



HM Crown Prosecution
Service Inspectorate

CPS Optimum Business Model

A thematic review of the CPS Optimum Business Model
for case progression

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1 HM Chief Inspector's foreword

Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS) is committed to promoting improvement, and this principle is embedded in all our work. This thematic inspection of the Crown Prosecution Service (CPS) case progression system has allowed us to examine in detail the processes that support effective casework. Getting this right is critical to the success of case outcomes and improves the service offered to the public as well as victims and witnesses.


Following a critical report by the National Audit Office in 2006, the CPS initiated the Optimum Business Model (OBM) project, to develop revised case progression systems and processes for dealing with Magistrates' Court work; this project was recently extended to cover Crown Court casework. HMCPIS has always considered the effectiveness of case progression systems as part of its inspection of CPS Areas, but there has not been a detailed thematic inspection of case progression.

Findings are very mixed. What is apparent is that those units that work well are properly resourced and are proactively managed by both unit supervisors and senior managers, who have a full understanding of the process. Sadly the inspection did not find that this was widespread and therefore we cannot say that the revised case progression systems have embedded to such an extent to improve overall case management in a consistent way. Effectiveness of processes and outcomes was very much dependent on working practices within Areas and the quality and commitment of individuals deployed to case progression work. This wide variation in approach has led to inconsistent effectiveness and outcomes. More work is required by CPS senior management

to implement a standard case progression model for Crown Court cases and to apply this consistently across all Areas.

The project management approach adopted to roll out the early changes to the systems for Magistrates' Court processes was generally well planned, but inspectors found significant weaknesses in terms of the measurement of benefits and performance and evaluation was not sufficiently robust. I recognise that the current key operating environment for the criminal justice system is challenging and subject to changing priorities; I also appreciate that the decision by the CPS to divert resources from the ongoing OBM project to the digital case preparation and presentation project (T3) was not taken lightly. CPS senior managers acknowledge this risk but considered that the need to drive forward the T3 project should be their highest priority. However the technology associated with T3 should be used to support OBM processes and not to drive them.

It is apparent that OBM can make an important contribution to more efficient management of cases, but this model cannot operate in isolation. This report shows that CPS managers need to ensure a more collaborative approach with criminal justice partners in driving forward case progression issues.



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Her Majesty's Chief Inspector



2 Introduction and background

2.1 Introduction

This report examines the impact of the introduction of the CPS's Optimum Business Model. The model describes the structures and processes for handling the preparation of the majority of Magistrates' Courts contested cases and the preparation of those Crown Court cases that are not required to be allocated to a specific lawyer. OBM consists of a set of tool kits which describe in detail how business units should be resourced and structured and how they should operate to ensure that all cases have the right level of preparation at the right time to be efficiently and effectively dealt with.

The inspection focuses on evaluating outcomes from the OBM in order to provide assurance about the current situation. It also evaluates those issues that enable front line staff to meet the objectives of this project and to ascertain whether there are lessons to be learnt that can be applied to implementing future initiatives.

Section 1 provides the key findings against the outcome based performance expectations, focusing on the quality and efficiency of case progression systems and the impact that these have on victims and witnesses.

Section 2 provides the key findings against other performance expectations, which relate to those factors that support front end delivery of the aims of the project, namely national and local governance and the effectiveness of work with other stakeholders.

In making our judgements we have also taken into consideration findings from the following inspection reports:

- Thematic review of the CPS Core Quality Standards Monitoring scheme.
- Follow-up report of the thematic review of the quality of prosecution advocacy and case presentation.
- Crown Prosecution Service: the introduction of the Streamlined Process.
- Joint inspection report on the experience of young victims and witnesses in the criminal justice system.

2.2 Background

In 2006 the National Audit Office (NAO) published its report Crown Prosecution Service: Effective use of Magistrates' Court Hearings¹. The report estimated that ineffective trials and hearings cost the criminal justice system £173 million per annum, of which the CPS was responsible for about £24 million. The study identified examples of good practice, recommended changes to the CPS's working practices and recognised that the criminal justice agencies needed to work together more closely to improve the efficiency of the prosecution of Magistrates' Courts cases.

The report concluded that problems within the CPS arose for the following reasons:

- a lack of preparation before hearings;
- inadequate prioritisation of cases which required urgent action;
- poor case tracking resulting in files being mislaid;
- duplication of work, which in some instances was related to a lack of continuity in staff handling a case; and
- incomplete evidence on the file.

¹ Report By The Comptroller and Auditor General, HC 798 2005-2006, 15 February 2006.

The CPS accepted the NAO findings and the subsequent recommendations of the Parliamentary Public Accounts Committee. It committed to implement a project to build upon the findings and good practice and identify new operating models. This work led to the introduction of the OBM concept for Magistrates' Courts work, which is a team based approach using a set of prescribed roles, responsibilities and processes to deliver effective case progression. A key aim was to make processes more efficient through the application of LEAN² techniques. The agreed terms of reference for the project initially applied to Magistrates' Court business only (see section 8). A national project team was set up to oversee the implementation of the scheme.

Three pilot sites were established and a post-implementation review of these sites was conducted by the OBM project team with some input from the CPS Internal Audit team. A decision was made to roll out the concept nationally with the aim of achieving more consistent and improved standards of case progression.

In 2009 it was decided to extend the concept to include most Crown Court cases and following a short pilot the scheme was rolled out nationally in 2010-11.

2.3 Methodology

This inspection was conducted using interviews and surveys of stakeholders, process observations, spot checks and examination of almost 800 files. For fuller details see section 6.

2 LEAN is a business improvement tool used to improve service delivery by eliminating waste, simplifying processes and creating capacity to do more work with fewer resources. LEAN events introduce revised processes through Standard Operating Procedures and utilise Team Information Boards (TIBs) which are used to manage workload allocation, identify problems within the process, skills of team members and successes achieved. The TIBs are used in conjunction with daily short team meetings to communicate the current day's work, discuss any problems that have been encountered and to clarify points of common interest to the team.

3 Executive summary

3.1 Key findings of this review

The management of the OBM project had strengths in terms of the early planning and support available to units at the implementation stage for Magistrates' Courts cases. However there have been significant weaknesses in the measurement, performance management and evaluation phases; these issues have been identified in previous inspections. Inspectors' findings could not be reconciled with the CPS's own assessment of the benefits achieved through implementation of OBM.

