



HM Crown Prosecution  
Service Inspectorate

# Review of the performance of the former Area of CPS Nottinghamshire

Follow-up inspection

September 2012





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## Chief Inspector's foreword

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HMCPST is committed to promoting improvement within the Crown Prosecution Service and this core principle forms the foundation of our work. I believe that follow-up inspections are important in assisting the CPS to focus on, and implement our recommendations.

In April 2011 the former CPS Area of Nottinghamshire became one of the five districts within the new CPS East Midlands Area as part of the national restructure. This has led to a reduction in numbers of managers and significant changes to the Area staffing levels and structures. Throughout this period of transition, even though the Area has been in a state of flux, it has managed to retain a focus on the issues identified in the inspection report and has been working hard to drive improvement across not only the former CPS Nottinghamshire Area but across the new CPS East Midlands Area.

I am pleased to note that the senior management team used our last inspection report as the basis to meet and engage with all staff to formulate an Area action plan in order to make the necessary changes to improve Area performance.

In 2010 although the former CPS Nottinghamshire Area was rated as fair overall, there were serious cultural issues that needed to be tackled and major changes were needed to address declining performance in some key areas. The Chief Crown Prosecutor has led senior managers in developing and communicating a clear vision, initially for the former Area and now for the CPS East Midlands Area as a whole. Clear expectations and standards have been set focusing on the CPS Core Quality Standards<sup>1</sup> for all staff and the introduction of a strong performance management regime has resulted in the former Nottinghamshire Area having made substantial progress.

All staff are to be congratulated on their efforts and the progress made to date but some challenges still remain and efforts must continue to address all aspects of performance, particularly those where only limited or no progress been achieved so far. This report highlights those areas where sustained action is required for the new CPS East Midlands Area to continue to improve its performance.



Michael Fuller QPM BA MBA LLM (Hon) LLD  
Her Majesty's Chief Inspector

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<sup>1</sup> The CPS has set itself Core Quality Standards which set out the quality of service that the public are entitled to expect. The standards reflect legal and professional obligations.



# 1 Follow-up inspection context

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1.1 This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPISI) from a follow-up review visit to the former Crown Prosecution Service (CPS) Area of Nottinghamshire from 14 to 18 May 2012.

1.2 In March 2010 a full inspection took place of the former CPS Nottinghamshire Area (now referred to as the Nottinghamshire district within CPS East Midlands Area) and the report was published in September 2010. At that time the former Area was rated overall as fair but it had a number of poor ratings and there were some declining trends in respect of a number of key elements of performance. The report made a number of priority and secondary recommendations and raised a compliance point, intended to assist the Area in identifying the key problems that needed to be tackled to prevent its performance slipping further and to drive improvement. Four strengths were also noted and commented on.

1.3 The aim of this follow-up review is to provide an assessment of progress made against those recommendations, current performance and the direction of travel. An assessment of the Area's capacity and capability to address the recommendations in light of significant structural changes that have taken place has also been made.

1.4 We have rated the former Area's response to each recommendation using the following measures and the results appear in the table below at page 8:

- **Achieved** – the Area has accomplished what was required.
- **Substantial progress** – the Area has made real headway in taking forward its planned actions in relation to the recommendation.
- **Limited progress** – the Area has done something to address the recommendation.
- **Not progressed** – the Area cannot demonstrate any progress.
- **No longer applicable** – where there has been a change in circumstance such as Area restructuring or the implementation of a national initiative.

1.5 The CPS nationally has undergone significant changes over the last two years since the previous inspection was carried out driven primarily by the Comprehensive Spending Review. A restructure has reduced the 42 CPS areas to 13 areas, based on the former group structure that was in place during the last inspection. The five former Areas of Nottinghamshire, Derbyshire, Lincolnshire, Leicestershire and Northamptonshire each with their own Chief Crown Prosecutor (CCP), have now formed a new CPS East Midlands Area with one CCP.

1.6 Our assessment of casework performance and case progression was undertaken at the Nottinghamshire district level. Recommendations targeted at specific issues relevant to the former Group governance structure were assessed at the new CPS East Midlands Area level where appropriate.

1.7 A detailed account of the methodology used to gather evidence and data can be found at annex F.

## 2 Overview

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### The development of CPS East Midlands

**2.1** In 2010 HMCPSI undertook a full Area inspection of CPS Nottinghamshire.

The Area received an overall rating of fair, however, our inspection revealed a picture of declining performance in many key areas. The organisational structures were not fit for purpose, there were backlogs and a lack of accountability in casework and the Area lacked management capability resulting in a lack of effective systems to manage performance. The Area was also trying to tackle the legacy of a change resistant workforce and there was little evidence of effective partnership working.

**2.2** At the time of the last inspection the CCP and Senior Area Business Manager (SABM) for Nottinghamshire had been responsible for the establishment of the then East Midlands Group structure bringing together Nottinghamshire, Derbyshire, Lincolnshire, Leicestershire and Northamptonshire. The CCP was the Group Chair and has now become the sole CCP for the new CPS East Midlands Area consisting of the same Areas as the former Group. The SABM is now the Area Business Manager (ABM) for CPS East Midlands.

**2.3** Initially after the restructure in 2011 the Area management team split the new East Midlands Area into a Northern Sector consisting of Nottinghamshire, Derbyshire and Lincolnshire and a Southern Sector of Leicestershire and Northamptonshire. This has now been changed as it was believed a geographical division between staff was starting to appear and management were keen to promote the CPS East Midlands as one unified Area with collaboration between units, and consistency of working practices across the five former Areas, now referred to as districts.

**2.4** The restructure for the CPS East Midlands has still has to be fully implemented with one of the two Deputy Chief Crown Prosecutors (DCCPs) having only taken up post in April 2012. The DCCP roles are likely to be split on an operational and casework basis rather than geographical to reflect the one Area approach. In terms of the number of senior managers the new Area structure has; one CCP, one ABM, two DCCPs, one Business Change and Delivery Manager (BCDM) and two level E Senior District Crown Prosecutors (SDCPs) although this structure may still be subject to further change. The East Midlands Area is a large geographical area for these managers to cover which has inherent risks attached. It will be a challenge for senior managers to ensure they are frequently visible and accessible to all staff in order to maintain firm lines of accountability and to give assurance and support. The Area has plans to address this by ensuring all senior managers visit all five districts regularly but as yet it is too early to say how effective this structure and these plans will be.

### Leadership

**2.5** The previous inspection report highlighted concerns regarding leadership. Since then there has been a notable change for the better. Concerted efforts by the CCP and senior managers have resulted in the Area vision being clearly communicated and adopted by the majority of staff which was confirmed by our inspection survey results. Better staff engagement and communication has managed to address long standing cultural issues with a workforce that had previously been resistant to change.



**2.6** Since the last inspection the CCP has set out clear lines of accountability and expectations of what is required from managers. A strong performance management regime has also been implemented and is beginning to show improvements in terms of leadership scores within the staff survey.

**2.7** The CCP and the senior management team have been particularly keen to convey the key message to all staff that quality of performance and consistency in delivery across the unified new Area is a priority. This has resulted in an improving picture across the whole Area. Since 2010 there has been a significant improvement in staff morale confirmed by the last staff survey results. Inspectors this time found an engaged staff with a high level of enthusiasm but clearly sustained efforts will be needed to continue moving the Area in the right direction.

### **Managing performance**

**2.8** Inspectors found that there is now a clear set of standards and expectations of staff which have been communicated to all and an embedded culture of personal performance management. Managers have made the giving of feedback a regular occurrence which although initially was not welcomed by all staff, is now felt to be a worthwhile exercise and most staff are now supportive of the concept having seen the benefits realised in terms of personal and district performance. The revised Area structure has set clear personal accountability at every level.

