

CPS HERTFORDSHIRE

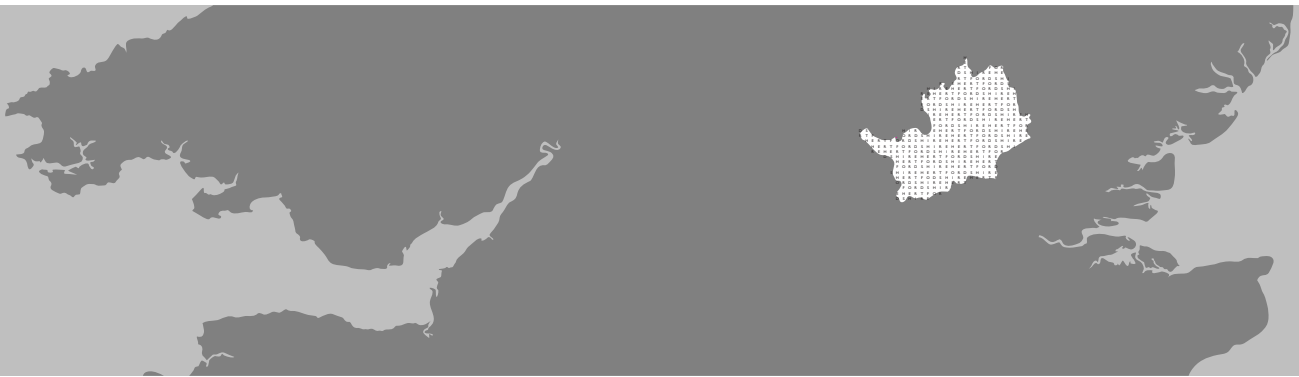
THE INSPECTORATE'S REPORT ON
CPS HERTFORDSHIRE

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

St Albans

Other Offices

Hertford, Watford

Magistrates' Courts

Dacorum, Hertford, St Albans, Stevenage, Watford

Crown Court

St Albans, Luton

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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 (HMCPIS) report about CPS Hertfordshire (the Area) which serves the area covered by the Hertfordshire Constabulary. It has three offices, at St Albans, Hertford and Watford. The Area Headquarters (Secretariat) is based at the St Albans office.
- I.2 Area business is divided on functional lines between magistrates' courts and Crown Court work. The three Criminal Justice Units (CJUs) are responsible for the conduct of all cases dealt with in the magistrates' courts. CJU Central is based at St Albans and covers the magistrates' courts' cases there. CJU East is based at Hertford and covers cases at Hertford and Stevenage Magistrates' Courts, and CJU West is based at Watford and covers the Watford and Dacorum Magistrates' Courts. The Crown Court Unit (CCU) reviews and handles cases dealt with in the Crown Court and is also based at St Albans.
- I.3 At the time of the inspection in February 2007, the Area employed the equivalent of 109.3 full-time staff. The Area Secretariat comprises the Chief Crown Prosecutor (CCP), Area Business Manager (ABM) and the full-time equivalent of 7.6 other staff. Details of staffing of the other units is set out below:

Grade	Crown Court Unit	CJU East (Hertford)	CJU Central (St Albans)	CJU West (Watford)
Level E	2	-	-	-
Level D	-	1	1	1
Level C lawyers	13.2	10.8	6	8.2
Designated caseworkers	-	3	2	2.8
B2 legal trainees	1	1	-	-
Level B3 and B2 caseworkers	1	-	-	-
Level B1 caseworkers/managers	12.6	1	1	1
Level A caseworkers/admin (inc those assigned to Witness Care Units)	18.3	2.8	5	4
TOTAL	48.1	19.6	15	17

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

1.5 Details of the Area's caseload for the 12 months to December 2006 are as follows:

Category	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge decisions	8,061	29.9	34.3
Advice	11	0.0	0.1
Summary	12,173	45.1	40.6
Either way and indictable only	6,668	24.7	24.8
Other proceedings	59	0.2	0.2
TOTAL	26,972	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 5,159 of the 8,061 pre-charge decisions (64%) the decision was that there should be a prosecution. 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 12 months to December 2006 were:

Crown Court cases	Area numbers	Area % of total caseload	National % of total caseload
Indictable only	543	30	28.6
Either way offences	768	42.5	43.1
Appeals against conviction or sentence	271	15	10.8
Committals for sentence	226	12.5	17.5
TOTAL	1,808	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 at Annex D. These identify the continuing increases in budget provided to Hertfordshire to drive up performance and deliver new initiatives. It has benefited from an increase of 20% in its budget since our last inspection (in September 2004) from £4,055,850 to £4,869,330. Overall staff numbers have increased from 88.6 to 109.3, and the number of lawyers in post has increased from 35.2 to 41.2. Numbers of defendants prosecuted in the courts per year has fallen over the period from 21,795 to 18,900. This has resulted in a decrease in the number of magistrates' courts' cases per lawyer from 585.9 to 385.7 and a decrease in the number of committals or "sent" cases per lawyer from 38.4 to 38. However, the number of contested magistrates' courts' cases has risen from 29.9 to 45.7 per lawyer.

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 Hertfordshire, undertaken in November 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 custody time limits, the service to victims and witnesses, delivering change, leadership, and securing community confidence.
- I.12 Our OPA report identified a total of 31 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 122 cases finalised between August-October 2006 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 Hertfordshire between 5-16 February 2007. The lay inspector for this inspection was Tony Summers, who was nominated by the Citizens Advice Bureau. 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. 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, which are based upon our Inspection Framework, 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 Hertfordshire is a medium sized CPS Area. The county comprises a mix of both urban and rural communities. The annual caseload of prosecutions in court has fallen from 21,795 in September 2004 to 18,900 in December 2006, whilst staffing numbers have increased significantly. The Area has utilised cost savings and extra funding to increase its lawyer complement and investment has been made in recruiting members of the Bar to be full time in-house Higher Court Advocates (HCAs).
- 2.3 Hertfordshire was assessed as "Fair" in the overall performance assessment (OPA) in March 2006. It has made progress since then, most notably in the handling of unused material and in the development of its performance management regime to assess progress against targets. Case outcomes have improved, but remain less good than national averages.
- 2.4 The quality of decision-making and case preparation is mixed, but generally better in the Crown Court than in the magistrates' courts, particularly in handling sensitive and 'hate' crimes. A more robust approach is required at the pre-charge stage, which should be followed by more timely case preparation once a trial date has been set. Monitoring and quality assurance of casework needs to be firmly embedded to drive up standards and deliver consistently good levels of service across the Area.
- 2.5 Casework performance in both the Crown Court and magistrates' courts has been assessed on a file sample that is significantly older than one would usually expect. This is due to the significant delays in cases coming to trial. These delays are having a negative impact on the Area's performance, are hampering witness care, and are contributing to cases taking longer to conclude than in other CPS Areas. Further work is required to engage with criminal justice partners to address this issue constructively.
- 2.6 Hertfordshire was a 'pathfinder' site for the enhancement of the role of HCAs in 2004-05, and has continued to place a heavy emphasis on delivering a high standard of advocacy in the Crown Court.
- 2.7 Morale amongst staff was generally high and we were impressed by their commitment. Care needs to be taken to assess and compare workloads and to balance resources between units.

Pre-charge advice and decisions

- 2.8 Since moving to the statutory charging scheme in November 2005 some progress has been made. The quality of decision-making in pre-charge cases is variable. The choice of charge is not always appropriate, and decisions to charge are sometimes premature or, conversely, deferred unnecessarily. Issues are not always identified and addressed. The 'prosecution team' ethos is developing but needs to be extended to sensitive and complex cases advised upon in the office. The benefits of statutory charging are not yet being realised and only two of the six national benefits realisation targets have been met.

Casework in the magistrates' courts

- 2.9 The quality of decision-making in magistrates' courts' cases is inconsistent and needs to be more thorough. Summary trial reviews often merely endorse the pre-charge decision without addressing outstanding issues or obvious weaknesses. Case preparation is not always sound in spite of the long average period between the date of fixing the trial and the trial itself. This is contributing to the high levels of not guilty pleas. The overall conviction rate is 82.9%.
- 2.10 The significant trial backlogs are having a negative impact on performance, and the Area is performing worse than the national average on effective and ineffective trials. The rate of ineffective trials is 24.7% compared to 19.6% nationally. The number of discharged committals remains high. The average time taken to deal with persistent young offenders from arrest to sentence was significantly outside the 71 day target, at 102 days, in the three month period to December 2006, but has improved to 73 days in the three months to February 2007.

Casework in the Crown Court

- 2.11 The quality of review and decision-making in the Crown Court is generally good, with sensitive or complex cases usually allocated to specialists. The rate of convictions has improved to 71.1%, but is not as good as the national average of 77.3%, largely because of the comparatively high proportion of cases that the CPS drop. Monitoring and analysis of unsuccessful cases takes place with criminal justice partners. Instructions to counsel are poor, with only limited case analysis and consideration of alternative pleas, and are sometimes delivered late.
- 2.12 There are effective systems for case progression but orders are often not complied with on time. There is not enough court capacity, and delay in cases coming to trial is a feature, with cases being transferred out of county to address this. Both issues can cause problems for victims and witnesses. Nevertheless, the rate of effective trials is good, although the ineffective trial rate of 14.8% is slightly worse than the national average of 12.5%.

Presenting and progressing cases at court

- 2.13 The standard of advocates observed in the magistrates' courts was mostly good and in the Crown Court it was good. There is a strong emphasis on HCA deployment and the range of work covered by them is increasing. The skills of the designated caseworkers (DCWs) and HCAs were recognised and valued by court users. There is more effective monitoring of advocates in the Crown Court than the magistrates' courts.

Sensitive cases and hate crime

- 2.14 Most sensitive cases are handled and prioritised appropriately and the quality of decision-making is good. Outcomes are improving and, although the Area has not met the national target for successful outcomes in hate crimes, the local target has been met.
- 2.15 Champions and specialists have been appointed for all categories of sensitive cases, but they do not undertake any specific monitoring or analysis of sensitive or hate crimes on a case-by-case basis. Cases are correctly flagged on the case management system (CMS) to assist in prioritisation.

Disclosure of unused material

- 2.16 There has been a significant improvement in the way the Area handles unused material, particularly in the Crown Court Unit where it is filed separately and the disclosure record is now routinely used, nevertheless, schedules do not always contain a detailed record of disclosure decisions. Further improvements to file management are required in the magistrates' courts' units. There is a Disclosure Champion and a comprehensive training programme has been established.

Custody time limits

- 2.17 This topic was not inspected fully; in the OPA (in March 2005) it was assessed as "Fair". There is a customised custody time limit (CTL) system which has been updated this year and all staff have been given refresher training. The lack of court availability in the Crown Court and long delays in fixing trial dates means there is a substantial risk that applications to extend custody time limits will not be granted in Hertfordshire, particularly in the Crown Court.

The service to victims and witnesses

- 2.18 At the time of the OPA the service to victims and witnesses was rated as "Good". Since then the No Witness No Justice initiative has been fully embedded. Communications to victims and witnesses are timely and performance on Direct Communication with Victims (DCV) has improved and is now well above the national average.

Delivering change

- 2.19 This topic was not inspected fully, and at the time of the OPA was rated "Fair". The Area has a clear sense of what it wants to achieve and has linked CPS targets to local objectives in its business planning. The OPA aspect for improvement on new staff induction has been implemented.

Managing resources

- 2.20 Area budgets are centrally managed by the Secretariat, with limited devolution of responsibility to units on agent usage. In 2006-07, the Area came slightly under budget for non-ring fenced administrative costs with an outturn of 99.73%. Prosecution costs have reduced significantly in comparison with previous years, and Graduated Fee Scheme (GFS) payments are prompt. Effective deployment of lawyers varies across the units. DCW and HCA usage continues to increase, however; high levels of ineffective trials have the potential to erode any savings made. The criminal justice agencies have had limited success in clearing backlogs of trials at magistrates' courts and in the Crown Court through arranging additional courts and the transfer of trials out of the Area.

Managing performance to improve

- 2.21 Performance management systems have improved since the OPA and clear, comparative performance reports on each unit are produced. Performance narrative is less consistent and trends are not easy to follow on the monthly presentations used. There is some evidence of the effective use of performance management and operational effectiveness reviews by staff and managers, such as in attaining improved performance against Area targets for DCV. However, more remains to be done to improve case outcomes. Meetings take place with criminal justice partners at various levels, but the effectiveness of partnership with the courts is limited. Casework Quality Assessment (CQA) volume targets are met, and there is some analysis and feedback of individual performance, albeit varying across units.

Leadership

- 2.22 This aspect was not inspected as a full aspect and was rated as "Good" in the OPA. The Area Management Team (AMT) has a clear vision and members work well together; however the means for communicating the vision to staff is inconsistent.

Community confidence

- 2.23 This aspect was not inspected in full and was rated as "Fair" in the OPA. The Area has a community engagement strategy but has had limited success in achieving its objectives. Public confidence in the ability of the criminal justice agencies to bring offenders to justice in Hertfordshire, at 43.6%, is higher than the national average.

Added value of the CPS locally

- 2.24 The Area needs to ensure that all its prosecutors add value to cases by fully identifying weaknesses, strengthening them where possible, considering alternative disposals and ancillary orders, and actively managing cases through the prosecution process. Although there were examples of very effective casework, particularly in relation to sensitive cases, currently prosecutors are not consistently adding value to the cases they handle.
- 2.25 HCAs are held in high regard and contribute to the smooth running of plea and case management hearing (PCMH) courts. However further value could be added by more focussed case progression in the Crown Court. The use of HCAs to prosecute sensitive and complex cases, including trials is noteworthy.

Equality and diversity issues

- 2.26 The 2005-06 Area Business Plan refers to equality and diversity being mainstreamed in other Area plans, although this was not evident from the documents seen as part of this inspection.
- 2.27 The Area produced a Workforce Representation Themed Review Response as part of the themed reviews under the CPS Area Performance Review System. This was rated "Red" which was of concern to the Area. A progress check against this plan will be conducted later in 2007-08 and into 2008-09, which should enable more recent progress to be identified and assessed.

Follow-up from previous report

- 2.28 We identified 31 aspects for improvement (AFIs) at the time of the OPA; one is no longer relevant, four have been fully achieved and there is substantial progress in another 11. There has been limited progress in 11, and no progress in the remaining four. There has, therefore, been progress in general terms against the OPA.

Recommendations and aspects for improvement

- 2.29 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. We have made nine recommendations to help improve the Area's performance.

