



HM Crown Prosecution
Service Inspectorate

CPS North East Inspection Report

April 2013



Chief Inspector's foreword

Like all CPS areas, CPS North East is undergoing a significant amount of structural and resource change. I commissioned an inspection on the basis of the Inspectorate risk model, which looks at a range of high level performance outcomes.

It is encouraging that many of the findings from this inspection show that CPS North East have plans in place to address future performance and my assessments reflect this. I am pleased that the Area is making substantial effort and good progress in creating a whole Area ethos, with good governance arrangements and financial management.

There is a lot of good work being done around community engagement and this is reflected in the sound relationships with outside interest groups. Similarly, at a strategic level there are very good working relationships with criminal justice partners. However this is not as evident at all operational levels, but progress is being made.

Whilst this inspection identified serious concerns about aspects of case preparation, the Area's overall performance compares favourably with national performance in a number of outcomes. It has a higher proportion of successful outcomes in the Magistrates' Courts and the Crown Court than found nationally, and fewer unsuccessful

outcomes in hate crimes and offences involving violence against women. My inspectors were impressed with the work that was being done to maintain and improve performance in these case categories. However, some of the performance outcomes are masked by high cracked trial rates in the Crown Court and very high vacated trial rates in the Magistrates' Courts.

Changes taking place at a national level create some risks which will need to be carefully managed. The move to a national daytime charging service will take away many of the controls the Area considers it needs to have in place.

I consider that this is a pivotal time for the Area. The changes currently in progress should lead to improvements in casework but only if the strategic direction set is managed effectively at the operational level.



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Contents

Chief Inspector's foreword

Executive summary	1
Conclusion, recommendations, good practice and aspects of concern	4
Part 1	7
Introduction	7
Background and context.....	8
Methodology	8
Part 2: Inspection findings	9
1 Governance	9
Leadership and strategic planning.....	10
Staff engagement.....	11
Working with partners.....	12
Community engagement.....	13
Management of performance and risk.....	14
2 Casework quality	17
Charging delivery.....	17
Decision-making	19
Case preparation.....	21
Delivery at court.....	26
Service delivery for users.....	28
Victims and witnesses.....	28
3 Efficiency and value for money	29
Finances are managed effectively to deliver key business objectives	29
Resources are planned and distributed effectively to deliver key business objectives.....	29
Area casework processes and systems are efficient and cost effective.....	31
Prosecution costs are managed to deliver value for money.....	33
There is an effective asset management regime in the Area.....	34
Part 3: Annexes	35
A File examination findings.....	35
B Casework outcome data.....	38
C Financial and efficiency outcomes.....	40
D Survey results.....	44
E Methodology	45
F Glossary.....	47



Executive summary

There are many aspects of the operation of CPS North East which are wholly satisfactory including its strategic direction, financial controls and community engagement. Additionally a number of the Area's casework outcomes are better than found nationally. However, it is let down by many aspects of late Magistrates' Court casework preparation, where aspects of performance are poor, which permeates through to the working relationship at the operational level with those courts. Performance in respect of Crown Court case preparation is better. This mixed performance picture is reflected in inspectors' assessments as set out in the following table:

Inspection criteria	Assessment
Governance	Good
Casework quality	Fair
Value for money and effectiveness	Fair

CPS North East is in the process of delivering a major structural change to the way it delivers its business which should help to develop further a whole Area ethos. At the time of the inspection all the Northumbria units had been centralised in the Newcastle office, and the Cleveland and Durham units were due to centralise in Middlesbrough in spring 2013. As part of the change strategy the existing Magistrates' Court case progression units will merge into two, and the Cleveland and Durham Crown Court case progression units will also merge. At the time of

the inspection the Area was planning to deliver its Daytime Direct charging from the current Durham office, although this function is likely to be taken over by the national CPS Direct later in the year. However, we understand that as part of the national strategy to reduce the CPS estate this is under review.

The integration of the units is a challenge, and it is essential that the plans to take this forward, particularly in respect of digitisation and standard operating procedures are set out clearly and communicated effectively. Inspectors found that not all staff were clear about how this would progress. However, communication generally is good and although the initial stages of the consultation exercise on the merger of units could have been handled better, the latter stages have been more precise with staff having a clearer understanding of what they may realistically expect is open to negotiation.

Financial controls are rigorous and the Area budget, including prosecution costs, is well managed, with slight underspends in the last two financial years, although there is a projected overspend for the 2012-13 financial year. This is attributable entirely to an increase in agent usage in the Magistrates' Courts, primarily to enable the Area to fulfil its commitment to training prosecutors in electronic case presentation. There should be capacity to address this position in the future by the enhanced resilience of the larger case progression units, realistic negotiations on Magistrates' Court scheduling and increasing the number of Associate Prosecutor compliant courts.

In common with many CPS areas, the North East has more Crown Advocates than it needs to cover suitable Crown Court work. The ring-fenced Crown Advocate Team is employed fully, but the overall savings for each Crown Advocate in the Area are much less than the national average at £30,350 compared with £52,627 (12 months to September 2012).

All aspects of performance are managed well, with managers held to account through quarterly performance reporting. Performance information is provided on a monthly and quarterly basis which enables managers to assess trends and direction of travel. Inspectors' assessment of the operation of the casework quality standards monitoring (CQSM) by unit managers showed an improvement from when the Area was assessed as part of Her Majesty's Crown Prosecution Service Inspectorate's (HMCPIS) thematic review of CQSM. The difference between inspectors and Unit Heads' assessment of casework quality had narrowed and showed a higher level of convergence than found nationally in the thematic review. This indicates that overall managers' robustness in assessing quality is improving.

The trial merger of the Cleveland and Durham Local Criminal Justice Boards resulted in the formation of an Efficiency and Effectiveness sub group which had only met once at the time of the inspection. It was therefore too early to determine what it will assess as its strategic priorities, but other bilateral work between the CPS and the police to drive up file quality was developing well. This was also reflected in the positive working relationships at the strategic level, but these weakened at some parts of the operational level, particularly in the Magistrates'

Courts. Here there are clear tensions, arising primarily from the late CPS preparation of contested cases, which was leading to too many trials being vacated late in the day either because necessary work had not been carried out on time or a decision was taken to drop the case. These tensions were compounded by the CPS view that there are too many court sittings, which was draining their resources and leading to late preparation. Inspectors did observe courts where there was little business, but also saw trial courts collapse because the CPS had not carried out required actions. It is of note that since the inspection there has been agreement to reduce significantly the number of court sessions in Northumbria.

The Area has proportionately more successful outcomes than the national average, but could improve further if aspects of its decision-making were addressed. Inspectors found that the Code for Crown Prosecutors (the Code) was applied correctly in 92.5 per cent of cases at the charging stage, but that only 43.0 per cent of MG3s (record of charging decision) were good or better. Most of those that did not meet the required standard did so because they lacked any meaningful case analysis or strategy about how the case should be presented. Inspectors noted that the Area requires a high standard of file from the police before they will make a charging decision, and also observed that in some cases this was clearly more than was needed to make a full Code decision. This was seen by senior managers as a way of reducing the post-charge attrition rate, but recognise that there is a risk this enhanced local approach may not be sustainable when charging provision is delivered nationally later in 2013.

There was a similar level of Code compliance at subsequent review stages (92.8 per cent), but inspectors were concerned that some cases were allowed to proceed to the next point, for example committal to the Crown Court when they should have been dropped earlier. Improving the timelines of discontinuance, particularly in the Magistrates' Courts has been rightly identified as a performance priority by managers and would have a positive impact on reducing unnecessary resource time and improve the relationship with the Magistrates' Court.

Compliance with the disclosure of unused material requirements was affected at the initial stage by late preparation which removed the time to remedy defective schedules, in respect of which there were variations in quality across the Area. This was a significant issue in Magistrates' Court cases, with only just over half the cases examined having timely initial disclosure. However, other aspects of disclosure handling compared favourably with recent area inspections. For example consideration of sensitive material schedules was dealt with correctly in nearly 87 per cent of cases, and could easily be improved further by prosecutors ensuring they endorse the schedule correctly. Similarly, the accurate completion of disclosure record sheets would also lead to an overall improvement of performance in this aspect.

The Area has a lower proportion of unsuccessful outcomes in hate crimes and offences involving violence against women when compared to national performance. Inspectors were impressed by the work done by the Area co-ordinators to drive up performance, which is also reflected in the very positive responses in our survey from community groups. However, managers need

to ensure that prosecutors are applying the Code correctly at the charging stage in cases involving allegations of domestic violence. Although based on a small sample, inspectors considered that some decisions indicated a risk averse approach to directing prosecution.

There is good prioritisation of the preparation of custody time limit (CTL) cases and all other aspects of CTL cases are well handled. The Area has not had any reported CTL failures in the last two years.

The crucial key to addressing many of the issues identified in this inspection will be to secure improvement in the overall performance of the case progression units, particularly those which handle Magistrates' Court cases. Important factors include adequate resourcing, the setting of clear expectations, completing the digitisation of processes and the implementation of standard Area operating procedures. The approach to how certain contested motoring cases involving a failure to nominate the driver are processed also needs to be reviewed. The benefits that should follow include the reduction in vacated trials, improving the timeliness of discontinuance, a reduction in the 'churn' of cases through the system and an improvement at the operational level of partnership working with other agencies.

A reduction in vacated trials will also impact positively on the service to victims and witnesses. Performance in this aspect is already good, with the requirements of the Victims' Code and other measures met in 90.6 per cent of cases, although there needs to be some improvement in the quality of communication with victims.

Conclusion, recommendations, good practice and aspects of concern

The findings from this inspection indicate that the strategic direction set by the Area is good, and can build on a structured approach to performance management and robust oversight of budgetary controls. The approach adopted to create a whole Area ethos should result in benefits to many aspects of performance.

The Area's headline performance as reflected in the proportion of successful outcomes compares favourably with the national average, but there are underlying concerns in the higher proportion of cases dropped than found nationally. Work at a local level is being done to reduce attrition rates, but this could become challenging when many charging decisions are taken out of local control with the move to a national daytime charging service.

The common thread throughout this report is the need to improve the quality and timeliness of casework preparation, particularly in the Magistrates' Courts. Improving the latter should see consequential benefits to the former, with more time to address evidential issues and strengthen cases before the trial date.

The Area is entering a crucial period in its development at the same time as the CPS nationally seeks to refocus its work to deliver more with fewer resources. CPS North East has undoubtedly felt the impact of resource reductions, but should be able to mitigate those by the implementation of efficient and effective working processes.

The Area needs to reduce the churn of Magistrates' Court cases through improving case preparation. This should contribute to reducing the vacated trial rate and put it in a stronger position to continue negotiations with the courts on the number of overall sessions required to deliver the work efficiently. Any improvement to case preparation can only come about through the integration of the existing units and the move to standard operating procedures and full digitisation. The plans for delivering this need to be revisited and clear successful outcome measures identified.

Recommendations

- 1 The Area must develop a clear plan for digitisation and the integration of its case progression units with key milestones and measurable outcomes. The Area should, in conjunction with the plan, produce and implement a specific communication strategy aligned to the delivery of the project (paragraph 1.13).
 - 2 As part of overall performance management, the Area must produce an accurate resource analysis at operational level and take any necessary remedial action to ensure resources are distributed effectively to deliver core business (paragraph 1.33).
 - 3 The Area should agree, before the introduction of the national Daytime Direct charging arrangements, local standards on the provision of material for a charging decision, which should be monitored under existing prosecution team performance management arrangements and collaboratively with CPS Direct (paragraph 2.8).
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4 The Area, in conjunction with its police partners, should review the process for prosecuting offences of failing to nominate driver, to ensure they are dealt with efficiently with the minimum resource allocation necessary to prosecute effectively (paragraph 2.37).

