum for joint working, analysis and training. Joint training and an increased understanding of each others' roles have also allowed mutual respect and understanding between the CPS and police to improve substantially since the OPA. However, the Area needs to ensure that its own business needs are considered when preparing any negotiation with the police. In particular, it should ensure that systems are put in place to reduce unnecessary pressure on duty prosecutors and allow them the freedom to add value to the statutory charging process.</p> <p data-bbox="831 1151 1350 1294">Limited progress. Monitoring of police compliance with MG3 action plans needs to be implemented. However, pre-charge bail management has tightened up significantly.</p> <p data-bbox="831 1339 1342 1630">Limited progress. The rate of magistrates' courts' discontinuance has improved from 15.8% in 2004-05 to 15.1% in 2006-07. This is almost identical to the improvement in performance nationally over that period, some Areas having achieved more and others less. The Area remains marginally better than the national average (0.7%).</p>

Aspects for improvement	Position in April 2007
<p data-bbox="228 293 821 331">2A <i>The Area ensures that cases progress at each court appearance.</i></p> <p data-bbox="300 349 821 943">There were two wasted cost orders made against the prosecution in the magistrates' courts during the relevant period which were specifically attributable to the conduct of the CPS and therefore recorded by it. However, CPS Derbyshire differs from most Areas in that there are arrangements in place for the police to pay wasted costs where the cause is attributable to them, and these are not then recorded as wasted costs by the Area. Direct comparison cannot therefore be made between Derbyshire and other CPS Areas; it would be necessary for that purpose to include all cases, irrespective of whether fault lay within the police service or the CPS.</p> <p data-bbox="300 983 821 1498">The PYO target is not being met and timeliness is not improving. For the relevant period, the Area's average was 79 days for finalisation of PYO cases, as against a target of 71 days and a national average of 67 days. Performance has deteriorated in this aspect since mid-2004. The misidentification of PYO cases is impacting on performance and the Area has now instituted measures to try to rectify this. It has also put forward evidence of double-counting in some PYO cases instigated since November 2004 which it believes will lead to a reduction in the published figure.</p>	<p data-bbox="868 349 1401 607">Limited progress. The Area now records wasted costs regardless of whether the police have agreed to pay the costs. However, they reported only one such order in their self assessment, whereas a report of a second was found in the sample of files sent to us for examination.</p> <p data-bbox="868 983 1401 1240">Limited progress. Timeliness for PYOs had slipped back to the national average of 72 days in the rolling quarter data to December 2006, although it has improved substantially to 58 days in the quarter to March 2007. Misidentification appears to be less of an issue than previously.</p>

Aspects for improvement	Position in April 2007
<p>2B <i>The Area contributes effectively to reducing cracked and ineffective trials.</i></p> <p>Whilst performance has improved since 2003-04, there is still work to be done on improving performance on the rate of cracked and ineffective trials. The rate for ineffective trials is 27.3% as against a target of 26.5% and national performance of 24.8%. Of these, 9.4% are ineffective due to the prosecution, whereas the national rate for this is 6.8%. Cracked trials account for 37.6%, which is 0.5% over the national rate. The Area has an ongoing issue with the accuracy of categorisation by the magistrates' courts, and is working to address this.</p>	<p>Limited progress. There has been slight improvement in the rate of ineffective trials in the magistrates' courts, but the Area's rate still falls below the national average. Issues with the accuracy of data have still not been resolved. We make a recommendation in the report at paragraph 4.42.</p>
<p>3A <i>The Area ensures that cases progress at each court appearance.</i></p> <p>Efforts are being made to review and prepare committal cases promptly, but cases have to be adjourned due to the prosecution not being ready and some are being discharged. In 2004-05, the committal was discharged in 42 cases in which the CPS made the pre-charge decision to proceed. That represents 5.6% of the national total (745). This is an issue that has been prevalent within the Area for some time and more work remains to be done, in conjunction with the police, to ensure prompt submission and preparation of these cases.</p>	<p>No progress. The rate of discharged committals is worse now than in 2004-05, and there has recently been an issue with data integrity. We make a recommendation at paragraph 4.21.</p>
<p>3B <i>The Area contributes effectively to reducing cracked and ineffective trials.</i></p> <p>Despite the work being done to analyse performance, the cracked and ineffective trials rate, whilst reducing, is not yet at target. The ineffective trial rate was 20.1% as against a target of 18.4% and national average of 15.8%. However, the rate for ineffectiveness due to the prosecution was only 0.5% over the national average. Cracked trials accounted for 45.1% of all trials in the Area, whereas the national rate was 39.2%. Of these, cracked due to the prosecution accounted for 18% as compared to the national average of 15.3%.</p>	<p>Substantial progress on ineffective trials. Although the rate for the Crown Court has yet to match national performance, the difference is now marginal after substantial improvements. Limited progress on cracked trials, which remain noticeably worse than nationally.</p>