-
- 1 All prosecutors should:
- record decisions on MG3s fully, including analysis of potential issues and instructions to designated caseworkers;
 - record action plans separately with target dates for completion; and
- the AMT should:
- develop the operation of the charging scheme in order to provide greater continuity of lawyer for second appointments prior to charge and thereafter through to finalisation (paragraph 3.9).
-
- 2 Prosecutors should adopt a more positive and considered approach to summary trial review and set out the decision made and reasons behind it, with a comprehensive analysis of all relevant issues (paragraph 4.5).
-
- 3 The Area should work in partnership with other agencies to identify and progress persistent young offender cases (paragraph 4.25).
-
- 4 The Area Management Team should develop and implement an effective system for preparation of appeals and committals for sentence (paragraph 5.14).
-
- 5 The Crown Court Unit Head ensures that:
- instructions to counsel provide an analysis of the case and guidance on acceptability of pleas; and
 - instructions are delivered to counsel in good time for the hearing (paragraph 5.29).
-
- 6 The roles and duties of champions should be fully defined and form part of the individuals' forward job plans.
- Champions should monitor sensitive cases and hate crimes, to include analysis of unsuccessful outcomes (paragraph 7.12).
-

7. Staff resource models need to be clear in identifying the basis on which deployment assumptions are made. The current form of presentation does not lend itself to scrutiny or internal challenge and is also prone to inaccuracies which are difficult to trace (paragraph 12.10).

8 The Chief Crown Prosecutor, Area Business Manager and Unit Heads need to engage fully with HM Courts Service to address long standing issues in the magistrates' courts and Crown Court that affect the effective delivery of criminal justice in Hertfordshire (paragraph 13.14).

9 In view of the high rate of unsuccessful outcomes, the Area Management Team should use casework quality assurance and other systematic management checks effectively to inform unit and individual performance (paragraph 13.18).

2.30 We identified 19 aspects for improvement within the Area's performance:

1 Unit Heads need to undertake regular monitoring of pre-charge decision cases, including those that result in no further action, and provide regular feedback to duty prosecutors (paragraph 3.9).

2 Decisions in all complex and sensitive cases to be made by prosecutors of appropriate experience in consultation with the officer in the case, including face-to-face or telephone discussions (paragraph 3.21).

3 All unit managers should participate fully in monthly Prosecution Team Performance Management meetings with police counterparts (paragraph 3.26).

4 Detailed analysis of all unsuccessful outcomes to include discontinued cases, and feedback to staff (paragraph 4.10).

5 Implementation of a joint action plan with the police to improve the timeliness and preparation of committal papers (paragraph 4.20).

6 A consistent and joined up approach to case progression is required across the Area (paragraph 4.32).

7 Compliance with court directions for trial (paragraph 4.32).

8 The Crown Court Unit Head should analyse all adverse outcomes and provide feedback to prosecutors (paragraph 5.9).

-
- 9 Timely compliance with Crown Court orders (paragraph 5.20).
-
- 10 The role of the duty lawyer needs to be clearly defined (paragraph 5.29).
-
- 11 The percentage of full file reviews on the case management system is below the national average (paragraph 5.35).
-
- 12 Feedback and mentoring to advocates in the magistrates' courts does not take place (paragraph 6.16).
-
- 13 Formal monitoring of counsel in the Crown Court does not take place (paragraph 6.16).
-
- 14 Lack of instructions on acceptability of pleas in racially aggravated cases (paragraph 7.9).
-
- 15 The handling of child abuse cases (paragraph 7.19).
-
- 16 Inconsistent file management of unused material, non-completion of disclosure record sheets and schedules are not always fully endorsed in the Criminal Justice Units (paragraph 8.7).
-
- 17 More detailed consideration of sensitive material schedules (paragraph 8.9).
-
- 18 Better lawyer resource distribution to match caseloads, court and charging commitments and optimize effective deployment (paragraph 12.24).
-
- 19 Wide variations in respect to the regularity and quality of unit meetings and performance feedback to staff (paragraph 13.9).
-

Strengths

- 2.31 We have also identified seven strengths.
-
- 1 The system for clearing undefined cases on the case management system (paragraph 3.21).
-
- 2 The joint administrative teams in the co-located Criminal Justice Units are working well (paragraph 4.32).
-
- 3 The case progression meetings with the Crown Court (paragraph 5.34).
-

-
- 4 The use of Higher Court Advocates to prosecute sensitive and complex cases (paragraph 7.9).

 - 5 Prompt Graduated Fee Scheme payments and effective scheme operations (paragraph 12.10).

 - 6 Good levels of Higher Court Advocate savings, with the potential to yield surplus funding (paragraph 12.10).

 - 7 A performance management model showing comparative unit performance and national average benchmarks (paragraph 13.9).

3 PRE-CHARGE ADVICE AND DECISIONS

Since moving to the statutory charging scheme in November 2005 some progress has been made. The quality of decision-making in pre-charge cases is variable. The choice of charge is not always appropriate, and decisions to charge are sometimes premature or, conversely, deferred unnecessarily. Issues are not always identified and addressed. The 'prosecution team' ethos is developing, but needs to be extended to sensitive and complex cases advised upon in the office. The benefits of statutory charging are not yet being realised and only two of the six national benefits realisation targets have been met.

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.

	Performance in the inspection programme to date	Area performance
Pre-charge		
Advice and decisions complying with evidential test in the Code	96.2%	93.5%
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%	85.7%
Prosecutor was active in identifying and remedying evidential defects	74.5%	64.4%

- 3.2 The quality of advice in pre-charge cases is variable and slightly below performance in other Areas in the inspection programme to date. In our file sample 92 cases had been the subject of pre-charge advice. We considered that the advice complied with the evidential test in 86 of the 92 (93.5%) and the public interest test was met in all cases.
- 3.3 The purpose of pre-charge decision-making (PCD) is to ensure that a case proceeds on the right charges(s) with the key evidence available and, whilst there are cases in which circumstances may affect the charge(s) originally chosen, the Area should try to keep these cases to a minimum.
- 3.4 We found the choice of charge was not always appropriate. In six of 107 cases (5.6%) the charge did not reflect the seriousness of the offence, which compares unfavourably with average Area performance in this series of inspections, in which only 1% of charges were found not to be at the correct level. However, the charge was only amended in 10.9% of cases compared to average performance of 14% in inspections to date.

- 3.5 The recording of charging decisions on MG3 forms was variable. Some did not record that the lawyer had considered special measures, bad character, and hearsay even where there were obvious issues. Instructions to DCWs on plea before venue and acceptability of pleas were rarely endorsed. There was also a tendency to record work needed in the body of the advice rather than in the action plan, and without target dates for completion.
- 3.6 In some cases authority to charge was given at a premature stage without consideration of key essential evidence. We found one example of 'conditional charging' which resulted in a successful submission of no case to answer, and two cases which were charged without viewing CCTV, and were subsequently discontinued once the reviewing lawyer had done so. Whilst it is important that progress is made and the duty prosecutor should not request more information than is necessary, clear lines of enquiry must not be ignored. The prosecutor was active in 64.4% of cases in identifying and remedying evidential defects in the case, whether at PCD or initial review. Pre-charge bail was used to strengthen the case in 42.4% of cases. The majority of lawyers have now attended the Proactive Prosecutor training which should encourage a more analytical approach to PCD cases.
- 3.7 Appropriate alternative disposals and ancillary orders were considered and acted upon in 12 out of 14 relevant cases. In two, there was a failure to note the potential application for a restraining order.
- 3.8 Not all Unit Heads are undertaking routine monitoring of the quality of pre-charge advice action plans, or those cases in which the advice is to take no further action (NFA), although some 'dip sampling' has taken place. They rely instead on the CQA process and their analysis of adverse outcomes. Duty prosecutors rarely receive feedback on their MG3s. The Area needs to ensure effective monitoring of PCD to assure itself of the overall quality of its casework.
- 3.9 The need for medical evidence in support of assault or similar charges when there is other evidence of injury remains a source of contention with police. This needs to be resolved through guidance and a consistent approach by prosecutors.

ASPECTS FOR IMPROVEMENT

Unit Heads need to undertake regular monitoring of pre-charge decision cases, including those that result in no further action, and provide regular feedback to duty prosecutors.

RECOMMENDATION

All prosecutors should:

- record decisions on MG3s fully, including analysis of potential issues and instructions to designated caseworkers;
- record action plans separately with target dates for completion; and

the AMT should:

- develop the operation of the charging scheme in order to provide greater continuity of lawyer for second appointments prior to charge and thereafter through to finalisation.
-

Bail/custody decisions

3.10 Decisions by charging lawyers as to custody were sound, and we found examples of cases where the duty prosecutor had correctly assessed the defendant as bailable and applied the full Code for Crown Prosecutors' (Code) tests.

3.11 The police and CPS have agreed that in all cases where a defendant is bailed for further enquiries that the officer will return to see the duty prosecutor at least 48 hours before the bail return date.

Operation of the charging scheme

3.12 In the period October-December 2006 the Area made pre-charge decisions in 1,996 cases. The split of work between the four offices and charging centres is illustrated below:

Charging centre	CPS office	Daily prosecutor coverage	Caseload
St Albans*	CJU Central	1	493
Hertford	CJU East	1	398
Stevenage	CJU East	1	469
Watford*	CJU West	1	588
Other unidentified	-	-	48
Total		4	1,996

*These figures include decisions made by telephone referral from Hatfield and Hemel Hempstead

3.13 The Area provides face-to-face pre-charge advice at St Albans, Hertford, Stevenage and Watford Police Stations and telephone advice is also provided to Hatfield and Hemel Hempstead Police Stations. St Albans and Watford operate a 45 minute appointment system, whilst keeping the busiest time of the day (after 4pm) free for custody cases. In conjunction with the police, CJU West (at Watford) has responded to the recommendation of the recent Area Performance Implementation Review to set up an appointments system, which is working well. A CPS administrator is the single point of contact for police officers seeking advice and maintains the appointments diary.

- 3.14 The police have appointed case directors at all the charging centres, who are responsible for reviewing the evidence and paperwork and certifying that the case is appropriate to be referred to the duty prosecutor, who in turn will not advise on any case without an MG3, unique reference number and case director's authorisation.
- 3.15 Charging centre cover is provided by CJU lawyers. There is a system of referral to the Crown Court Unit (CCU) at the discretion of the duty prosecutor. Referrals take place where the decision is likely to take more than 40 minutes, is complex, or it is likely the case would be dealt with in the Crown Court. This means that CJU lawyers - who are unlikely to be specialists (although they may be able to obtain guidance from their Unit Head) - will frequently advise on sensitive cases on the 'threshold' test, and sometimes on the full Code test. These lawyers are rarely informed of the outcome of these cases, which is a missed learning opportunity.
- 3.16 The system of referral to the CCU is through submission of a paper file, which is allocated to a lawyer based on their level of experience and specialism. The advice will often be provided in writing without a face-to-face consultation. Although the CCU have a tracking system in place to ensure that advice is provided before the bail to return date, the police have raised concerns about delays in providing the advice and feel that the system does not encourage the early building of a prosecution team in sensitive cases.
- 3.17 Continuing case 'ownership' by lawyers is limited. Some are proactive in retaining files where further evidence is needed, but there is no system for the case to return to the same lawyer, even at St Albans and Watford where there are appointment systems in place. This wastes time and resources since the new lawyer will need to re-review the whole file and may take a different view as to further work required.
- 3.18 Cases requiring further action are not always actively tracked. Police officers may leave the charging centre without a specific appointed time to return for a decision to be made on a case, which can result in case 'drift'. The case directors are responsible for monitoring bail to return cases. There is a system for checking compliance with action plans, although follow-up on units has been variable in the past.
- 3.19 There is a structured appeal system, although there are few formal appeals, with disputes usually being resolved through informal discussions to the satisfaction of both partners. The stage at which medical evidence is needed remains an issue which concerns the police (see paragraph 3.9).
- 3.20 Hertfordshire has exceeded the national target by recording 98% of pre-charge advice on the CPS case management system (CMS). All MG3s in our file sample had been properly completed on CMS. The Area has one of the lowest levels of undefined cases on CMS as they are proactive in monitoring and clearing them. The Performance Officer produces a weekly report for all administrative managers of all outstanding cases on the system for their units, in order to undertake remedial action before the data 'freezes' each month.

- 3.21 There is a positive relationship between Hertfordshire and CPS Direct and there have been no disagreements over charging decisions made by CPS Direct.

STRENGTHS

The system for clearing undefined cases on the case management system.

ASPECTS FOR IMPROVEMENT

Decisions in all complex and sensitive cases to be made by prosecutors of appropriate experience in consultation with the officer in the case, including face-to-face or telephone discussions.

Realising the benefits of pre-charge decision-making

- 3.22 Two of the benefits of the charging scheme are being realised. The most recent key outcomes against which the CPS measures performance are shown in the table below.

	<i>Magistrates' courts' cases</i>				<i>Crown Court cases</i>			
	National target March 07	National performance Q3 2006-07	Area target March 07	Area performance Q3 2006-07	National target March 07	National performance Q3 2006-07	Area target March 07	Area performance Q3 2006-07
Discontinuance rate	11%	15.6%	11%	16.1%	11%	12.6%	11%	13.5%
Guilty plea rate	52%	68.7%	52%	61.9%	68%	66.8%	68%	67.3%
Attrition rate	31%	22.4%	17%	25.9%	23%	21.7%	17%	23.6%

- 3.23 In the nine month period to December 2006, the Area's caseload in the magistrates' courts consisted of 5,856 pre-charge decisions and decisions to prosecute made up approximately 65% of these.
- 3.24 Outcomes for both magistrates' courts and Crown Court cases have improved since we conducted our OPA. Although the target for guilty pleas and attrition in the magistrates' courts has been met the rate remains below the national average. Performance in relation to discontinuance of magistrates' courts' cases is significantly worse for pre-charge decision cases than for all cases; 16.1% compared to 10.5% overall. Performance in relation to Crown Court cases is poor and the Area has failed to meet the national targets in all respects. However, the discontinuance rate for Crown Court pre-charge decision cases is better than for all cases at 13.5% compared to 18.2%.

- 3.25 CPS and police managers in the co-located CJUs work closely together and have developed positive working relationships. Day-to-day issues over charging are discussed and resolved informally. Prosecution Team Performance Management (PTPM) data is now produced and meetings are starting to be held on a monthly basis, but not all units are participating in these. In particular, the CCU was not then engaged in PTPM.
- 3.26 Feedback to the staff on performance is provided at team meetings but not all units are holding these on a regular basis.

ASPECTS FOR IMPROVEMENT

All unit managers should participate fully in monthly Prosecution Team Performance Management meetings with police counterparts.