5 Magistrates' Court vacated trial data and the reasons for vacation should be included in joint criminal justice partner analysis of performance and local challenging targets set to reduce the current rate (paragraph 2.39).

Good practice

1 The holding of discrete police force area based community involvement sessions, within the overall community involvement programme (paragraph 1.23).

2 The joint agency approach to the process for the disclosure of third party unused material (paragraph 2.50).

Aspects of concern

1 The quality of MG3s (record of charging decision) (paragraph 2.13).

2 The process for the provision and consideration of advice files submitted by the Cleveland Police (paragraph 2.17).

3 The timeliness of discontinuance (paragraph 2.19).

4 The quality of the recording of lawyer review decisions including analysis, case strategy and decision-making (paragraph 2.21).

5 The recording of the reasons for the acceptance of a basis of plea (to demonstrate compliance with policy) and the lack of a signed written basis (paragraph 2.23).

6 The timeliness and quality of case preparation and progression in Magistrates' Court cases (paragraph 2.32).

7 The limited time for adequate preparation of contested Magistrates' Court cases (paragraph 2.61).



Part 1

Introduction

CPS North East was formed as part of the national restructuring of the CPS in April 2011. It comprises the police force areas of Cleveland, Durham and Northumbria. At the time of our inspection the Area had offices in each force area, with its Operations Centre and Complex Casework Unit based at the Northumbria office. The Area intends to maintain a presence in each force area.

The Area was in the process of a major restructuring exercise during the course of the inspection, bringing all its Northumbria based teams into the central office in Newcastle. This will be followed in spring 2013 by the merger of the Durham and Cleveland operational units at the Middlesbrough office.

In common with other CPS areas there has been a reduction in North East staff levels over the last two years, with overall staff numbers reducing by 11.5 per cent compared with 10.4 per cent nationally. The Area has seen a much smaller reduction in completed Magistrates' Court cases (5.7 per cent) over the same period compared with nationally (11.3). It has also seen a much smaller reduction in contested Magistrates' Court cases. The picture in the Crown Court is mixed with the overall number of completed cases reducing by 15.0 per cent compared with 12.9 per cent nationally but the number of contested cases (which are more resource intensive) rising by 7.9 per cent compared with a decline of 3.8 nationally. The proportion of cases where the Area is required to provide charging advice to the police has also reduced less than the national average. Overall the Area has to do more, with less resource when compared with the national picture.

Casework outcomes are mixed, with more successful outcomes in the Magistrates' Court and the Crown Court compared with national performance, but conversely more cases dropped. In the 12 months to September 2012 there was a successful outcome in 87.2 per cent of the Area's Magistrates' Court cases compared with 86.7 per cent nationally. Performance in the Crown Court was also better than found nationally, with 83.6 per cent of cases resulting in a successful outcome compared with 80.9.

However, the proportion of cases dropped (as opposed to the defendant being acquitted after trial) was worse than found nationally. In the 12 months to September 2012, North East dropped 10.2 per cent of its Magistrates' Court cases and 11.8 per cent in the Crown Court compared with 9.4 and 11.5 per cent nationally. Performance was adversely affected by the Cleveland unit which dropped 12.3 per cent of its Magistrates' Court cases and 13.4 per cent in the Crown Court.

A detailed breakdown of the Area's outcome performance is at annex B and performance against a range of efficiency measures is at annex C.

Most Crown Court work is dealt with at the centres at Newcastle and Teesside, with limited capacity at Durham. There is a significant variation in the number of Magistrates' Courts in the police force areas, with only two in Cleveland, but seven in Northumbria. Many of the Magistrates' Courts are a distance from the Area offices and prosecutors will benefit from the planned introduction of CPS business broadband at these centres, to enable them to access the case management system.

Background and context

HMCPST uses a risk-based approach to identify the comparative performance of CPS areas. This informs the planning of future inspection activity. A number of aspects of North East's performance identified by HMCPST and the CPS nationally indicated that it would be appropriate to inspect the Area.

The file examination aspect of the inspection forms part of a wider HMCPST Annual Casework Examination Programme which involves looking at casework performance in each of the 13 CPS areas. The findings from the North East file sample will contribute to an overall assessment of CPS performance.

A sub-set of the file sample comprises cases which were subject to the Area's CQSM. The findings from this sub-set will help inform the Inspectorate's assessment of the progress the CPS nationally is making in the quality and consistency of its casework monitoring.

Methodology

The inspection involved an examination of 220 finalised files, comprising 55 from each of the Cleveland and Durham units and 110 from the larger Northumbria unit (including a small sample of cases where either an out of court disposal or no further action was directed). The key findings from the file examination are at annex A. Inspectors examined a range of performance data and other material. Observations of the Daytime Direct charging process, the quality of advocacy and case progression at court were also undertaken. The views of CPS staff, the judiciary, criminal justice partners, independent counsel, defence solicitors and community groups were sought either by questionnaire or interview. A detailed explanation of the methodology is at annex E.

Part 2: Inspection findings

1 Governance

Good

1.1 CPS North East (which combines the former Areas of Northumbria, Durham and Cleveland) has created successfully a unified Area, with sound structures to manage its business as a single entity. As with most CPS areas, the North East has been subject to, and had to make, a number of significant structural and operational changes over the past two years. It has developed effective plans to manage the change, and more recently has had to make some difficult decisions about the optimum Area structure necessary to ensure that business can be delivered effectively and performance outcomes improved.

1.2 The Area's performance against a range of nationally measured outcomes put it at the lower end of CPS performance, despite the proportion of successful outcomes being better than the national average, and it has been subject to scrutiny by CPS Headquarters. There is an Area action plan in place to try to address those aspects of performance that are a cause for concern. The senior management team recognises that until it can integrate fully its processes and workloads into larger and more sustainable units that some of the performance problems will continue to persist.

1.3 Area plans to harmonise Magistrates' Court case progression unit processes started just before the inspection, with the relocation of all Northumbria units into the Newcastle office. The Durham and Cleveland case progression units will merge in spring 2013.

1.4 There is a sound rationale for these mergers, they should increase sustainability and bring benefits from economies of scale. Whilst inspectors recognise that the first stage in the plan must be the bringing together of the teams, the full realisation of benefits is not entirely clear and there was some confusion and a lack of clarity at differing management levels across the Area about the key deliverables and the aim of the change.

1.5 It is difficult to view CPS performance outcomes in isolation from those of its criminal justice partners. As with all other CPS areas the North East works in partnership and relies on others within the criminal justice system. The environmental factor of the relationships with the courts and police cannot be underestimated. CPS outcomes and performance can be influenced substantially by the actions of partners. In the experience of the Inspectorate effective partnership working can have a substantial positive impact on the success of an area.

1.6 Inspectors found a very strong and shared partnership vision at the highest strategic level. This joint commitment was demonstrated within Northumbria by the creation of a joint team (police, CPS and HM Courts and Tribunals Service) to look at process and systems improvement and in Durham and Cleveland by the merger of their Local Criminal Justice Boards. However, as we discuss later in this report, that vision does not permeate down to some aspects of joint working at the operational level.

Leadership and strategic planning

1.7 The senior management team have succeeded in communicating and establishing a CPS North East ethos and vision. The Area has communicated the need for change in an effective manner. There have been a number of consultation exercises. In 2011 an options paper on the future of the Durham office and also more latterly in 2012 a consultation and preference exercise gave the Area the opportunity to set out in clear terms the direction and vision for the future.

1.8 The Area business plan (complemented at both the Magistrates' Court and Crown Court unit level with individual business plans) sets out six key priorities to take the Area forward. There is a clear strategic understanding of the need to improve performance, to work with and through staff, to bring the Area together to improve resilience, ensure consistency and also gain some economies of scale.

1.9 Communicating the vision of the Area has been fairly successful. In our staff survey 65 per cent of staff agreed or strongly agreed that there is a clear vision for North East. Given that the Area is facing significant organisational change, including the relocation of personnel, this indicates that staff generally understand and accept the direction in which it is moving. However, 46 per cent of staff felt that managers could communicate and engage more effectively, and 70 per cent felt that change could be managed more effectively.

1.10 Inspectors were impressed by the Area option papers and plans for change, which were well defined, costed and fully shared with staff. However, the first set of options for the future of the Durham office were communicated in such a manner as to indicate erroneously that all options were open and could be influenced. Staff felt that management should have been more explicit in what was negotiable. The Area learnt from this experience and its 2012 plans for the merger of the Durham and Middlesbrough offices and the amalgamation of its Northumbria units in Newcastle were clear about what was open for consultation and consideration. The Area has used its communications team (within the Operations Centre) and Human Resources staff to ensure that change is managed in a sympathetic manner. Whilst change can be unsettling, the plans to communicate and manage the significant change related to merging offices were proportionate.

1.11 The Area plans include consideration of the need to progress to full digitisation and link with the national CPS plan. This is a sensible approach, but the Area needs to ensure that their plan includes sufficient specific local targets and milestones. North East piloted a criminal justice based digital repository process, which required significant work and in the end was not adopted due to technical issues. However it was well managed and contributed to the development of joint processes, including setting some standard operating procedures.

1.12 The plans for the amalgamation of units include digitisation and are based on the process mapping undertaken by the joint Northumbria team. However, there was a lack of clarity about the plans at the operational level regarding when, and what was being delivered and how this was going to happen. Inspectors were given inconsistent messages about implementation and there is a concern that whilst the formal plans seem well founded (based on a clear operating model) there needs to be more clarity at the local level.

1.13 Whilst substantial work has been done to develop standard operating procedures, inspectors were concerned that the Area had not assessed fully the risk in delivering the significant changes. The recently co-located Magistrates' Court case progression units were all using different processes at the time of the inspection, and unless their integration is very carefully managed there is a risk that it will not bring about the anticipated benefits in performance. We do not consider that the current project plan sets out clearly the delivery milestones and anticipated benefits.

Recommendation

The Area must develop a clear plan for digitisation and the integration of its case progression units with key milestones and measurable outcomes. The Area should, in conjunction with the plan, produce and implement a specific communication strategy aligned to the delivery of the project.

Staff engagement

1.14 The annual 2012 Civil Service Staff Survey indicates that 55 per cent of staff in CPS North East feel that engagement could be improved. The Area holds its senior management meeting across its offices on a rolling basis to try to ensure that there is a feeling of inclusiveness. There were some comments in our survey that the Middlesbrough office was seen as the 'poor relation' and more could be done to improve management visibility. However, inspectors saw good evidence of staff engagement, including one to one meetings, team briefings, and senior managers working at different locations, which indicates that the Area has tried hard to break down any perception of a 'Newcastle centric' approach. In some aspects, the move of staff in spring 2013 from Durham to Cleveland should enhance the importance of the Middlesbrough office.

1.15 The Area has held a number of management conferences which allows it to communicate consistent messages and aids corporate communications. Managers have also conducted one to one meetings with all staff as part of the People Strategy; again this has been used to improve communications, set out priorities and identify training and development needs. Managers felt that this was effective, although 15 per cent of staff in our survey strongly disagreed that managers communicate and engage effectively.

Working with partners

1.16 Relationships with partners at the strategic level are very good at a time when all are going through organisational change in the face of diminishing budgets. At the time of our inspection, the Cleveland and Durham Local Criminal Justice Boards (LCJBs) had merged on a 12 month trial basis. This has presented opportunities but has also initially slowed progress in addressing some local performance weaknesses. Initiatives such as the creation of the regional CPS and police performance team, where standard operating issues can be raised, and the Cleveland and Durham LCJB Efficiency and Effectiveness sub group are positive developments, but it is too early to identify performance improvements arising from the operation of these groups.

1.17 Inspectors had some concerns that the time taken to set the Cleveland and Durham LCJB operational sub group structures created a risk in terms of generating any benefits prior to the proposed review of the joint LCJB.