**2.9** The survey conducted by HMCPSP with the staff confirms almost 80 per cent believe that they have a much clearer understanding of performance expectations and that both positive and negative feedback are now dealt with as everyday business. Some staff have voiced concerns over the new Area structure and the span of management commands. Indications from the follow-up inspection confirm that the district is proceeding in the right direction and that there has been a significant change in culture since the last inspection. Casework examination findings show that there has been some improvement in the former Nottinghamshire Area.

### **Resource management**

**2.10** The new Area is currently in an overspend situation and has a forecasted overspend of approximately £1.7 million in the next financial year. The Area faces challenges to meet the savings it has to make during the next financial year.

**2.11** The CPS nationally has experienced a reduction in caseload in both Magistrates' and Crown Court work. The caseload for the Nottinghamshire district has bucked this trend by increasing in terms of Magistrates' Court cases by 1,493 and again in the Crown Court with a smaller increase of 74 cases. The model used by the CPS to allocate resources is based on caseload receipts and it is mainly retrospective, therefore significant caseload changes can have an adverse effect particularly where it is difficult to change staffing levels and Area budgets quickly. The CPS East Midlands budget has been reduced by 12 per cent between 2010-11 and 2011-12, which equated to £2,697,313. As a result of this their share of the overall CPS budget has reduced from 6.9% to 6.5%.

**2.12** The Area has set out a plan detailing how it aims to reduce its overspend. The financial plan includes initiatives such as the voluntary exit scheme and the anticipated savings that will be generated from the move to digital working particularly in relation to general administrative costs. There is also a Workforce Capacity Plan which appears to be driven by the need to make savings and sets out a strategy to help the Area meet its targets. This does not however, give an accurate quantification as to the potential impact of these savings on staffing levels.

### Partnership working

**2.13** In 2010 there were a plethora of multi-agency meetings. As a result of the Comprehensive Spending Review the picture has changed for all agencies that work closely with the CPS because all have been affected by reducing budgets and a corresponding loss of staff. Meetings have had to become more focused and streamlined as a direct consequence of this common factor, which has resulted in an improvement in partnership working generally.

**2.14** In particular it was noticeable that the police and CPS have built on the foundations noted during the last inspection and have

developed a prosecution team ethos. They are working closely to try and improve the standard and timeliness of files and to seek efficiencies within the criminal justice process.

### Performance outcomes

**2.15** Nottinghamshire has mixed performance in terms of Magistrates' and Crown Court outcomes. In the Magistrates' Court the overall conviction, discontinuance and cracked trial rates have improved since our last inspection and are better than the national average. The ineffective trial rate has also marginally improved, however it is almost six per cent higher than the national average overall. The fact remains that nearly a quarter of the Magistrates' Court cases in the district are ineffective and over a third crack on the day of trial.

**2.16** Whilst it is accepted that things can change in relation to live cases, however carrying this volume of cases for so long before discontinuing them inevitably creates a churn of unnecessary work. More robust charging decisions, early reviews and detailed full file reviews are required to tackle this issue which need to be supported with better systems and processes to ensure problems are identified and dealt with in good time before the trial date.

	National			East Midlands			Nottinghamshire		
	2009-10	2010-11	2011-12	2009-10	2010-11	2011-12	2009-10	2010-11	2011-12
Magistrates' Court discontinuance	9.0%	9.6%	9.6%	8.9%	8.8%	8.8%	10.3%	8.2%	8.5%
Magistrates' Court unsuccessful outcomes	13.2%	13.5%	13.3%	13.3%	12.5%	12.4%	15.3%	12.2%	12.6%
Judge ordered acquittals	11.7%	12.8%	11.6%	10.7%	11.8%	10.9%	14.0%	14.3%	12.0%
Crown Court unsuccessful outcomes	19.4%	20.4%	19.2%	15.5%	16.7%	16.7%	18.4%	18.2%	15.9%

### **Casework performance**

**2.17** The files examined revealed an improvement with 95.2% of decisions at charge (or initial review in police charged cases), being Code test compliant. Attention still needs to be given to better analysis of the evidence and planning of the case strategy at the outset. There were seven Code test failures in total in our file sample with two at the pre-charge decision stage and the other five at full file review, trial and discontinuance.

**2.18** The Area needs to continue to work to improve the timeliness and standard of casework to reduce the high ineffective trial rate. The senior management team have adopted a strong performance culture across the Area and have focused on developing their middle management team to ensure they are accountable and to enable them to deliver improved performance and better outcomes. Overall there is an improving picture but focus needs to be centred on casework to see outcomes improve consistently across both Magistrates' and Crown Court cases.

### **Direction of travel**

**2.19** Inspectors found a much more positive feeling within Nottinghamshire and this is reflected in the improving picture in performance. There has been a lot of work by management to set out expectations of staff and to introduce a strong performance management regime which has realised some benefits already. The majority of staff appear to have risen to the challenges that the Area faced and most now appreciate receiving feedback which is now being delivered in a more balanced and constructive way. The Area needs to maintain its momentum to deliver improved and sustained better casework outcomes for both Crown and Magistrates' Court cases. The relationship with the police has improved and this is at all staff levels but the focus on improving file quality must be continued as this is critical to prosecuting the best cases possible and delivering a better service for victims and witnesses.

### 3 Progress against recommendations

#### Action taken to address the recommendations

3.1 After the 2010 inspection the former CPS Nottinghamshire Area senior management team involved staff and then developed an action plan to address the recommendations. As a result progress has been made against almost all the recommendations. Of the six priority recommendations three have been achieved and varying degrees of progress have been made

against the other three. The Area has action plans to ensure that the momentum gained is not lost and whilst the improvements seen may not as yet have fully translated into consistently improved outcomes for the Magistrates' Court work, the Area is keen to continue to deliver improvements. A full table of progress against recommendations and the compliance point is at annex A.

Priority recommendations		Progress
1	Senior managers develop and communicate Area vision	Achieved
2	Improve the quality of pre-charge decisions	Substantial progress
3	Work with the police to improve file quality	Limited progress
4	Ensure the Code for Crown Prosecutors is applied correctly to domestic violence, racially and religiously aggravated offences	Substantial progress
5	Communicate expectations and give feedback to lawyers	Achieved
6	Develop a performance management regime	Achieved
Secondary recommendations		Progress
1	Reinstate case progression meetings in the Magistrates' Court and work with partners to improve ineffective trials	Not progressed
2	<ul style="list-style-type: none"> <li>Learn lessons from adverse case reports</li> <li>Ensure there is appropriate joinder of indictments</li> </ul>	Substantial progress Limited progress
3	Ensure police File Review Unit quality assures case files	No longer applicable
4	<ul style="list-style-type: none"> <li>Monitor cracked trials handled by CPS advocates</li> <li>Assess agent quality</li> </ul>	Achieved Limited progress
5	Work with police to improve disclosure	Limited progress
6	Ensure custody time limit processes are applied and endorsements clear	Limited progress
7	Work with witness care unit and police to meet No Witness No Justice measures	Limited progress
8	Ensure special measures applications are timely	Limited progress
9	Work with police to make Prosecution Team Performance Management meetings effective	Achieved
10	<ul style="list-style-type: none"> <li>Review savings that could be made by combining units</li> <li>Ensure associate prosecutors are used effectively</li> <li>Ensure managers are effective</li> <li>Reassess the balance of staff across the Area</li> </ul>	Achieved Not progressed Limited progress Substantial progress
11	Rationalisation of multi-agency meetings	Substantial progress
Compliance point		Progress
1	Ensure template for counsel instructions is followed	Achieved

**Priority recommendation 1**

*Achieved*

*The senior team needs to develop and communicate the Area vision and share this with Area staff.*

The CCP and senior management team have clearly both developed and communicated the Area vision to staff, particularly in relation to the importance of focusing on the quality of their performance. This is supported by both the results of the Civil Service staff survey from 2011 and our inspection survey of the staff during this follow-up review where just under 80 per cent feel there is a clear vision and set of priorities for the East Midlands and just over 80 per cent feel the same about Nottinghamshire.