4 CASEWORK IN THE MAGISTRATES' COURTS

The quality of decision-making in magistrates' courts' cases is inconsistent and needs to be more thorough. Summary trial reviews often merely endorse the pre-charge decision without addressing outstanding issues or obvious weaknesses. Case preparation is not always sound in spite of the long average period between the date of fixing the trial and the trial itself, which is contributing to the high levels of not guilty pleas. The overall conviction rate is 82.9%.

The significant trial backlogs are having a negative impact on performance, and the Area is performing worse than the national average on effective and ineffective trials. The rate of ineffective trials is 24.7% compared to 19.6% nationally. The number of discharged committals remains high. The average time taken to deal with persistent young offenders from arrest to sentence was significantly outside the 71 day target, at 102 days in the three month period to December 2006, but has improved to 73 days in the three months to February 2007.

Quality of case decisions and continuing review

- 4.1 We examined 61 magistrates' courts' 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	79.1%	91.0%
Court orders complied with on time, or application made to court	86.0%	67.0%
Correspondence from the defence dealt with appropriately	78.5%	75.0%
Instructions to agents were satisfactory	77.8%	64.0%
Level of charge		
Charges that were determined by the prosecutor and proceeded without amendment	89.0%	96.0%
Cases that proceeded to trial or guilty plea on the correct level of charge	98.2%	96.0%
Discontinuance		
Discontinuance was timely	78.6%	60.0%
Decisions to discontinue complying with the evidential test	93.0%	90.0%
Decisions to discontinue complying with the public interest test	96.0%	100%
Discontinued cases where the prosecutor properly sought additional evidence/information before discontinuing the case	77.3%	100%

	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	68.8%	83.0%
Summary trial		
Decisions to proceed to trial complying with the evidential test	95.3%	86.7%
Decisions to proceed to trial complying with the public interest test	99.2%	100%
Cases with timely summary trial review and properly recorded	61.5%	83.0%
No case to answers that were foreseeable, and the CPS took action to avoid the outcome	34.6%	100%

- 4.2 We considered that the Code evidential test at the summary trial stage was applied appropriately in 39 out of 45 cases (86.7%) which is a comparatively poor assessment. The public interest test was applied appropriately in all relevant cases.
- 4.3 Four of the seven cases, in our view, had not met the evidential test at the pre-charge advice stage. In the remaining three cases, one had not been through pre-charge decision (PCD), one was appropriate on the threshold test and in the other further information came to light. In all seven there was a tendency to adopt the PCD even where there had clearly been developments in the case or where the charging decision had not considered all aspects of the case. It was therefore hard to see where prosecutors had added value through continuing review, identifying further lines of enquiry or requesting additional evidence.
- 4.4 The recording of full file reviews was variable, with a timely and properly recorded review in 83.7% of cases. Nevertheless, the selection of charge was sound and appropriate in 50 out of 52 cases (96.2%) and charges proceeded without significant amendment in 48 out of 50 (96.0%).
- 4.5 In our sample there were ten cases which had not been through PCD. Initial reviews were completed and properly recorded in all cases. However, some cases we observed at court had not been endorsed as to initial review before a plea was taken.

RECOMMENDATION

Prosecutors should adopt a more positive and considered approach to summary trial review and set out the decision made and reasons behind it, with a comprehensive analysis of all relevant issues.

Successful outcomes

4.6 The overall conviction rate in the magistrates' courts in the year to December 2006 was 82.9% and, although it has improved since the OPA when it was 80.9%, it remains slightly below the national average of 83.9%.

4.7 The key outcomes are shown in the following table.

Case outcomes in the magistrates' courts

	National performance year to Dec 2006	Area performance year to Dec 2006
Discontinuance and bindovers	11.0%	10.5%
Warrants	2.7%	2.1%
No case to answer	0.3%	0.6%
Dismissed after trial	1.9%	3.4%
Discharged committals	0.2%	0.5%
Overall conviction rate	83.9%	82.9%

4.8 Performance on discontinuance has improved since the OPA and is better than the national average. However, performance in relation to cases dismissed no case to answer (NCTAs) and cases dismissed after trial is below the national average and worse than performance at the time of the OPA. The NCTA rate was 0.5% compared to 0.6% now, and 2.3% compared to 3.4% for cases dismissed after trial.

4.9 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' court and Crown Court cases)

National target 2006-07	83%
National performance April-December 2006	83.5%
Area performance April-December 2006	82%

4.10 Cases with unsuccessful outcomes are reviewed by managers on a monthly basis and forms detailing reasons for the adverse outcome are completed. However, this does not involve an analysis of all discontinued cases and tends to focus on what happened at court rather than the underlying problems in the case. Performance is discussed at joint meetings with criminal justice partners. Learning points from the analysis of these cases are not always disseminated to staff.

ASPECTS FOR IMPROVEMENT

Detailed analysis of all unsuccessful outcomes to include discontinued cases, and feedback to staff.

Offences brought to justice

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

Offences brought to justice

	CJS area performance rolling annual Feb 2007	
Against 2001-02 baseline	+ 96%	
Number	26,628	
Offences Brought to Justice made up of	National average Feb 2007	Area figure 12 months to Feb 2007
Convictions	49%	40.6%
Taken into consideration	8.9%	9.4%
Cautions	26%	27.7%
Fixed penalty notice	9.6%	17.2%
Formal warnings for drugs	6.5%	5%

- 4.12 Hertfordshire surpassed its joint criminal justice area target for OBTJ at the time of the OPA, and continues to perform extremely well. The criminal justice area's target is 19,982 for the year 2006-07, which has already been exceeded. Currently the proportion of OBTJ that are convictions is below the national average, so the CPS Area needs to ensure effective contribution to this joint target by concentrating on increasing successful outcomes.

Discontinuances in the magistrates' courts

- 4.13 Discontinuances in the magistrates' courts have been reducing; from 13% at the time of the OPA to the present figure of 10.5%.
- 4.14 We examined ten discontinued cases in our sample. The evidential test was properly applied in nine out of ten (90%) and the public interest test in all of them. There was appropriate consultation in eight out of ten cases (80%), but discontinuance was prompt in only six (60%).

Committal preparation and discharged committals

- 4.15 The rate of discharged committals has historically been high. At the time of the OPA we noted this as an aspect for improvement. For the 12 months to December 2006, of cases set for committal to the Crown Court, 5.5% were discharged compared to the national average of 2.6%. Most discharged committals occur in a few, mainly metropolitan, CPS Areas with many having none. Therefore Hertfordshire's performance needs to be seen in context and compared to similar Areas. It has the second highest rate of discharged committals in comparison with similar CPS Areas and the third highest in the country.
- 4.16 An adverse outcome report is completed by the reviewing lawyer with a recommendation to re-instate or not and the decision on re-instatement is made by the Chief Crown Prosecutor. There is a conflicting view as to why the committals are not ready on time; the CPS say that they do not receive the committal bundles from the police in time, whereas the police say the CPS do not begin committal preparation early enough, sometimes mislay committal bundles, and make late requests for further statements or evidence. Most of these cases were PCD ones on the full Code tests, and it is something of a paradox that cases were charged as having all key evidence, but about ten weeks later were not ready for committal.
- 4.17 We examined five discharged committal cases; in all of them the CPS should have been more proactive - in three seeking further evidence from the police sooner and the other two should have been discontinued before committal.
- 4.18 The Area is aware that it needs to improve its committal preparation and introduced a committal tracking system in July 2006. This involves sending three requests for committal papers to the police at time intervals dependant on whether the defendant is in custody or on bail.
- 4.19 We have undertaken an analysis of discharged committals in numerical terms and as a percentage over a rolling period of time for the year 2006. The actual numbers discharged fluctuate over the period, but as the percentages have reduced from 10.25% in March 2006 to 7.12% in July and 5.5% in December, the early indications are that the new system is having a positive impact.
- 4.20 A more cohesive approach is required to improve the rate of discharged committals. At the PCD stage there should be more robust action plans agreed and consideration should be given to implementing a 'committal readiness check' in conjunction with the police.

 ASPECTS FOR IMPROVEMENT

Implementation of a joint action plan with the police to improve the timeliness and preparation of committal papers.

Youth cases

- 4.21 We examined five youth trials in our sample. The quality of decision-making in youth cases is generally good. The Code evidential test was correctly applied in four out of five cases, and the public interest test in all relevant cases.
- 4.22 All the units have appointed youth specialists and youth remand courts are prosecuted by these specialists only. This practice is commended by court users as specialists are able to progress cases swiftly and make decisions where necessary without referral to other lawyers.

Persistent young offenders

- 4.23 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 PYO performance (arrest to sentence)

National target	71 days
National performance (3 month rolling average to February 2007)	70 days
Area performance (3 month rolling average to February 2007)	73 days

- 4.24 Hertfordshire has failed to meet the PYO target so far during 2006-07. The rolling three month average to December 2006 stood at 102 days. There is lack of consensus between the agencies as to reasons for the unsatisfactory performance, but failure to identify PYOs and potential PYOs at PCD stage, historic problems with the tracker, and disposal times, have all contributed. There were three PYO cases in our sample, two of which had not been flagged as such on CMS, and in the third case which involved three PYO defendants, one of the defendants was not flagged as a PYO or a youth.
- 4.25 In January 2007 the Attorney General requested that a report be delivered by the Hertfordshire Criminal Justice Board explaining why the target had not been met. As a result, a joint delivery plan has been drawn up and performance has improved. The most recent figure for the three month rolling average to February 2007 is 73 days.

RECOMMENDATION

The Area should work in partnership with other agencies to identify and progress persistent young offender cases.

Case progression and effective hearings

4.26 HM Courts Service collects data on time intervals for initial guilty pleas, trials and committals. The table below shows the most recent data

Time intervals/targets for criminal proceeding in magistrates' courts charged cases only, October to December 2006

	Initial guilty plea target 59 days		Trials target 143 days		Committals target 176 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	85.4	5,214	67	2,149	93.5	950
Area	81.9	94	44.1	34	No data	9

Time intervals/targets for criminal proceeding in Youth Courts charged and summoned cases only, October to 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	88.8	5,605	89.6	2,901	95.4	218
Area	82.9	146	91.6	83	No data	7

4.27 The data collected by HM Courts Service on time intervals is restricted by the small number of cases within the reporting period. It is unclear why so few adult committals were noted as Hertfordshire's figure is 64 per month on average. The data for the three month period to December 2006 indicates that the target of 59 days for initial guilty pleas in the magistrates' courts was met in 81.9% of cases, which is below the national average of 85.4%. Only 44.1% of cases were within the timeliness target of 143 days for adult trials in this period compared to the national figure of 67%.

4.28 The target of 59 days for initial guilty pleas in youth cases was met in 82.9% of cases compared to the national average of 88.8%. Timeliness for trials was significantly better for youth cases than adult cases, 91.6% compared to 44.1%, and higher than the national average of 89.6%.

4.29 Advance information is served, dates to avoid are available, and cases are generally ready to proceed on the first date of hearing. Cases that have been through PCD are rarely adjourned for consideration of alternative disposals, such as cautions, but some are adjourned for further evidence to be served, in particular CCTV, and for consideration of pleas where they had not been endorsed on the MG3. The proportion of cases dropped after the third or subsequent hearing account for 48.2%, which compares very favourably with the national average of 60.8%.

- 4.30 The joint administrative teams in the CJUs are working well and actions such as updating files that have come back from court, linking correspondence and locating files for court is completed promptly. However, although correspondence and further material had been properly linked to the file, there were backlogs in summary trial reviews where lawyers were not dealing with outstanding actions until close to, or at, the trial readiness check.
- 4.31 All CJUs undertake trial readiness checks at various intervals before trial. CJU West is the only unit with a full time CPS case progression officer, who meets weekly with the court and police to look at forthcoming trials. CJUs East and Central have a dedicated case progression lawyer, who completes initial disclosure when the full file arrives, chases up outstanding items and who will often prosecute the pre-trial review courts. Trial readiness is otherwise dealt with at pre-trial reviews or by the court monitoring the submission of trial readiness forms.
- 4.32 Standard directions for trial are made in all summary cases and there was no evidence of prosecutors seeking alternative directions or different periods of time for orders to be complied with. Directions forms were rarely present on the files in our sample, and there is no system of tracking or monitoring compliance. It is generally accepted that the standard directions will not be complied with in a timely manner, or in some instances at all, by both the CPS and defence.

STRENGTHS

The joint administrative teams in the co-located Criminal Justice Units are working well.

ASPECTS FOR IMPROVEMENT

A consistent and joined up approach to case progression is required across the Area.

Compliance with court directions for trial.

Case preparation

- 4.33 Correspondence from the defence was dealt with promptly in 74.4% of cases, and material received from the police was correctly logged and action taken in 87.5%. Although the file examination showed that prosecutors were making appropriate use of section 9 Criminal Justice Act 1967, these witnesses were often not agreed by the defence even where their evidence was unlikely to be in dispute. Prosecutors should raise such issues at pre-trial reviews to establish exactly why the witnesses would be necessary.
- 4.34 There have been no wasted costs orders in the Area.

Effective, ineffective and cracked trials

- 4.35 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 Dec 2006	Area target 2006–07	Area performance year ending Dec 2006
Effective	N/A	43.7%	N/A	41.5%
Ineffective	19.4%	19.4%	25.5%	24.7%
Cracked	N/A	37.0%	N/A	33.8%

- 4.36 At the time of the OPA the Area was meeting the target for ineffective trials and was performing better than the national average (24.2% compared to 24.8%). The national average rate has improved to 19.4%, however, Hertfordshire's performance has not improved in line with this and in the 12 months to December 2006, the annual rolling rate of ineffective trials in the magistrates' courts worsened from 23% in January to 24.7% by December. Only one other criminal justice system area had poorer performance.
- 4.37 In the year to December 2006, the prosecution was responsible for 26.5% of the ineffective trials (better than the national average of 37%). Prosecution witness absence formed the greatest proportion of these (13.23%) with non-attendance at court by police officers making up 4.8%. Any police officer not attending court without good reason is now subject to disciplinary proceedings.
- 4.38 The main reason for ineffective trials is lack of court time, which makes up 39.6% of the total figure and we discuss the impact of this further in Chapter 6. The Area has sought to address this by undertaking a 'trials blitz' in conjunction with the courts, which has involved multiple listing of trials in front of a District Judge in order to clear backlogs. This is the second blitz to be undertaken, the last one was shortly after the OPA, when it was hoped that it would provide a solution to growing backlogs. Multiple listing of trials before lay justices is now common practice with the almost inevitable result of one or more ineffective trials. There is now a real need for the Area to work constructively with its criminal justice partners to find a longer term solution. This is the subject of a recommendation at paragraph 13.14.
- 4.39 The cracked trial rate has improved steadily since the OPA and over the course of this year and is now 33.8% (compared to 38.9% at the time of the OPA) which is better than the national average of 37.0%. As at September 2006, 51.3% of cracked trials were due to the defendants entering late guilty pleas, followed by 17.7% of cases where the prosecution witness was absent.