A small number of the sites visited in this inspection were providing an effective case progression system to stakeholders. Whilst OBM is primarily a process driven approach, the impact of highly competent staff must not be underestimated if a quality service is to be provided. With appropriate resourcing, empowered supervision and consistent processes, OBM can deliver effective case progression for Magistrates' Courts cases.

Whilst most of the issues raised by the NAO report have been addressed to some degree, there is limited evidence of any consistent or widespread improvement in the key issues of the overall level of duplication, inefficiency or ineffective hearings.

There are a number of positives which have resulted from the implementation of the OBM processes. File management, location and updating have all significantly improved since the creation of OBM units. It was apparent that the perennial problem that had existed previously of lost and missing files within the office or at court had almost been eradicated.

Since the introduction of the processes in the Magistrates' Court there has also been a decrease in the number of cracked and ineffective trials due to the prosecution. Whilst revised processes and systems are only one of the variables that may impact this improvement, the overall outcome is that the prosecution share of unnecessary costs of cracked and ineffective trials has reduced by more than £16 million over a five year period (2006-07 to 2010-11).

However, even with these improvements the inspection found that case progression was still an issue. Overall, there were too many instances of important actions not being completed or being carried out too late to be effective. Our spot checks indicated that of 151 trials we monitored, 60.9% actually went ahead on the scheduled date. This is better than the national effective trial rate (43.2% for Magistrates' Court cases and 45.7% for Crown Court cases³). Although trials do not go ahead for reasons related to all agencies (not just the CPS) delays can lead to additional hearings, additional costs and a poorer service for victims and witnesses. On-site checks demonstrated that only 61.7% of the cases with a trial date within two weeks of our inspection were actually trial ready. This lack of preparedness is corroborated by the late/incomplete processing of pre-trial applications in 70.3% of relevant cases, and the failure to comply with court orders in a timely manner in 47.6% of cases. These figures illustrate that OBM has not yet had a transformative effect nationally on case progression. This in turn means that the service provided to victims and witnesses still requires improvement.

3 Effective trial rates for the 12 months to 31 December 2011.

The fact that file reviews met the required standards in terms of timeliness, rigour and adequate recording in less than 50% of the cases examined is of concern; this leads to duplication of effort and will need to be improved considerably to obtain the full benefits of the CPS vision of a digital prosecution process in 2012.

In many of the sites visited, OBM was a low priority for deployment when compared to other competing commitments. This is due in part to the fact that the OBM project has not fully captured the hearts and minds of staff. A significant number of CPS staff interviewed or surveyed, remain unconvinced of the merits of the scheme for Crown Court casework. Inspectors found that there was less evidence that Crown Court systems were effective and duplication of effort was a significant feature.

The level of performance and working practices of partner agencies also impacted on the overall service provided. In some sites the efforts of the CPS to improve performance were being adversely affected by partner agencies, for example, the quality of police file preparation varied substantially across the Areas visited, this is outlined in more detail later in the report at section 5.4, whereas elsewhere the work of partners was masking deficiencies in the effectiveness of CPS systems. There is a need to work more collaboratively with partner agencies to ensure that the optimum benefits can be achieved from a number of new initiatives being implemented across the criminal justice system.

During the course of this inspection it became clear that the quality of work at the pre-charge/ first hearing review stage impacted adversely on case progression. This needs to be addressed. The new initiatives being implemented across the criminal justice system and ongoing internal reviews of CPS practices, the introduction of digital working (T3 project) and the reduction in the number of crown advocates, all have the potential to facilitate improvements in case progression work. All these factors point to the need for a comprehensive review of the current OBM systems, particularly for Crown Court cases.

3.2 Conclusion

Despite the positive endeavours of the project team and many staff, OBM has not yet delivered the consistent level of effective case progression required to gain the confidence of users and stakeholders.

There remains much to do at national, Area and individual level if OBM is to become a system that consistently delivers effective case progression and value for money. OBM can work effectively. This was seen in a small number of Magistrates' Court units. To ensure case progression is consistently effective requires a change of approach in most sites. The priority afforded to resourcing OBM units, the prioritisation of work flow and the effectiveness of evaluation and performance management all require further work and national direction.

Inspectors identified three aspects of good practice and made four recommendations designed to improve performance.

3.3 Recommendations

1 The CPS should review its approach to Crown Court case progression systems to ensure they are 'fit for purpose' in the new criminal justice environment. This should lead to the development of a standard model that could be consistently applied across all Areas.

2 To ensure that the Optimum Business Model is continuously improved, the CPS should develop specific performance and validation measures to enable a regular assessment of the efficiency and effectiveness of the model.

3 The CPS needs a plan to improve the level of trial readiness of its cases from a baseline measure of 61% found during the inspection, and set a stretching target for improvement.

4 The CPS should aim to reduce the level of pre-charge cases in which the quality of work had a negative impact on case progression from a baseline of 27%, and set a stretching target for improvement.

3.4 Good practice

1 A helpful trial check form was used in CPS Exeter to control and monitor the progress of key activities and to assign responsibilities for further actions (section 4.1.2).

2 CPS Thames Chiltern monitored the throughput of cases and workloads at its various sites and proactively used the information as a basis for distributing staff across the Area's Optimum Business Model units (section 5.3.1).

3 CPS Thames Chiltern had conducted collaborative work with Her Majesty's Courts and Tribunals Service to reinvigorate the principles of the Criminal Procedure Rules in the handling of Magistrates' Courts cases (section 5.4).



Inspection key findings section 1

4 Impact of the Optimum Business Model on case preparation and victim and witness care

4.1 Magistrates' Courts Optimum Business Model

4.1.1 The quality of casework within Optimum Business Model units

Whilst the objectives of OBM focus primarily on efficiency and timeliness, there is acceptance that this should not be at the expense of good quality legal decision-making. To ascertain the quality of casework, inspectors examined a selection of files at each location and took account of findings from the concurrent Core Quality Standards Monitoring (CQSM) inspection. The key findings were:

- The standard of decision-making needs to be improved, particularly at summary trial stage where compliance with the Code for Crown Prosecutors was 92.3%. This is a decline from pre-OBM levels (96.3%)⁴, although the size and nature of the file sample means that this change can only be considered as indicative.
- Of greater concern, was the overall standard of reasoning and recording of review decisions in our sample of 81 cases, where only 44.4% of the reviews were assessed as meeting the required standard; this needs to be improved in order to reduce duplication of effort and to facilitate efficient working in a digital environment.
- In only 25.0% of the 32 relevant cases in our file sample, were all of the pre-trial applications and notices (bad character, hearsay etc.) appropriately selected and served in a timely manner.