This has been achieved as a result of engaging with the staff in focus groups to formulate the Area action plan to the last report which links into the Area business plan. This has then been implemented and progress communicated at regularly held senior management team meetings, district team meetings and weekly huddles. The feedback regime also continues to raise and embed the key issue of quality of performance with individual members of staff.

Concerns were raised with inspectors by a few staff over some aspects of the new CPS East Midlands Area structure and specifically around the large spans of management control for the senior managers. The Area recognised this issue and has already made plans to address one specific management post where spans of control were excessive. It is recognised by senior management that more work needs to be done to develop the culture of the new unified CPS East Midlands Area and in particular to improve consistency in respect of processes and to develop a greater flexibility of staff with regard to working in different locations across the Area. There was evidence of this happening already involving staff of different grades and with digitalisation, moving the work to where there was some spare resource capacity.

## Priority recommendation 2

*Substantial progress*

*The Area needs to improve the quality of pre-charge decision-making and case analysis through monitoring and effective feedback, proper action plans including consideration of all ancillary matters, and detailed instructions to the court advocate.*

Our file examination revealed a degree of standardisation in the approach of Daytime Direct lawyers in the drafting of the pre-charge decisions on the MG3<sup>2</sup>. This is indicative of managerial input in an attempt to address some of the issues that were identified in our 2010 report. In particular it was noticeable that lawyers tended to specify the strengths and weakness of the evidence which is to be commended.

Despite this positive aspect of the pre-charge decisions, there were still repetitive themes where improvement could be made. In some MG3s there was insufficient legal analysis of the key issues, and also the lack of a clear explanation of the proposed strategy as to how these issues could be addressed by the evidence and what the tactical approach of the prosecution would be.

In our file sample, out of the 48 pre-charge decisions made by Area lawyers (either by Daytime Direct or face to face), two (4.2%) were found to be Code test failures. This is an improvement from the last inspection (6.9%).

In respect of quality there has been an increase in the number of MG3s rated as good (44.1% as opposed to 32.4% in 2010), but also an increase in poor MG3s (20.6% as opposed to 18.3%). In most of those rated as poor we found weak case analysis.

## Priority recommendation 3

*Limited progress*

*The Area needs to:*

- *Work with the police on file standards and timeliness*
- *Build a prosecution team ethos; and*
- *Develop, in conjunction with the police and courts, a clear plan for measurable improvements in case preparation and progression.*

There is clearly a lot of work going on around this recommendation and there is a positive feel about the relationship between the police and the CPS but there is still some way to go to achieve consistently high quality and timely files.

The Area has endeavoured to assist the police in relation to the poor standard of files that were being produced, a large number of which were often submitted late. The Area has worked hard compiling data which it shared with the police over specific cases detailing how late the file upgrades were and what was missing from them. The CPS has also taken a robust stance by issuing proposed notices of discontinuance where file upgrades are incomplete. This has had a positive impact and whereas in December 2011 80 per cent of file upgrades were late and 85 per cent were of poor quality, by April 2012 performance had improved to 50 per cent which were late and 50 per cent were of poor quality.

<sup>2</sup> The name of the form used to record the pre-charge decision on.

The police accept that these problems exist and have put in place measures to improve the quality of investigation and file preparation by training and accrediting its officers. These plans have not as yet come to fruition and in acknowledgement of this, the police have recently set up a temporary File Review Unit to cover what they hope will be a transitional period. It is too early to confirm if this will be effective or not in delivering the hoped for improvements in terms of investigation and file building.

The relationship with the courts is reasonably positive but more work needs to be undertaken to reduce the ineffective trial rate and to reduce the number of hearings per case in the Magistrates' Court. In particular there appear to be a large number of cases (28 out of 74) in our file sample which had ineffective hearings.

#### Priority recommendation 4

*Substantial progress*

*The Area needs to ensure that the Code for Crown Prosecutors is applied correctly in all cases involving an allegation of domestic violence, and to improve the overall decision-making and case handling of racially or religiously aggravated crime.*

Inspectors examined ten cases involving domestic violence where the pre-charge decision was made by Area Daytime Direct lawyers and in all of these cases the full Code test was applied correctly. Similarly inspectors reviewed eight cases of domestic violence that proceeded to court and again the full Code test was properly applied in either the full file or ad hoc reviews. The Area needs to ensure that the Charging Standards are properly applied in cases of domestic violence, particularly in relation to considering the possible sentence, taking into account the aggravating features as detailed by the Sentencing Guidelines Council.

In respect of racially or religiously aggravated cases examined, we found that the full Code test had been incorrectly applied in one of the six cases that received pre-charge advice from the Area Daytime Direct lawyers. Of those that proceeded to court one subsequent review failed to properly apply the full Code test. The Area must ensure that lawyers give proper consideration to the application of the policy by laying the non-aggravated offences (as required by the CPS policy), and record their considerations in the body of the review.

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## Priority recommendation 5

*Achieved*

*The Area needs to:*

- *Communicate clear expectations about the standards expected of its lawyers and ensure that there are robust processes in place to tackle individual performance; and*
- *Develop a culture where the giving and receiving of feedback, and responding to it is part of everyday business.*

The CCP and senior management team have set clear expectations and communicated them to all staff with a focus on the quality of performance. Managers are being held to account and the Area has implemented consistent approaches to deal with under performance. For instance; a proactive stance over dealing with attendance has been adopted and it is now requisite to hold stage one<sup>3</sup> meetings as soon as the trigger has been reached in cases of sickness absence. Consideration is then given to whether an attendance improvement notice should be issued, productivity of lawyers is closely monitored and recorded in a written format, performance exception reports are produced regularly and managers are expected to tackle issues arising from them.

During our inspection it was apparent that there was a much greater level of awareness amongst staff in respect of issues of performance and this is a positive development from our last inspection. Team meetings and daily huddles are frequently held and there is evidence that performance is a standing item on the agenda at these forums.

There was clear evidence that the giving and receiving of feedback is now embedded in the Nottinghamshire district as part of normal business. The process has been formalised and linked to the Core Quality Standards Monitoring and is now used to feed in to individual Personal Development Reviews for all staff. It is significant that the giving of feedback appears now to be received positively by staff and this was reflected in both the results of the Civil Service staff survey and in our own inspection survey where almost 80 per cent of staff agreed that they regularly received feedback.

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<sup>3</sup> The first meeting held to discuss the reasons for sickness absence and to establish if any further action is required or not



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**Priority recommendation 6**

*Achieved*

*The Area develops a performance management regime which has a strategic overview. Any regime must include a monthly performance meeting which considers performance across the whole Area and is able to inform necessary improvement activity and be able to make strategic decisions which can be implemented to drive up performance.*

Since the 2010 inspection, the focus on performance monitoring and management in Nottinghamshire has much improved. The CPS East Midlands Area priorities, as highlighted in their 2009-11 business plan, were clearly linked to the overall strategic objectives of the CPS. The in year delivery priorities and actions for 2010-11 set out in the Nottinghamshire district's annual plan are clearly aligned to the CPS East Midlands Area priorities and progress against these is regularly monitored at the new Area level. The management of performance within the district at a senior level for Nottinghamshire is now routinely carried out through the Northern Sector senior management team meetings. The Area is currently working on a new quarterly performance review process that will incorporate individual action plans for unit managers.

The Core Quality Standards Monitoring measures are also used to identify problem areas and there is evidence that issues raised are tackled as they are removed from subsequent headline reports.