	Aspects for improvement	Position in April 2007
4A	<p><i>The Area is working to increase the number of successful outcomes and reduce the level of attrition after proceedings have commenced.</i></p> <p>A check of the adverse case outcome forms indicates that in some instances, whilst the narrative accurately records where more could have been done to prevent an unsuccessful outcome, the box ticked on the form does not correspond and this impacts on the accuracy of the data gathered.</p>	<p>No progress. There are still issues regarding the robustness of adverse outcome analysis, and in Crown Court cases many of the forms do not indicate whether the CPS or police could have done more.</p>
5A	<p><i>The Area identifies and manages sensitive cases effectively.</i></p> <p>Flagging of racially aggravated cases on CMS is patchy; a reality check showed that four out of ten cases had not being flagged properly.</p> <p>The Area does not undertake an analysis of hate crimes in which a reduction or change of charge, or an agreed basis for plea, reduces or removes the 'hate element' from the offence. In such cases, the Unit Head is consulted before the decision is the taken, but there is no formal analysis carried out, for example, of the racial incident monitoring forms.</p>	<p>Limited progress. In the file sample, four out of 12 racially or religiously aggravated cases were not correctly flagged. However, the flagging for some other categories of sensitive cases, such as domestic violence, is much better.</p> <p>No progress. There is still no analysis done of the racial incident monitoring forms. Unit reports do not routinely report reasons for failed cases or any lessons to be learned.</p>
6A	<p><i>Area custody time limit systems comply with current CPS guidance and case law.</i></p> <p>The Area had two CTL failures in the last financial year. Neither appears to be based on any systemic failing, rather on a lack of adherence to the system, or attention in the individual cases. It needs to ensure that such failures do not recur.</p> <p>The reality check indicates generally good practice, but there is an issue in two of the three units with failure to endorse the file jacket and CTL diary to show that the necessary daily checks have been carried out. The weekly checks are evidenced on all units.</p>	<p>Limited progress. A failure occurred in January 2007 which was due to a failure to follow the system in place.</p> <p>Limited progress. Files are generally properly endorsed but there are exceptions. Similarly, the CTL diaries are always checked weekly but they not always daily.</p>

Aspects for improvement	Position in April 2007
<p data-bbox="188 293 794 331">7A <i>The Area takes steps to ensure that there is compliance with the prosecution's duties of disclosure.</i></p> <p data-bbox="261 349 794 680">Although some work has been undertaken to improve performance, issues still remain with endorsements of schedules and a recent review of one unit by the CCP revealed that performance still had some way to go in this regard. Most of the files seen on-site had no disclosure record sheet or systematic separation of correspondence relating to disclosure from other items on the file.</p> <p data-bbox="261 721 794 1339">Some work has been undertaken with the police, but this has not been systematic and the Area is not able to show any improvement in performance flowing from this initiative. There are a number of cases where disclosure issues, particularly late supply of unused material by the police, has led to a trial being ineffective (1.6% of ineffective trials in the magistrates' courts compared to 1.04% nationally and 0.3% compared to 0.4% in the Crown Court). More needs to be done to address joint performance. Efforts have been made to arrange joint training, but the police have not yet been able to commit to a specific training programme.</p>	<p data-bbox="801 349 1361 645">Limited progress. The disclosure record sheet is generally on file and at least partially completed. Unused material is kept separately on file and sensitive material is kept securely. Quality issues remain in relation to initial disclosure in the CJUs, and continuing and sensitive disclosure in all units.</p> <p data-bbox="801 721 1361 831">No progress. There is some evidence that cursory joint training has taken place with the police, but it has not been systematic.</p>
<p data-bbox="188 1350 794 1429">8A <i>The needs of victims and witnesses are fully considered and there is timely and appropriate liaison, information and support throughout the prosecution process.</i></p> <p data-bbox="261 1469 794 1800">Although the Area's form MP2 embodies a checklist which should prompt staff to consider making timely applications for special measures, there is no specific monitoring to ensure that this in fact happens in all appropriate cases, although any issues may be identified through the general application of the casework quality assurance scheme.</p>	<p data-bbox="801 1469 1361 1839">Limited progress. Although the Area has undertaken some training with WCU staff and lawyers to raise awareness of needs assessments and special measures, the Area themselves confirm that they are still only receiving around 50% of needs assessments/ MGI I completion. Where documentation is obtained some of this is still limited and lacks detail. No specific monitoring system has been put in place.</p>