- Compliance with the prosecutor's duty of disclosure declined when OBM was first introduced but has since improved at both initial and continuing stages and is now a little better than pre-OBM outcomes. Timeliness remains an issue with only half of the cases examined completed in a timely manner.

Two factors that impact on the ability of OBM units to operate efficiently, but were not the responsibility of the team, were examined for perspective. The findings were:

- In our legal file sample, prosecutors could have done more at the pre-charge decision stage to assist case progression in 31.4% of cases. This will have presented challenges to the OBM team.
- The quality of file endorsements about events at court is generally good for contested cases in the Magistrates' Courts. More than 90% of cases were assessed by legal inspectors as satisfactory; whilst this is similar to the limited baseline data obtained from the pilot sites, inspectors have noted that this aspect of work has improved over time. Good endorsements should assist case progression activity. It will be important that this improving level of performance is maintained in the future digital working environment.

4 Data from the second cycle of national HMCPSI inspections 2004-06.

4.1.2 Efficiency and administrative issues

It was envisaged that OBM would deliver greater efficiency through improved and more consistent structures and processes leading to less duplication, better prioritisation and more timely completion of tasks. This inspection found:

- In 23.5% of the cases examined, overall case progression was assessed as poor⁵; a third of cases were assessed as good or excellent. There is clearly room for improvement in the overall management of cases. Spot checks of 50 files carried out by inspectors in the two weeks before the trial was scheduled, that should have been fully prepared, indicated that 76.0% were trial ready.
- In the sample from the six units visited the average time taken to request the upgraded file, following a not guilty plea or mode of trial decision, was 2.5 days but in the wider national CQSM sample it was 6.0 days⁶. This is a waste of valuable time which can impact on the later stages of case progression.
- The upgraded file received from the police was assessed as satisfactory in 55.2%⁷ of cases examined (this ranged from 30.0% to 90.0% in the units visited). The CPS was

proactive initially in chasing outstanding items in 22 (84.6%) of 26 relevant cases which is a positive performance; however, processes were often insufficiently robust to ensure that all the requested additional information was received in a timely manner.

- The average time between receipt of the upgraded file and the full file review was 40.7 days; performance across the six units ranged from 10.0 to 67.0 days. Most units conduct reviews based on the date of the trial, and therefore any case where the trial is a long way off will be afforded low priority. The length of elapsed time between receipt of file and review did not have an adverse impact in most cases as it was taking so long for cases to actually come to trial. Almost 30% of cases were reviewed within two weeks of the trial date which clearly carries some risk.
- Our observations and feedback from staff indicated that duplication was not a significant issue in Magistrates' Courts cases when staff are deployed to OBM for a reasonable amount of time; where staff are deployed for very short periods the level of duplication and inefficiency increases.
- There was timely compliance with court directions between the first hearing and trial in only 34.4% of relevant cases. In most cases this did not actually have a significant impact because trials were often set more than six weeks after first hearing.

5 This may mean that aspects of case progression were not done at all, were of a low quality or were so late as to affect the case.

6 The range of performance was from 1.6 days to 16.9 days. Whilst there will be some Crown Court cases in the national sample this should not make a significant difference to the time taken. In local files the difference between average Magistrates' Court and Crown Court timeliness was 0.4 days.

7 A case may be deemed satisfactory even though some information has not been provided with the upgraded file.

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- There was an ineffective hearing attributable to the prosecution in 12 (14.8%) of the 81 cases examined by legal inspectors; in five of these cases there were at least three additional hearings where the prosecution could have been more proactive to avoid the unnecessary hearings. These additional hearings add duplication and cost. Improving systems and getting it right first time, must be in the interest of efficiency. If the ineffective trial rate was projected across the country, the additional cost would be significant; there is no reliable data available at national level to enable an accurate evaluation of the cost impact. In the checks conducted during the on-site visit, inspectors looked at 157 pre-trial hearings and, of those, 24 (15.3%) were ineffective due to the prosecution; this compares with a figure of 12.5% in the original NAO report. On the positive side, two of the sites visited had no instances of prosecution failings leading to ineffective hearings.
 - Trial readiness is usually assessed by the case progression manager (CPM), either through a trial readiness form or manual checks. The majority of the units we visited also participated in case progression meetings with the courts and Witness Care Units (WCUs) to ensure upcoming trials were ready to go ahead. Inspectors examined a sample of cases listed for trial within two weeks of our visit. Overall, 38 (76.0%) of the 50 cases we looked at were trial ready approximately two weeks before the trial. Post-inspection checks on 86 trial cases indicated that 57 (66.3%) went ahead on the scheduled date.
 - Staff were using the CPS case management system (CMS) more effectively to record the location of files which is a significant improvement on past performance. During this inspection it was rare for the CPS not to be able to produce a file for court.
 - The national effective trial rate has remained static over the past five years, ranging from 43.2% to 43.8%. This is a clear indicator that too many processes across the criminal justice system are still inefficient. The proportion of Magistrates' Courts trials that did not go ahead for which the prosecution were responsible, expressed as a percentage of listed trials, has improved in the corresponding period as per the table below. This improvement has reduced the prosecution's 'share' of the unnecessary costs of cracked and ineffective trials by more than £16 million over five years⁸.

Good practice

A helpful trial check form was used in Exeter to control and monitor the progress of key activities and to assign responsibilities for further actions.

⁸ We have used the same costing per hearing/trial as used in the original NAO report.

	Baseline	2006-07	2007-08	2008-09	2009-10	2010-11
Cracked due to prosecution	17.60%	17.23%	17.26%	16.44%	16.52%	17.81%
Ineffective due to prosecution	7.71%	6.78%	6.18%	5.87%	5.64%	5.11%
Total	25.3%	24.0%	23.4%	22.3%	22.2%	22.9%

- Although some sites were performing well, the handling of correspondence still needs improvement. The table below shows the average speed, based on at least four items, with which incoming correspondence was actioned on the files examined in on-site spot checks.

Average number of days	Cases
Less than 3	12 (34.3%)
3 - 10	10 (28.6%)
More than 10	13 (37.1%)
Not applicable	26

- The main focus of administrative staff was to log and link correspondence to the relevant file to avoid backlogs of unmatched post. However, in too many cases, necessary actions as a result of the correspondence were not prioritised appropriately, leading to delays in progressing the case. Inspectors saw several examples whereby earlier action would have made a significant difference to the future handling of the case.