Monitoring of the district's performance against key measured outcomes has been significantly enhanced and is clearly supported by performance reports available to all managers in the district. Performance is measured against national rankings for both the CPS East Midlands Area and also on a district by district basis and the headline report focuses upon where the Area and district are performing below the national average in relation to key Core Quality Standards measures. Where there is continued poor performance specific attention is given by the responsible officer being required to compile and present a Performance Exception Review which establishes suitable corrective action and also accountability to ensure that actions taken have been effective.

### Secondary recommendation 1

*Not progressed*

*In respect of Magistrates' Court work the Area needs to:*

- *Reinstate effective case progression meetings for all cases; and*
- *Work with partners to evaluate and improve the number of vacated and ineffective trials.*

The Area attempted to reinstate case progression meetings with the Magistrates' Court however, Her Majesty's Courts and Tribunals Service (HMCTS) have only one case progression officer in post at present and have concluded that they have insufficient resources to hold regular case progression meetings.

This view is now to a degree shared by the CPS case progression managers in that since the closure of the Mansfield office and the combining of both the county and city case progression Optimum Business Model (OBM) units, the size and workload of the single combined OBM unit is too big to make any meeting practical and effective. Case progression is being undertaken on an ad hoc basis utilising electronic communication.

Although the position of HMCTS is acknowledged and without disputing the large number of trials being dealt with by the combined OBM, given that the ineffective trial rate for Nottinghamshire Magistrates' Court cases at 23.3 per cent remains significantly above the national average of 17.5 per cent, there is clearly still a need to develop a focused joint agency approach to improving this issue.

### Secondary recommendation 2

*Substantial progress*

*The Area needs to ensure:*

- *That lessons are learned from adverse case reports which are circulated and shared across the unit to help understand the tactics of presenting a case in court and the impact on the eventual outcome; and*

*Limited progress*

- *Linked cases are prepared and progressed effectively and that there is joinder of cases on a single indictment only in appropriate cases.*

As part of the increased focus on performance across the Area there is a greater degree of analysis of adverse case outcomes and we saw evidence of this leading to feedback being given to individuals.

The file examination and Crown Court observations indicate that some concerns remain about the ability of the CPS to identify linked cases and where appropriate ensure that efforts are made to join cases as soon as reasonably practicable.

One multi-defendant case observed at court, involved an application to join a further defendant to the indictment but only some four weeks before the trial date. The number of indictments and counts had become very confused and quite some time had to be spent by the judge clarifying the position. Cases had drifted along separately as defendants had been charged at different times and cases had not been linked early enough.

Some progress has been made regarding the accuracy of indictments, however, a quarter of the indictments in the file sample (26.1%) were found to have been drafted incorrectly. This remains an area where further work is required.

### Secondary recommendation 3

*No longer applicable*

*The Area needs to work with police to ensure cases processed by the Crown Court File Review Unit are subject to police quality assurance measures on submission of the case file.*

This unit is no longer in existence. However, the police have just set up a new File Review Unit for a six month period, to check the quality of police files being submitted to the CPS. This is intended to cover the period of time still needed for their training and accreditation programme to deliver quality files in a timely manner.

#### Secondary recommendation 4

*Achieved*

*The Area needs to:*

- *Conduct careful monitoring of cracked trials attributed to in-house advocates in the Crown Court to ensure it only occurs in appropriate cases; and*

*Limited progress*

- *Assess the quality of agents that form the cadre of advocates prosecuting in the Magistrates' Courts.*

The Area has been proactive in carrying out advocacy assessments of all its in-house advocates. The cadre of crown advocates has reduced substantially as a result of the reversion and voluntary exit releases (VER) schemes. The Area senior management team has set out clear expectations of what is expected and required from all crown advocates and in particular their responsibilities in respect of the acceptance of pleas resulting in cracked trials. Further evidence of learning from adverse outcomes was noted in relation to the inappropriate acceptance of a plea in a case which led to the CCP giving a directive to in-house advocates. As a result it appears that this is no longer a significant issue in Nottinghamshire.

Agents continue to prosecute regularly in the Magistrates' Court with a particular focus on contested trial work. Current agent usage is 26.5% (2011-12). Despite this high level of agent usage, the Area has still to implement a system of assessing and evaluating the performance of all agents in order to ensure that they are performing at the required level. There is evidence that feedback on the performance of some agents has been sought and given to them. However, one case reviewed by inspectors involved a Code test failure when the trial had been conducted by an agent and the case failed when a no case to answer submission was successful. The agent failed to consider additional evidence received post the full file review (which had clearly been missed by the CPS in a process failure) and seek instructions from the CPS when it was clear that the additional evidence meant the case no longer passed the full Code test.

### Secondary recommendation 5

*Limited progress*

*The Area needs to work with police to improve the timeliness and quality of police schedules, including the descriptions given, and to ensure the routine inclusion of standard items such as pocket notebooks and incident logs.*

The timeliness issues that exist on the receipt of police files have affected file upgrades and thus impacted on the delivery of disclosure schedules and the revelation of material to the CPS. The work that the Area managers are doing with the police incorporates a drive to improve the delivery of disclosure schedules and unused material. There was evidence of the CPS serving schedules in instances when they still needed to review material and in those cases the schedules were properly marked that the items were still awaiting review and the items were requested from the police. The SDCP has been assisting the police with training and has prepared examples of disclosure schedules for them to try and improve their quality and content.

Given the issues around quality of disclosure schedules and delivery of unused material it is positive to note that in our file sample initial disclosure was served in a sufficiently timely manner such that there was no adverse impact on the trial, in 93.2% of cases. There was also an impressively consistent completion of the Disclosure Record Sheet by lawyers recording their decision-making process in over 90 per cent of the cases reviewed. There was evidence of outstanding items being requested and subsequently obtained from the police which were then reviewed and where appropriate, disclosed.

### Secondary recommendation 6

*Limited progress*

*The Area needs to ensure:*

- *There are clear file endorsements where cases involve a remand in custody; and*
- *Custody time limit systems and processes are complied with in all cases.*

There has been a lot of work undertaken by the senior managers across the East Midlands Area to ensure staff are fully aware of the new national custody time limit (CTL) guidance and they have provided regular updates as the result of recent case decisions that impact greatly on CTL issues. This was needed as Nottinghamshire had a CTL failure during 2011-12.

There is evidence that the CTL process is monitored by the district's managers. A weekly assurance process is followed in both the Magistrates' and the Crown Court teams. From the assurance reports that we examined it is apparent that the process requires managers to check all CTL files with expiry dates within a defined period, including any extension application, identifying any issues, and delivering and recording feedback. A CTL Assurance Certificate is then completed by managers to provide assurance to the CCP.

Vital to improving CTL performance are accurate and clear file endorsements. From the files reviewed, inspectors assessed 62.5% of endorsements seen to be of good or excellent quality and, whilst not all of these cases involved defendants in custody, there was clear evidence of improvement in respect of the clarity of recording remand issues on the files.

One area that still requires improvement is confirmation that the CTL date was agreed and announced in court. There was erratic compliance with this requirement although there was also evidence of managers highlighting this failing and feeding back to individuals. It was notable that quite a few of the poorer endorsements were from agents and counsel and a reminder to them as to the standard of endorsements required is needed.

### Secondary recommendation 7

*Limited progress*

*The Area needs to work with the witness care units and the police on the primary and secondary measures under No Witness No Justice, and assess where improvement may be achieved.*

There have been substantial changes to the witness care units (WCUs) within the Nottinghamshire district. On 20 February 2012 the three existing WCUs combined into a single unit for Nottinghamshire. They had previously been co-located with the CPS but with the restructure the CPS moved all their staff into the Nottinghamshire office and the newly combined WCU (which has two CPS staff in it) has moved out to Mansfield police premises. As a result the day to day relationship between the CPS and the WCU is perhaps not as strong as it was when co-located and the Area needs to ensure that this separation in locality does not undermine the effectiveness of the team working.