Aspects for improvement	Position in April 2007
<p>The general quality of DCV letters is good but compliance with the scheme is not consistent. Comparison with the Headquarters' proxy target suggests that the Area is only identifying 62% of qualifying cases. Compliance is now monitored and reported in monthly performance reports and remedial action has been implemented, for example, some staff have been given an objective to ensure that all such cases are passed to the DCV monitor. If any case is found not to have been identified in the TU managers go through what happened with those involved to seek an explanation and bring home the importance.</p>	<p>Limited progress. The Area is achieving 70.2% of the proxy target number of letters (rolling quarter ending November 2006). However it is still below the national average of 77.4%.</p>
<p>The 2004-05 performance for magistrates' courts' ineffective trials, at 27.3%, was not as good as the national average (24.8%); the ineffective trial rate at magistrates' courts due to prosecution witness absence was also not as good as the national average at 5.9% (compared to 4.5%). At the Crown Court, both the ineffective trial rate, at 20.1% compared with 15.8%, and the ineffective trial rate due to prosecution witness absence at 3.9% (3.7%) were also not as good as the national averages.</p>	<p>Substantial progress. At magistrates' courts non-attendance of witnesses causing ineffective trials was, at 3.4% in quarter ending December 2006, only slightly above the national rate of 3.2%. At Crown Court non-attendance of witnesses causing ineffective trials stands at 2.7% in the quarter ending December 2006, again slightly above the national rate of 2.3%.</p>
<p>The treatment of witnesses has a direct impact on the success or otherwise of prosecutions. Average waiting times at court for witnesses in Derbyshire are increasing. Whilst this is an issue largely controlled by the courts, the CPS should be looking to exert greater influence over listing patterns. The average for those attending the magistrates' courts was significantly better than the national comparator in June 2004 (48 minutes compared to 86) but increased to 88 minutes in November 2004, which was the same as the national average at the time. Witness waiting time in the Crown Court in June 2004 was on average 147 minutes (compared to 145 nationally) but by November 2004 had risen to 180 minutes (compared to 151).</p>	<p>Substantial progress. Average waiting times have reduced and are less than the national performance. In the Crown Court, for the month ending November 2006 it was 113 minutes compared with national figure of 139. There is no data for the magistrates' courts for November 2006, the most recent is for June 2006 which indicated 72 minutes waiting time against a national figure of 94. Both are significantly lower than the OPA figures and also better than the national figures, however there is still scope for further improvement.</p>