- It was anticipated that the introduction of OBM with more efficient processes would lead to a reduction in the level of correspondence received. The fact that there were 26 cases where there was less than four pieces of correspondence **suggests** that some progress has been made in this respect. There was no reliable data at a national level to support this supposition, although most units perceived that the amount of correspondence had reduced.

4.1.3 Summary

The concept of OBM with shared file ownership for most Magistrates' Court trials is now readily accepted among most CPS staff. However, overall the project has not led to the consistent improvements in case progression envisaged at the outset. It is difficult to reconcile the findings of this inspection with the CPS stated view that 'introduction of Proactive Case Progression Teams⁹ has greatly improved performance and efficiency in the Magistrates' Courts, together with improving the way staff work and developing their skills'.

⁹ An alternative term for OBM teams.

However, we consider that the concept of OBM is sound for Magistrates' Courts cases and we observed a small number of units where the revised processes and systems were delivering effective case progression. The keys to their success were based around the quality of staff, the length of deployment and the effectiveness of supervision. Where these disciplines were in place, case progression functioned well.

4.2 Crown Court Optimum Business Model

The CPS decided to extend the concept of OBM to Crown Court cases in 2009. There is a lack of clarity as to what drove the decision but the following issues were cited as factors; the perceived success of the system in the Magistrates' Courts; the implementation of the Paralegal Career Family Structure, whereby paralegal staff take on more responsibility for preparing cases, including pre-committal; the anticipated reduction in budgets; and, a perception that the existing Crown Court case progression systems were not working well.

CPS Areas were given time to implement the new approach and most completed the task in 2010. Some units have therefore not been operating for very long and processes are still developing.

As with the Magistrates' Court OBM, we assessed work by lawyers outside of OBM to assess any impact on case progression. We found similar issues in that more could have been done in over 20% of cases at the pre-charge stage but the quality of court endorsements was generally good.

4.2.1 The quality of casework within Crown Court Optimum Business Model units

There was little by way of expected national benefits to casework quality as a direct result of OBM; expectations tended to focus on timeliness and efficiency. Inspectors had identified that, prior to implementing OBM, there had already been some gradual improvement in discrete aspects of legal work such as disclosure and the drafting of indictments in the more straight forward cases; continued improvement was evident in this inspection. This inspection found that;

- There was compliance with the Code for Crown Prosecutors in 94.4% of cases at committal/full file review stage; these decisions were taken by the OBM lawyer. There were three failures, one of which was a failure to correct a poor decision at the pre-charge advice stage.
- The overall standard of reasoning and recording of review decisions indicates a need for significant improvement. Poor review and recording was leading to duplication of effort, inefficiency and, in some cases, it was having an adverse impact on victims, witnesses and defendants. In only 27 (50.0%) of relevant cases were the reviews assessed as meeting the required standard.
- In just over a third of the 32 relevant cases in our file sample the pre-trial applications/ notices were served correctly and in a timely manner. This is linked to some extent to the weaknesses at the pre-charge stage highlighted above, and is clearly an aspect where improvement can be made.

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- Indictments were drafted correctly in 94.2% of cases. This is a continuation of the gradual improvement noted over recent years.
 - Compliance with the prosecutor's duty of disclosure at both initial and continuing stages was markedly better than was found in inspections a few years ago. Compliance at initial and continuing stages was 90.1% and 77.8% respectively in this inspection; pre-OBM levels were 79.6% and 70.1%. There is scope to improve the timeliness, but overall the continued improvement is welcomed.
 - In three cases there was no evidence of a formal review before committal or service; there were 24 cases whereby the review was done within a week of committal. This could lead to committals being discharged, although this will become less of an issue when committal hearings are abolished¹¹ in the near future.
 - Staff, particularly lawyers, expressed major concerns that the lack of file ownership causes duplication and leads to inefficiency. Inspectors saw examples of this duplication in all sites visited although the levels varied dependent on the approach to deploying staff and allocating work in individual units. Some duplication is inevitable and may be an acceptable 'trade off' if it means that all trial cases are proactively and effectively managed. At the time of the inspection this was not the case.

4.2.2 Efficiency and administrative issues

The detailed findings of this inspection were as follows:

- In 22.2% of the cases examined by legal inspectors, the overall case progression was assessed as poor¹⁰. In the majority of cases this was as a result of failing to undertake important or urgent work in a timely manner.
- The upgraded file received from the police was assessed as satisfactory in 42.4% of cases. The effectiveness of systems for chasing missing information varied among the units, but overall a timely request was sent in 60.6% of relevant cases. Some units did not have an effective process to ensure that requested additional information was received in an appropriate timeframe. Police timeliness in providing the full file was consistent across the Areas, averaging four weeks.
- There was more focus on being fully prepared for the plea and case management hearing (PCMH) date than conducting early reviews to identify key issues in the case and to proactively manage these.
- There was timely compliance with court directions in 70.6% of cases pre-PCMH and in 57.1% of cases between PCMH and the trial. A variety of systems were in place to monitor compliance with some working better than others. The CPS has recently updated CMS to enable better electronic monitoring of directions and this should lead to improved performance.

¹⁰ This may mean that aspects of case progression were not done at all, were of a low quality or were so late as to affect the case adversely.

¹¹ The abolition of committals is due to be piloted in a number of courts from April 2012.

	2008-09	2009-10	2010-11
Cracked due to prosecution	15.13%	15.6%	15.6%
Ineffective due to prosecution	4.55%	4.94%	5.09%
Total	19.7%	20.5%	20.7%

- Trial readiness checks were in place in all units, although the timing and formats were all different including, faxing forms to court, meetings with court and witness care staff, and trial readiness hearings at court. A sample of cases listed for trial within two weeks of the assessment date was examined in each unit. Overall only 49% of cases were trial ready, although some action to deal with outstanding issues had been initiated in the majority of cases that were not ready.
- In our file sample there were 14 (25.9%) cases where there was an ineffective hearing that could have been avoided by a more proactive approach from the prosecution. In our on-site spot checks inspectors examined 172 pre-trial Crown Court hearings, and of those only seven (4.1%) were ineffective due to the prosecution.
- Overall, the national effective trial rate for Crown Court cases has not improved since 2008-09 and the proportion of trials that did not go ahead due to prosecution reasons has increased over the last two years.
- The handling of correspondence was variable within and across the Areas, but overall just over a third of correspondence was processed promptly by administrative staff.