- 4.40 The effective trial rate has also improved over the course of the year, but at 41.5% is below the national average of 43.7%.
- 4.41 There is regular and formal analysis of cracked and ineffective trials rates with criminal justice partners at the monthly local criminal justice delivery groups. There is joint analysis and discussions on how to remedy defects at these meetings and the Hertfordshire Criminal Justice Board receives monthly reports on cracked and ineffective trials. We have made a recommendation to address these issues at paragraph 13.14.

Use of the case management system – Compass CMS

- 4.42 Use of CMS has improved since the OPA. In our file sample all information was entered on CMS adequately in 50 out of 60 cases (83%). CMS usage performance for Crown Court reviews and PCD consultations combined was 89.8% at December 2006, compared to the national average of 93.3%. Managers monitor the use of CMS and staff are regularly reminded to record all events and reviews on the system.

5 CASEWORK IN THE CROWN COURT

The quality of review and decision-making in the Crown Court is generally good, with sensitive or complex cases usually allocated to specialists. The rate of successful outcomes has improved but is not as good as the national average, largely because of the comparatively high proportion that the CPS drop. Monitoring and analysis of unsuccessful cases takes place with criminal justice partners. Instructions to counsel are poor, with only limited case analysis and consideration of alternative pleas, and are sometimes delivered late.

There are effective systems for case progression but orders are often not complied with on time. There is not enough court capacity and delay in cases coming to trial is a feature in Hertfordshire, with cases being transferred out of county to address this. Both issues can cause problems for victims and witnesses. Nevertheless, the rate of effective trials is good, although the ineffective trial rate of 14.8% is slightly worse than the national average of 12.5%.

The quality of case decisions and continuing review

- 5.1 We examined 61 Crown Court case files from the Area and our findings are set out in the following table.

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%	94.7%
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	82.5%	69.0%
Instructions to counsel that contained case summary and adequately dealt with issues	63.1%	46.4%
Instructions to counsel that contained satisfactory guidance on pleas	39.3%	30.8%
Case preparation		
Cases ready for PCMH	92.5%	86.0%
Court orders complied with on time, or application made to court	88.6%	67.0%
Correspondence from defence dealt with appropriately	90.4%	85.0%

Cracked and ineffective trials		
Cracked or ineffective trials that were foreseeable and the CPS took action to avoid the outcome	70.0%	75.0%
Level of charge		
Indictments that were appropriate and did not require amendment	80.8%	93.0%
Cases that proceeded to trial or guilty plea on the correct level of charge	97.4%	83.0%
Judge ordered and judge directed acquittals		
JOA/JDAs that were foreseeable and the CPS took action to avoid the outcome	50.0%	47.6%
Trials		
Acquittals that were foreseeable and the CPS took action to strengthen the case (or drop the case sooner)	35.0%	100%

5.2 All cases sent to the Crown Court or adjourned for committal are passed to the Crown Court Unit (CCU) for review and preparation and service of the papers. The review of these cases is usually carried out to a good standard. We considered that the evidential test was properly applied in 94.7% of cases in our file sample. Two did not pass the evidential test, one should not have been charged and the other had been charged on the threshold test, but review at committal did not identify the weaknesses in either. A third case was set up for committal but dropped at court on a change of review decision.

Successful outcomes

5.3 The overall conviction rate in the Crown Court is 71.1% which is below the national average. The key outcomes are shown in the following table.

Case outcomes in the Crown Court

	National performance Dec 2006	Area performance Dec 2006
Judge ordered acquittals and bind overs	13.2%	18.2%
Warrants	1.4%	1.5%
Judge directed acquittals	1.5%	1.4%
Acquittals after trial	6.5%	7.8%
Overall conviction rate	77.3%	71.1%

- 5.4 The overall conviction rate has varied over the year. During the first two quarters of 2006-07 it worsened to 68.8% and 68.3% respectively, but improved significantly in the third quarter to 76.2%, compared to the national average of 77.6%. However, as the Area has the second lowest conviction rate in the country it is essential that there is a strong focus on case preparation in order to improve performance.
- 5.5 There are long intervals before trial in the Crown Court, which means that the overall unsuccessful outcomes figure will contain cases that were finalised recently but were commenced before statutory charging went 'live'. Delays will have an impact on the success rate of trials and on related witness care. The proportion of jury acquittals, at 7.8%, is a little higher than the national average of 6.5%. The number of outstanding warrants is in line with the national average.

Discontinued cases and judge ordered acquittals

- 5.6 The proportion of judge ordered acquittals (JOAs) has not significantly altered since the OPA (18.2% compared to 18.7%) and is worse than the national average of 13.2%. We examined 17 cases as part of the file sample, four of which were discontinued before the service of the prosecution papers. Six cases were dropped because the victim made withdrawal statements.
- 5.7 The proportion of cases with a judge directed acquittal (JDA), where the judge stops the case after the jury had been sworn, is reducing. The rate as at December 2006 is 1.4% compared to 1.5% nationally and is an improvement from the OPA when performance stood at 1.9%. We examined four JDA cases and considered that the acquittal was reasonably foreseeable in one of them where there was insufficient identification evidence.
- 5.8 Cases are not always dropped in a timely manner and in our file sample we saw many examples of 'drift' where deficiencies in the case had been identified at a relatively early stage but the final decision was not made until very close to the trial date. The case was dropped in a timely manner in three out of 13 (23.1%). In five cases where the victim made a withdrawal statement it took several months before the case was listed to offer no evidence, and in one instance this was done on the trial date.
- 5.9 Adverse outcome forms are completed by the reviewing lawyer for discontinued cases, JOAs and JDAs. The CCU Head sees all JDAs, but not all other adverse outcomes. The case progression team produce a report on all adverse outcomes and decide whether the case merits referral to the CCU Head. The adverse outcome reports are sent to the police, but learning points from failed cases are not shared with the unit.

ASPECTS FOR IMPROVEMENT

The Crown Court Unit Head should analyse all adverse outcomes and provide feedback to prosecutors.

Serious and complex cases

- 5.10 There are effective systems for the allocation of complex cases to prosecutors and caseworkers of suitable experience, and some junior prosecutors were being mentored to handle serious casework. The Area makes use of a Special Casework Lawyer for serious and complex cases, and those referred to the Administrative Court.
- 5.11 A case management panel has been established to oversee cases falling into the High Cost and Very High Cost categories.

Youth cases

- 5.12 The CCU has two youth specialists, but all lawyers are deemed capable of dealing with Crown Court youth cases. Where possible youth cases are given priority listing for trial in the Crown Court.
- 5.13 The number of persistent young offender cases in the Crown Court is small, but nevertheless impacts on performance. There is no formal joint system in place to monitor timeliness through the Crown Court, as the fortnightly tracker meetings focus on cases in the magistrates' courts and do not look at Crown Court PYOs. Problems arise when the cases are not correctly flagged as PYOs when they are committed from the magistrates' courts, and subsequently if the advocate fails to notice the defendant is a PYO at plea and case management hearing (PCMH). We have made a recommendation relating to PYOs at paragraph 4.25.

Appeals and committals for sentence

- 5.14 Committals for sentence and appeals do not receive the correct level of priority and are often not ready to proceed. There is a dedicated administrator who is responsible for preparation of the brief and the papers, but staff were unclear about the system. During our court observations we saw one appeal against conviction which had been listed for half a day, which had to be adjourned as an essential paginated bundle had not been prepared for the court, nor had legal authorities been served.

RECOMMENDATION

The Area Management Team should develop and implement an effective system for preparation of appeals and committals for sentence.

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

- 5.15 Three cases were forwarded to CPS Headquarters for consideration of appeal against unduly lenient sentences during the year, all of which had their sentences increased. One of these was included in our file sample, and was well handled within the timescales.

Asset recovery (proceeds of crime)

- 5.16 Asset recovery cases are usually referred to the CCU for advice at the charging stage. It is then for police to investigate the defendant's financial situation and the CPS thereafter prepare and handle applications for confiscation of the proceeds of crime. The CPS has only limited ability to influence enforcement and asset recovery. Hertfordshire has appointed a Proceeds of Crime Act (POCA) Champion, and more complex POCA cases are dealt with by him. The Area's target for 2006-07 is to obtain 32 confiscation orders with a value of £1,048,776. The target of 32 orders has been met, but in monetary terms this amounts to £343,232 so far.

Case progression and effective hearings

- 5.17 There is an effective case progression team who have developed good relationships with their counterparts in the Crown Court. They manage the timeliness and compliance with directions through a shared electronic calendar. Regular reminders are sent to caseworkers and lawyers by e-mail. Where possible the case progression officers will carry out urgent work on files themselves.
- 5.18 Automatic directions are set by the magistrates' courts for cases sent to the Crown Court but these are often not complied with by the time of the PCMH, and sometimes not at all, so the PCMH is treated as the first effective directions hearing. A member of the case progression team covers all PCMHs and records all directions made. This is then transferred to a log on return from court. Memos are sent to the police, counsel, reviewing lawyer, caseworker and Witness Care Unit after PCMH giving detailed descriptions of the work required and target date for completion.
- 5.19 Although there are good systems in place for tracking court orders, cases are often listed for non-compliance with directions. Court orders were complied with in 67% of cases in our sample.
- 5.20 In 84.6% of cases correspondence was dealt with promptly and in 96.6% notice of additional evidence was supplied in a timely manner.

ASPECTS FOR IMPROVEMENT

Timely compliance with Crown Court orders.

Case preparation

- 5.21 The lawyer and caseworker are allocated at an early stage and this works well. The caseworker is responsible for case preparation pre- and post-committal and will refer the case to the reviewing lawyer for advice or instructions.
- 5.22 A preferred chambers policy is operated which enables the Area to have a higher level of service from the Bar. There is a comprehensive list of counsel used which sets out experience and expertise for certain cases. This is shared with chambers and regularly up dated. Most PCMHs are dealt with by Higher Court Advocates (HCAs), who are briefed in the same way as counsel.

- 5.23 It is essential that counsel receives instructions in sufficient time to prepare for the hearing. The timeliness for delivery of instructions was significantly below the national average at the time of the OPA, 60.5% compared to 85%, and has deteriorated further to 46.5% compared to 78.9%.
- 5.24 In the last report we noted the occurrence of a 'court brief' where the instructions and case papers are brought to court for counsel to pick up on the day of the hearing. This should be restricted to those cases where there has been a late notification of new business or a change of listing where the CPS has no time to brief counsel in advance. Briefs at court are still being used for a variety of hearings but predominately for first appearances where no HCA is available (sometimes due to a late change in listing). The standard instructions to counsel include a paragraph to the effect that the brief will be available at the front desk of the court from 7.30am to 9.30am on the day of hearing. In reality these papers are rarely at court before 9am.
- 5.25 During our court observations three cases on the court list were marked as 'brief at court' and were delivered to counsel at court, but this stemmed from a transfer between chambers. One case was a relatively complex sentencing matter that counsel then had insufficient time to prepare, and so the prosecution would appear unprepared to the court.
- 5.26 Ninety three percent of cases proceeded on the original indictment. The amendments were generally to correct minor errors rather than significant drafting flaws, although in one child abuse case the judge commented disparagingly on the indictment where the wrong charges had been selected.
- 5.27 There was little evidence of detailed case analysis even in complex or sensitive cases. In the last inspection in March 2005, instructions to counsel were satisfactory or better in 81.1% of cases, but instructions on acceptability of pleas were adequate in only 40%. In this inspection instructions were satisfactory in 46.4% of cases and information on acceptability of pleas in 30.8%. In one child abuse case in our file sample counsel sent an e-mail to the reviewing lawyer raising the lack of instructions on pleas.
- 5.28 The Area operates a duty lawyer scheme whereby a rota identifies a prosecutor in the office on a daily basis charged with undertaking urgent work and providing instructions to counsel at court. There is no specific telephone number allocated solely for this purpose and callers often become frustrated telephoning a series of numbers to hear out-of-date voicemail messages whilst trying to track down the duty lawyer. This might be a role which could be undertaken by the HCAs at court on a rota basis.
- 5.29 No wasted costs have been recorded against CPS Hertfordshire for 2005-06 or this year to date. However, in our file sample we found one order made in March 2006 for repeat non-compliance with directions and another case where the figure for wasted costs was left to the end of the trial and subsequently overlooked.

ASPECTS FOR IMPROVEMENT

The role of the duty lawyer needs to be clearly defined.

RECOMMENDATION

The Crown Court Unit Head ensures that:

- instructions to counsel provide an analysis of the case and guidance on acceptability of pleas; and
 - instructions are delivered to counsel in good time for the hearing.
-

Effective, ineffective and cracked trials

- 5.30 There is a shared target with criminal justice system 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 Dec 2006	Area target 2006–07	Area performance year ending Dec 2006
Effective	N/A	48.3%	N/A	49.7%
Ineffective	14.2%	12.5%	16.5%	14.8%
Cracked	N/A	39.2%	N/A	35.4%

- 5.31 The effective trial rate is better than the national average. The ineffective trial rate has improved since the OPA, but fluctuated over the year and is currently not as good as the national average. The cracked trial rate is better than the national average.

- 5.32 The main reason for cracked trials is the defence offering a late plea of guilty. As at September 2006, 53.3% of cracked trials were attributed to this reason, with the next most significant reason being the prosecution ending the case on grounds of insufficient evidence at 11.3%.

- 5.33 Fortnightly meetings are held with the courts and police to examine cases coming up for trial in the next two weeks. If not trial ready they will then be listed to vacate or for a 'mention' if work is still required to be undertaken.

- 5.34 Analysis of all cracked and ineffective trials is undertaken by the case progression team and discussed on a case-by-case basis with criminal justice partners including the Resident Judge at the local criminal justice delivery group.

STRENGTHS

The case progression meetings with the Crown Court.

Use of case management system – Compass CMS

- 5.35 The combined national target of 90% of PCD and full file reviews being completed on CMS has been achieved. In the Crown Court performance in respect of full file reviews on CMS was below the national average, at 81.2% compared to 88.5% in December 2006, but has since improved. In our file sample case information was completed on CMS properly in 41 out of 61 cases (67.2%). The majority of the failures related to lack of full file review.

ASPECTS FOR IMPROVEMENT

The percentage of full file reviews on the case management system is below the national average.

6 PRESENTING AND PROGRESSING CASES AT COURT

The standard of advocates observed in the magistrates' courts was mostly good and in the Crown Court it was good. There is a strong emphasis on Higher Court Advocate deployment and the range of work covered by them is increasing. The skills of the designated caseworkers and Higher Court Advocates were recognised and valued by court users. There is more effective monitoring of advocates in the Crown Court than the magistrates' courts.