1.18 Relationships with the police forces across the Area are, on the whole, positive. There are effective systems for prosecution team performance monitoring and discussion at the local level. Overall police file quality is above average, although there are variations between the three police forces.

1.19 As we discuss in the next chapter, the Area requires the police to supply more evidence and information than is always necessary to provide a charging decision. This approach has been adopted as a measure to reduce the overall attrition rate and improve case progression. The Area recognises that there

is a risk to this approach being able to continue effectively with the proposed move to a national Daytime Direct charging service, which will not take account of local agreements.

1.20 At the operational level there are tensions with HM Courts and Tribunals Service (HMCTS) in the Magistrates' Courts, which is in danger of developing into a blame culture. The Area considers that the overall number of Magistrates' Court sessions needs to be reduced to improve its resource allocation, with HMCTS pointing to the low level of effective trials (and high rate of late vacated trials) which indicates that existing sessions are not utilised fully. In some parts of the Area the Magistrates' Courts finalised case throughput is low and inspectors observed remand courts with little business. However they also saw trial courts where each of the contested cases collapsed, for example due to witness difficulties which in some cases should have been addressed earlier in the process.

1.21 Whilst some court sessions may not be fully efficient, the Area needs to accept that improvements in the performance of its Magistrates' Court case progression units would assist greatly. Cases are being reviewed and prepared close to trial dates, leaving little time to secure any remedial work or address witness issues. This contributes to the tensions to which we refer, and is compounded by the abstraction of staff to other duties.

1.22 The Area must continue to work constructively with HMCTS at the operational level to ensure that Magistrates' Court sitting time is utilised fully effectively, to which can they can contribute by ensuring contested cases are prepared promptly and in good time for the trial date.

Community engagement

1.23 There are effective mechanisms in place to engage with community groups. The Area has had community involvement panels (CIPs) in place for a number of years, initially these panels operated at police force level. CPS North East was quick to ensure that CPS structural changes were reflected in the CIP structures. The Area ensured that when merging the CIPs the revised membership reflected all three force areas and that the group was chaired at a strategic level by the Chief Crown Prosecutor (CCP). To ensure that local issues remain in focus, the CIP meetings have dedicated timeslots for each of the force areas, enabling them address local issues and concerns which is **good practice**. A concern was raised at the CIP about support for those suffering domestic violence in the Redcar area. As a result of this the Area held an event at the Tees Valley Women's centre which helped raise the awareness of the support for women facing domestic violence, and also resulted in volunteers being trained to support women attending court in domestic violence cases.

1.24 There is good evidence of the Area responding to and improving its own processes and systems as a result of CIP feedback, for example in respect of comments raised on the draft business plan.

1.25 The CPS also actively participates in scrutiny panels. The Deputy Chief Crown Prosecutor (DCCP) attends the meetings and feedback is given to lawyers. There was evidence that feedback resulted in improvement and identified certain issues, such as recording and case identification in hate crime cases.

1.26 Equality and engagement has a high profile in the Area. An Equality and Engagement sub group meets every two months. The Area strategy board also has a dedicated time slot to discuss issues raised by the sub group and ensures that there are effective plans in place to progress Area equality and diversity objectives.

1.27 All the community groups that responded to our survey agreed that the CPS engaged effectively and all considered it either excellent or good at providing links to specialist prosecutors or co-ordinators to work with their group.

Management of performance and risk

1.28 There is a significant management focus on performance in an attempt to improve quality and outcomes. The CCP, DCCP and Area Business Manager (ABM) have quarterly meetings with the Crown Court and Magistrates' Court unit managers. These meetings are supported by an extensive performance pack that includes management analysis and identifies both strengths and weaknesses. In some instances the data reflects monthly performance. This approach is complemented by monthly performance meetings at the team level. This focus has allowed the Area to direct improvement activity.

1.29 Senior managers have had to attend the national CPS Board to account for performance and submit action plans to improve, which has resulted in a focus on a number of key performance outcomes which are weighted in the CPS performance model. It is understandable that the Area will want to improve in those measures that would improve its position in the CPS performance table. However, inspectors

were not sure that this approach allowed the Area to consider the reasons for its current performance in a strategic way. There are numerous drivers of performance and like all CPS areas partners and external factors can contribute to outcome performance. North East has rightly focussed the majority of its attention on improving outcomes which can be influenced which has meant that it is easiest to look at those targets and processes it can control. Whilst it is understandable that the Area focus is on the immediate need, it would be beneficial for managers to take a step back and to consider the causes of poor performance from a wider strategic view.

1.30 In the view of inspectors in some instances the Area would benefit from looking objectively at its own systems and processes and after identifying its own weaknesses, work with partners to rectify some of the interdependent processes that also have a detrimental impact on outcomes (for example aspects in relation to the listing of Magistrates' Court contested cases).

1.31 There are also some daily performance checks at the operational level for performance reporting purposes, including compliance with the direct communication with victims scheme and custody time limit checks, coupled with daily briefings in most of the case progression units.

1.32 There is a firm grasp on deployment at the strategic level and the ABM and Finance Manager's deployment and staff in post modelling is impressive, as is the corporate view of resource management at the strategic level. However, inspectors found that some of the data produced at the operational level was significantly inaccurate particularly around Magistrates' Court unit staff deployment in Northumbria.

1.33 There must be a clear and effective understanding of resource needs at the operational level and in the absence of any efficiency measures in the case progression units it is unclear whether there is such an understanding of needs, deployment and resourcing at the local levels.

Recommendation

As part of overall performance management, the Area must produce an accurate resource analysis at operational level and take any necessary remedial action to ensure resources are distributed effectively to deliver core business.

1.34 Performance information is communicated effectively across the Area; our survey indicated that 82 per cent of staff understood how the Area was performing in comparison to others. Most case progression units held daily team briefings to identify priorities and highlight urgent cases. There were also Team Information Boards on the majority of case progression units.

1.35 The Area uses the national casework quality assurance scheme (CQSM) to monitor the quality of casework. Inspectors found that managers use feedback to identify trends which are communicated across the Area, and also give feedback to individuals based on the issues identified. Our survey results show that 57 per cent of staff feel that they receive regular feedback, which is 8 per cent less than found in our recent East of England inspection. CQSM findings are peer reviewed quarterly and North East will undertake peer review with another CPS area to assess standards on a wider basis.

1.36 Inspectors assessed 36 files that had been reviewed by the Area under the CQSM scheme. The difference in the weighted scores between inspectors and Unit Heads was 7.2, which is better than was found nationally in the HMCPSI thematic review where the difference was 10.4. Units in the Area were assessed as part of the thematic review, and at that time the difference in the scores varied from 7.5 to 12.6.¹ This indicates that unit managers are improving in the robustness of their assessments of casework quality. Where there was disagreement, the majority were where inspectors felt that the assessments by unit managers were over lenient. In a third of answers where inspectors disagreed the question had either been wrongly answered as 'not applicable' or a substantive answer given where it should have been 'not applicable'. A more considered approach to the national guidance should address this aspect.

1.37 The Area recognises that it is only beginning to get a grip on individual performance management. At the time of the inspection there were no staff subject to a performance improvement plan or notice, although some have specific objectives to improve aspects of performance. Our survey highlighted that 73 per cent of staff felt that poor performance was not managed effectively and only 23 per cent felt that the performance appraisal framework was effective. It may be difficult for the Area to effectively consider individual performance as it is yet to develop clear expectations for productivity. It is not surprising that some staff feel that poor performance could be better managed, when they see and experience wide variations in both it and productivity that are left unchecked.

¹ In the thematic review the units were assessed separately.



2 Casework quality

Fair

Charging delivery

2.1 CPS North East provides a Daytime Direct charging service to its three police forces, Cleveland, Durham and Northumbria.

2.2 At the time of our inspection charging lawyers were based in the Durham and Cleveland offices but provided charging advice across the Area. In due course, in accordance with the national roll out timetable, the Daytime Direct charging function, and Area staff, will transfer to CPS Direct. We understand that since our inspection there has been further discussion as to where the charging resource will be subsequently located.

2.3 The Area has gradually reduced the number of lawyers providing charging advice from 12 to eight since it set up its Daytime Direct charging provision in July 2011. All lawyers are deployed on a full-time basis. There is no staggering of cover to deal with peaks and troughs in calls. This can result in call queues developing at peak times, which is a concern for the police. CPS produced data for September 2012 indicates that the average queuing time before a call is answered was nearly eight minutes, which is two minutes more than the national average.

2.4 The overall Area attrition rate for charged cases for the 12 months to September 2012 was 20.4 per cent, which was better than the national average. However, performance in respect of those cases dealt with at the Magistrates' Court is slightly worse than the national average at 22.2 per cent compared with 21.8. However, the overall proportion of Area cases discontinued in the Magistrates' Courts during this period was significantly worse than national performance at 18.1 per cent compared

with 16.0. Within this figure there was an even higher rate of discontinuance for cases originating from the Northumbria and Cleveland police force areas.

2.5 A higher proportion of cases charged by CPS Direct are discontinued by the Area compared with the national average. In the year to October 2012, 16.3 per cent of CPS Direct Magistrates' Court charged cases were discontinued nationally, compared with 20.0 per cent in the North East. There was a similar trend in respect of Crown Court cases where the Area discontinued 13.7 per cent compared with 12.2 nationally. The Area has done some analysis of the reasons for this and has identified local factors relating to the type and volume of cases being referred to CPS Direct.²

2.6 The Area considers that a substantial factor is the quality of the police files provided and the lack of timely compliance with action plans and therefore requires the police to provide a more evidentially complete file before authorising charge. A consequence of this, as noted by inspectors during the course of observations, is that in some cases, where there was sufficient evidence to apply the full Code test, the charging decision was deferred to get additional material. This increases the number of repeat consultations and puts further strain on charging resources. Area managers considered this improves effectiveness further down the line by reducing the need for additional requests for evidence, although inspectors found this was tempered by the lack of effective processes in some units.

² Inspectors were unable to verify the factors identified although data confirms that CPS Direct deals with a higher proportion of North East cases involving allegations of domestic violence than found nationally.

2.7 Further analysis showed that over a four day period, nearly 30 per cent of cases submitted for a charging decision resulted in a direction of no further action and just over 30 per cent were referred back to the police for further work. This was significantly higher than found in cases dealt with by CPS Direct over the same period, with no further action directed in 12.7 per cent of charging decisions and requests for additional work made in 12.0 per cent. Whilst we accept that some cases will be referred back for more work because there is insufficient material to make a charging decision, the disparity in requests for additional work indicates the impact of the Area's approach.

2.8 As we discuss in the preceding chapter, the proposed move to a national Daytime Direct charging system creates a risk for the Area that they will not be able to maintain the current close oversight on the material being provided by the police before a charging decision is made. The Area already has concerns that the attrition rate for cases charged currently by CPS Direct is higher than for cases charged locally, and fears this may rise further under the new arrangements.

Recommendation

The Area should agree, before the introduction of the national Daytime Direct charging arrangements, local standards on the provision of material for a charging decision, which should be monitored under existing prosecution team performance management arrangements and collaboratively with CPS Direct.

2.9 Inspectors also found that concern about the attrition rate was creating a danger that charging lawyers were becoming risk averse. Inspectors examined a small sample of 18 cases where no further action (NFA) had been directed at the charging stage. In three of those cases the Code had not been applied correctly and a charge should have been directed.

2.10 The Daytime Direct Charging Manager subjects charging advices, on a monthly basis, to CQSM checks in accordance with the CQSM requirements and is focussed on improving all aspects of performance including the quality of MG3s. We found these assessments to be robust. There is also frequent contact between the Charging Manager and other lawyer managers, including those in CPS Direct, with feedback given in both directions.

2.11 In addition to this formal monitoring, the Charging Manager looks informally at charging advices for each lawyer on an ad hoc basis. This dip sampling is not formally recorded.