Average number of days	Cases
Less than 3	15 (34.9%)
3 - 10	17 (39.5%)
More than 10	11 (25.6%)
Not applicable	19

- The main focus of administrative staff was to log and match correspondence to the relevant file and most Areas were doing well in this respect; in only two of the six Areas did we find more than ten pieces of unmatched correspondence. However, in too many cases, this did not necessarily result in matters being progressed with appropriate urgency. In some Areas, the lack of supervision in the early stages of cases puts the onus on administrative staff to understand the importance of information and correspondence arriving on the unit. Reminder tasks in CMS are used by some units to prompt outstanding issues to be chased, but there was no consistency as to which items would generate a reminder task. We observed a number of cases where failure to manage/ chase outstanding important information led to subsequent delays.

4.2.3 Summary

There is still much to do in embedding effective case progression systems for Crown Court casework, although there are signs of encouraging progress in some aspects of work in some sites. Overall, the system is not yet operating as envisaged in most of the sites, particularly with regard to the role of paralegal officers (it is recognised that ongoing reviews may affect their current proposed role). In terms of timeliness and efficiency there is limited evidence of any consistent improvement in performance.

It is not yet clear whether OBM offers the best solution to the challenges of effective case progression in Crown Court cases. Evaluation is not helped by the variation in the work arrangements in place across the CPS. There are a number of imminent changes in the handling of Crown Court cases that afford the CPS the chance to review whether the current approach is the most appropriate, and this opportunity must be taken. Such a review should also take account of the move to digital working planned for 2012.

4.3 Victim and witness care

Inspectors could not identify any formal evaluation of the impact of the OBM on victim and witness care. Victims and witnesses benefit from trials going ahead as soon as is possible, on the day scheduled by the court and being based on good quality evidence and advocacy. They also benefit from timely applications for special measures and prompt communication about the outcomes of such applications. An effective OBM will assist with all these aspects, some of which are subject to some level of oversight in the national CPS performance management systems. However, in the main the

impact of the OBM on victim and witness care can only be determined from proxy measures, such as ineffective trial statistics.

We report above on late file reviews, inconsistent case progression and the steady level of ineffective trials.

Most stakeholders interviewed considered that witness issues were dealt with more promptly than before the OBM. However our view is that as OBM has not yet had a transformative effect on CPS case management performance that this means that victims and witnesses are not benefitting as fully as we would expect. In the absence of any specific formal evaluation of the impact of the OBM on victim and witness care the precise benefits have yet to be proved.

Specific issues identified during the course of the inspection included:

- There is clearly potential for improvement in the effectiveness of communication between case management and witness care staff, and in turn with victims and witnesses.
- Victim and witness issues were not always identified at the pre-charge stage, with only 55.7% of matters being dealt with fully in our file sample. Within the work of the OBM units, special measures applications were generally timely, which is consistent with a recent report on the experience of young victims and witnesses¹². However the results of such applications were sometimes not communicated to the witness until the trial date. Usually such applications will be granted but the lack of communication creates unnecessary uncertainty for witnesses.

¹² Joint thematic inspection of the experience of young victims and witnesses in the criminal justice system, CJI, January 2012.

- Neither CPS nor witness care staff use CMS and the Witness Management System (WMS) fully. This leads to a lack of trust that the systems contain comprehensive and up to date information. There were reports that CPS OBM staff do not always check WMS before contacting the WCU for information. This is inefficient, creating additional work for no benefit.
- Contact between OBM and WCU staff varied and in some instances was less effective than desirable. One WCU manager stated that most contact was via CMS, whilst another attended a weekly management meeting with the District Crown Prosecutors. The latter approach was more effective and engenders positive working relationships. Where units had introduced regular OBM team briefings the attendance of WCU staff was beneficial. WCU interviewees were clear that the OBM units were a useful aid to communication, because there was a constant point of contact for OBM cases.

Inspection key findings section 2

5 Project management and controls

Our evaluation of the leadership and management of the OBM project itself has been hampered by the long duration of the project, the fact that many staff involved have moved posts or left the CPS and, the fact that the OBM national team has been disbanded. This made accessing some information difficult. Key project documents, including essential records of objectives, and data on whether they had been met, were difficult to come by or simply not available. Learning and evaluation are poorly served by a lack of adequate record keeping. It was not possible to speak to some CPS staff from some specialist disciplines who had had input to the project.

5.1 Strategic direction

The CPS accepted the findings of the National Audit Office report in full, and made a commitment to address the issues raised. The OBM project was the vehicle for delivering that commitment. Inspectors support the strategic priority given to improving case preparation, and the aims of the OBM project.

5.2 National governance

When the OBM project is assessed against established principles of project management¹³, there is evidence of some activity at all six key stages.

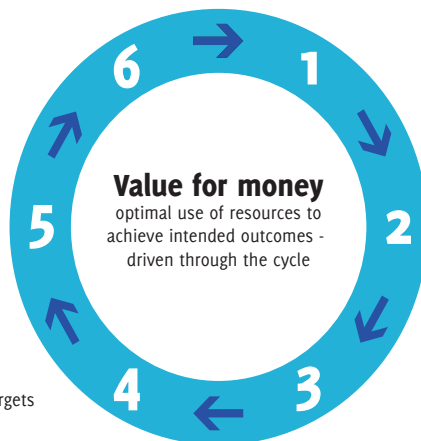
¹³ As utilised by the National Audit Office.

Core management cycle

6 Feedback
amends priorities and informs future strategy and planning

5 Evaluation
of implementation against strategic goals

4 Measurement
of quality, delivery, costs and user experience against benchmarks and targets



1 Strategy
based on evidence with clear policy goals

2 Planning
with agreed priorities, resources, management information and programme management in place

3 Implementation
with good financial management, risk management, governance and controls in place

5.2.1 Strategy and policy

The NAO report gave a clear indication of the need for improvement in case progression for Magistrates' Court cases and this formed the basis for the OBM project. There was much less clarity over the requirement to implement

the OBM principles into Crown Court casework. Greater constancy of purpose and vision would have been preferable and significant changes to timescales, priority and approach took place throughout the life of the project.