- 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 advocate's 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 Prosecutors are present in court prior to the start of the court session. However, the non-existent and poor CPS facilities at some of the magistrates' courts do not encourage early attendance for detailed discussion to take place with other parties. We observed one trial where discussion took place after the scheduled court start time and where the issues could have been resolved earlier.
- 6.3 Feedback about progressing cases at the magistrates' courts was mixed. Some prosecutors were described as robust in their decision-making, thereby ensuring swift progress; others seek adjournments for decisions to be made by the reviewing lawyer in straightforward cases which could have been resolved there and then.
- 6.4 Designated caseworkers (DCWs) have a target of 3.5 days per week, but due to listing patterns often attend court four times a week. They rely heavily on lawyers at PCD to endorse instructions on mode of trial, acceptability of pleas and victim and witness needs in order to progress the case in court. We have commented in paragraph 3.5 on the lack of detail in some MG3s. This means that the DCWs on occasions have to ask for the case to be put back in the list to take instructions or, when they cannot contact a lawyer, apply for an adjournment.
- 6.5 Criminal Justice Unit (CJU) lawyers are expected to cover 3.5 days per week in court and/or the charging centre. This should leave them sufficient time to prepare their own cases and court lists. However, some lawyers considered that they were covering four days a week in court, often back-to-back, which they feel leaves them insufficient time to manage their caseloads actively. Our calculations at paragraph 12.17 do not substantiate this level of deployment across the Area.

- 6.6 There are long intervals between charge and trial which are contributing to an increasing backlog of work and hampering effective case management. It is the practice of the courts to double and treble list trials on the basis that some cases will not be ready to proceed or will crack. The lawyers have felt the impact of this as they have to prepare up to five trials for a trial day, in the knowledge that some of them will be moved to other court rooms or adjourned. This has an adverse impact on both witness care and the standard of advocacy and creates a culture of not guilty pleas as defendants are more likely to plead not guilty in the hope that their case will collapse due to delay. As at September 2006, 51.3% of cracked trials in the magistrates' courts and 53.3% in the Crown Court were the result of defendants entering a late plea of guilty. This has a knock-on effect as more trials have to be fixed, adding to the backlogs and increasing pressure on the prosecution as more cases require trial preparation.
- 6.7 We observed the impact of this in one trial court where five potentially effective trials had been listed: one defendant pleaded guilty; one 'Newton' hearing was moved to another court; in the third case the prosecutor was not fully prepared to deal with a legal argument that arose during the course of the trial, which resulted in a successful submission of no case to answer; one motoring case was inadequately prepared but resulted in a conviction in the absence of the defendant; and the final trial of the day started at just before 4pm.
- 6.8 The standard of court endorsements in the magistrates' courts was generally good, although we noted examples where the case had not been subject to PCD and the DCW had not noted an initial review or that the case had been 'accepted'.
- 6.9 As a result of an increased caseload there are also long delays in listing cases for trial in the Crown Court. Hertfordshire cases have been transferred to the Central Criminal Court and use is being made of a court room at Cheshunt Magistrates' Court. Although efforts are made to ensure that the impact on witnesses is kept to a minimum, some inconvenience is inevitable. This also places strain upon the Witness Care Unit who work hard to ensure the witnesses attend court. One of the murder cases in our file sample was transferred to Inner London Crown Court and back again, which delayed the trial date.
- 6.10 In custody, early first hearing or early administrative hearing courts, cases were the subject of frequent transfers to other courts, often with little reference to the prosecutor. This places pressure on the receiving advocate to present the cases virtually unseen.

The standard of advocacy

6.11 We observed 23 advocates in different courts. Our findings are set out in the table below.

		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
Advocacy standards	Level	Number	Number	Number	Number
Assessed as above	1	-	-	-	-
normal requirements	2	2	-	2	1
Against CPS	3+	3	1	-	-
National Standards	3	7	-	1	4
of Advocacy	3-	2	-	-	-
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

6.12 Hertfordshire was one of the HCA pathfinder pilots during 2005-06, and there continues to be a high level of commitment to their use at the Crown Court sitting at St Albans and Luton. The Area employs five full time HCAs, who are engaged solely in advocacy at the Crown Court, with occasional committal preparation. It has six other HCAs who conduct varying amounts of Crown Court advocacy, undertaking PCMHs, committals for sentence, appeals, and trials. Hertfordshire was the first CPS Area to prosecute a murder trial using an HCA as leading counsel. The HCAs are well regarded at court.

6.13 Senior managers attend the Crown Court on a regular basis and undertake informal monitoring of HCAs and counsel. Formal monitoring of HCAs takes place on a regular basis by a permanent HCA, who provides written and verbal feedback to advocates. Monitoring in the magistrates' courts is carried out by Unit Heads but feedback is not always provided to advocates, some of whom were not sure whether they had been monitored or not. From our assessments of CPS prosecutors in the magistrates' courts, two are in need of guidance and training/mentoring. Where issues have been raised regarding the competence of agents these have been dealt with robustly by managers.

6.14 Most of the DCWs are now using their extended rights of audience and feedback from a number of court users was that their preparation and presentation is to a high standard. There needs, however, to be better liaison between the CPS and courts staff before courts start as to the listing of indictable only cases to be sent to the Crown Court and those involving persistent young offenders, which cannot be dealt with by DCWs.

- 6.15 Caseworkers provide good support at both St Albans and Luton Crown Court. Comprehensive endorsements were seen on files, both at court and in our file sample. Where caseworkers have covered trials the file notes were detailed, but they often have to cover two courts and in any event usually attend only the first day of a trial, even in sensitive cases such as rape. The close proximity of St Albans Crown Court to the office does mean that a caseworker can be dispatched to assist at short notice if required.
- 6.16 The CPS rooms at some of the magistrates' courts visited are not satisfactory and do not encourage the effective use of 'down time'. There are no IT facilities at St Albans, Hertford or Stevenage Magistrates' Courts, and rooms are poorly equipped, with out-of-date books. There is no CPS room at Watford Magistrates' Court and the room at Dacorum Magistrates' Court is shared with other advocates.

ASPECTS FOR IMPROVEMENT

Feedback and mentoring to advocates in the magistrates' courts does not take place.

Formal monitoring of counsel in the Crown Court does not take place.

7 SENSITIVE CASES AND HATE CRIMES

Most sensitive cases are handled and prioritised appropriately and the quality of decision-making is good. Outcomes are improving and, although the Area has not met the national target for successful outcomes in hate crimes, the local target has been met.

Champions and specialists have been appointed for all categories of sensitive cases, but they do not undertake any specific monitoring or analysis on a case-by-case basis. Cases are correctly flagged on the case management system to assist in prioritisation.

Quality of advice and decisions

- 7.1 Sensitive cases include offences of homicide, rape, child abuse and domestic violence; hate crime includes racially aggravated and homophobic offences. Generally the criminal justice agencies consider that most types of sensitive cases are handled well and prioritised accordingly. The quality of decision-making in our file sample was good.
- 7.2 Pre-charge advice and decisions are provided by the CJU lawyers. Although there is agreement between the CJUs and the CCU that serious or sensitive cases should be referred to the CCU Head by the duty prosecutor at the charging stage, this does not always happen, especially in custody cases. There is no formal protocol specifying the type of cases that must be referred or for obtaining second opinions, for example when advising no further action in rape cases.
- 7.3 We examined six homicide cases which comprised four murders and two fatal road traffic cases; all but one resulted in convictions. The case preparation in respect of all of them was very good. Hertfordshire is beginning to use its in-house HCAs as leading counsel in these cases and it was the first CPS Area where an HCA successfully prosecuted a murder trial.
- 7.4 We examined six rape cases; two were discontinued as the victims made withdrawal statements, two were guilty pleas, one an acquittal after trial, and one resulted in conviction. All cases were handled in accordance with the CPS policy on rape cases.
- 7.5 In all child abuse cases the reviewing lawyer had examined and assessed the video recorded evidence of the child and had noted this on the file.
- 7.6 We examined five domestic violence cases in the magistrates' courts all of which had received pre-charge advice. In all cases the reviewing lawyers had applied the policy correctly. In two of these retraction statements were received and in both consideration was properly given to continuing with the case.

- 7.7 Racially and religiously aggravated offences are dealt with appropriately. We examined 13 race and hate crime cases. In all but one the CPS policy was applied correctly. In all three cases that were discontinued it was because the victim did not wish to proceed. The Area has a policy that prosecutors are not allowed to discontinue racial or religiously aggravated offences without referral to the Unit Head (and training on CPS policy was given to 30 agents in March 2006), but instructions to counsel did not include this and the quality was generally poor with four out of eight cases (50%) providing guidance on acceptability of pleas.
- 7.8 The Area has recorded small numbers of homophobic cases, and there were none in our file sample.
- 7.9 HMCPSI thematic reports are distributed to staff by the Chief Crown Prosecutor and champions are expected to take forward recommendations. The CCU has an objective in its business plan to comply with the HMCPSI best practice.

STRENGTHS

The use of Higher Court Advocates to prosecute sensitive and complex cases.

ASPECTS FOR IMPROVEMENT

Lack of instructions on acceptability of pleas in racially aggravated cases.

Specialists and experts

- 7.10 Champions and unit specialists have been appointed for various categories of sensitive cases. Whether or not they have a specific objective relating to their specialism is left to the individual's line manager, which means there is a lack of clarity as to what is expected of them in this role. Many of the champions carry more than one specialism; for example, one individual is responsible for six topics. Many staff are unaware who the Area or unit champions are. The champions do not monitor case outcomes or provide feedback to individuals or units on performance.
- 7.11 Cases are usually allocated to the respective specialists to deal with, although there was evidence in our file sample of non-specialists dealing with some sensitive cases. All fatal road traffic incidents are advised upon by the Area champion and a copy of the advice provided to the CCP.
- 7.12 The Domestic Violence Champion in the CCU has made contact with local community groups and is currently providing domestic violence training to staff within the Area. The homophobic crime specialist has recently been appointed and has attended a Hertfordshire multi-agency event co-ordinators' forum.

RECOMMENDATION

The roles and duties of champions should be fully defined and form part of the individuals' forward job plans.

Champions should monitor sensitive cases and hate crimes, to include analysis of unsuccessful outcomes.

Outcomes

- 7.13 The unsuccessful outcome rate is improving in hate crimes and the Area met its own target of 41% in the period April-December 2006; 37.9% of cases were unsuccessful which compared unfavourably to the national average of 33.2%. The small number of homophobic crimes recorded resulted in unsuccessful outcomes of 50% in the first quarter of 2006-07; the Area has not finalised any homophobic crimes since.
- 7.14 Hertfordshire established a hate crime scrutiny panel in December 2006 as a pre-cursor to the CPS introducing these to all Areas in 2007. The panel consists of all Unit Heads, the CCP and Area Business Manager and a police representative. It meets monthly and examines all aspects of three unsuccessful domestic violence cases per unit. It is anticipated that this will be extended to other types of hate crime and that lay members will be recruited to participate from outside the CPS.

Anti-social behaviour orders

- 7.15 The Area does not keep a log of anti-social behaviour orders (ASBOs) granted, but relies on monthly printouts from the management information system (MIS) to monitor the number of orders. The police are satisfied with the response of the CPS to making applications. In particular the CPS have contributed to a joint agency approach to tackle 'purse dippers' who are prevalent in Hertfordshire.

Identification and management of sensitive cases

- 7.16 The flagging of sensitive cases is good and all cases in our sample were correctly flagged. A consistent approach has been adopted to monitoring race and domestic violence crime, and each unit completes a monthly log which is collated by the Area Performance Officer and sent to CPS Headquarters. All race crimes cases within our sample were correctly logged and RIDS (racist incident) forms had been completed.
- 7.17 Monthly MIS reports are provided to all Unit Heads for sensitive and hate crimes. Further monitoring of sensitive cases is undertaken through the casework quality assurance (CQA) scheme and adverse outcome reports. There is, however, little dissemination of learning from outcomes of sensitive cases.

Safeguarding children

- 7.18 We examined six child abuse cases. The quality of casework preparation was good in all but two, one of which was not handled by a child abuse specialist. Both cases were subsequently discontinued on the basis of insufficient evidence following counsel's advice. We agreed with the decision to drop the cases but it should have been made sooner. One was dropped very close to the trial date and the other after one ineffective trial and close to the second listing for trial. No letter of explanation was sent to the parents of the children in either case.
- 7.19 The Area business plan includes an action to respond quickly to the recommendations in the CPS policy on prosecuting criminal cases involving children and young people as victims and witnesses, but this is yet to be done. There are no other specific actions regarding safeguarding children. The CCP has established limited contact with the Local Safeguarding Children Board.

ASPECTS FOR IMPROVEMENT

The handling of child abuse cases.

8 DISCLOSURE OF UNUSED MATERIAL

There has been a significant improvement in the way the Area handles unused material, particularly in the Crown Court Unit, where it is filed separately and the disclosure record sheet is now routinely used. Nevertheless, schedules do not always contain detailed records of disclosure decisions. Further improvements to file management are required in the magistrates' courts' units. The Area has a Disclosure Champion and a comprehensive training programme has been established.

Decision-making and compliance with the duties of disclosure

- 8.1 The quality of decision-making and compliance with the duties of disclosure is improving. The following table illustrates the performance trends.

	Area performance in last inspection (March 2005)	Overall findings for all CPS Areas 2002-04 programme	Overall findings in this inspection programme to date	Area performance in this inspection
Initial (or primary) disclosure dealt with properly in magistrates' courts' cases	62.5%	71.6%	64.8%	78.1%
Continuing (or secondary) disclosure dealt with properly in magistrates' courts' cases	No assessment	59.5%	59.4%	50.0% (1 out of 2 cases)
Initial (or primary) disclosure dealt with properly in Crown Court cases	50.0%	79.9%	78.1%	77.6%
Continuing (or secondary) disclosure dealt with properly in Crown Court cases	37.5%	59.6%	79.6%	86.0%
Disclosure of sensitive material dealt with properly in magistrates' courts' cases	No assessment	56.8%	70.8%	50.0% (1 out of 2 cases)
Disclosure of sensitive material dealt with properly in Crown Court cases	No assessment	73.9%	69.2%	47.1% (8 out of 17 cases)

- 8.2 The last full inspection of CPS Hertfordshire, in March 2005, found that its handling of primary disclosure was fair in the magistrates' courts, but both primary and secondary disclosure were handled poorly in the Crown Court. The follow-up inspection noted some improvement, but performance at the time of the OPA was assessed as "Poor".