Witness attendance rates have declined from 84.3% in 2009-10 to 82.3% in 2011-12 which is five per cent less than the national average. The accuracy of this figure is also questionable as the WCU finalise their cases within 24 hours and if they have not received confirmation from the CPS as to which witnesses attended court they assume in line with national policy, that all warned witnesses attended. The CPS must continue to work with the WCU and the police to ensure attendance rate figures are accurate and to consider how attendance rates could be improved upon.

Direct Communication with Victims (DCV) letters were sent in 75 per cent of appropriate cases and 70 per cent of those were considered to be of fair to excellent quality.

Despite the above issues the handling, care and support given to victims and witnesses in serious cases was found to be good. Special measures meetings were held in appropriate cases and plans have been put in place with other agencies to adopt a more joined up and cohesive support network for victims of domestic violence within the city area.

### Secondary recommendation 8

*Limited progress*

*The Area needs to take action to ensure that special measures applications are made in a timely manner.*

In our file sample 42.1% of applications for special measures in appropriate cases were made outside the statutory time limits. Recognising that a proportion of these late applications were due to late requests from witnesses, it is still imperative that the Area ensures that lawyers give full consideration to the needs of witnesses at the pre-charge stage and give clear guidance to prosecutors on the MG3. Early identification of these issues will lead to improved timeliness of applications. In our file examination we found that in 51.5% of cases charged by the Area's Daytime Direct lawyers, special measures and other witness issues were not adequately covered.

### Secondary recommendation 9

*Achieved*

*The Area works with the police to reinvigorate the Prosecution Team Performance Management meetings using these to build on the work being carried out within the Crown Court File Review Unit and the charging unit to ensure that themes and improvement action can be communicated to and implemented across the force area.*

The relationship between the police and the CPS in Nottinghamshire has improved substantially and the Prosecution Team Performance Management meetings are now used to good effect. A lot of work has been undertaken to obtain data drilled down into specific cases to identify problems and for each agency to take them away and action responses to improve performance. It is at these meetings that the file quality and timeliness issue has been tackled leading to the improvements seen.

### Secondary recommendation 10

*Achieved*

*The Area needs to review its staffing resources examining whether:*

- *There are efficiencies and savings that could be made as a result of the combination of the city units*

*Not progressed*

- *The workload and usage of associate prosecutors is offering value for money*

*Limited progress*

- *As part of the strengthening of personal performance management the management spans of control have the correct focus and are effective; and*

*Substantial progress*

- *There is the right balance of staff in the Area, with a focus on the prosecutor grade.*

Over the last two financial years the district has managed to reduce its overall level of staff by just over 17 per cent. The emphasis of this reduction has been borne in the main by reducing the numbers of administrative staff. Since March 2010 the district has lost nearly 30 full-time equivalent (FTE) staff overall comprising around four prosecutors and 26 administrative



staff. The Area has now combined the county and city units into one unit based in Nottingham and the Nottingham premises have also reduced in numbers of units making further savings.

Despite losing some associate prosecutors (APs) through application of the VER scheme, Nottinghamshire is not making full use of its complement of APs and the value obtained by Nottinghamshire from their use has deteriorated within the last 12 months. The proportion of Magistrates' Court sessions covered by associate prosecutors reduced in the 12 months to December 2011 when compared to the previous financial year from 28.3% to 25.1% which is also 8.5% worse than the average coverage achieved in other Areas. This is clearly a lost opportunity by the district.

The district has successfully increased its effectiveness of individual performance management. Staff are more aware of personal performance targets and are increasingly held to account for these. A recent example of management focus on improvement has been the aim of reducing sickness absence and ensuring that managers respond to sickness "triggers". An illustration of how this commitment operates is the fact that poor performance and attendance is now being tackled with the issuing of Attendance Improvement and Performance Improvement Notices. Staff have generally responded well to this approach as noted from the last two staff surveys which for example indicate:

- Seven per cent response improvement to "Poor performance is dealt with effectively in my team"

- Thirteen per cent response improvement to "I receive regular feedback on my performance"; and
- Fourteen per cent response improvement to "The feedback I receive helps me to improve my performance".

The survey of the Nottinghamshire staff carried out by the Inspectorate during this review shows that 80 per cent of respondents feel they receive regular and constructive performance feedback and over 69 per cent of respondents agree that poor performance is managed effectively in the district.

One area of concern is the wide span of management control that rests with some District Crown Prosecutor (DCP) managers. For example the Magistrates' Court Team DCP currently has day to day line management responsibility for 28 staff. This clearly has a negative impact on the amount of time they have available to manage the performance of their unit overall. This problem has been recognised by the East Midlands Area senior management team and consequently an extra level D management post is planned for appointment this financial year to help alleviate this burden and facilitate more time for performance management of the unit.

The Area's Workforce Capacity Plan for 2011 to 2015 is clearly being driven by savings targets. For the Area to meet the savings target it needs to make a reduction of 20 staff in 2012-13. The number of Crown Court finalisations per member of staff in Nottinghamshire is lower than the other districts in the Area and the caseload over the whole Area is lower than

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the national average. This indicates that there is scope in the Area to potentially meet these reductions without a significant negative impact on case quality.

The Workforce Capacity Plan incorporates a number of actions to help the Area meet its targets such as, further VER schemes, more staff potentially working outside of the district, a reduction in sickness absence, the use of compressed hours and flexible working, reductions in the range and number of staff contracts based upon “term time” etc. However an accurate quantification of the potential impact of these initiatives and the implications for staffing levels and effectiveness has not been made. Whilst the Area did achieve some reductions and reversions in 2011-12 its ability to meet the further changes in 2012-13 is unclear.

The contribution to the Area savings by the crown advocate cadre is not achieving its full potential. When compared with the national average, the savings per crown advocate in Nottinghamshire is around 30 per cent lower than the national average. It is acknowledged that this level has increased from 2010-11 to 2011-12 however if this was improved to a level comparable with the national average this could have a significant impact on the budget situation.

### Secondary recommendation 11

*Substantial progress*

*The Area needs to consider with partners whether it is appropriate to rationalise the various multi-agency meetings.*

One consequence of the Comprehensive Spending Review is that all agencies are rationalising the number of meetings they can afford to attend. The Local Criminal Justice Board currently chaired by the police has restructured and is trying to be more dynamic in achieving its tasks.

One potential risk is that due to the size of the new Area it could generate more management and group meetings, which although could benefit networking and consistency of working practices could also create new demands on limited management time.

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**Compliance point**

*Achieved*

*The Area needs to ensure the template for instructions to counsel is followed and the expected standard achieved in all cases.*

The Area has made considerable efforts to ensure that the lawyers and paralegals complete the template for instructions to counsel. Instruction packs and templates were distributed and the success of this approach is clearly in evidence on the files that we examined. Most briefs included case analysis, information on outstanding material and tailored requests to the advocate. In those relevant Crown Court cases seen 84 per cent of instructions were assessed as good or excellent by inspectors.

**3.2 Strengths**

During the last inspection we noted things the Area was handling well as strengths. We have considered whether these have remained as strengths or not.

*The thematic reviews conducted by the Complex Casework Unit head within the Group and Area are a constructive approach to identifying actions to drive improvements in specific aspects of casework.*

With the re-organisation of the new East Midlands Area, a new head of the Complex Casework Unit (CCU) has been recently appointed. It is anticipated that the head will have a greater role in the direct handling of casework than was previously the case. The new head is still likely to be involved to some extent in thematic reviews or Core Quality Standards Monitoring, which will now fall under the responsibility of the DCCP (Operations). Consideration has been given to extend the remit of the CCU but at present it has been decided there is to be no change to enable the structural changes to embed.