5.2.2 Planning and preparation

More could have been done by senior managers at the outset to emphasise the importance and status of the project; this would have assisted in overcoming some of the resistance subsequently encountered at Area level. Project resources were planned carefully for the different stages, although delays in staff joining the project team caused some difficulties. Some good work was done in mapping and costing the processes involved in case progression. LEAN techniques were used by the project team to try and identify the most effective processes. In some sites, the efficiency of processes was undermined to some extent by local deployment practices that increased the risk of duplication.

Whilst a formal Project Initiation Document (PID) was issued for Magistrates' Courts OBM, it was not finalised until June 2007 which was significantly after the commencement of work on the project (October 2006). There was limited information in the PID or the business case with regard to the anticipated costs or clearly defined benefits attached to the project. Not all the recommendations in the NAO report were addressed fully, although most are covered to some degree. Originally it was intended that the project would run for a matter of weeks but it was extended until September 2007, and was subsequently extended further to April 2008; the project for Magistrates' Courts OBM was not eventually signed off as complete until March 2010. The planning for the Crown Court units is less detailed and less prescriptive.

5.2.3 Implementation

The project was allocated a specific initial budget although this had to be increased significantly as the decision to extend the life of the initial project was taken. No evidence has been provided that the full cost and value for money was taken into account at evaluation. Significant efforts were made to programme manage the initiative in the Magistrates' Courts. Appropriate governance structures were put in place and regular reports on progress were provided, although we consider that the evaluation process was too weak to give a true picture of the progress made.

A formal roll out schedule was developed, although not all sites abided by the agreed timetable. It is difficult to assess the risk management of the project accurately as many of the listed countermeasures are not supported by documented evidence and the strength of some of the those mentioned is overstated. Significant resource was devoted to supporting Areas to implement the scheme in the Magistrates' Courts, but much less assistance was available for the roll out of Crown Court work. Separate governance arrangements have been put in place for the implementation of Crown Court units through a team of Senior Area Business Managers working in the Continuous Improvement Group. This arrangement lacks rigour and needs to be re-examined.

5.2.4 Measurement

Based on the information provided, the identification and monitoring of appropriate performance measures to assess the success of the project was a significant weakness. This includes baseline data and ongoing monitoring of performance. Whilst there was a lot of reference to benefits realisation data in project documents and interviews, no-one could provide any detailed information of what this entailed. Some of the Areas had developed their own monitoring regimes to assist them in managing workflows and resources.

The high level benefits that were expected to be realised as a result of OBM were noted in the original PID. Some of the benefits were too vague in terms of quantifying the scale of any anticipated improvements. Other benefits were not supported by reliable systems for measuring either the baseline or post-implementation performance. There was some more detailed work done as a result of the pilots, but again we considered that the work was not sufficiently comprehensive and assumptions used to project the potential benefits at that stage did not stand up to close scrutiny.

5.2.5 Evaluation

Evaluation of the project at various stages was variable, not helped by the weaknesses in the actual measures used and compliance with monitoring schemes referred to above. A small number of pilot sites were selected but not all complied with the procedures, leading to their

exclusion from evaluation. Considerable efforts were put into self assessment and there was a formal 'sign off' for Magistrates' Courts OBM units; however, assessments were focussed on the existence of processes rather than measures of the quality and effectiveness of outputs, and as such were not as effective as they should have been. The CPS considers that the OBM project was a major success for Magistrates' Courts casework and this contributed to the decision to continue the concept into Crown Court casework. The Inspectorate view is less positive: whilst all Areas now have OBM units in place, there is still significant inconsistency in the effectiveness of the units and it is not yet evidenced satisfactorily that the systems in place represent good practice or value for money.

5.2.6 Feedback

It is clear that the OBM strategy was changed as a result of ongoing reviews of the project; examples include the extended life span of the Magistrates' Courts project and the decision to include Crown Court cases. Throughout the life of the project attempts were made to identify and share good practice. It is less clear if lessons learnt have been used to inform other initiatives or the organisation's overall strategy. Some of the weaknesses in the management of this project were evident in previous initiatives and have been encountered since in more recent work such as the implementation of the Director's Guidance on the Streamlined Process.

5.2.7 Summary

A significant amount of effort, energy and commitment has been expended in the implementation of OBM principles. The OBM project team carried out a lot of positive work in assisting Areas to implement the process, particularly for Magistrates' Courts cases. A number of positive outcomes were achieved;

- OBM units have been implemented in all Areas;
- the project team developed helpful tool kits to assist in implementation, albeit it is disappointing that so few staff were aware of, or appreciated the guidance;
- the project team identified improvements to CMS to assist case progression;
- the project team undertook an extensive programme of site visits to support Areas; and
- some units are operating well, in accordance with the prescribed procedures, and can demonstrate effective case progression.

Despite the efforts in place it is apparent that the project has only been partially delivered in that:

- there are still significant inconsistencies in the operation and performance of units at Area level;
- the limited piloting conducted did not form a basis for reliable evaluation;
- the project has taken much longer, and has therefore been more expensive, than anticipated;
- OBM has not consistently been afforded the appropriate priority;

- key documentary evidence could not be provided to support assertions in the PID and reviews;
- the project has not won over the hearts and minds of enough Area staff; and
- there was insufficient data available to enable a fully reliable assessment as to whether the project has delivered the expected improvements in performance or if it represented good value for money.

Whilst accepting that the project scope excluded the impact of partner agencies, going forward, there is a need for a more joined up approach by the criminal justice agencies to ensure that case progression is made more efficient. New initiatives such as T3, the Early Guilty Plea Scheme and the courts' Stop Delaying Justice initiative need to be taken into account in future strategy.

5.3 Local governance

Working within a framework laid out centrally, Area managers are responsible for the implementation, ongoing management and oversight of OBM units.

In assessing local governance, we have focused primarily on four specific issues;

- the local approach to staffing OBM units;
- the allocation and prioritisation of work undertaken by OBM teams;
- the effectiveness of the OBM systems and processes in place; and
- performance management and evaluation.

In assessing the above it became clear that the overall level of ‘buy-in’ to the OBM concept at Area level had a significant impact on the performance and progress of units. It is clear that throughout the life of the project a significant number of staff and managers have not been persuaded that the OBM approach is the most appropriate method of improving case progression; this is particularly true for the Crown Court proposition and was also a factor in the early days of the Magistrates’ Courts project. This continuing ambivalence about the strategic priority to be given to case progression work is disappointing after such a lengthy project to establish the OBM.