- 8.3 In this inspection initial (or primary) disclosure was found to be handled appropriately in 32 out of 41 cases (78.1%) in the magistrates' courts and 45 out of 58 cases (77.6%) in the Crown Court. These are significant improvements upon previous performance.
- 8.4 In 95 out of 101 files (94.1%) there was a disclosure officer's report and the majority of schedules contained sufficient information for the prosecutor to make an informed decision on disclosure. Clear and accurate endorsements by prosecutors were made in only 38.1% of cases in the magistrates' courts and 53.5% in Crown Court cases. In some no explanation was given why the decision had been made to disclose or not.
- 8.5 Continuing disclosure was handled properly in one of the two cases in the magistrates' courts where a defence case statement was received and in 37 out of 43 cases (86.0%) in the Crown Court. Defence case statements were routinely sent to the police and chasing memos were issued. In cases where the police failed to respond, no continuing (or secondary) disclosure was provided.
- 8.6 The joint CPS/Association of Chief Police Officers' (ACPO) Disclosure Manual and the Attorney General's Guidelines on Disclosure provide guidance to prosecutors. The protocol for the control and management of unused material in the Crown Court applies to all parties. A culture has developed in Hertfordshire whereby defence solicitors and counsel will write to the CPS requesting items of disclosure and will then list the case for hearing without going through the statutory procedures set out in the Criminal Procedure and Investigations Act 1996. This has been recognised by the local judiciary who are working with the CPS to standardise the approach to disclosure.
- 8.7 Standardised systems of file management need to be established across all the units. The CCU store all disclosure material separately and attach the disclosure record sheet (DRS) to the front of the file jacket, which is good practice. CJU Central adopts a similar system, but CJUs West and East use differing, less good, practices for example, in our file sample unused material was frequently found contained in the body of the main file. The DRS was completed in 82.8% of cases in the Crown Court and in 16.7% of cases in the magistrates' courts.

ASPECTS FOR IMPROVEMENT

Inconsistent file management of unused material, non-completion of disclosure record sheets and schedules are not always fully endorsed in the Criminal Justice Units.

Sensitive material

- 8.8 There are appropriate facilities for the storage of sensitive material and procedures for handling it were clearly understood by lawyers and caseworkers. There is a protocol in place for disclosure of third party material at the Crown Court.

- 8.9 The recording of decisions on sensitive material was variable and not as good as on non-sensitive schedules. There was evidence of consideration of sensitive material in eight out of 17 cases (47.1%). Some schedules were well endorsed and the lawyer had clearly considered the material, but there were cases where the schedules had not been endorsed and the lawyer had not taken any steps to explore what was contained within the sensitive material. There were also examples of where the police had placed non-sensitive items on the sensitive schedule and the lawyer had not referred the schedules back to the police to amend.

ASPECTS FOR IMPROVEMENT

More detailed consideration of sensitive material schedules.

Action to improve

- 8.10 Since the OPA the Area has made a substantial commitment to improve the handling of unused material. An OPA improvement plan was drawn up with specific actions in relation to unused material and progress against it has been monitored regularly.
- 8.11 The Area champion has delivered a training course and all lawyers, DCWs and caseworkers have either attended this or completed the e-learning course on disclosure through the CPS Prosecution College. The course has also been delivered to a large number of Hertfordshire police officers, and has been very well received.
- 8.12 Unit Heads monitor compliance with duties of disclosure using the CQA system and have also undertaken a three month 'dip sampling' exercise on disclosure handling to evaluate the success of the training programme. Realistic assessments were made and where there was room for improvement feedback was provided.

9 CUSTODY TIME LIMITS

This topic was not inspected fully. In the OPA in March 2005 it was assessed as “Fair” and three aspects for improvement were identified; progress against each is outlined in Annex E. There is a customised custody time limit system which has been updated this year and all staff have been given refresher training. The lack of court availability in the Crown Court and long delays in fixing trial dates means there is a substantial risk that applications to extend custody time limits will not be granted in Hertfordshire, particularly in the Crown Court.

Adherence to custody time limits

- 9.1 There have been no reported custody time limit (CTL) failures in 2005-06 or 2006-07 to date and progress has been made on two of the three aspects for improvement.
- 9.2 In the magistrates' courts prosecution advocates do not agree the CTLs with the legal advisers in court, and there is no protocol in place with the Crown Court.
- 9.3 As we have discussed in paragraph 6.9 there are long delays in cases being listed for trial in the Crown Court. All criminal justice partners are concerned that this may not amount to a good and sufficient case to extend custody time limits. This has been escalated to the Hertfordshire Criminal Justice Board.

Area custody time limit systems

- 9.4 There is a written customised CTL system, that was updated this year, which sets out the individual responsibilities of staff, and complies with national guidance. All staff have received CTL training this year.
- 9.5 We examined ten files and found that expiry dates had been correctly calculated in all but one. In three the court endorsements did not clearly set out the remand status at each hearing.

10 THE SERVICE TO VICTIMS AND WITNESSES

This topic was not inspected fully and at the time of the OPA was rated as “Good”. Since then the No Witness No Justice initiative has been fully embedded. Communications to victims and witnesses are timely and performance on Direct Communication with Victims has improved and is now well above the national average.

- 10.1 The Area Business Manager chairs the Hertfordshire Criminal Justice Board sub-group on victim and witness strategy. CPS Hertfordshire has fully embedded the No Witness No Justice initiative and Witness Care Units (WCUs) were established within all its work units in early 2006. These are staffed mainly by police with one or two CPS members. The post-implementation reviews were positive. The CPS units and WCUs work well together and communications to victims and witnesses were timely in 93% of the relevant cases in our file sample.
- 10.2 Earlier problems experienced by the WCUs with the use of the Witness Management System appear to have been largely resolved. The biggest risk to effective witness care remains the rate of ineffective trials in the magistrates' and the Crown Court, as well as the long time interval from first hearing to trial. These issues cause witness care staff to spend a lot more time than they should on supporting victims and witnesses or preparing for trials that will not be heard.
- 10.3 In making decisions to discontinue a case or to reduce charges brought, it is essential for prosecutors to consider the consequences for victims of non-prosecution. These form part of the public interest test and should be recorded on the file, but this is not consistently done. Of the 21 relevant cases in our sample, only nine (43%) indicated victims' views being taken into account in such circumstances.
- 10.4 In the year to December 2006, the five day target for dispatch of Direct Communication with Victims (DCV) letters was met in 88% of cases. This is a marked improvement from the 68% performance recorded for 2005-06 and puts the Area at well over national average performance (72%) for the period. The volume of DCV letters being identified and dispatched has also improved significantly. Following an operational review in 2006, Area performance against its proxy targets increased from approximately 45% in the three month period to June 2006, to 87% in the period to that November. However, whilst the volumes of letters dispatched increased markedly from September 2006, the Area's proxy targets were reduced significantly from 113 to 88 letters per month in August 2006, then to 79 per month that October.

II DELIVERING CHANGE

This topic was not inspected fully and at the time of the OPA was rated as “Fair”. The Area has a clear sense of what it wants to achieve and has linked CPS targets to local objectives in its business planning. The OPA aspect for improvement on new staff induction has been implemented.

- 11.1 The key objectives for 2006-07 are set out in the Area business plan (ABP). They are based around the CPS Public Service Agreement (PSA) targets. The ABP also includes local objectives, including actions to progress aspects for improvement identified by HMCPSI during the 2005-06 OPA exercise.
- 11.2 In the OPA we identified an aspect for improvement relating to the development of effective induction for new staff. This has now been implemented and new staff receive appropriate induction packs. Managers were tasked with ensuring that all aspects of induction are completed. The 2006 staff survey shows that 40% of staff joining CPS Hertfordshire were satisfied with the induction, an improvement from the 2004 rate of 29%. The CPS Area average is 50%.

12 MANAGING RESOURCES

Budgets are centrally managed by the Secretariat, with limited devolution of responsibility to units on agent usage. In 2006-07, the Area came slightly under budget for non-ring fenced administrative costs with an outturn of 99.73%. Prosecution costs have reduced significantly in comparison with previous years, and Graduated Fee Scheme payments are prompt.

The effective deployment of lawyers varies across the units, but designated caseworker and Higher Court Advocate usage continues to increase. However, high levels of ineffective trials have the potential to erode any savings made. The criminal justice agencies have had limited success in clearing backlogs of trials at magistrates' courts and the Crown Court through arranging additional courts and the transfer of trials out of the Area.

Use of resources and budget control

- 12.1 In the two year period to 2006-07, the Area has received an increase in its non-ring fenced administrative costs (NRFAC) budget allocation amounting to 19% before adjustments for inflation. In 2005-06, the CPS reviewed its activity based costing (ABC) structure for all Areas, resulting in CPS Hertfordshire being moved from ABC group 2 into group 3. This change in status takes account of the relative proportion of the Area's caseload to the national one and is reflected in its budget arrangements for 2006-07.
- 12.2 Hertfordshire overspent its NRFAC budget by £4,706 (0.1%) during 2005-06, having under spent its budget during 2004-05 by almost £168,000 (4.1%). Staffing and activity budget models were used to profile and plan NRFAC expenditure. At the time of this inspection, just under 75% of the NRFAC budget had been spent against profiled expenditure to the end of December 2006, three-quarters of the way through the 2006-07 financial year.
- 12.3 Budget control and monitoring is not devolved to individual units and teams, but is managed centrally by the Secretariat. This enables senior managers to determine resources available against committed tasks such as case preparation, court and charging centres attendance and to assess the level of agent sessions required on each unit based on known staff resource availability.
- 12.4 We identified some risks in the resource model described above, as the basis for assumptions used in the calculations was unclear and the conclusions incapable of scrutiny. As such, there remained a risk that the Area would not come within budget for NRFAC for 2006-07. In the event, the outturn on the NRFAC budget at the end of the year was 99.73%.
- 12.5 The cost per unit for the Crown Court caseload during the first three quarters of 2006-07, at £630, is better than the national average of £726. The national trend indicates that unit costs are reducing and the rate at which this is occurring in Hertfordshire, at 24%, is higher than applies nationally (16%).

- 12.6 Graduated Fee Scheme (GFS) payments are made promptly. Since April 2006, 100% of GFS fees due to chambers have been paid within four months, putting the Area amongst the top performers on this measure.
- 12.7 During the previous two years, the prosecution costs budget was overspent by 12% and 3% respectively. By the end of the third quarter of 2006-07, Area records indicated a projected under spend of 22.5% up to that point in the year. The increased use of HCAs may have contributed to this reduced expenditure against the prosecution costs budget.
- 12.8 Hertfordshire was a pathfinder Area in the national HCA pilot programme during 2005-06, and has invested considerable effort in promoting the use of HCAs. In addition to developing its own lawyers to become HCAs, experienced members of the criminal Bar have also been recruited. An in-house team of five advocates are designated as full-time HCAs and are instructed by colleagues, as done with external counsel.
- 12.9 The number of court sessions covered by HCAs has increased significantly from 469 in 2004-05. As at December 2006, 856 sessions had been recorded for 2006-07. The £200,000 savings target for 2005-06 was exceeded by 35.7%, and the Area is on track to exceed the 2006-07 target of £280,000, which represents 24% of its GFS payments for 2005-06. The cost effectiveness of HCA deployment, primarily monitored by reference to the counsel fees saved per session, was £253, better than the national average of £229 for the year to December 2006.
- 12.10 Savings of £321,947 in the 12 months to 30 December 2006 have been achieved and the Area now stands to receive up to £37,000 in additional HCA funding to add to its NRFAC budget for 2006-07.

STRENGTHS

Prompt Graduated Fee Scheme payments and effective scheme operations.

Good levels of Higher Court Advocate savings, with the potential to yield surplus funding.

RECOMMENDATION

Staff resource models need to be clear in identifying the basis on which deployment assumptions are made. The current form of presentation does not lend itself to scrutiny or internal challenge and is also prone to inaccuracies which are difficult to trace.

Value for money principles

- 12.11 All the Area's main service contracts such as supply of stationery, confidential waste disposal, photocopy machine maintenance, office cleaning, and telecoms, are negotiated by CPS Procurement at national or regional level. The use of designated caseworkers has increased, and there is potential for savings to be made and utilized in optimal lawyer deployment. We noted instances where units worked collaboratively to share resources such as experienced lawyers and DCWs.
- 12.12 During 2005-06 and 2006-07, there have been initiatives aimed at reducing trial backlogs in the magistrates' courts, referred to locally as 'trials blitzes', and involving additional court sessions for specific cases to be heard. The 2006-07 initiative, for which the Area bid for additional funds, was in progress during our inspection. However, a number of learning points identified in the review of the 2005-06 exercise had not been taken into account during the planning for the current exercise. These included issues with court listing practices and provisions for witness care. More importantly, the review did not appear to identify the causes of the backlog and how these could be addressed in the longer term to prevent a backlog of trials recurring.
- 12.13 In general, trial effectiveness is necessary for the efficient management of all criminal justice agencies. For the CPS, ineffective trials add a further resource burden in wasted prosecutor time as they are required to prepare cases in advance of each hearing, and prosecutors or agent lawyers are not effectively utilised. Area managers are aware of the need to tackle the underlying reason for trial ineffectiveness with criminal justice partners.

Staff deployment

<i>Designated caseworker deployment (as % of magistrates' courts' sessions)</i>			<i>Higher Court Advocate savings (per session)</i>	
National target 2006-07	National performance Q3 2006-07	Area performance Q3 2006-07	National performance Q3 2006-07	Area performance Q3 2006-07
17.2%	16%	21.5%	£346	£263

- 12.14 The Area has worked hard to reduce its dependence on lawyer agents during 2006-07. Agent use by each unit is monitored centrally, although the control procedures imposed appear to vary from unit to unit, and there were retrospective reports on actual agent usage to the Area Secretariat. Two of the three CJUs had not been able to maintain budgeted levels of agent usage during the first two quarters of the year due to staff shortages.
- 12.15 After two consecutive years of increasing agent usage, the Area has started to show improvement, with in-house coverage of available magistrates' courts' sessions now at 73.2% for the year up to December 2006. This remains below the national average for the same period which stands at 79.6%.