2.12 In our file sample in 92.5 per cent of charging decisions (including 20 cases where an out of court disposal was directed or NFA determined) the Code was applied correctly. In our finalised file sample³ the Code test was applied correctly in significantly more cases charged by CPS Direct (CPSD) than by the Area, whether through Daytime Direct or face to face charging decisions. However this is not, by itself, fully indicative of differences in the quality of decision-making as proportionately more CPSD charging decisions are made under the threshold test.

³ Excluding the 20 out of court disposal cases.

2.13 There was a wide variation in the quality of MG3s in our finalised file sample; only 0.7 per cent were assessed as excellent, 42.3 per cent as good, 35.8 per cent fair and 21.2 per cent poor. It is of concern that over a fifth of charging advices were poor, primarily because they failed to include a proper case analysis and strategy to ensure a successful outcome at trial. Other aspects such as setting out the charging lawyer's views on grave crime applications in relevant youth cases also need to be improved. Only a quarter of the 20 cases in our out of court disposal sample had a good MG3. The quality of MG3s is **an aspect of concern**, which the Charging Manager is aware of and is taking steps to address. In particular those where NFA is directed need particular care and attention as these can now be subject to application for review by the victim.

2.14 Charging decisions in the more serious casework such as rape and serious sexual offences were of variable quality, but consistently good in Northumbria, where prosecutors were looking to build the case from the earliest consultation.

2.15 The withdrawal by Northumbria Police of their evidential review officers (EROs), whose role was to ensure cases were suitable and of sufficient quality for CPS charging advice, resulted in a spike in the number of cases coming to the CPS for a charging decision where the police should have used their charging powers. The Charging Manager was aware of this issue and was addressing it with the police, who were aware of the issue and accepted that they did not have sufficient quality assurance systems in place after they removed the EROs.

2.16 Charging advice by Area lawyers⁴ is provided primarily in sexual offence cases, other complex cases, or cases requiring the viewing of lengthy video evidence. The volume of these cases and the arrangements for delivering face to face advice vary across the Area and have led to delays in providing charging decisions.

2.17 In Durham the District Crown Prosecutor has agreed new standards of police file submission to improve the effectiveness of charging decisions and has agreed timescales for delivery of advice including orders of priority. However, inspectors found that in Cleveland some cases had been waiting six months for charging advice,⁵ and also found that some should not have been submitted under the face to face procedure. The Area needs to work with the police to ensure that only appropriate files are submitted and that they are dealt with in a prompt manner. This is **an aspect of concern** and needs to be addressed as a matter of urgency as these are often amongst the most serious cases with which the Area has to deal.

Decision-making

2.18 The Code was applied correctly at the summary trial, committal review or ad hoc review stage in 167 of the 180 relevant cases (92.8 per cent). Of the 13 files where the Code test was not applied correctly at a subsequent review, in six of them, it was also not applied correctly at the earlier charging stage. However, the decision to discontinue proceedings was incorrect in only two out of 58 relevant cases (3.4 per cent). In

⁴ As opposed to those seconded to the Daytime Direct unit.

⁵ At the time of the inspection the Cleveland office also took some advice work from the Durham Police.

police charged cases they applied the Code correctly in 31 out of 33 relevant cases (93.9 per cent).⁶ Of the two wrongly charged cases, one was promptly discontinued by the CPS following an initial review. The other case was not discontinued until after it had been committed to the Crown Court, despite a review at the committal stage stating there was insufficient evidence for a realistic prospect of conviction.

2.19 The Area recognises that the timeliness of discontinuance must improve and is **an aspect of concern**. Some cases were allowed to drift instead of being discontinued promptly even when the reviewing lawyer had identified correctly the evidential weaknesses. In the 12 months to September 2012, 44.0 per cent of discontinued cases had at least three hearings before they were terminated compared to the national average of 39.9 per cent. This can waste resources by causing files to be prepared unnecessarily by the CPS, the police and the defence and it can also raise unrealistically the expectations of victims. Late discontinuance also inhibits full consultation with the police and victims, who indicated that they did not always receive sufficient time to consider proposed discontinuances.

The quality of review

2.20 There is a lack of consistency in the recording of initial reviews in police charged cases. Some teams were reviewing cases to a high standard whereas in others a number of cases had no review or an insufficient one recorded. This lack of consistency continued in relevant cases at the summary trial or committal review stages.

Only 61.6 per cent of summary trial cases examined were reviewed fully, which fell to 53.2 in cases subject to committal or sending review. However, 95.7 per cent of relevant cases proceeded to trial on the correct charges.

2.21 In many cases it was apparent a review had been conducted (for example by reference to correspondence, or memoranda to the police) but there was no record of the lawyer's analysis, case strategy or decision-making. This is **an aspect of concern** which managers should address through CQSM.

2.22 There was a very wide variation in the quality of Crown Court reviews, which was not so marked in respect of Magistrates' Court cases. A significant majority of reviews recorded by the Durham Crown Court unit met all the relevant criteria, but less so those in the other two Crown Court units. The Durham and Cleveland units are due to merge in spring 2013 and managers are considering how they ensure the combined team meets the performance levels of the Durham Crown Court unit.

2.23 In 22 out of 24 relevant cases (91.7 per cent) the prosecution correctly accepted pleas or pleas on an agreed basis. Our court observations indicated that these decisions can be subject to close judicial scrutiny. There was, however, both a lack of recording of the reasons for the acceptance of a basis of plea (to demonstrate compliance with policy) and a lack of a signed written basis in more than half the relevant cases. The basis of pleas was only recorded fully in writing in 28.7 per cent of Crown Court cases. This is **an aspect of concern** which should be addressed by Unit Heads through both CQSM and dip checks.

⁶ Police charged cases will generally be more straightforward, with the majority being anticipated guilty pleas. It is not therefore surprising that they have a higher Code compliance rate.

Case preparation

2.24 Effective and efficient case preparation is a key factor in achieving successful and timely outcomes.

The structure of the Magistrates' Court case progression units

2.25 The Magistrates' Courts case progression units (CPUs) are at different stages of progress towards full digitisation. The Area has recently centralised all its Northumbria CPUs in its Newcastle office. The plan is to merge the three into one CPU for Northumbria, although at the time of the inspection one unit was almost wholly digital while another was primarily still relying on paper files. There are plans similarly to merge the Durham and Cleveland Magistrates' Courts CPUs. Again these are at different stages on the road to full digitisation with Durham being very far advanced in the development of active digital case management. These different working patterns need to be reconciled if the combined CPU is to work efficiently.

2.26 Although the mergers are expected to be finalised in spring 2013, as we comment in the preceding chapter, inspectors are concerned that the plans were not sufficiently detailed or publicised to ensure that staff knew what was expected. It is critical that the standard operating procedures developed in Northumbria, together with internal CPS digital processes, are applied consistently and rigorously.

2.27 In the experience of inspectors the quality of files received from the police in the CPUs is generally above average in each police force area, although the Area was continually working with the police to improve the quality of files and to try to agree standards across all three police forces. Good quality police files undoubtedly contribute to successful outcomes. We did however find that in 23 out of 64 relevant files (35.9 per cent) a late or inadequate response from the police caused unnecessary work or had an adverse impact on case progression, of which the highest proportion were from the Cleveland police force area. This finding provides some support for the Area's contention that there is variable file quality, and suggests that they will need to continue to work with their police partners to improve performance.

2.28 Only the Cleveland Magistrates' Court CPU uses a 'gatekeeper' function which is designed to weed out weak cases and also to provide the police with detailed guidance on what is required to upgrade the file following a not guilty plea. This approach had been adopted to address concerns the Area had about file quality. Inspectors consider this role has merit, but it was not working effectively. If a case did not fall into one of two priority categorisations it could be many weeks before it was subject to a gatekeeper review, giving the police even less time to prepare the file. This was aggravated further by action plans set out at the charging stage not always being complied with promptly by the police. The Area will want to work with its police partners to devise effective systems to monitor this aspect of performance.

The quality of case preparation

2.29 Overall we found that lawyers only had a full grip on the case in 110 out of 184 relevant cases (59.8 per cent). This includes timely trial preparation, dealing with disclosure, serving applications and handling and acting on correspondence.

2.30 Progression in Magistrates' Court cases was only carried out fully in accordance with the Criminal Procedure Rules in 38 out of 67 relevant cases (56.7 per cent). In the Crown Court, this figure was substantially higher at 88.3 per cent (68 out of 77 relevant cases). These findings reflect inspectors' overall assessment of the case progression units.

2.31 A similar position applies to compliance with court directions which was timely in only 64.6 per cent of Magistrates' Court cases (31 out of 48 relevant cases). Again it was much higher in the Crown Court with timely compliance in 89.4 per cent (59 out of 66 relevant cases). The use of the CPS case management system (CMS) to monitor compliance with judge's orders made at the case management hearing has led to a significant improvement in this measure.

2.32 Overall, the timeliness and quality of case preparation and progression in Magistrates' Court cases is **an aspect of concern**.

2.33 The quality of applications⁷ made was rated as excellent or good in 81.6 per cent (31 of 38 relevant cases) in the Crown Court. In the Magistrates' Court this fell to 8.7 per cent (2 out of 23 relevant cases), which reflects the last minute preparation in many instances.

2.34 The impact of late CPS case preparation was raised as an issue by all stakeholders with whom inspectors spoke about CPS performance in the Magistrates' Courts. This was supported by our survey responses which indicated significant differences in the views of counsel and defence representatives as to the effectiveness of case preparation and progression. There was a strong perception that despite a number of local initiatives there was no sign of any performance improvement. A number of files examined by inspectors during the course of the inspection contained late applications to vacate the trial because the prosecution had not complied with the duty of initial disclosure (which we discuss in detail later). Often these were made by the defence but only as a consequence of non-compliance by the prosecution.

2.35 In their file examination and detailed process checks inspectors found that, even in CPUs with effective processes, most Magistrates' Court files were prepared for trial less than seven days before the expected contested hearing date. We recognise that, in common with all other areas, the North East faces continuing resource reductions, but the timely preparation of cases for trial must be a priority with the CPUs resourced adequately. Additionally staff must adhere to a regular and consistent use of CMS for recording all key actions on a case. The need for the proper recording of all decision-making has become imperative with the national move to electronic files.

⁷ For example for special measures or to adduce hearsay or bad character.

2.36 During the course of inspectors' case progression checks it was noted that in one Northumbria Magistrates' Court CPU nearly 30 per cent of its workload comprised cases involving allegations of failing to nominate the driver of a vehicle.⁸ Further research suggests that this is a much higher proportion than in other comparable units in the country.⁹ The evidence to support these allegations should be served on the defendant with the summons, and in the event of a not guilty plea the unused material schedule, save in exceptional circumstances, should be standardised.

2.37 We are concerned that these cases are clogging up the unit, and wasting valuable lawyer time, as a number we examined had extensive reviews which were disproportionate to the gravity of the allegation. There is scope to examine whether these cases, save on an exception basis, can be dealt with outside the normal CPU structure, for example by Associate Prosecutors.

Recommendation

The Area, in conjunction with its police partners, should review the process for prosecuting offences of failing to nominate driver, to ensure they are dealt with efficiently with the minimum resource allocation necessary to prosecute effectively.

Effective trial rates

2.38 Whilst the Magistrates' Court ineffective trial rate for the 12 months to September 2012 was better than the national average (14.5 per cent compared with 17.0), it does not take into account the proportion of late vacated cases, which would be ineffective trials were it not for the application to vacate. There is a wide variation in the ineffective trial rate across the Area, in Northumbria it is 12.3 per cent which is well below the national average, but in Cleveland it is much higher at 21.0 per cent. For the same period 27.6 per cent of ineffective trials were due to prosecution reasons, which is slightly better than the national average of 28.0, although in a number of sub-categories including the non-attendance of police witnesses performance is substantially worse than found nationally.