This is no longer a strength as such but this is not as a result of a decline in performance but because of a change to the remit of the role.

*The small proceeds of crime team was established following examination of best practice in an adjoining Area in the Group and ensures there is sufficient specialist attention for all cases involving restraint of assets and a reference point for lawyers.*

There remains a specialist lawyer, in fact the same lawyer as at the time of the previous inspection, on the Crown Court team with responsibility for Proceeds of Crime Act (POCA) applications and another lawyer is currently being trained. There is a paralegal officer also still involved but all of them work on the Crown Court team and handle other cases as well as POCA matters. This is one area of work which is being considered by the police to be developed on an East Midlands wide basis and this is something which may need to be reviewed by the CPS and discussed with the police as to how best to take this forward.

*Good work is undertaken to achieve the overall aim of the CPS Violence Against Women Strategy, for example the monthly public protection meetings for lawyers, the bulletin produced by the Domestic Violence Champion which is disseminated to staff and the police public protection units, the monthly examination of failed cases and the thematic review of domestic violence published in January 2010. The Area also delivers regular training to probationer officers encompassing the investigation of domestic violence and witness care.*

There has been a slight recent decline in relation to domestic violence (DV) prosecution performance with the attrition rate increasing from the third quarter to the fourth quarter during 2011-12, although the overall figure for unsuccessful outcomes at 26.0% is better than the national average of 26.9%. There has been a percentage increase in DV cases which means they now make up 13.5% of the total caseload. This has a direct correlation to an increase in proactive policing of DV cases following on from five domestic homicide case reviews. It also coincided with the DV Champion being away on temporary promotion for three months in Derbyshire.

The Area has plans to tackle the position. An East Midlands regional conference has been held jointly with the police and best practice was shared from around the five districts. As a result a strategic regional prosecution team focusing on rape, serious sexual offences and domestic violence investigation and prosecution will take place regularly, jointly chaired by the DCCP (Operations) and the Deputy Chief Constable for the five collaborative forces. The CPS has been involved with other DV groups

around the city of Nottingham listing the ten highest risk DV cases and they are being handled personally by the DV Champion.

There has been active management of the prosecution of DV cases with lawyers being reminded about the importance of ensuring cases are Code compliant before applying DV policy and also to be more realistic about which cases could be prosecuted without the support of the victim. Work has also been done with the police regarding evidence gathering, supporting victims more and ensuring retraction statements are taken promptly and passed to the CPS for review.

The Nottinghamshire district has improved in relation to rape prosecutions with unsuccessful outcomes in 2011-12 falling to 31.0 per cent compared to the national average of 37.5 per cent.

*The Group approach to budgetary management and control is ensuring that there is co-operation and flexibility of resources.*

At the time of the Inspectorate's previous review at Nottinghamshire, budgetary management and control specifically in "inter-area" co-operation and flexibility of resources was highlighted as a strength. This follow-up inspection has found nothing to change this opinion and as a result of the national change of area structures this has understandably enhanced the ability for Nottinghamshire to work more closely with neighbouring districts, now being part of the CPS East Midlands Area. Senior management have set a priority of the standardising of approaches and systems where possible to better facilitate the sharing of staff and processes within the Area. In the new Area the treatment of fees is now carried out centrally and the Area has a project currently underway to centralise the processing and payment of invoices. Staff mobility and flexibility was illustrated by some Nottinghamshire work being covered by Derbyshire staff and one Nottinghamshire member of staff was working in Lincolnshire.



# Annexes

## A Progress against all recommendations and compliance points

Priority recommendations	Position as at May 2012
1 The senior team needs to develop and communicate the Area vision and share this with Area staff.	Achieved
2 The Area needs to improve the quality of pre-charge decision-making and case analysis through monitoring and effective feedback, proper action plans including consideration of all ancillary matters, and detailed instructions to the court advocate.	Substantial progress
3 The Area needs to: <ul style="list-style-type: none"> <li>• Work with the police on file standards and timeliness</li> <li>• Build a prosecution team ethos; and</li> <li>• Develop, in conjunction with the police and courts, a clear plan for measurable improvements in case preparation and progression.</li> </ul>	Limited progress
4 The Area needs to ensure that the Code for Crown Prosecutors is applied correctly in all cases involving an allegation of domestic violence, and to improve the overall decision-making and case handling of racially or religiously aggravated crime.	Substantial Progress
5 The Area needs to: <ul style="list-style-type: none"> <li>• Communicate clear expectations about the standards expected of its lawyers and ensure that there are robust processes in place to tackle individual performance; and</li> <li>• Develop a culture where the giving and receiving of feedback, and responding to it is part of everyday business.</li> </ul>	Achieved
6 The Area develops a performance management regime which has a strategic overview. Any regime must include a monthly performance meeting which considers performance across the whole Area and is able to inform necessary improvement activity and be able to make strategic decisions which can be implemented to drive up performance.	Achieved

<b>Secondary recommendations</b>		<b>Position as at May 2012</b>
1	<p>The Area needs to:</p> <ul style="list-style-type: none"> <li>• Reinstate effective case progression meetings for all Magistrates' Court cases; and</li> <li>• Work with partners to evaluate and improve the number of vacated and ineffective trials.</li> </ul>	<b>Not progressed</b>
2	<p>The Area needs to ensure:</p> <ul style="list-style-type: none"> <li>• That lessons are learned from adverse case reports which are circulated and shared across the unit to help understand the tactics of presenting a case in court and the impact on the eventual outcome; and</li> <li>• Linked cases are prepared and progressed effectively and that there is joinder of cases on a single indictment only in appropriate cases.</li> </ul>	<p><b>Substantial progressed</b></p> <p><b>Limited progress</b></p>
3	<p>The Area needs to work with police to ensure cases processed by the Crown Court File Review Unit are subject to police quality assurance measures on submission of the case file.</p>	<b>No longer applicable</b>
4	<p>The Area needs to:</p> <ul style="list-style-type: none"> <li>• Conduct careful monitoring of cracked trials attributed to in-house advocates in the Crown Court to ensure it only occurs in appropriate cases; and</li> <li>• Assess the quality of agents that form the cadre of advocates prosecuting in the Magistrates' Courts.</li> </ul>	<p><b>Achieved</b></p> <p><b>Limited progress</b></p>
5	<p>The Area needs to work with police to improve the timeliness and quality of police schedules, including the descriptions given, and to ensure the routine inclusion of standard items such as pocket notebooks and incident logs.</p>	<b>Limited progress</b>
6	<p>The Area needs to ensure:</p> <ul style="list-style-type: none"> <li>• There are clear file endorsements where cases involve a remand in custody; and</li> <li>• Custody time limit systems and processes are complied with in all cases.</li> </ul>	<b>Limited progress</b>
7	<p>The Area needs to work with the witness care units and the police on the primary and secondary measures under No Witness No Justice, and assess where improvement may be achieved.</p>	<b>Limited progress</b>



<b>Secondary recommendations</b>		<b>Position as at May 2012</b>
8	The Area needs to take action to ensure that special measures applications are made in a timely manner.	<b>Limited progress</b>
9	The Area works with the police to reinvigorate the Prosecution Team Performance Management meetings using these to build on the work being carried out within the Crown Court File Review Unit and the charging unit to ensure that themes and improvement action can be communicated to and implemented across the force area.	<b>Achieved</b>
10	The Area needs to review its staffing resources examining whether: <ul style="list-style-type: none"> <li>• There are efficiencies and savings that could be made as a result of the combination of the city units</li> <li>• The workload and usage of associate prosecutors is offering value for money</li> <li>• As part of the strengthening of personal performance management the management spans of control have the correct focus and are effective; and</li> <li>• There is the right balance of staff in the Area, with a focus on the prosecutor grade.</li> </ul>	<b>Achieved</b>  <b>Not progressed</b>  <b>Limited progress</b>  <b>Substantial progress</b>
11	The Area needs to consider with partners whether it is appropriate to rationalise the various multi-agency meetings.	<b>Substantial progress</b>