Aspects for improvement	Position in April 2007
<p data-bbox="181 293 794 365">9A <i>The Area ensures that prosecution advocates and staff attend court promptly, are professional, well prepared and contribute to effective case progression.</i></p> <p data-bbox="260 405 794 775">The commitments of in-house lawyers and the working practices of some agents mean that preparation time is occasionally limited. It was a concern at the time of the last inspection that papers were not being provided promptly to prosecutors, affecting their ability to prepare properly. The Area has addressed this by attempting to ensure that key information is available three days in advance of hearings.</p> <p data-bbox="260 815 794 1032">Although the quality of instructions to counsel is generally good, there are delays in providing them and performance is not as good as the national average. There was timely delivery of 62.5% of briefs compared to the national figure of 85%.</p>	<p data-bbox="826 405 1359 701">Limited progress. Lack of timely case preparation is significantly hampering case progression and preparedness for court, and agents rarely receive their papers three days in advance. The only exception was during the time when blitz courts were running, when efforts were made to get papers to agents in advance.</p>
<p data-bbox="181 1066 794 1115">11B <i>The Area has ensured that all staff are deployed efficiently.</i></p> <p data-bbox="260 1133 794 1906">We have noted earlier that there is scope for improvement in respect of important aspects of case handling. In the circumstances that were facing CPS Derbyshire there was scope for increasing expenditure on agents to allow in-house staff more time in the office to improve performance. Factors suggesting that this would have been beneficial are: the Area caseload increased during 2004-05 and its staffing levels fell by 15.2%; agent usage was only slightly above the national average (30.7% compared to 28.9%); the Area was significantly underspent at the end of the financial year; lawyers averaged 6.83 court and charging sessions per week and, therefore, typically spend three half-day sessions in the office. The Area itself does not believe that suitable agents or courts suitable for agent coverage would have been available to enable it to increase agent coverage.</p>	<p data-bbox="826 1133 1359 1350">No longer applicable. Agent usage was increased and the Area was the highest user in 2006. This did not resolve the issues of task coverage, which have been outlined throughout this inspection. This AFI is no longer applicable.</p>

Aspects for improvement	Position in April 2007
<p>Average sick absence is high at 13.9 days per member of staff over the year 2004-05, compared to 8.7 days nationally. The average has increased in recent years, from 8.3 days in 2001-02 and 12.5 in 2003-04. There have been long term sickness cases which have significantly increased the average absence rate. The ABM has sought advice from CPS Headquarters and remedial action has been taken, which is beginning to have a positive impact.</p>	<p>No progress. The Area is still at 13.9 days sickness for 2006 and it therefore appears that no progress has been made to date, although the ABM now provides some limited data and analysis to managers and this may trigger an improvement in performance. However, there seems to be a significant lack of understanding on managing sickness issues.</p>
<p><i>12D Internal systems for ensuring the quality of casework are robust and founded on reliable and accurate analysis.</i></p> <p>CQA returns indicate that there has been very little examination of whether secondary disclosure is handled properly, despite this having been identified as a clear weakness in the last inspection. This is an aspect of performance that requires regular, locally-focused quality assurance analysis.</p>	<p>Limited progress. Monitoring is undertaken and CQA completed, however in 21 out of 43 cases examined (48.8%) for this inspection, secondary disclosure/the continuing duty of disclosure was not properly complied with.</p>
<p><i>14A The Area is working pro-actively to secure the confidence of the community.</i></p> <p>The Area has had limited success in engaging with local minority ethnic communities despite having made a number of approaches. The position has improved recently, however, and the LCJB has commissioned a consultant with the aim of achieving a holistic approach across all agencies.</p>	<p>No progress. Although the Area has made efforts to engage with Derby Racial Equality Council these have been unsuccessful. Further attempts might be beneficial following a change in management personal there.</p>

ANNEX F: TOTAL NUMBER OF FILES EXAMINED FOR CPS DERBYSHIRE

	Number of files examined
Magistrates' courts' cases	
Pre-charge advice/decision	9
No case to answer	5
Trials	18
Youth trials	5
Discontinued cases	8
Discharged committals	5
Race crime	9
Domestic violence cases	5
Fatal road traffic offences	1
Cases subject to custody time limits	5
Crown Court cases	
Discontinued (sent cases dropped before service of case papers)	5
Judge ordered acquittals	11
Judge directed acquittals	5
Trials	17
Child abuse cases	6
Race crime	4
Homicide	4
Rape cases	6
Cases subject to custody time limits	0
TOTAL	128

ANNEX G: LOCAL REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES AND ORGANISATIONS WHO ASSISTED IN OUR INSPECTION