2.39 In the 12 months to November 2012 31.1 per cent of Magistrates' Court cases listed for trial were vacated, a substantial majority of which were vacated five or less days before the scheduled contested hearing date.¹⁰ This makes it difficult to use the vacated court time effectively and contributes to the tensions we discuss in the previous chapter. It is of concern to note that in Cleveland, 44.0 per cent of the applications to vacate were due to a prosecution decision to drop the case. This suggests strongly that the gatekeeping process is not working fully effectively in weeding out weak cases at an early stage.

⁸ These offence normally arise following camera recorded speeding offences.

⁹ In the Hampshire unit (CPS Wessex) which covers the M3, M27 and A34 only 16.9 per cent of its workload was comprised of these offences (based on a spot check on 7 December 2012).

¹⁰ Data provided by HM Courts and Tribunals Service.

Recommendation

Magistrates' Court vacated trial data and the reasons for vacation should be included in joint criminal justice partner analysis of performance and local challenging targets set to reduce the current rate.

2.40 Inspectors were also told consistently that in the face of budget reductions, HM Courts and Tribunals Service staff in the Magistrates' Court would soon no longer be able to contribute to ensuring cases progressed effectively. There is therefore a high risk that the overall Magistrates' Court ineffective trial rate will increase, which can only be mitigated substantially by ensuring the merged CPUs provide the necessary resilience and improved efficiency anticipated by Area senior managers.

2.41 The Crown Court ineffective trial rate was only slightly higher than the national average in the 12 months to September 2012 at 14.1 per cent compared with 14.0 per cent, and again the proportion of ineffective trials due to prosecution reasons are significantly above the national average.

2.42 The Crown Court effective trial rate is poor when compared with national performance. In the 12 months to September 2012 it stood at 32.8 per cent compared with 47.8 per cent nationally. This rate is impacted adversely by a very high cracked trial rate which during this period was 53.1 per cent compared with 38.2 nationally. However, over 54 per cent of cracked trials were due to the defence offering acceptable pleas to one or more of the original charges. The Area's Crown Court performance in respect of case preparation, as evidenced by our

file sample suggests that it alone can do little to improve this aspect, but the introduction of the Crown Court Early Guilty Plea Scheme may provide a greater focus for defendants, in appropriate cases, to admit their guilt sooner than the day of trial.

Compliance with the duty of disclosure of unused material

2.43 The Area has reviewed its processes for handling unused material and as a result training has been provided to all lawyers and Associate Prosecutors by senior lawyers.

2.44 The handling of initial disclosure was good or better in 49 out of 133 relevant cases (36.8 per cent) in our finalised file sample. There was a wide range of performance across the area, which was stronger in the Durham units with initial disclosure handling rated good or better in 65.6 per cent of cases.

2.45 The Area's overall performance was, in part, affected by delays in the provision of material by the police, or prosecutors not requiring the police to amend defective schedules. There was substantial variation in the quality of unused material schedules across the three police forces.

2.46 The requirement to consider relevant material and endorse the disclosure schedule correctly was fully met at the initial disclosure stage in 130 out of 164 relevant cases (79.3 per cent) although this dropped to 69.7 per cent during the continuing disclosure stage. In two cases there was a failure to disclose undermining or assisting material, although in neither did this prejudice the defendant as in one the proceedings were discontinued and in the other the defendant was acquitted on the relevant charge.

2.47 Overall Initial disclosure was timely in 106 of the 133 relevant cases (79.7 per cent) and 42 of the 50 relevant cases (84.0 per cent) where continuing disclosure was necessary. However, in the Magistrates' Courts initial disclosure compliance was only timely in 51.6 per cent of relevant cases. The timeliness of compliance with the duty of continuing disclosure (which arises primarily in the Crown Court) was better, at 84.0 per cent. However the Area needs to be more proactive in ensuring the police respond promptly to any further disclosure requirements arising from the service of the defence statement.

2.48 The requirements in respect of the handling of sensitive material and the relevant schedule were complied with fully in 143 out of 165 relevant cases (86.7 per cent). In five of the cases which were non-compliant there was a failure by the reviewing lawyer to endorse the schedule to indicate they agreed with the disclosure officer's certification that there was no sensitive material. In others there was a failure to get the police to transfer material wrongly included on the sensitive material schedule to the non-sensitive schedule or to question why the sensitive schedule was blank.

2.49 CPS managers have undertaken a lot of work with the police, local authorities and the judiciary to develop local protocols for the handling of third party unused material in Crown Court cases. Our file examination confirmed that this process worked well.

2.50 Good practice: The joint agency approach to the process for the disclosure of third party unused material.

2.51 The Area is let down by the lack of timely initial disclosure in Magistrates' Court cases, as other aspects of disclosure handling compare favourably with those found in the most recent Area effectiveness inspection.¹¹

2.52 There is good prioritisation of the preparation of custody time limit (CTL) cases and all other aspects of CTL cases are well handled. The Area has not had any reported CTL failures in for the last two years.

2.53 Cases of violence against women, hate crime and youth cases are generally dealt with expeditiously and effectively, and they are handled by those with appropriate training and expertise wherever possible. This is in part reflected by the lower Area unsuccessful outcome rates in hate crime cases and those involving violence against women.

2.54 There is currently no clear or consistent use of CMS for task management across the Area, with the CPUs at different stages of progress and some units devising case management systems outside CMS. Area managers will need to ensure CMS task management is fully understood before the full digitisation of case files across North East, including processes for the removal of completed tasks.

¹¹ CPS East of England inspection report November 2012 www.hmcpso.gov.uk/inspections/inspection_no/574/

Delivery at court

2.55 It was the view of stakeholders that, overall, in the Magistrates' Courts, advocates are effective at progressing cases and dealing with issues such as acceptable pleas and applications for remands in custody. Our limited observations supported this view. However, they expressed frustration at the delays that could occur when the prosecutor at court (who could be experienced) had to get authority from a lawyer manager before accepting pleas or discontinuing a case on the day of trial. This approach, which is contrary to CPS national policy, had been adopted by the Area to assist in reducing the attrition rate, although we understand that since our inspection the Area is reviewing this approach. The late preparation of trials by advocates (sometimes on the morning of the day the case is listed for trial) hinders any discussion between them and the lawyer manager in advance of the hearing. We also observed a case in the Crown Court which had to be adjourned because no one was available to give authority to accept proposed pleas.

2.56 Poor case progression in the Magistrates' Courts in contested cases, coupled with the high vacated trial rate, is resulting in trials being double or even treble listed in the same court session to ensure that court time is utilised fully. There can be adverse consequences to this approach when all the trials listed are potentially effective and there is insufficient court time. As we state in the previous section, an improvement in trial preparation should enable the current approach to be reviewed.

2.57 To progress cases at the first hearing in the Magistrates' Court the Area assumes, unless it knows to the contrary, that the defendant will be unrepresented and prepares a hard copy package of the required advance information. This can prevent unnecessary adjournments, although the timeliness of the despatch of the electronic version of the package to the court was not always within the agreed target time of 48 hours before the court hearing.

2.58 Some stakeholders did express concerns that in a small number of Crown Court cases the in-house advocate occasionally lacked the necessary experience to deal with the acceptance of pleas or basis of pleas. However others were fully satisfied with the competence of Crown Advocates to do non-contested work.

2.59 All advocates in the Area have benefitted from external advocacy assessments and it has seen an increase in the number of advocates progressing through the salary break point.

2.60 The findings from our observations in the Magistrates Courts' and the Crown Court, as assessed against the CPS national standards of advocacy are set out in the following table:

Type of advocate	Assessment						
	1	2	3+	3	3-	4	5
Crown Prosecutor	0	0	1	12	7	0	0
Associate Prosecutor	0	0	0	3	1	0	0
Agent	0	0	0	0	1	0	0
Crown Advocate	0	1	1	4	0	0	0
Counsel	0	0	1	1	0	0	0
Total	0	1	3	20	9	0	0

2, 3+, 3 Performance was assessed **competent** overall and in all key aspects

3- Performance was assessed **competent** overall but with a key aspect(s) needing attention

4 Performance was assessed **not competent**

5 **Unacceptable**

2.61 It is encouraging that over three quarters of the advocates observed met or bettered the CPS national standards of advocacy. Those that required some improvement demonstrated a lack of preparation or poorly structured cross-examination. Stakeholders also commented that the latter could be better, although considered there had been a general decline in this skill. In some instances the advocate did not receive the files until the morning of court, which might include a number of potential trials. It is therefore unsurprising that there was limited time for adequate preparation, particularly when the late review of cases in the CPU could mean there were still issues to resolve. This is **an aspect of concern**, and the Area should ensure all advocates have sufficient time to prepare their cases.

2.62 The Area has a relatively high agent usage in the Magistrates' Courts with 17.6 per cent of court sessions covered by agents in the 12 months to September 2012 compared to the national average of 14.1 per cent. This is a considerable increase from 2010-11, when the Area achieved 95.0 per cent in-house court coverage. This would appear to add weight to the Area's contention that some of the increase in agent usage has been occasioned by the re-deployment of resources to train staff in digital working. However, as we discuss in chapter 1, a more accurate assessment of resource availability and deployment at the operational level could reduce this figure.

Service delivery for users

2.63 Proper consideration is given to matters relating to bail and custody, including the risk posed to victims and the public, and, where relevant, the need for a remand to secure the defendant's protection or welfare. The file examination showed that bail was opposed appropriately in all relevant cases.

Victims and witnesses

2.64 Overall the Area provides a good service to victims and witnesses although improvement is required in some aspects. There were good compliance levels with the Victims' Code, Prosecutors' Pledge and policy on the treatment of witnesses and stakeholders considered that CPS prosecutors at court dealt well with victims. The Victims' Code and other related provisions were complied with fully in 144 out of 159 relevant cases (90.6 per cent). Special measures are being appropriately sought although applications are not always timely which increases the anxiety of victims and witnesses. Safeguarding issues in relation to children as either victims or defendants are being properly addressed.

2.65 Area managers recognise the importance of timely direct communication with victims (DCV) and have made compliance a performance priority. In our file examination 39 out of 49 relevant DCV letters (79.6 per cent) were timely, although there was a substantial variation in performance with one office achieving 100 per cent compliance with the timeliness targets. Of the DCV letters sent, 30 out of 42 (71.4 per cent) fully met the required standard. A further seven (16.7 per cent) needed some improvements, for example they were lacking in empathy and five (11.9 per cent) were unsatisfactory, for example sending the DCV letter to the defendant's address.

2.66 Our inspection of a small sample of files on which a complaint had been raised confirmed that across the Area complaints are handled in a timely manner and the responses are appropriately drafted to take account of the needs of the complainant. We did note that in some instances the Area could improve their response by more fully explaining to the complainant the standard of proof required in criminal cases.

3 Efficiency and value for money

Fair

Finances are managed effectively to deliver key business objectives

3.1 The CPS North East budget is actively managed with effective processes in place to allocate funds across the Area's budget heads. In 2010-11 the non-ring fenced administration¹² (NRFA) budget of £18.3 million was underspent by £36,257 and in 2011-12 the budget of £16.7 million by £30,610. In 2012-13 the Area anticipates an overspend of approximately £50,000 representing 0.3 per cent of the NRFA budget of £15.7 million. The main reason for this is the result of the focus on providing extra support and training to prosecutors to help with the introduction of 'tablet' PCs necessitating an increased use of lawyer agents. This has resulted in an estimated £350,000 expenditure on lawyer agents to prosecute cases in the Magistrates' Courts, which is about £110,000 over the agent budget allocation.