<b>Compliance point</b>		<b>Position as at May 2012</b>
1	The Area needs to ensure the template for instructions to counsel is followed and the expected standard achieved in all cases.	<b>Achieved</b>

## B Key data outcomes

### East Midlands

	2009-10		2010-11		2011-12	
	National	East Midlands	National	East Midlands	National	East Midlands
<b>Magistrates' Court and Crown Court outcomes of cases with a pre-charge decision</b>						
<i>Magistrates' Court cases</i>						
Discontinuance rate	14.5%	14.6%	16.0%	15.2%	16.1%	15.3%
Guilty plea rate	72.3%	71.5%	71.6%	71.4%	71.2%	71.6%
Attrition rate	21.0%	22.0%	21.8%	21.5%	21.8%	21.1%
<i>Crown Court cases</i>						
Discontinuance rate	11.7%	10.6%	12.7%	12.0%	11.6%	10.8%
Guilty plea rate	73.1%	78.7%	72.3%	78.1%	72.4%	77.1%
Attrition rate	19.5%	15.6%	20.5%	17.1%	19.4%	16.9%
<b>Magistrates' Court and Crown Court effectiveness</b>						
<i>Magistrates' Court cases</i>						
Overall conviction rate	86.8%	86.7%	86.5%	87.5%	86.7%	87.6%
Overall discontinuance rate	9.0%	8.9%	9.6%	8.8%	9.6%	8.8%
Ineffective trial rate	18.6%	20.5%	17.5%	21.8%	17.5%	22.2%
Cracked trial rate	37.7%	37.0%	39.1%	36.9%	39.1%	36.1%
<i>Crown Court cases</i>						
Overall conviction rate	80.6%	84.5%	79.6%	83.3%	80.8%	83.3%
Ineffective trial rate	13.0%	13.5%	13.5%	15.6%	14.5%	18.4%
Cracked trial rate	42.2%	45.6%	42.1%	43.3%	39.1%	41.3%
Judge ordered acquittals (discontinuance rate)	11.7%	10.7%	12.8%	11.8%	11.6%	10.9%
Judge directed acquittals	1.0%	0.6%	0.9%	0.7%	0.8%	0.6%
Acquittals after trial	5.7%	3.3%	5.8%	3.7%	5.9%	4.4%

## Nottinghamshire

	2009-10		2010-11		2011-12	
	National	Notts	National	Notts	National	Notts
<b>Magistrates' Court and Crown Court outcomes of cases with a pre-charge decision</b>						
<b><i>Magistrates' Court cases</i></b>						
Discontinuance rate	14.5%	16.8%	16.0%	16.5%	16.1%	16.1%
Guilty plea rate	72.3%	67.9%	71.6%	68.8%	71.2%	69.8%
Attrition rate	21.0%	25.0%	21.8%	23.2%	21.8%	22.5%
<b><i>Crown Court cases</i></b>						
Discontinuance rate	11.7%	14.4%	12.7%	14.8%	11.6%	11.9%
Guilty plea rate	73.1%	76.0%	72.3%	77.8%	72.4%	79.0%
Attrition rate	19.5%	18.8%	20.5%	18.6%	19.4%	15.9%
<b>Magistrates' Court and Crown Court effectiveness</b>						
<b><i>Magistrates' Court cases</i></b>						
Overall conviction rate	86.8%	84.7%	86.5%	87.8%	86.7%	87.4%
Overall discontinuance rate	9.0%	10.3%	9.6%	8.2%	9.6%	8.5%
Ineffective trial rate	18.6%	23.5%	17.5%	23.8%	17.5%	23.3%
Cracked trial rate	37.7%	31.7%	39.1%	32.5%	39.1%	35.0%
<b><i>Crown Court cases</i></b>						
Overall conviction rate	80.6%	81.6%	79.6%	81.8%	80.8%	84.1%
Ineffective trial rate	13.0%	12.9%	13.5%	14.6%	14.5%	14.0%
Cracked trial rate	42.2%	49.3%	42.1%	46.6%	39.1%	44.0%
Judge ordered acquittals (discontinuance rate)	11.7%	14.0%	12.8%	14.3%	11.6%	12.0%
Judge directed acquittals	1.0%	0.7%	0.9%	0.3%	0.8%	0.4%
Acquittals after trial	5.7%	2.9%	5.8%	2.7%	5.9%	2.7%

## C File sample pre-charge decision outcomes

Charging delivery method	Number of cases
Police charged	6
Daytime Direct	44
Area face to face or written advice	4
CPS Direct	20
<b>Total number of cases</b>	<b>74</b>

Quality of MG3s	Excellent	Good	Fair	Poor
Daytime Direct	0.0%	23.5%	22.1%	19.1%
Area face to face or written advice	0.0%	1.5%	4.4%	0.0%
CPS Direct	1.5%	19.1%	7.4%	1.5%
<b>All cases</b>	<b>1.5%</b>	<b>44.1%</b>	<b>33.9%</b>	<b>20.6%</b>

File examination findings	Daytime Direct	Area (written and face to face)	CPS Direct	All cases
The charging decision (or initial review in cases where police charged) was compliant with the Code	95.0%	100%	100%	96.8%
The inspector would have made the same decision on the Code	79.5%	100%	85.0%	81.7%
The most appropriate charges were advised	77.1%	75.0%	95.0%	83.1%
The action plan met the required standard	50.0%	100%	93.3%	68.2%
The charging advice adequately covered special measures and other victim/witness issues	48.5%	66.7%	78.9%	60.0%
Ancillary orders and applications (other than special measures) were properly considered	40.0%	33.3%	100%	60.3%
The advice set out proper instructions to the prosecutor at court	45.7%	75.0%	90.0%	62.7%

## D File sample outcomes

A total of 74 cases were examined including 25 pre-charge decisions, some of which we were able to examine further to court. The sample

contained cases involving trials completed in both Magistrates' and Crown Court during September and October 2011.

Case category	number of all cases examined
Offences against the person (assault)	29
Sexual offences	10
Theft and fraud	21
Public order	5
Drugs	3
Road traffic	1
Criminal damage	1
Public justice	2
Other	2
<b>Total number of cases</b>	<b>74</b>

Outcome (number of cases examined that proceeded to court)	Magistrates' Court	Crown Court	Total
Total number of cases	24	21	45

## Area decision-making and file review quality

Quality of review decisions	
The charging decisions (or initial review in cases where police charged) were compliant with the Code	95.2%
The decisions at any post-charge review were compliant with the Code	91.5%
There was a full file review completed	89.6%
Where necessary there was an ad hoc review	53.3%
All reviews met the required standard	47.9%
The decision to discontinue was compliant with the Code	90.9%
The most appropriate charges were selected for trial	84.2%
The indictment was drafted correctly	73.9%

## Area case progression

File examination findings	All cases
There was timely compliance with directions in Magistrates' Courts cases	61.1%
There was timely compliance with pre-plea and case management hearing directions in the Crown Court	81.8%
There was timely compliance with directions given in the Crown Court at plea and case management hearing and up to trial	66.7%
Discontinuance was timely	66.7%
There was a clear audit of out of court activity	93.9%
A custody time limit was calculated correctly	100%
There was compliance with initial disclosure duties	88.1%
Initial disclosure was timely	93.2%
Non-compliance was a failure to disclose undermining or assisting material	50.0%
There was compliance with continuing disclosure duties	76.0%
Continuing disclosure was timely	90.9%
Non-compliance was a failure to disclose undermining or assisting material	20.0%
Sensitive material dealt with properly	85.7%
Disclosure Record Sheet met the standard	90.9%
Advocates progressed the case at court	87.8%