- 12.16 All CJU lawyers are expected to cover 3.5 days at court and charging centres and this forms the basis for business and resource planning at Area and unit levels. However, lawyers on two of the three CJUs had reduced targets in order to increase court preparation time and, consequently, reduce unsuccessful outcomes. This target review has not resulted in any formal change to deployment policy or individual court attendance objectives.
- 12.17 We undertook some analysis of court and charging coverage. The former was based on a conservative notional expectation of five half-day court sessions per in-house lawyer per week and adjusted to accommodate for current levels of sickness absence as well as holiday and training commitments. Our analysis showed that CJU lawyers each completed just over four sessions per week with wide variations across the Area: ranging from over three sessions per lawyer on the CJU East, to about six sessions each on CJU Central. Consequently, CJU Central has continuously reduced its dependence on agents to approximately 11% during 2006-07. Conversely, agent use is particularly high on CJU East, at almost 40% during December 2006. Senior managers have explained that this is due to staff absences on this team. This unit handles almost half of magistrates' courts' trials in the Area and has charging volumes that are slightly higher per lawyer than on other units. It was notable, however, that this team achieved perceivably better performance on case outcomes than other CJUs, even with a significantly lower percentage of guilty pleas.
- 12.18 There is similar variation in the charging volumes attributable to in-house lawyers on each CJU, but this is more balanced when related to the level of C2 lawyers who undertake charging consultations. The Prosecution Team Performance Management (PTPM) reports could usefully include analysis of actual volumes of consultations per unit (PTPM 5) in order to facilitate more effective resource distribution.
- 12.19 In summary, the above analysis indicates that lawyer deployment in court and charging centres is, on average, at approximately three days per lawyer in the CJUs. The overall reduction in Area caseload, the increased proportion of magistrates' courts' cases that are now contested, and the levels of unsuccessful outcomes, all need to be reviewed in considering advocacy/charging advice deployment targets and the division of resources between units and the balance between advocacy and case preparation.
- 12.20 Crown Court Unit lawyers do not cover charging centres, but provide written charging decisions in complex cases. Criminal Justice Unit lawyers felt comparatively over-burdened with their charging and court commitments, and considered the CCU/HCA arrangements were at the expense of the CJU workloads. Our analysis has not borne this out, but we remain concerned that the decision not to use CCU lawyers in the delivery of statutory charging could impair the overall quality of charging decisions and the dissemination of expertise within the Area. Charging outcomes for the year to December 2006 show considerably poorer outcomes for magistrates' courts' pre-charge decision cases than the national average.

- 12.21 Whilst there is a clear focus on developing in-house Higher Court Advocacy skills, there is a potential risk that current arrangements mask inefficient use of resources. The reduction of some CJU prosecutors' court commitments earlier in 2006-07 in order to achieve better case preparation lends support to the view that CJUs are not sufficiently resourced to satisfactorily meet expectations for charging and in-house court attendance, as well as preparing cases to a suitable standard. Some financial benefits derived from HCA deployment need to be directed towards supporting recruitment of additional resources to strengthen magistrates' and Crown Court case preparation.
- 12.22 Performance on DCW deployment during the third quarter of 2006-07 was better than the national target and national performance. The trend shows continuous improvement during the year, although the Area's target of 20% DCW coverage is unlikely to be met. Performance for the nine months up to the end of December 2006 was 15.8%, subsequently increasing to 17.6% by the end of 2006-07. Coverage is expected to improve in 2007-08 with the recruitment of two additional DCWs in 2006-07 to bring the total full-time complement to 7.8 staff as proposed in the Area business plan.
- 12.23 DCWs were expected to cover seven half-day sessions per week. Our analysis of the deployment of the six DCWs available during the year to December 2006 indicates that they were actually utilised for approximately 60% of the time available (i.e. just over four half-day sessions per week each). Effective deployment has improved considerably in the second half of the year. At the time of this inspection, there were 7.8 DCW posts to optimize the increased number of sessions (56 in total) that will become available during 2007-08. As such, the 2006-07 target of 20% should be exceeded by a substantial margin if DCWs are deployed to cover seven half-day sessions per week in 2007-08.

Sickness absence (per employee per year)

National	National performance 2006	Area performance 2006
7.5 days	8.6 days	7.2 days

- 12.24 Days lost due to staff sickness absence are better than both the national average and target as shown above. Nevertheless, there has been a significant increase in sickness absence during the past two years. In 2003 the Area lost, on average, 4.9 days per employee. This increased to 5.4 days in 2005 and 6.2 days in the year to March 2006. Conversely, the percentage of sickness due to long term absence reduced as sickness absence per member of staff increased, indicating that individual sickness rates per member of staff were rising, although this has now returned to 2004 levels.

ASPECTS FOR IMPROVEMENT

Better lawyer resource distribution to match caseloads, court and charging commitments and optimize effective deployment.

13 MANAGING PERFORMANCE TO IMPROVE

The Area has improved its performance management systems and produces clear comparative performance reports on each unit. Performance narrative is less consistent and trends are not easy to follow on the monthly presentations used. There is some evidence of the effective use of performance management and operational effectiveness reviews by staff and managers, such as in attaining improved performance against Area targets for Direct Communication with Victims. However, more remains to be done to improve case outcomes.

Meetings take place with criminal justice partners at various levels, but the effectiveness of partnership with the courts is limited.

Casework Quality Assessment volume targets are now routinely met and there is some analysis and feedback of individual performance, albeit varying across units.

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 Effective performance management systems have been developed that enable focus on headline performance across a range of measures. This is supported by business planning at Area and unit level, in which strategies for improvement are laid out and tasks assigned to individual managers.
- 13.3 The 'traffic light' format used by CPS Headquarters to present individual Area performance against the CPS key performance indicators has been adopted. These monthly reports, which were implemented following a recommendation in the 2005-06 OPA exercise, show comparative unit performance and benchmarks against national average performance, supported in some instances by narrative that identifies background issues. The reports also include updates on local objectives such as the implementation of aspects for improvement identified during the OPA exercise. They are circulated to all unit managers and form a sound basis for discussions during monthly Area Management Team (AMT) meetings.

- 13.4 Our evaluation of Area outcomes and operations indicates that its current performance management model has delivered modest levels of improvement. We noted, for instance, improving performance on discontinuance in the magistrates' courts, sustained compliance with the volumes targets for CQA, and an improvement in the number and timeliness of letters to victims (DCV). In all the above instances the Area performance regime demonstrated sustained monitoring and review, followed by improvements.
- 13.5 A system of quarterly performance reviews held between each Unit Head, the Area Business Manager (ABM) and the Chief Crown Prosecutor (CCP) was discontinued in April 2006. Instead, there is a monthly meeting between the CCP, ABM and all Unit Heads which, unlike the AMT meetings, is not routinely minuted. These meetings focus on the performance of one unit on each occasion, or on one aspect of performance. The ABM also holds monthly meetings with the business managers on the CJUs.
- 13.6 There is a wide variation in respect of the regularity of unit meetings and their focus on performance. CJU West appeared to have more regular team meetings and, importantly, considered unit performance as a standing agenda item at all meetings. This was not so across other units, and meetings appeared to largely serve as a means of re-enforcing instructions and providing guidance updates. As such, staff awareness of Area and unit performance is variable. Performance information for the majority of key measures is available on the Area's public drive where it can be accessed at all times by any member of staff.
- 13.7 Unit Heads have generic objectives, although there is reference to the individual responsibilities that are identified in the Area business plan. The plan sets out Area objectives, each of which is 'owned' by named senior managers responsible for commenting on performance against related measures at AMT meetings, although Unit Heads are ultimately responsible for delivery against performance targets.
- 13.8 The commitment to improvement in deployment of DCWs and HCAs was matched by investment, training and development and a graduated approach to target setting that was effectively monitored and reported upon. Effective reviews of operations for identification and dispatch of DCV letters has led to sustained increase in the number of letters sent between September 2006-January 2007. We also noted a good example of a Unit Head who, in preparing for court, corrected a wrong decision on mode of trial that had involved two CJU lawyers.
- 13.9 In other cases, performance management has been less effective. Challenges remain in improving performance across the board in aspects such as the robustness of statutory charging decisions and the quality of file reviews, as identified by our file sample, and also falls short of meeting four of the six benefits realisation targets for pre-charge decision-making. The examination by Unit Heads of ongoing and unsuccessful cases has yet to improve outcomes to match national averages.

STRENGTHS

A performance management model showing comparative unit performance and national average benchmarks.

ASPECTS FOR IMPROVEMENT

Wide variations in respect of the regularity and quality of unit meetings and performance feedback to staff.

Joint performance management with criminal justice system partners

- 13.10 The Hertfordshire Criminal Justice Board (HCJB) includes all chief officers of the criminal justice agencies in the area, as well as the HCJB Performance Officer. The board is fed into by subject based sub-groups as well as local criminal justice delivery groups (LCJDG) at operational level, which Unit Heads attend and chair. Board members are provided with detailed performance packs in advance of these meetings, some of which are routinely provided by the CPS Performance Officer.
- 13.11 Joint work is more cohesive, but substantial issues remain in relation to persistent young offenders, ineffective trials and delays from first hearing to trial. At the time of this inspection, there appeared to be no solutions in sight to address in the long term high ineffective trial rates and the long delay between fixing the trial date and the trial itself. There are sensitivities and tensions in relations with the Courts Service over the availability of court rooms, trial readiness, listing practices and trial backlogs which require careful handling at the most senior levels.
- 13.12 A police superintendent attends AMT meetings and the CJU Unit Heads attend police CJU management meetings chaired by police staff. In principle, these arrangements offer an opportunity for each to contribute to discussions on performance issues raised at an early stage. Performance is also discussed with police partners at unit level. It was agreed that Prosecution Team Performance Management (PTPM) reports would form the basis for determining any issues with file quality, but in the latter part of 2006 the Area was unable to provide PTPM reports due to the post of the performance officer becoming vacant, which limited the value of the meetings. PTPM reports have been produced for discussion at monthly meetings since December 2006, but there is further work required to embed these reports and to fully utilise the analyses they provide. The PTPM summary reports include sufficient narrative and explanations to assist in interpretation which are considered by some participants to have aided progress in this regard.

- 13.13 Overall, the CPS is working well with partners and contributing to the achievement of key headline targets such as bringing offences to justice. Current co-location arrangements with the police appear to be effective, and there is evidence that each has contributed positively in policy development initiatives by the other. This is illustrated by the change in the police policy of routinely charging both partners in some cases of domestic violence; this was identified as an aspect for improvement in our OPA report. There has also been a secondment of one CPS prosecutor to the police economic crimes unit with a view to improving performance against targets for obtaining confiscation orders on proceeds of crime, although this arrangement ended as scheduled during this inspection.
- 13.14 Public confidence in the Hertfordshire criminal justice agencies' effectiveness in bringing offenders to justice, at 43.6%, exceeds the national average (42.3%), although this falls short of the 48% target.

RECOMMENDATION

The Chief Crown Prosecutor, Area Business Manager and Unit Heads need to engage fully with HM Courts Service to address long standing issues in the magistrates' courts and Crown Court that affect the effective delivery of criminal justice in Hertfordshire.

Performance information and analysis

- 13.15 The Area Performance Officer is based in the Secretariat supporting the work of the ABM, and they hold Hertfordshire's two management information system (MIS) licences. Some good use is being made of MIS, for example, to identify adverse cases, hate crimes and those with undefined outcomes for review by Unit Heads and for PTPM purposes. There remains scope for greater use of MIS to assist managers who are not fully aware of the potential of the system.
- 13.16 There are some management checks by Unit Heads, but these are not systematic in all units, with reliance being placed on the day-to-day 'feel' of case files as these are progressed. The quality of the data included in Area and unit performance reports is consistently satisfactory, albeit sometimes lacking sufficient commentary or narrative to allow all staff to understand performance implications. The AMT shares national quarterly performance reports produced by CPS Headquarters in addition to the monthly performance data. The 'traffic light' system used could otherwise lead observers to take the view that performance is on track to meet targets, when in fact it has only been attained for the month in review. Units did not routinely use the case management system (CMS) reporting system to monitor the level of outstanding pre-charge advice cases.

Casework quality assurance and improvement

- 13.17 The Area has consistently undertaken a high volume of casework quality assurance (CQA). Indeed performance continues to improve and in the second and third quarters of 2006-07, 100% or more of the target number of forms required were returned, indicating that CQA is becoming embedded in Area management systems. Two files per DCW per month are assessed and managers need to ensure that at least one file per lawyer is assessed and that

compliance will exceed 100% each month as a result of this policy. In monthly performance reports considered by the AMT and at unit level, CQA outcomes are highlighted and dips in performance queried. However, planned or actual actions taken to improve performance are not recorded.

13.18 'Live' cases may be included in the selection of the CQA sample in order to address casework quality issues as early as possible. The CQA analysis did not demonstrate the extent to which live cases were being included in file selection. Prosecutors generally felt that managers fed back findings on cases with adverse outcomes rather than on those still on-going. Unit managers had not moved to take advantage of the capacity of CQA to be used as a tool for informing and monitoring individual performance on casework, or indeed to identify opportunities for staff development. There was little evidence that prosecutors' performance appraisals were informed by any sustained monitoring and analysis of casework performance using CQA or other means. As such, it is difficult to see how CQA has led to the improvement of casework.

RECOMMENDATION

In view of the high rate of unsuccessful outcomes, the Area Management Team should use casework quality assurance and other systematic management checks effectively to inform unit and individual performance.

14 LEADERSHIP

This aspect was not inspected as a full aspect and was rated as “Good” in the OPA. The Area Management Team has a clear vision and members work well together, however, the means for communicating the vision to staff is inconsistent

- 14.1 The AMT work well together and are supportive of each other. They have a clear vision for the Area.
- 14.2 Communication to staff on progress against the Area business plan is predominately through the annual training day, or unit meetings. There were ad-hoc e-mail messages addressing specific operational and performance issues and messages of appreciation to staff. Results from the staff survey confirm that the Area performs below the national average in respect of the regularity or effectiveness of team and unit meetings. The separate locations and lack of contact between the units on a regular basis means that staff would benefit from increased contact with the CCP and ABM through more regular visits.
- 14.3 The Area produced a Workforce Representation Themed Review Response as part of the themed reviews under the CPS Area Performance Review System. This was rated “Red” which was of concern to the Area. A progress check against this plan will be conducted later in 2007-08 and into 2008-09, which should enable more recent progress to be identified and assessed.
- 14.4 A flexible working scheme is operated and objectives and conditions clearly documented. Data held on the Personnel Information Monitoring and Management Systems (PIMMS) data to October 2006, shows that the ratio of staff by headcount to staff in post is consistent with the national average.

15 SECURING COMMUNITY CONFIDENCE

This topic was not inspected fully and in the OPA was rated as “Fair”. The Area has a community engagement strategy but has had limited success in achieving its objectives. Public confidence in the ability of the criminal justice agencies to bring offenders to justice in Hertfordshire, at 43.6%, is higher than the national average.

- 15.1 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.
- 15.2 A community engagement strategy for 2005-08 is in place. It identifies as its key principles that the community engagement activity must add value to core business and be evaluated to demonstrate it does; it will be inclusive across the diversity of internal and external stakeholders; and engagement will include traditionally excluded groups and communities. Limited success has been achieved against these principles.