Crown Court

His Honour Judge Wait

Mr M Swales, Area Director Derbyshire and Nottinghamshire, HM Courts Service

Mr P Ashcroft, Head of Operations Derbyshire, HM Courts Service

Ms I Syred, Court Manager

Ms R Woodward, Listing Manager

Ms S Parish, Case Progression Officer

Magistrates' Courts

District Judge Alderson

District Judge Friel

District Judge Goulborn

Mrs K Heap JP, Chair of Bench for Southern Derbyshire

Mr R Freestone JP, Chair of Bench for North East Derbyshire and Dales

Mr K Knights JP, Chair of North East Derbyshire and Dales Youth Panel

Mr N Hallam, Clerk to the Justices, Southern Derbyshire Magistrates' Court

Mrs A Watts, Director of Legal Services and Joint Justices' Clerk

Police

Mr D Coleman, Chief Constable

Chief Superintendent R Flint

Chief Superintendent J Russell

Detective Chief Inspector T Branson

Chief Inspector (Operations) A Palmer

Inspector M Pickard

Inspector R Martin

Ms S Bradley, Performance Manager Local Criminal Justice Board

Ms S Cox, Witness Care Manager

Ms A Glossop, Area Manager Criminal Justice Unit

Ms J Sharpe, Area Manager Derbyshire Constabulary

Ms S Webb, Criminal Justice Manager Derbyshire Constabulary

Witness Service

Mr K Nicholson, Witness Services Manager Southern Derbyshire

Victim Support

Ms L Cross, Area Director Victim Support

Community Groups

Mrs J Bowman, Manager of Derbyshire Rape Crisis

Mr K Mistry, Executive Director Derby Racial Equality Council

Mr B Sandhu, Chair Derby Racial Equality Council

Mr U Saunders, Chair North East Derbyshire Racial Harassment Consultative Group

Members of Parliament

Members of Parliament with constituencies in Amber Valley, Bolsover, Chesterfield, Derby North, Derby South, Erewash, High Peak, North East Derbyshire, South Derbyshire and West Derbyshire were invited to contribute.

ANNEX H: HMCPSI VISION, MISSION AND VALUES

Vision

HMCPSI's purpose is to promote continuous improvement in the efficiency, effectiveness and fairness of the prosecution services within a joined-up criminal justice system through a process of inspection and evaluation; the provision of advice; and the identification of good practice. In order to achieve this we want to be an organisation which:

- performs to the highest possible standards;
- inspires pride;
- commands respect;
- works in partnership with other criminal justice inspectorates and agencies but without compromising its robust independence;
- values all its staff; and
- seeks continuous improvement.

Mission

HMCPSI strives to achieve excellence in all aspects of its activities and in particular to provide customers and stakeholders with consistent and professional inspection and evaluation processes together with advice and guidance, all measured against recognised quality standards and defined performance levels.

Values

We endeavour to be true to our values, as defined below, in all that we do:

- | | |
|------------------------|---|
| consistency | Adopting the same principles and core procedures for each inspection, and apply the same standards and criteria to the evidence we collect. |
| thoroughness | Ensuring that our decisions and findings are based on information that has been thoroughly researched and verified, with an appropriate audit trail. |
| integrity | Demonstrating integrity in all that we do through the application of our other values. |
| professionalism | Demonstrating the highest standards of professional competence, courtesy and consideration in all our behaviours. |
| objectivity | Approaching every inspection with an open mind. We will not allow personal opinions to influence our findings. We will report things as we find them. |

Taken together, these mean:

We demonstrate integrity, objectivity and professionalism at all times and in all aspects of our work and that our findings are based on information that has been thoroughly researched, verified and evaluated according to consistent standards and criteria.

ANNEX I: GLOSSARY

Adverse Case

A *NCTA*, *JOA*, *JDA* (see separate definitions) or one where magistrates decide there is insufficient evidence for an *either way* case to be committed to the Crown Court.

Agent

Solicitor or barrister not directly employed by the CPS who is instructed by them, usually on a sessional basis, to represent the prosecution in the magistrates' court.

Area Business Manager (ABM)

Senior business manager responsible for finance, personnel, business planning and other operational matters.

Area Management Team (AMT)

The senior legal and non-legal managers of an Area.

Aspect for improvement

A significant weakness relevant to an important aspect of performance (sometimes including the steps necessary to address this).

Compass CMS

IT system for case tracking and case management used by the CPS. Compass is the new comprehensive system used in all Areas.

Caseworker

A member of CPS staff who deals with, or manages, day-to-day conduct of a prosecution case under the supervision of a Crown Prosecutor and, in the Crown Court, attends court to assist the advocate.