5.3.1 Staffing strategies

It is clear that many managers have found it difficult to balance the need to resource a diverse range of activities and projects, particularly since budget constraints were put in place. In some instances it was clear that they faced significant challenges, whereas in others the perceived difficulties were less apparent. The models designed at the centre for Magistrates’ Courts work gave an indication as to the likely required staffing levels for a range of caseloads. Overall our findings indicate that deploying the optimum resource levels to OBM teams remains a problem in that;

- in the majority of sites, OBM had a lower priority in terms of resourcing than other issues, particularly advocacy. There is still regular abstraction from OBM units, particularly of lawyers;

- whilst the number of staff is important, the quality of outputs will be affected if staff deployed to OBM are not motivated and well organised;
- the degree to which paralegal officers are involved in the early preparation of cases has not yet reached the level anticipated by the Paralegal Review;
- there is too much short term (often daily) deployment to OBM teams for legal staff, which is not consistent with recommended practice and increases the incidence of duplication of effort; and
- of the 82 CPS respondents to our survey, less than 20% believe that staffing levels on OBM are appropriate.

We observed examples where managers had been able to divert additional staff to OBM units in the short term, primarily to deal with backlogs. Whilst this is positive to some extent, it was indicative of their difficulty in processing work efficiently with normal staffing levels.

Senior managers should give a clearer indication as to CPS national priorities and expectations taking account of resource levels. What was lacking was a holistic understanding of the interplay between different responsibilities (such as advocacy, charging and case preparation) including a realistic appraisal of the impact on resource deployment across the organisation.

Area managers should urgently review OBM deployment practices to ensure that appropriate resources (number and experience) are deployed for case progression work. The level of short term deployment should be reduced.

Good practice

Thames Chiltern monitored the throughput of cases and workloads at its various sites and proactively used the information as a basis for distributing staff across the Area's OBM units.

5.3.2 Allocation and prioritisation of work

For Magistrates' Courts units the role of the case progression manager (CPM) is crucial to effective control of the workflows. The support of an effective lawyer manager also assists. The CPM role has clearly defined responsibilities, supported by guidance as to perceived realistic workloads for staff on the unit. CPS case progression performance was better where there was a committed, organised and experienced CPM who had the authority to manage the flow of work.

For the most part Magistrates' Courts case progression managers controlled the work from its arrival on the unit until the case is considered trial ready. In some units work is allocated to individuals and in others work is dealt with on a team basis; many small units only have one lawyer who would do all legal work on a given day.

Whilst we saw some positive examples of expediting cases, in the majority of instances the priority was determined solely by the next court date. This often leads to outstanding issues being dealt with later in the process than desirable and carries risk if shortcomings only come to light late in the life of the case.

Units took a differing approach with regard to productivity ranging from disapproval of the concept, to allocating work against targets; the latter was less common. For units with only one person deployed for a reasonable spell in a particular role, the need for targets is lower as there is clearer accountability of the individuals concerned.

In Crown Court units there is much less certainty and, therefore, less consistency with the roles and responsibilities for controlling the flow of work. Most Crown Court unit case progression managers had other responsibilities in addition to the core CPM role. Our checks and observations indicated that;

- the effectiveness of the CPM role varied considerably from site to site; some were clearly doing a good job, whereas in others, the staff were struggling;
- in some sites the Crown Court CPM does not get involved in the early stages of case progression; we observed some good work done at the last minute to 'save' cases that were at risk; in most instances the problems could have been dealt with earlier;

- there were too many instances of systems that were inadequate to ensure that tasks are afforded the appropriate priority; task list reminders were used by a number of sites to track some tasks, although the effectiveness of this control was variable; and
- most standard case progression work is handled on a team basis with limited work allocated to specific individuals. There was widespread concern that this was leading to duplication of effort. Whilst some teams were operating better than others, all could be improved in terms of effectiveness. Staff in the Crown Court teams observed lacked clarity over the priority of the work that needed to be undertaken.

Overall, the more consistent roles and processes in Magistrates' Courts units tend to make those units more effective than their Crown Court counterparts. It is also beneficial that in many Magistrates' Courts units the workload can be handled by a single lawyer who, if deployed for medium/long term periods, will be familiar with most cases handled.

5.3.3 The effectiveness of processes

In the Magistrates' Courts units the processes were reasonably consistent with similar work flows and shelving systems – for the most part these followed the national guidance and tool kits. Compliance with the accepted systems was more variable and was often related to the individual staff working in the team at any given time.

Processes in Crown Court units are more diverse as the central guidance was much less prescriptive. As a result there is a wider range of effectiveness and performance due to processes. Few sites could evidence any meaningful reviews of the effectiveness of their processes, although self assessments and peer reviews require some nominal checks.

The nature of a 'production line' approach to case handling was always likely to lead to some duplication of effort as multiple staff can be involved in the same case. This was, and remains, a major concern for staff, particularly in the Crown Court. Our findings demonstrate that the natural level of duplication is exacerbated considerably by the way in which units were working. Most notably, failure to conduct or record reviews and the prevalence of short term deployment were leading to wasted effort for colleagues.

In order to bring about improvement managers need to focus on the following aspects:

- an early properly recorded review that proactively identifies potential issues, particularly for police charged cases;
- identification of priority/important work at the earliest opportunity - this is particularly relevant where 'work in progress' teams exist;
- embedding the best use of CMS functionality and supporting the aims of the T3 project; and
- introducing effective quality assurance/ supervisory systems for tracking that priority work is undertaken in a timely fashion.

One of the findings of the NAO report related to the inability of CPS staff to produce files for court; this problem had been eradicated to all intents and purposes in the sites visited and is a positive achievement. Across all the sites visited (Magistrates' Courts and Crown Court), better performing units tended to have more organised and tidy shelves. Overall, it is significantly easier to locate a file now than was the case in the past. A key factor in this outcome is the significant improvement in CMS usage, but the reduction in file location options introduced by OBM has also been important. Compliance with the CPS clear desk policy was generally good.

5.3.4 Performance management

There was little consistency in the systems of supervision and performance management, particularly in Crown Court units. The level of monitoring of OBM locally varied considerably. For example, Thames Chiltern conducts helpful regular reviews of OBM performance and workloads whereas in Essex, the approach is less structured. This is to some degree understandable in that case progression outcomes in Essex are generally quite good, although this is partly attributable to the performance of partner agencies. The majority of units hold some form of regular team brief for OBM units and performance was sometimes covered. Our survey results indicate that staff feel that they get insufficient feedback on team or personal performance.