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 rolling annual to December 2006
45.7%	43.6%

- 15.3 The British Crime Survey figures for public confidence in the effectiveness of criminal justice agencies in bringing offenders to justice in Hertfordshire is 43.6% compared to 42.3% nationally.
- 15.4 The Area has engaged with local radio and media to raise awareness and to highlight the improved standards of victim and witness care and the “Witness First” project.

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.

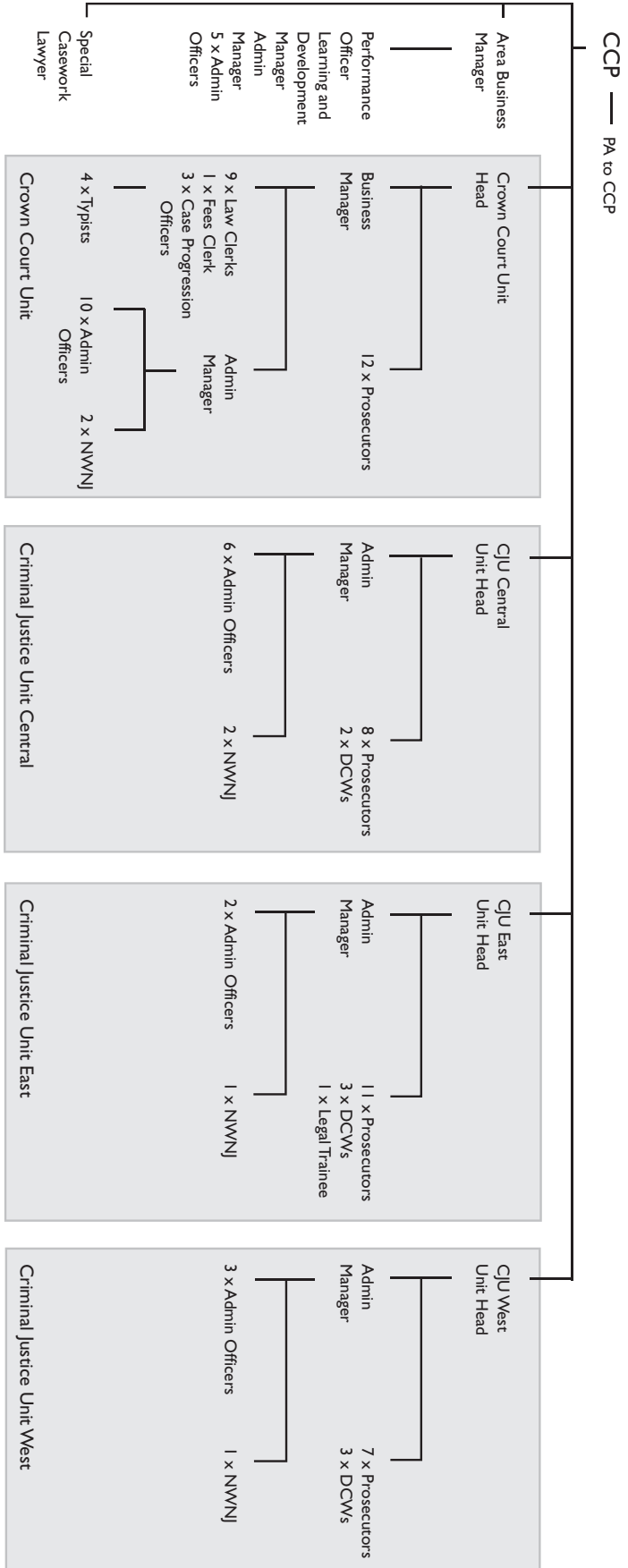
Criteria 12B: Senior managers act as role models for the ethics, values and aims of the Area and the CPS, and demonstrate a commitment to equality and diversity policies.

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 December 2006

	HERTFORDSHIRE		Number	NATIONAL Percentage
	Number	Percentage		
1. Magistrates' Courts - Types of case				
Pre-charge decision	8,061	29.9%	577,254	34.3%
Advice	11	0.04%	1,795	0.1%
Summary	12,173	45.1%	683,435	40.6%
Either way and indictable	6,668	24.7%	417,113	24.8%
Other proceedings	59	0.2%	4,019	0.2%
Total	26,972	100%	1,683,616	100%
2. Magistrates' Courts - Completed cases				
Discontinuances and bind overs	1,841	10.5%	112,571	11%
Warrants	371	2.1%	28,031	2.7%
Dismissed no case to answer	101	0.6%	2,568	0.3%
Acquittals after trial	597	3.4%	18,942	1.9%
Discharged	91	0.5%	2,400	0.2%
Total Unsuccessful Outcomes	3,001	17.1%	164,542	16.1%
Convictions	14,531	82.9%	856,739	83.9%
Total	17,532	100%	1,021,281	100%
Committed for Trial in the Crown Court	1,564		91,329	
3. Magistrates' Courts - Case results				
Guilty pleas	9,468	62.2%	654,026	74.5%
Proofs in absence	3,879	25.5%	155,473	17.7%
Convictions after trial	1,184	7.8%	47,240	5.4%
Acquittals after trial	597	3.9%	18,972	2.2%
Acquittals no case to answer	101	0.7%	2,568	0.3%
Total	15,229	100%	878,279	100%
4. Crown Court -Types of case				
Indictable only	543	30%	35,696	28.6%
Either way defence election	39	2.2%	5,291	4.2%
Either way magistrates' direction	729	40.3%	48,629	38.9%
Appeals; committals for sentence	497	27.5%	35,277	28.3%
Total	1,808	100%	124,893	100%
5. Crown Court - Completed cases				
Judge ordered acquittals and bind overs	244	18.2%	12,288	13.2%
Warrants	20	1.5%	1,290	1.4%
Judge directed acquittals	19	1.4%	1,366	1.5%
Acquittals after trial	105	7.8%	6,066	6.5%
Total unsuccessful outcomes	388	28.9%	21,010	22.7%
Convictions	953	71.7%	71,749	77.3%
Total	1,341	100%	92,759	100%
6. Crown Court – Case results				
Guilty pleas	802	74.5%	60,558	76.5%
Convictions after trial	151	14%	11,191	14.1%
Acquittals after trial	105	9.7%	6,066	7.7%
Judge directed acquittals	19	1.8%	1,366	1.7%
Total	1,077	100%	79,181	100%

ANNEX D: RESOURCES AND CASELOADS

<i>Area caseload/staffing CPS Hertfordshire</i>		
	January 2007 (12 months to 31 Dec 2006)	September 2004
Cases	18,900	21,795
Staff in post	109.3	88.6
Lawyers in post (excluding CCP)	41.2	35.2
Pre-charge decisions/advices per lawyer (excluding CCP)	195.9	98.4
DCWs in post	7.8	5
Magistrates' courts' cases per lawyer and DCW (excluding CCP)	385.7	585.9
Magistrates' courts' contested trials per lawyer (excluding CCP)	45.7	29.9
Committals for trial and "sent" cases per lawyer (excluding CCP)	38	38.4
Crown Court contested trials per lawyer (excluding CCP)	6.7	10.6
Level B1, B2, B3 caseworkers in post (excluding DCWs)	20.4	19.8
Committals for trial and "sent" cases per level B caseworker	76.7	59.3
Crown Court contested trials per level B caseworker	13.5	16.4
Level A1 and A2 staff in post	39.1	29.7
Cases per level A staff	483.4	733.8
Running costs (non-ring fenced)	£4,869,330	£4,055,850

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/summary 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 MARCH 2006

Aspects for improvement	Position in February 2007
1 In PCD cases the benefits are not being realised.	Limited progress - two out of six of the key benefits are being realised, an improvement on one in six at the time of the OPA.
2 The quality of case preparation in the magistrates' courts should be better.	Limited progress - there are still issues surrounding case preparation which are dealt with in this report.
3 The cracked trial rate is not as good as the national average.	Achieved - cracked trial rates in the Crown Court and magistrates' courts are now better than national averages.
4 The discharged committal rate is above the national average.	Limited progress made - the rate is still above the national average but the trend is improving, from 1% of all cases to 0.5% of all cases, against national performance at 0.2%.
5 The attrition rate in hate crime cases is significantly higher than the national average.	Limited progress - improvements are in line with national trends and Area performance is still worse than national averages.
6 The Area does not have a customised written CTL system setting out the individual responsibilities of staff.	Achieved.
7 The Area does not have a protocol for CTLs with the courts.	No progress made.
8 There are training issues over endorsement and monitoring of CTLs.	Substantial progress - training has taken place for all staff and desk top instructions issued.
9 An examination of disclosure handling is needed.	Achieved.
10 There is significant room for improvement in handling unused material.	Substantial progress - initial and continuing disclosure handled well in this inspection, more work required on endorsement of schedules.
11 Targets for numbers and timeliness of DCV letters are not being achieved.	Substantial progress - operational review has led to improved performance against reduced proxy targets. Timeliness performance is significantly better than national average.

Aspects for improvement

Position in February 2007

12	There is no systematic formal monitoring of advocates.	Limited progress - formal monitoring has taken place, but not on a systematic basis in the magistrates' courts.
13	Counsel in the Crown Court are not monitored on a regular basis.	No progress - only informal monitoring takes place.
14	Performance in relation to brief delivery is below the national average.	No progress - performance is below the national average and has deteriorated since.
15	Forward job plans do not link closely enough with the Area's objectives.	Substantial progress - however, individual target setting is still not SMART, with Area targets forming the basis for individual target setting.
16	There are issues around the quality and induction of new staff.	Achieved - staff receive appropriate induction packs and managers are tasked with ensuring that all aspects of induction are completed.
17	The Area needs to evaluate training.	Substantial progress - the Area learning and development manager has developed a needs analysis and local training delivery and evaluation programme.
18	The Area needs to ensure the budget is on track.	Substantial progress - Area performance against the 2005-06 NRFAC budget, with a 0.1% overspend was good, but systems for assessing staff cost profiles need to be improved.
19	Reduce use of lawyer agents.	Substantial progress - court attendance expectations form part of lawyers' objectives. Agent usage has reduced significantly in one unit, but less so in others.
20	The style of performance reports for individual units needs to be improved.	Substantial progress - now in standard 'traffic light' format but with varying levels of unit-specific performance narrative.
21	The standard of reports prepared by Unit Heads lack depth and require standardisation.	No longer applicable - due to change in performance management regime (see item 20 above).
22	Greater use of MIS required to support performance management.	Substantial progress - ABM and Performance Officer produce MIS reports for routine Area and team performance reporting. The recently appointed Performance Officer has now received MIS training.

Aspects for improvement	Position in February 2007
23 Staff to be kept updated on performance information through use of staff bulletin.	Limited progress - the levels of staff knowledge of unit and Area performance vary widely, although summaries were available to them. Unit meetings are irregular and do not adequately cover performance information.
24 Poor compliance with the CQA process.	Substantial progress - during 2006-07, there have been marked improvements in compliance with the number of forms completed and these now meet or exceed the 100% target.
25 Better feedback to lawyers to learn from casework outcomes.	Limited progress - individual and unit feedback on case outcomes is still ad-hoc and largely based on a case-by-case review of those with adverse outcomes by Unit Heads.
26 Regular team meetings or publication of staff newsletter.	Limited progress - not all units are holding regular meetings, no newsletter has been published.
27 Further engagement with criminal justice partners to improve Area performance.	Limited progress - some good examples of improvement noted, such as reduction in discharged committals and better DCW deployment. But high levels of ineffective trials yet to be effectively addressed.
28 Clear and specific equality and diversity actions to be included in Area business plan.	No progress - no actions stated in the Area business plan.
29 Resources to be allocated for community engagement funded by HCA savings.	Limited progress - Area plans indicate that there is no funding available for a specific full or part-time post during 2005-06 and 2006-07, but a number of staff have been involved in the Area's community engagement activity.
30 Development of a community engagement strategy.	Substantial progress - a community engagement strategy for 2005-08 is in place, however effective delivery will be a challenge without adequate resource allocation at Area or LCJB level.
31 Improve engagement with black and minority ethnic communities.	Limited progress - some engagement with Watford Race Equality Council.

ANNEX F: TOTAL NUMBER OF FILES EXAMINED FOR CPS HERTFORDSHIRE

	Number of files examined
Magistrates' courts' cases	
Pre-charge advice/decision	5
No case to answer	4
Trials	21
Youth trials	5
Discontinued cases	7
Discharged committals	5
Race crime	5
Domestic violence cases	5
Fatal road traffic offences	4
Cases subject to custody time limits	0
Crown Court cases	
Discontinued (sent cases dropped before service of case)	4
Judge ordered acquittals	13
Judge directed acquittals	5
Trials	13
Child abuse cases	6
Race crime	8
Homicide	6
Rape cases	6
Cases subject to custody time limits	0
TOTAL	122

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

Crown Court

His Honour Judge Findlay Baker

Ms S Moran, Crown Court Manager

Magistrates' Courts

Mrs S Gordon JP

L Sharman JP

Mr A Bevan, Clerk to the Justices

Mr P Fellingham, Clerk to the Justices

Mr D Gibbs, Clerk to the Justices

Police

Mr F Whiteley, Chief Constable

Chief Superintendent J Alford

Chief Superintendent G Kitching

Chief Superintendent A Roome-Gifford

Superintendent C Boyce

Ms C Parsons, Business Development Manager

Ms D Fox, Criminal Justice Unit Manager

Mr C Partridge, Criminal Justice Unit Manager

Ms C Ward, Criminal Justice Unit Manager

Ms J Shilston, Witness Care Unit Manager

Defence Solicitors

Mr S Battersby

Counsel

Mr A Bright QC

Mr S Trimmer QC

Miss I Delamere

Mr G Hooper

Witness Service

Mrs F de Pencier, Witness Service Manager

Victim Support

Mr D Padgett, Area Manager

Hertfordshire Criminal Justice Board

Ms M Vits, Business Development Manager

Youth Offending Teams

Mr R Reimann

Members of Parliament

Mr O Heald MP

Members of Parliament with constituencies in Hertfordshire 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.



If you ask us, we can provide this booklet in Braille, large print or in languages other than English.

For information or for more copies of this booklet, please contact our Publications Team on 020 7210 1197, or go to our website: www.hmcpai.gov.uk

HM Crown Prosecution Service Inspectorate

London Office:

26 – 28 Old Queen Street

London SW1H 9HP

Tel. 020 7210 1197

Fax. 020 7210 1195

York Office:

United House, Piccadilly

York, North Yorkshire, YO1 9PQ

Tel. 01904 54 5490

Fax. 01904 54 5492

Website:

www.hmcpsi.gov.uk

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