Charging Scheme

The Criminal Justice Act 2003 took forward the recommendations of Lord Justice Auld in his Review of the Criminal Courts, so that the CPS will determine the decision to charge offenders in the more serious cases. Shadow charging arrangements were put in place in Areas; and the statutory scheme had a phased roll-out across priority Areas and subsequently all 42 Areas, the last being in April 2006.

Chief Crown Prosecutor (CCP)

One of 42 chief officers heading the local CPS in each Area, is a barrister or solicitor. Has a degree of autonomy but is accountable to the Director of Public Prosecutions for the performance of the Area.

Code for Crown Prosecutors (the Code)

The public document that sets out the framework for prosecution decision-making. Crown Prosecutors have the DPP's power to determine cases delegated, but must exercise them in accordance with the Code and its two tests – the evidential test and the public interest test. Cases should only proceed if, firstly, there is sufficient evidence to provide a realistic prospect of conviction and, secondly, if the prosecution is required in the public interest (see also "Threshold test").

Co-location

CPS and police staff working together in a single operational unit (*TU* or *CJU*), whether in CPS or police premises – one of the recommendations of the *Glidewell* report.

Committal

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

Court Session

There are two sessions each day in the magistrates' courts, morning and afternoon.

CPS Direct

This is a scheme to supplement the advice given in Areas to the police and the decision-making as to charge under the charging scheme. Lawyers are available on a single national telephone number out of normal office hours so that advice can be obtained at any time. It is available to all Areas.

Cracked trial

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

Criminal Case Management Framework

The Framework provides practitioners with a consistent guide to their own, and their partners' roles and responsibilities, together with operational guidance on case management.

Criminal Justice Unit (CJU)

Operational unit of the CPS that handles the preparation and presentation of magistrates' courts' prosecutions. The *Glidewell* report recommended that police and CPS staff should be located together and work closely to gain efficiency and higher standards of communication and case preparation. (In some Areas the police administration support unit is called a CJU.)

Custody time limits (CTLs)

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

Designated caseworker (DCW)

A senior *caseworker* who is trained to present straightforward cases on pleas of guilty, or to prove them where the defendant does not attend the magistrates' court. Their remit is being expanded.

Direct Communication with Victims (DCV)

The CPS writes directly to a victim of crime if a case is dropped or the charges reduced in all seriousness. In some instances a meeting will be offered to explain this.

Disclosure, *Initial and continuing*

The prosecution has a duty to disclose to the defence material gathered during the investigation of a criminal offence, which is not intended to be used as evidence against the defendant, but which may be relevant to an issue in the case. Initial disclosure is given where an item may undermine the prosecution case or assist the defence case. In the magistrates' courts

the defence may serve a defence statement and this must be done in the Crown Court. The prosecution has a continuing duty of disclosure in the light of this and developments in the trials. (Duties of primary and secondary disclosure apply to cases investigated before 4 April 2005.)

Discontinuance

The dropping of a case by the CPS in the magistrates' court, whether by written notice, withdrawal, or offer of no evidence at court.

Early Administrative Hearing (EAH)

Under *Narey* procedures, one of the two classes into which all *summary* and *either way* cases are divided. EAHs are for cases where a not guilty plea is anticipated.

Early First Hearing (EFH)

Under *Narey* one of the two classes into which all *summary* and *either way* cases are divided. EFHs are for straightforward cases where a guilty plea is anticipated.

Effective Trial Management Programme (ETMP)

This initiative, involving all criminal justice agencies working together, aims to reduce the number of ineffective trials by improving case preparation and progression from the point of charge through to the conclusion of a case.

Either way offences

Those triable in either the magistrates' court or the Crown Court, e.g. theft.

Evidential test

The initial test under *the Code* – is there sufficient evidence to provide a realistic prospect of conviction on the evidence?

Glidewell

A far-reaching review of CPS operations and policy dating from 1998 which made important restructuring recommendations e.g. the split into 42 local Areas and the further split into functional units - *CJUs* and *TUs*.

Good practice

An aspect of performance upon which the Inspectorate not only comments favourably, but considers that it reflects a manner of handling work developed by an Area which, with appropriate adaptations to local needs, might warrant being commended as national practice.