3.2 The Area recognises it has more Crown Advocates than it needs to cover cases in the Crown Court which are appropriate for them and that this is having a negative impact on its salary costs. The Crown Advocate requirement for the Area is approximately 20 less than the number of currently designated Crown Advocates. Those who are not in the ring fenced Crown Advocacy Team (CAT) are being utilised primarily to undertake the work of Senior Crown Prosecutors (which is a lower salary scale). The opportunity cost borne by the Area is represented by the average difference in salary actually paid and that for the role being undertaken and equates to approximately £200,000. North East has sought to reduce these costs by seeking the voluntary reversion of Crown Advocates to the Senior

Crown Prosecutor grade and has recently agreed with CPS Headquarters that it can open another reversion scheme before the end of this financial year, which may produce some future financial savings. This Area is not alone in facing this difficulty which HMCPSP has considered in detail in its follow-up thematic review of the quality of prosecution advocacy and case presentation.¹³

3.3 The Area liaises effectively with CPS Headquarters in budget negotiations to ensure funding streams are maximised. These negotiations have resulted in a contribution of £140,000 being made to the Area to support its IT resource. This will clearly have a positive impact upon the budget position for 2012-13 and has reduced its anticipated overspend to the £50,000 referred to previously.

Resources are planned and distributed effectively to deliver key business objectives

3.4 The Area has an effective approach to staff deployment and workforce planning at the strategic level. Its workforce capacity plan is based upon an alignment of resources to need across the whole of North East and takes full account of the funding available. The Area makes its annual workforce requirement assessment in light of the expected throughput of cases but recognises the impact that funding constraints have on workforce capacity planning. Subject to these constraints the Area has responded positively to issues of resource need, for example through the allocation of two lawyers to the Magistrates' Courts unit from the Crown Court unit over and above that suggested by the

¹² NRFA main components include staff salaries; lawyer agents fees; ICT costs and travel and subsistence costs.

¹³ Published March 2012.

activity based costing¹⁴ provisions. This clearly illustrates an intelligent and corporate approach being taken at the strategic level to workforce allocation and a desire to respond to “pinch points” in resources, but has not permeated down fully to the operational level where our findings suggest there are resource imbalances across the units.

3.5 However, as we discuss in chapter 1, it is not clear what the Area’s overall expectations are or the anticipated benefits that should result from the staffing and process changes arising from the planned re-organisation of the case progression units. Whilst increased resilience was cited as a key success factor, there is a lack of clarity as to how this is fully integrated into the workforce planning and there is a risk it will inhibit the ability of the Area to assess the effectiveness and success of the changes. Account also needs to be taken of staff flexible working patterns which are having an adverse impact on the business need in one part of North East.

3.6 Nationally since 2010-11 the number of contested Magistrates’ Courts cases and Crown Court cases has reduced by 10.4 per cent and 3.8 per cent respectively. Over the same period the number of prosecutors employed nationally by the CPS has reduced by 9.3 per cent.

¹⁴ Internationally recognised system adopted by the CPS to establish anticipated staff costs for workloads based upon standard process timings.

3.7 In CPS North East, over the same period, Magistrates’ Courts contested cases have reduced by only 3.2 per cent while those in the Crown Court have increased by 7.9 per cent. However despite a reduction in the Area of 15.8 per cent of its prosecutor resource, (which has been greater than that nationally) the contested caseload per prosecutor is still lower than the national average by 1.4 Magistrates’ Court cases and 2.5 Crown Court cases per prosecutor. Further detail is provided at annex C. Despite having a lower comparative contested case workload the Area has not managed to fully benefit from this and translate it into improved performance results.

3.8 The Area in supporting the roll out of digital working decided that it would use four Associate Prosecutors to deliver training and desk-side support. This resulted in the proportion of Magistrates’ Courts sessions covered by Associate Prosecutors reducing by over five per cent from 2011-12 to the 12 months to September 2012. This has meant that the overall proportion of sessions covered by Associate Prosecutors has been consistently lower than the comparable national average which is set out at annex C. Since December 2012 the four Associate Prosecutors have been released back to advocacy work although the Area’s utilisation figure of 27.0 per cent for the third quarter of 2012-13 is still lower than the national average of 31.5 per cent. It is recognised that court listings have an impact on the Area’s ability to utilise its Associate Prosecutor resource and closer work and liaison with HM Courts and Tribunals Service could positively influence this.

3.9 As stated previously the Area has established a ring fenced CAT to assist the effective deployment of its Crown Advocates and to increase resilience. Despite a slight improvement from 2011-12 to the 12 months to September 2012 the Area is failing to maximise the savings benefits from its full Crown Advocate resource. Advocacy savings have reduced over the last two financial years from £1.696 million in 2010-11 to £1.331 million in 2011-12. This trend has also continued in the current financial year and for the 12 months to September 2012 the gross savings fell further to £1.282 million. The savings per individual Crown Advocate have also declined and are less favourable than the national average. In the 12 months to September 2012 North East's Crown Advocates delivered over £22,000 less savings per individual than the national average. Further detail is set out at annex C.

3.10 The Area needs to ensure that it can openly account for the balance and distribution of work to independent counsel in an equitable manner, subject to the skill necessary to conduct the work. Whilst the Area has systems in place to allocate work externally, and these appear to be effective, they could benefit from a more systematic and structured approach.

Area casework processes and systems are efficient and cost effective

3.11 The Area's performance and efficiency data indicates a mixed picture in relation to the effectiveness of casework processes and case progression. Some of the Area's key outcomes, such as the proportion of Crown Court and Magistrates' Courts successful outcomes compare well with the national averages. However in the 12 months to September 2012

these have either remained almost unchanged or shown a slight deterioration. There are significant variations in performance across the police force areas in CPS North East. The Durham unit has seen a consistent improvement in Magistrates' Court successful outcomes, which are nearly three per cent better than the national average, with Crown Court outcomes over four per cent better. Conversely in Cleveland the successful outcome rates in the Magistrates' Court and the Crown Court have deteriorated and in the Magistrates' Courts are worse than the national average.

3.12 The number of completed cases per prosecutor has increased slightly and is better than the national average, although, as stated previously, the proportion of Magistrates' Court and Crown Court contested cases per prosecutor is still lower than the national average. In the Crown Court the contested caseload per prosecutor is 38 per cent less than the national average. Across the Area there are significant variations for example there is a much higher prosecutor contested caseload in the Magistrates' Courts in Northumbria, but in the Crown Court it is only half the national average workload. Despite the Area taking a strategic view of staff deployment it has not managed to fully effectively align resource to caseload across all units. Further detail is set out at annex C.

3.13 Some performance measures indicate inefficiencies in the Area's casework processes and a lack of proactive intervention to reduce the churn of cases and duplication of resources. In the Magistrates' Courts the proportion of cases discontinued has increased from 2011-12 to the year to September 2012 and is now higher than the national average. Whilst

performance in the Crown Court has remained constant, it is again worse than the national average. Whilst early discontinuance, where necessary, for example in police charged cases avoids unnecessary work, too often cases drift before the decision to terminate is made. Further detail is set out in annex B. The Area recognises this is an aspect that needs addressing, but despite a reduction since 2011-12 in the proportion of cases dropped after three or more hearings, performance is still significantly worse than the national average.

3.14 The number of hearings for guilty plea cases has dropped slightly in the Magistrates' Court and is slightly better than the national average, but has increased in the Crown Court and is now almost half a hearing more per case than the national average.

3.15 Whilst some factors that contribute to these levels of performance are outside the direct control of the Area, for example the throughput of cases in the Magistrates' Courts, the timeliness of discontinuance reflects the grip that prosecutors have on cases and whether they are allowed to drift before being finally dropped.

3.16 The operational efficiency and effectiveness of the CPUs across the Area varies significantly. The lawyer resource committed to the units varied and is adversely affected by abstractions to carry out other tasks. This aspect has a significant impact on units that have a small lawyer resource allocation. Additionally some lawyers were not able to focus wholly on the required work in the unit as they had to prepare their own cases for court. Units that had a more consistent resource with minimal abstraction were working better.

3.17 There are some aspects of the CPU processes which could be improved and should lead to increased efficiencies. Inspectors found that only just over 60 per cent of cases they looked at in the Magistrates' Court CPUs contained clear instructions to the police about what was required in the upgraded file and under half set out clearly the action date by which the work was required. This is particularly important where there may be concerns about the quality of files submitted by the police. When this is coupled with very late reviews of contested cases it creates a substantial risk that cases may need to be vacated at the last minute to undertake remedial work, which increases the 'churn' of work.

3.18 Inspectors evaluated the effectiveness of the Area's CPUs and examined a sample of live cases, which highlighted large variations in performance. In the Magistrates' Courts CPUs it took an average of 18 days to commence the review of the case following receipt of the upgraded file from the police and in the Crown Court units it was 28 days. However these reviews varied between the same day and 65 days in the Magistrates' Courts and one and 47 days in the Crown Court. There were also large variations in the proximity of the review to the trial date. In the Magistrates' Courts CPUs in a third of the files examined during the fieldwork the period was five or fewer days. In the Crown Courts the review took place an average of 120 days before the trial but again there was substantial variation ranging from 28 to 208 days.

3.19 The file examination checks identified that 96 per cent of Magistrates' Court cases were assessed correctly by the units as trial ready and 75 per cent of Crown Court cases. In Magistrates' Court contested cases only 74 per cent of the upgraded files received from the police were sufficient on initial receipt and this reduced to 59 per cent in respect of Crown Court files.

3.20 The Area is not currently using CMS wholly effectively to prioritise workflows, although there are variations in performance across the CPUs. The task management function of CMS is not being used consistently either to ensure new tasks are actioned promptly or completed ones deleted from the system. The implementation of standard operating procedures should help to improve performance. The Area has committed resource to help with training and to provide guidance to CPU managers in operational procedures but this is not yet embedded across the units. The Area will need to ensure that staff are aware fully of how this aspect of the system operates when it integrates its existing units.

3.21 The Area is a key partner in a Northumbria cross-CJS efficiency programme group established to review Magistrates' Court listing patterns and identify efficiency improvements. This work has identified that those patterns are not maximising the effective deployment of resources. The group was putting forward for consideration by the Justices Issues Group (JIG) proposals that the number of scheduled court sessions is reduced together with the centralisation of some courts. Since our inspection we understand that these have been agreed by the JIG, and these changes should have a beneficial impact on the deployment of

CPS resources and on performance measures, for example the number of case finalisations per session and hearings per case.

Prosecution costs are managed to deliver value for money

3.22 There is a clear understanding by Area managers of how prosecution costs in the Crown Court can be controlled, for example by ensuring expert witnesses are only employed where necessary and that two counsel are only allocated to cases which merit the additional cost. This is one factor which contributes to the Area delivering its prosecution service at a lower comparable cost than the national average.¹⁵ The prosecution cost per completed case was £236 less than the national average in the year to September 2012. This represents an increase of 8.3 per cent from 2010-11 to the 12 months to September 2012 (which was more than the national average increase of 6.0 per cent) but remains less than the national average of £1,016 per completed case.

3.23 As part of the inspection methodology, payments to counsel under the graduated fee scheme (GFS) were assessed to ensure that these were necessary and in accordance with the terms of the scheme. Potential savings of only £1,428¹⁶ were identified, of which £540 was attributable to a case in which the fees paid were correct, but where inspectors considered it could have been dealt with by a Crown Advocate. These findings support our assessment that overall the Area manages efficiently its prosecution costs in the Crown Court.

¹⁵ There are also other significant contributors, for example the overall wages bill for the Area which is influenced by a number of factors.

¹⁶ Only 4.6 per cent of the total fees paid in the 19 cases examined.

3.24 Only two wasted costs orders were made against the Area in the 12 months to September 2012, totalling £3,148, and there were no such orders made in the two preceding years. North East has had less wasted costs orders, in financial terms, made against it than any other CPS area since March 2010. Relevant stakeholders said they regarded their power to award wasted costs as a blunt instrument as it either meant just transferring money between Government departments or taking resources away from the Area when they were trying to get it to improve performance.