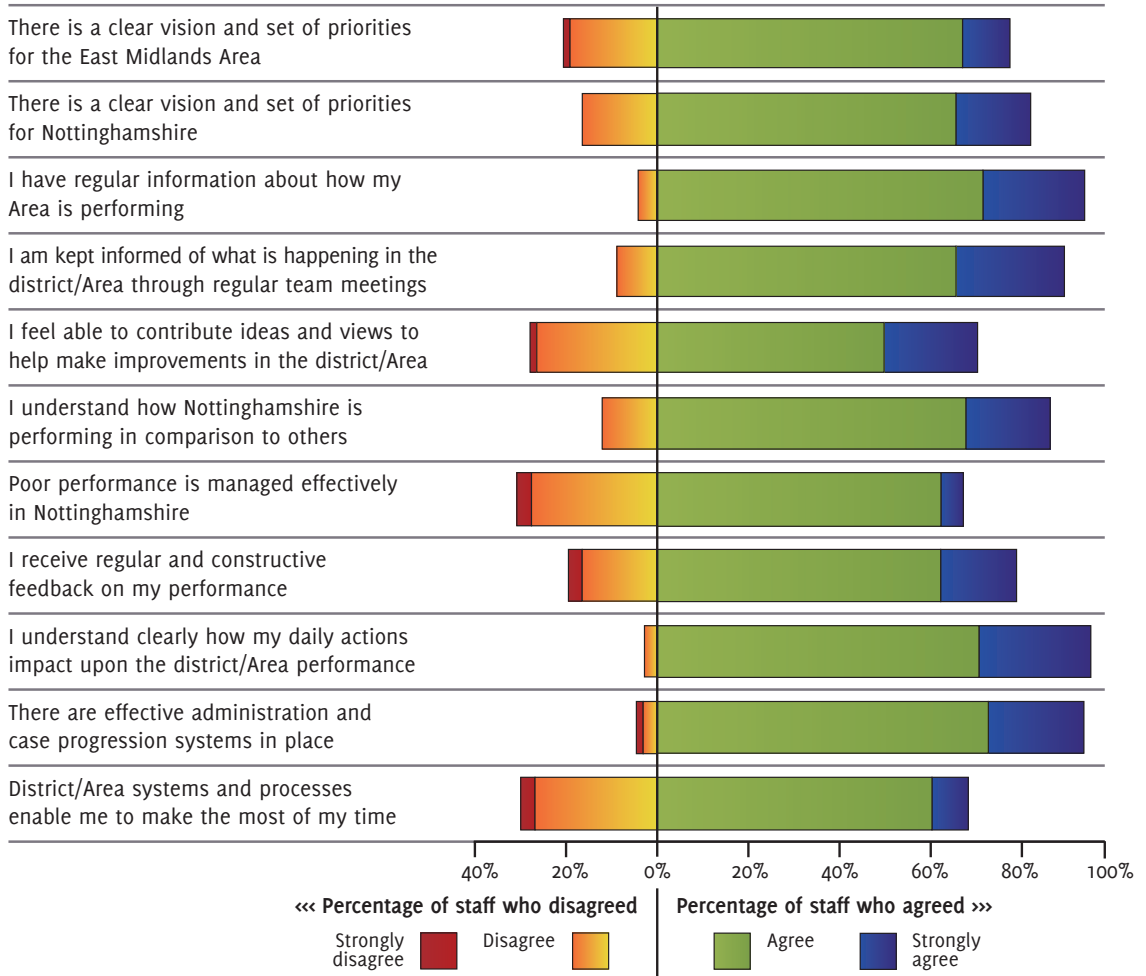
	Excellent	Good	Fair	Poor
Case progression	4.3%	46.8%	34.0%	14.9%
Use of case management system (CMS)	22.0%	67.8%	6.8%	3.4%
Instructions to advocates	4.0%	80.0%	12.0%	4.0%
Court endorsements	4.2%	58.3%	25.0%	12.5%

### Victim and witness issues

File examination findings	All cases
The charging advice adequately covered special measures and other victim/witness issues	60.0%
The right type of special measure was sought	85.0%
The application for special measures was timely	57.9%
Bail or custody were sought appropriately to protect the victim and public	92.9%
There was a Victim Personal Statement (Victim Impact Statement) in appropriate cases	33.3%
There was compliance with the Direct Communication with Victims initiative where required	75.0%

## E Survey results of the Nottinghamshire staff carried out by the Inspectorate

### HMCSI questionnaire responses





## F Detailed methodology

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Before visiting the Area we requested management information and performance data that would provide evidence of the progress that the former CPS Nottinghamshire had made.

A number of the recommendations and the compliance point surrounded the quality of legal decision-making and casework preparation. Inspectors examined 25 pre-charge decisions on the case management system in advance of our visit. In addition a further 39 recently finalised cases, 20 Magistrates' Court files and 19 Crown Court files were used to inform this follow-up as well as five live files from the Magistrates' Court unit and five from the Crown Court unit, which were examined whilst on-site.

Detailed process checks were carried out in all of 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 were conducted internally with:

- The Chief Crown Prosecutor
- One of the Deputy Chief Crown Prosecutors (who was formerly the Senior District Crown Prosecutor in the Complex Casework Unit at the time of the last inspection)
- The Area Business Manager
- The Business Change and Delivery Manager
- The level E Senior District Crown Prosecutor
- The level D District Crown Prosecutor heads of the Magistrates' and Crown Court units
- The Daytime Direct charging manager
- Operational managers that cover case progression, paralegals and administrators
- Staff across the district at desk side interviews and by survey

External interviews were also undertaken with:

- Senior police officers in operational and strategic roles
- The Resident Judge
- District judges
- The Clerk to the Justices
- The Witness Service Manager

## G Glossary

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### **Area Business Manager**

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

### **Associate prosecutor**

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

### **Case management system (CMS)**

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

### **Case progression manager (CPM)**

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

### **Code for Crown Prosecutors (the Code)**

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

### **Committal**

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

### **Complex Casework Unit (CCU)**

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

### **Conditional caution**

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

### **Contested case**

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

### **CPS Core Quality Standards (CQS)**

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

### **CPS Direct (CPSD)**

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

### **Core Quality Standards Monitoring (CQSM)**

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

**Court orders/directions**

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

**Cracked trial**

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

**Criminal Justice: Simple, Speedy, Summary (CJSSS)**

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

**Criminal Procedure Rules (CPR)**

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

**Crown advocate (CA)**

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

**Custody time limits (CTLs)**

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

**Direct Communication with Victims (DCV)**

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

**Discharged committal**

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

**Discontinuance**

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

**Early Guilty Plea Scheme (EGP)**

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

**Either way offences**

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

**File endorsements**

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

**Indictable only, indictment**

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

**Ineffective trial**

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

**Instructions to counsel**

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

**Judge directed acquittal (JDA)**

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

**Judge ordered acquittal (JOA)**

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

**No case to answer (NCTA)**

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

**Optimum Business Model (OBM)**

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

**Paralegal Career Family Structure**

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

**Paralegal officer (PO)**

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

**Plea and case management hearing (PCMH)**

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

**Pre-charge decision (PCD)**

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

**Pre-trial application**

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

**Proceeds of Crime Act 2002 (POCA)**

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

### **Prosecution Team Performance Management (PTPM)**

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

### **Prosecutor's duty of disclosure**

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

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

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

### **Section 51 Crime and Disorder Act 1998**

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

### **Sensitive material**

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

### **Special measures applications**

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

### **Streamlined Process (Director's Guidance)**

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

### **Summary offences**

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

### **Threshold test**

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

### **Transforming Through Technology (T3)**

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

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

**Unused material**

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

**Upgraded file**

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

**Witness Care Unit (WCU)**

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

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