Higher Court Advocate (HCA)

In this context, a lawyer employed by the CPS who has a right of audience in the Crown Court.

Joint performance monitoring (JPM)

A management system which collects and analyses information about aspects of activity undertaken by the police and the CPS, aimed at securing improvements in performance. Now used more often generically to relate to wider aspects of performance involving two or more criminal justice agencies.

Indictable only offences

Offences triable only in the Crown Court, e.g. murder, rape, robbery.

Ineffective trial

A case listed for a contested trial that is unable to proceed when it was scheduled to start, for a variety of possible reasons, and is adjourned to a later date.

Judge directed acquittal (JDA)

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

Judge ordered acquittal (JOA)

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

Level A, B, C, D, E staff

CPS grades below the Senior Civil Service, from A (administrative staff) to E (senior lawyers or administrators).

Local Criminal Justice Board

The Chief Officers of police, probation, the courts, and the CPS, a local prison governor and the Youth Offending Team manager in each criminal justice area who are accountable to the National Criminal Justice Board for the delivery of PSA targets.

MG6C, MG6D etc

Forms completed by police relating to unused material. MG is the national Manual of Guidance used by police and the CPS.

Narey courts, reviews etc

A reformed procedure for handling cases in the magistrates' court, designed to produce greater speed and efficiency.

Narrowing the Justice Gap (NTJG)

It is a Government Criminal Justice Public Service Agreement target to increase the number of offences for which an offender is brought to justice; that is offences which result in a conviction, a caution or which are taken into consideration when an offender is sentenced for another matter, a fixed penalty notice, or a formal warning for possession of drugs. The difference between these offences and the overall number of recorded offences is known as the justice gap.

No Case to Answer (NCTA)

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

“No Witness no Justice” (NWNJ):Victim and Witness care project

This is a project to improve witness care: to give them support and the information that they need from the inception of an incident through to the conclusion of a criminal prosecution. It is a partnership of the CPS and the Association of Chief Police Officers (ACPO) and also involves Victim Support and the Witness Service. Jointly staffed Witness Care Units were introduced into all CPS Areas by December 2005.

Persistent young offender

A youth previously sentenced on at least three occasions.

Pre-trial review

A hearing in the magistrates' court designed to define the issues for trial and deal with any other outstanding pre-trial issues.

Proceeds of Crime Act 2002 (POCA)

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

Prosecution Team Performance Management

Joint analysis of performance by the CPS and police that has largely replaced the system of *JPM*.

Public Interest test

The second test under *the Code* - is it in the public interest to prosecute this defendant on this charge?

Public Service Agreement (PSA) targets

Targets set by the Government for the criminal justice system (CJS), relating to bringing offenders to justice, reducing ineffective trials and raising public confidence in the CJS.

Recommendation

This is normally directed towards an individual or body and sets out steps necessary to address a significant weakness relevant to an important aspect of performance (i.e. an aspect for improvement) that, in the view of the Inspectorate, should attract highest priority.

Review: initial, continuing, summary trial etc

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

Section 9 Criminal Justice Act 1967

A procedure for serving statements of witnesses so that the evidence can be read, rather than the witness attend in person.

Section 51 Crime and Disorder Act 1998

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

Sensitive material

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

Specified proceedings

Minor offences which are dealt with by the police and the magistrates' courts and do not require review or prosecution by the CPS, unless a not guilty plea is entered.

Strengths

Work undertaken properly to appropriate professional standards i.e. consistently good work.

Summary offences

Those triable only in the magistrates' courts, e.g. most motoring offences, common assault etc.

Threshold test


The Code for Crown Prosecutors provides that where it is not appropriate to release a defendant on bail after charge, but the evidence to apply the full *Code* test is not yet available, the Threshold Test should be applied. There must be at least a reasonable suspicion that the suspect has committed an offence, and it is in the public interest to charge the suspect, to meet the test. A number of factors, including the likelihood and nature of further evidence to be obtained must be considered.

TQI

A monitoring form on which both the police and the CPS assess the timeliness and quality of the police file as part of *joint performance monitoring* (largely superseded by *PTPM*).

Trial Unit (TU)

Operational unit of the CPS which prepares cases for the Crown Court.



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