There is an effective asset management regime in the Area

3.25 The Area's assets are managed effectively. There is a corporate asset register which is maintained and controlled nationally. However, notification of changes is the responsibility of the Area which also carries out periodic verification of the register to ensure its accuracy and completeness.

3.26 The Area has managed the IT resource changes arising from digitisation well. The introduction of digitisation has necessitated a review of the allocation of personal and tablet computers. Previously allocation has been at a ratio of eight devices to every ten members of staff. As all prosecutors who present cases now need a tablet computer this ratio has become higher. The Area has also focused on reducing its printer hardware needs to help release funds for investment in personal computers.

3.27 All prosecutors have been given training and support in the use of the tablet computers and inspectors found that despite teething problems they had generally been well received. In addition there is a rolling programme to install CPS business broadband across the Area's court centres and some police stations, which is expected to be completed by the end of January 2013. This should be of substantial assistance as inspectors noted that the efficient presentation and progression of cases in the Magistrates' Court was affected adversely by the time it took prosecutors to receive information, and at some court centres had still to be sent by fax.

3.28 The Area recognises the potential opportunities that digitisation presents in improving sustainability through reduced printing costs and accommodation needs by increased home-working. However this is at an early stage and the benefits have yet to be realised.

3.29 After considering a number of options the Area initially decided to retain a presence in Durham, and use its existing premises for the location of the Area Daytime Direct charging centre. Other options could have resulted in accommodation savings of up to £300,000. However inspectors are satisfied that once this option was chosen, the decision taken, in light of the circumstances that prevailed at the time, to remain at the current Durham location represented the best value for money having regard to the overall business need. We understand that since our inspection, this decision is being reviewed as part of the national assessment of the cost of the CPS estate, informed in part by the strategic refocusing of CPS work.

Part 3: Annexes

A File examination findings

A total of 200 Magistrates' Court and Crown Court finalised cases were examined (including 36 which had been subject to the Area's CQSM), together with 20 cases where lawyers directed either an out of court disposal or no further action. The finalised file sample was taken equally from each of the county units. It

comprised a mix of outcomes including guilty pleas, convictions and acquittals after trial, and case types including rape, racially aggravated and domestic violence.

The following table sets out the key findings from the finalised file sample:

Question		Number of cases	Percentage
Application of the Code for Crown Prosecutors			
The Code was applied correctly at the charging stage		173 out of 187	92.5%
The Code was applied correctly at summary trial/committal/sending review		167 out of 180	92.8%
The decision to end any charge was compliant with the Code test		56 out of 58	96.6%
The quality of the MG3 (record of charging decision)			
The MG3 included proper case analysis and case strategy	Fully met	99	59.3%
	Partially met	42	25.1%
	Not met	26	15.6%
The most appropriate charges were advised at the pre-charge decision stage		117 out of 133	88.0%
The action plan met a satisfactory standard		87 out of 119	73.1%
The overall quality of the MG3	Excellent	1	0.7%
	Good	58	42.3%
	Fair	49	35.8%
	Poor	29	21.2%
Case progression			
There was a proper case review while it was in the Magistrates' Court (including committal)	Fully met	98	61.6%
	Partially met	40	25.2%
	Not met	21	13.2%
There was a proper case review once it had moved into the Crown Court (including sending)	Fully met	50	53.2%
	Partially met	32	34.0%
	Not met	12	12.8%

Question		Number of cases	Percentage
Case progression was carried out in accordance with the Criminal Procedure Rules	Fully met	126	71.6%
	Partially met	25	14.2%
	Not met	25	14.2%
There was timely compliance with court directions		90 out of 114	78.9%
The lawyer or team exercised sound judgement, had a grip on the case, and progressed it efficiently and effectively	Fully met	110	59.8%
	Partially met	50	27.2%
	Not met	24	13.0%
Disclosure of unused material			
The prosecutor complied with the duty of initial disclosure	Fully met	130	79.3%
	Partially met	25	15.2%
	Not met	9	5.5%
Initial disclosure was timely		106 out of 133	79.7%
The prosecutor complied with the duty of continuing disclosure	Fully met	53	69.7%
	Partially met	5	6.6%
	Not met	18	23.7%
Continuing disclosure was timely		42 out of 50	84.0%
Non-compliance was caused or aggravated by the failure of the police or any other agency to provide the right material at the right time		14 out of 30	46.7%
Non-compliance arose through a failure to disclose undermining or assisting material		2 out of 38	5.3%
The sensitive material schedule and any sensitive material was handled appropriately	Fully met	143	86.7%
	Partially met	1	0.6%
	Not met	21	12.7%
The issue in the handling of sensitive material was solely a failure to properly endorse a blank MG6D		5 out of 18	27.8%
The overall quality of handling of unused material	Excellent	0	0.0%
	Good	49	36.8%
	Fair	61	45.9%
	Poor	23	17.3%

Question		Number of cases	Percentage
Victim and witness issues			
The prosecution was right to accept the pleas offered and/or to accept the basis of plea	Fully met	22	91.7%
	Partially met	1	4.2%
	Not met	1	4.2%
There was compliance with the Victims' Code, Prosecutors' Pledge and any other policy guidance on the treatment of witnesses	Fully met	144	90.6%
	Partially met	6	3.8%
	Not met	9	5.7%
The right special measures were sought (including use of intermediary etc)		39 out of 40	97.5%
Decision-making, case progression and presentation take proper account of safeguarding issues in relation to child victims and witnesses		17 out of 18	94.4%
DCV communication, when required, was timely	Fully met	39	79.6%
	Partially met	0	0.0%
	Not met	10	20.4%
The DCV communication was of a high standard	Fully met	30	71.4%
	Partially met	7	16.7%
	Not met	5	11.9%
Were the appropriate orders sought at sentencing to address the needs of the victim, such as compensation, restraining orders etc		47 out of 50	94.0%

B Casework outcome data

	National	North East	Cleveland	Durham	Northumbria
Outcomes					
<i>Magistrates' Court successful outcomes</i>					
2010-11	86.5%	87.6%	85.5%	89.1%	88.0%
2011-12	86.7%	87.8%	86.6%	89.3%	87.9%
12 months to Sept 2012	86.7%	87.2%	85.6%	89.4%	87.2%
<i>Magistrates' Court discontinuance</i>					
2010-11	9.6%	9.9%	12.3%	8.5%	9.3%
2011-12	9.6%	9.7%	11.5%	8.1%	9.4%
12 months to Sept 2012	9.4%	10.2%	12.3%	8.2%	10.0%
<i>Crown Court successful outcomes</i>					
2010-11	79.6%	82.4%	79.4%	82.8%	83.7%
2011-12	80.8%	83.6%	81.2%	82.7%	84.8%
12 months to Sept 2012	80.9%	83.6%	80.8%	85.0%	84.1%
<i>Crown Court judge ordered acquittals</i>					
2010-11	12.8%	13.5%	15.2%	12.9%	13.1%
2011-12	11.6%	11.9%	13.6%	11.8%	11.3%
12 months to Sept 2012	11.5%	11.8%	13.4%	10.4%	11.8%
Charging volumes					
<i>Pre-charge decisions</i>					
2010-11	466,951	23,599	6,032	5,744	11,713
2011-12	367,058	19,252	4,697	4,884	9,518
12 months to Sept 2012	317,495	16,892	4,230	4,141	8,418
Variance 2010-11 to Sept 2012	-31.9%	-28.4%	-29.9%	-27.9%	-28.1%

	National			North East		
	2010-11	2011-12	12 months to Sept 2012	2010-11	2011-12	12 months to Sept 2012
Violence against women and hate crime outcomes						
<i>Unsuccessful outcome rates</i>						
Domestic violence	28.1%	26.7%	26.0%	26.5%	25.4%	25.3%
Rape	41.4%	37.5%	36.3%	34.6%	43.6%	41.1%
Sexual offences not including rape	25.7%	24.3%	23.3%	24.4%	24.0%	22.5%
Total for all violence against women	28.5%	26.9%	26.2%	26.7%	26.0%	25.7%
Religiously/racially motivated hate crime	16.9%	15.8%	16.0%	16.4%	15.8%	15.2%
Homophobic hate crime	19.3%	21.3%	19.1%	22.0%	17.9%	10.9%
Disability hate crime	20.3%	22.7%	22.7%	12.5%	15.9%	20.0%
Total for all hate crime (disability, homophobic, racist, religious crimes)	17.2%	16.6%	16.6%	16.6%	16.0%	15.2%

	National			North East		
	2010-11	2011-12	12 months to Sept 2012	2010-11	2011-12	12 months to Sept 2012
Trial effectiveness rates						
<i>Magistrates' Court</i>						
Vacated trial	22.7%	NA	NA	28.24%	NA	NA ¹⁷
Cracked trial	39.1%	39.1%	39.0%	44.2%	44.8%	44.6%
Effective trial	43.4%	43.4%	44.0%	39.9%	39.6%	41.0%
Ineffective trial	17.5%	17.5%	17.0%	16.0%	15.6%	14.5%
<i>Crown Court</i>						
Cracked trial	42.1%	39.1%	38.2%	58.3%	54.7%	53.1%
Effective trial	44.4%	46.3%	47.8%	27.8%	30.7%	32.8%
Ineffective trial	13.5%	14.5%	14.0%	13.9%	14.6%	14.1%

NA = Not applicable

¹⁷ Data supplied by HMCTS indicates a vacated trial rate for the Area of 31.1% for the 12 months to November 2012.

C Financial and efficiency outcomes

Staffing and caseload changes

	2010-11	2011-12	% change	12 months to Sept 2012		2 year average
	Year average	Year average		Year average	% change	% change
Areas and CPS Direct						
Staff in post	6,712.9	6,251.9	-6.9	6,016.0	-3.8	-10.4
Prosecutors in post	3,041.3	2,876.8	-5.4	2,758.9	-4.1	-9.3
Administrators in post	3,671.6	3,375.1	-8.1	3,257.1	-3.5	-11.3
<i>Magistrates' Court</i>						
Completed cases	840,968	787,529	-6.4	746,134	-5.3	-11.3
Contested cases	54,392	50,904	-6.4	48,745	-4.2	-10.4
Contested cases per prosecutor	18.2	18.0		17.9		
<i>Crown Court</i>						
Completed cases	116,310	106,794	-8.2	101,352	-5.1	-12.9
Contested cases	16,134	15,708	-2.6	15,515	-1.2	-3.8
Contested cases per prosecutor	6.3	6.5		6.6		
North East						
Staff in post	396.8	362.1	-8.7	351.3	-3.0	-11.5
Prosecutors in post	169.3	150.9	-10.9	142.6	-5.5	-15.8
Administrators in post	227.5	211.2	-7.2	208.7	-1.2	-8.3
<i>Magistrates' Court</i>						
Completed cases	50,059	49,114	-1.9	47,227	-3.8	-5.7
Contested cases	2,393	2,289	-4.3	2,316	1.2	-3.2
Contested cases per prosecutor	14.4	15.4		16.5		
<i>Crown Court</i>						
Completed cases	6,432	5,706	-11.3	5,465	-4.2	-15.0
Contested cases	457	480	5.0	493	2.7	7.9
Contested cases per prosecutor	3.2	3.8		4.1		

Contested case per prosecutor: Magistrates' Court includes all prosecutors. Crown Court includes all prosecutors less Associate Prosecutors. North East Complex Casework Unit cases included in Area figures.

	National average				North East			
	2010-11	2011-12	12 months to Sept 2012	Change 2011-12 to Sept 2012	2010-11	2011-12	12 months to Sept 2012	Change 2011-12 to Sept 2012
Efficiency								
Completed cases per administrator (full-time equivalent)	260.73	264.98	260.20	↓	248.41	259.54	252.15	↓
Completed cases per prosecutor (full-time equivalent)	319.59	315.45	311.52	↓	339.63	369.33	374.87	↑
In-house Magistrates' Court sessions	90.3%	91.2%	86.1%	↓	91.0%	89.2%	82.4%	↓
Associate Prosecutor Magistrates' Court sessions	32.2%	33.7%	33.3%	↓	29.9%	32.6%	27.4%	↓
Cases dropped 3rd or subsequent hearings	44.3%	42.7%	39.9%	↑	47.9%	46.1%	44.0%	↑
Average sessions per Associate Prosecutor per week	6.09	5.91	5.68	↓	5.67	5.83	5.19	↓
Hearings per case guilty plea Magistrates' Court cases	2.05	2.00	1.96	↑	2.07	1.94	1.93	↑
Hearings per case guilty plea Crown Court cases	3.45	3.51	3.52	↓	3.65	3.87	3.95	↓
Savings per Crown Advocate	£43,858	£49,309	£52,627	↑	£32,959	£29,537	£30,350	↑
Cost								
Prosecution cost per completed case (Crown Court)	£955	£945	£1,016	↓	£720	£775	£780	↓
Overall spend per completed case	£483	£477	£498	↓	£407	£390	£395	↓
Overall spend per total full-time equivalent	£68,852	£68,174	£70,129	↓	£57,937	£59,067	£59,271	↓

	National average				North East			
	2010-11	2011-12	12 months to Sept 2012	Change 2011-12 to Sept 2012	2010-11	2011-12	12 months to Sept 2012	Change 2011-12 to Sept 2012
Quality								
Magistrates' Court successful outcomes	86.5%	86.7%	86.7%	↔	87.6%	87.8%	87.2%	↓
Crown Court successful outcomes	79.6%	80.8%	80.9%	↑	82.4%	83.6%	83.6%	↔
CQSM – Compliance with Victim and Witness Code – fully met	Not available	92.6%	92.8%	↑	Not available	92.9%	92.5%	↓
Early guilty plea Magistrates' Court	61.1%	61.7%	61.1%	↓	66.7%	67.2%	66.0%	↓
Early guilty plea Crown Court	54.0%	54.2%	54.0%	↓	54.1%	55.7%	55.7%	↔

The completed cases data used for magistrates' courts calculations refers to "defendants" cases. The Crown Court completed cases figures relate to "cases" and not defendants across the cases.

↑ Improvement between 2011-12 to September 2012

↓ Deterioration between 2011-12 to September 2012

↔ Minimal change between 2011-12 to September 2012

Analysis of case progression unit process checks

	Magistrates' Court				Crown Court			
	Yes	No	NA	NK	Yes	No	NA	NK
Did the full file request to the police contain clear instructions?	60.9%	39.1%	0.0%	0.0%	58.8%	41.2%	0.0%	0.0%
Were the police provided with an appropriate action date for completion of work?	47.8%	39.1%	0.0%	13.0%	70.6%	17.7%	11.7%	0.0%
Was full file complete when received, i.e. sufficient to proceed	73.9%	26.1%	0.0%	0.0%	58.8%	17.7%	23.5%	0.0%
Was CPS proactive in chasing anything outstanding?	26.1%	17.4%	56.5%	0.0%	35.3%	29.4%	35.3%	0.0%
Was/is CMS used appropriately to record requests/action dates/receipt?	100%	0.0%	0.0%	0.0%	64.7%	35.3%	0.0%	0.0%
Is the file trial ready?	95.8%	4.2%	0.0%	0.0%	75.0%	25.0%	0.0%	0.0%
Is the Area's indication of trial readiness accurate?	95.8%	0.0%	0.0%	4.2%	90.0%	0.0%	0.0%	10.0%
Have all uncleared tasks been removed from CMS?	33.3%	66.7%	0.0%	0.0%	25.0%	75.0%	0.0%	0.0%
	Execl	Good	Fair	Poor	Execl	Good	Fair	Poor
What was the quality of communications?	90.9%	9.1%	0.0%	0.0%	0.0%	56.3%	37.5%	6.3%
	Yes	No	NA	NK	Yes	No	NA	NK
Were witnesses warned in a timely fashion?	90.9%	9.1%	0.0%	0.0%	100%	0.0%	0.0%	0.0%
	Full	Part	Not	NK	Full	Part	Not	NK
The lawyer or team exercised sound judgement, had a 'grip' on the case and progressed it efficiently and effectively?	45.8%	33.3%	20.8%	0.0%	75.0%	18.8%	6.2%	0.0%

NA = Not applicable

NK = Not known

Excel = Excellent

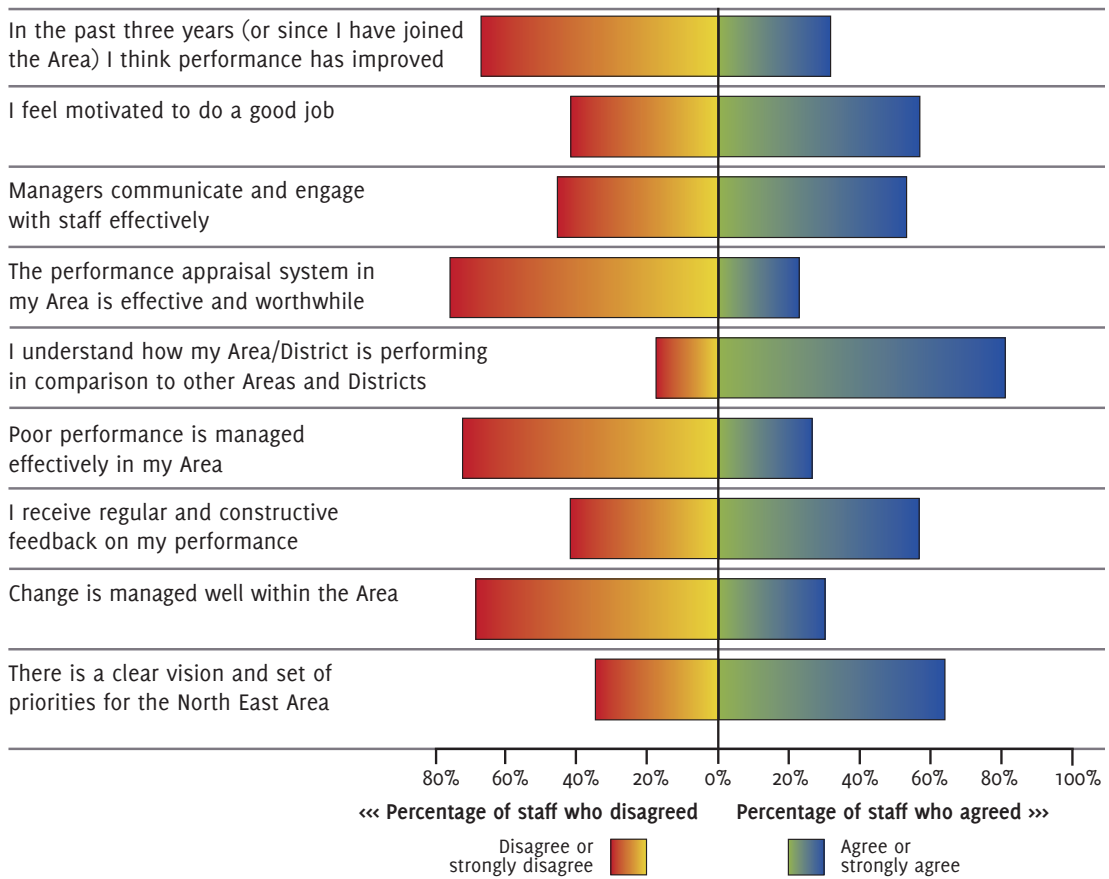
Full = Fully met

Part = Partially met

Not = Not met

D Survey results

HMCPST questionnaire responses: CPS North East staff



E Methodology

Generally

This inspection took place against a framework agreed with the CPS. The findings were assessed against an agreed scoring matrix which provided a guide as to whether the evidence in respect of each main criterion indicated that Area performance was excellent, good, fair or poor.

File examination

Inspectors examined 200 finalised Magistrates, Youth and Crown Court files, including 36 which had previously been assessed by local CPS managers as part of CQSM. The sample was taken in proportion to each county unit's caseload. The finalised cases comprised a mix of outcomes and types, including guilty pleas, convictions and acquittals after trial, allegations of rape, racially aggravated offences and domestic violence. The section of the sample that had not been subject to CQSM was weighted in favour of successful outcomes (58 per cent). The balance of the CQSM assessed files was dependent on the types which had been selected by CPS managers, but where possible including at least one case which had included an allegation of rape.

In addition 20 files were examined where, at the charging stage, the lawyer had directed either an out of court disposal or that no further action should be taken.

As part of the fieldwork a small sample of files which had been subject to a complaint were examined to assess how well complaints were handled in the Area.

Examination of material

Inspectors examined relevant performance and financial information and other documentation, for example business plans, project plans and team meeting minutes before the fieldwork. They also had unlimited access to the Area's shared workspace which enabled them to view any material to which CPS North East staff had open access.

Survey

CPS North East employees, members of the judiciary, criminal justice partners, independent counsel, defence representatives and community groups were invited to complete a web based questionnaire. The analysis of the CPS questionnaire responses is set out at annex D.

Observations

During the course of the fieldwork inspectors carried out observations of lawyers delivering charging decisions at each charging centre. Advocacy observations were undertaken at each Crown Court centre in the Area and a range of Magistrates' Courts.

Process checks

Detailed process checks were carried out in the Magistrates' Court and Crown Court case progression units at each site visited. These checks included assessments of the effectiveness of each key stage in the trial preparation process.

Interviews

Interviews were conducted internally with:

- The senior management team
- Unit Heads and managers
- Area operations staff

External interviews were also undertaken with:

- Senior police officers and civilian police staff (including witness care unit managers) in operational and strategic roles
- Resident Judges
- District Judges
- Bench and Deputy Bench Chairs
- Deputy Justice's Clerks
- HM Courts and Tribunals staff
- Defence representatives at court

F Glossary

Area Business Manager

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

Associate Prosecutor

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

Case management system (CMS)

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

Case progression manager (CPM)

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

Code for Crown Prosecutors (the Code)

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

Committal

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

Complex Casework Unit (CCU)

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

Conditional caution

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

Contested case

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

CPS Core Quality Standards (CQS)

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

CPS Direct (CPSD)

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

Core Quality Standards Monitoring (CQSM)

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

Court orders/directions

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

Cracked trial

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

Criminal Justice: Simple, Speedy, Summary (CJSS)

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

Criminal Procedure Rules (CPR)

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

Crown Advocate (CA)

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

Custody time limits (CTLs)

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

Direct communication with victims (DCV)

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

Discharged committal

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

Discontinuance

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

Early Guilty Plea Scheme (EGP)

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

Either way offences

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

File endorsements

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

Indictable only, indictment

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

Ineffective trial

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

Instructions to counsel

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

Judge directed acquittal (JDA)

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

Judge ordered acquittal (JOA)

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

No case to answer (NCTA)

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

Optimum business model (OBM)

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

Paralegal Career Family Structure

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

Paralegal officer (PO)

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

Plea and case management hearing (PCMH)

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

Pre-charge decision (PCD)

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

Pre-trial application

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

Proceeds of Crime Act 2002 (POCA)

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

Prosecution Team Performance Management (PTPM)

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

Prosecutor's duty of disclosure

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

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

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

Section 51 Crime and Disorder Act 1998

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

Sensitive material

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

Special measures applications

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

Streamlined process (Director's guidance)

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

Summary offences

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

Threshold test

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

Transforming Through Technology (T3)

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

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

Unused material

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

Upgraded file

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

Witness care unit (WCU)

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

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HMCPsi Publication No. CP001:808

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