CMS was used by all Areas and units to some extent but the level and effectiveness of checks needs improving. Visual monitoring of shelving and formal trial readiness checks were common tools used in most sites, but the timing needs to be revisited in some to avoid the high level of last minute chasing; if the processes were more efficient in the earlier stages this would be less prevalent. Our checks established that many cases assessed as trial ready clearly were not, although in most cases the CPS had taken some action to try and fill the gaps – see also sections 4.1.2 and 4.2.2.

Even in Areas with more robust monitoring systems, it was still common for cases to drift between committal/sending and subsequent hearings in the Crown Court units.

Overall there is too little focus on assessing the effectiveness of processes and systems. In all Areas, inspectors identified cases where there were significant shortcomings that had not been detected by local quality assurance monitoring systems. Whilst a few required detailed examination of the file, many were obvious issues that should have been picked up by Area staff. Overall, the level of understanding of performance of OBM units needs to be strengthened, supported by appropriate measures. The assessment of performance in most Crown Court OBM teams was based more on intuition rather than a systematic evaluation process.

5.4 Inter-agency working

It is recognised that the central OBM project team limited their scope with respect to the impact of partner agencies on case progression to identifying potential rubbing points in individual Areas. It was then the responsibility of Areas to deal with issues locally.

The level of effective local joint working related to case progression was variable and needs improvement in some Areas.

Good practice

CPS Thames Chiltern had conducted collaborative work with Her Majesty's Courts and Tribunals Service to reinvigorate the principles of the Criminal Procedure Rules in the handling of Magistrates' Courts cases.

The OBM tool kits were originally based on assumptions about inter-agency case management arrangements, such as regular inter-agency case progression meetings and a court system which actively monitored orders and directions. They are also based on the police having efficient case preparation systems. Our findings indicate that the practices of other agencies often did not meet the OBM assumptions. For example:

- The approach to formal inter-agency case progression management varied across the units, ranging from regular meetings of CPS/court/WCU staff to ad hoc discussions on individual cases. This inspection and a recent joint inspection¹⁴ found that in some HM Courts and Tribunals Service (HMCTS)

Areas court staff do not attend case progression meetings and do not actively monitor compliance with orders and directions, partly due to cost, and partly because they perceived that these measures have not led to a reduction in cracked or ineffective trials. In some Areas, the court was replacing case progression meetings by habitually listing cases in court for a mention or pre-trial review. Such practices only add to the work required by all agencies.

- Police file preparation was variable in terms of quality but there was a greater level of consistency with regard to timeliness. There were important shortcomings in almost half of the files examined in the spot checks and the 'drip feed' of additional evidence was evident in some sites.

Although this inspection did not include observations at court, the positive impact that can be achieved by a proactive judiciary was clear from a number of files. This is supported by the findings of the thematic inspection of advocacy.

In general, relationships between criminal justice agency staff were good. Examples were provided of:

- co-located and seconded police staff to assist OBM processes;
- joint work with HMCTS to manage the impact of changes to court sitting patterns; and
- the development of joint key performance indicators with HMCTS in some Areas.

¹⁴ Joint thematic inspection of the experience of young victims and witnesses in the criminal justice system, CJI, January 2012.

Where agencies make changes to strategy, policy or working practices, they must ensure that these are understood at all levels of stakeholder organisations.

A positive example of this was provided by the Thames and Chiltern Area. As part of the introduction of the Crown Court OBM the Chief Crown Prosecutor liaised with the local judiciary and invited them to visit the unit. The judges were able to raise any concerns and to understand how work flowed through the unit and was managed at daily briefings.

The impact of other agencies on effective case progression (from a user perspective) should not be underestimated. We saw examples where the CPS had made substantial effort and progress in improving its internal case progression systems, and yet overall outcomes had not improved; the lack of progress was influenced by the practices or performance of other agencies. Conversely we noted Areas where the CPS case progression systems were not particularly effective, but they were achieving good overall outcomes.

Moving forward the agencies must take a more integrated approach to managing cases. In the Magistrates' Courts the Stop Delaying Justice initiative built around more robust enforcement of the principles of the Criminal Procedure Rules, is a promising start point. This should enable the police and CPS to re-evaluate current practices to ensure that they are efficient and fit for purpose. We have already commented on the need to review the Crown Court systems taking account of recent and forthcoming changes.

Annexes

6 Methodology

To gather evidence for this inspection, inspectors carried out a series of examination exercises on OBM files and conducted visits to six Crown Court and six Magistrates' Court OBM units across five CPS Areas. The units selected for visits reflected a range of workload and higher and lower performing units.

6.1 File examination

The file reading was undertaken in two phases:

6.1.1 Prior to on-site

Prior to visiting the OBM units, evidence of the effectiveness of case progression was gathered via a file examination exercise already underway as part of the CQSM inspection¹⁵.

¹⁵ At the same time as this inspection was being prepared a parallel inspection of CQSM was underway. This involved a file read of approximately 800 CPS cases nationally. Extra questions were added to the CQSM file reading questionnaire to gather information for the purpose of the OBM inspection.

Legal inspectors working on the CQSM inspection assessed a sample of files. They included an additional seven questions and dates specifically designed to look at the effectiveness of case progression through OBM. Date information, and an assessment as to whether an individual file has been handled by the OBM were input by business management inspectors (BMIs) and auditors in advance of the legal inspector reviewing the file. The CQSM file sample was drawn from 26 units, including some of the best performing CPS offices.

Whilst the focus of this inspection was the quality and timeliness of work undertaken by the OBM units, inspectors examined cases at the pre-charge decision stage to see if the quality of work undertaken had any impact on case progression.

6.1.2 On-site

Live files were examined during the on-site visits to the OBM units. These were selected from the process shelves at random against sampling criteria. During spot checks of specific processes, additional files were also examined. Overall the file sample consisted of;

	Completed files read by legal inspectors (CQSM)	Live files read by legal inspectors (OBM)	Live files checked by BMIs (OBM)
Magistrates' Court	456	81	86
Crown Court	136	55	65
Total	592	136	151

6.2 Visits to Optimum Business Model units

The visits to units included interviews with staff and managers involved in the operation of the OBM, supplemented by electronic surveys of other staff that work on or receive files from the OBM.

A series of spot checks were conducted to assess the effectiveness of key OBM processes - for example the handling of correspondence and compliance with court orders.

Interviews were also held with key external stakeholders, from the police, courts and Witness Care Units, with electronic surveys of key court staff including listing staff and magistrates' Legal Advisers.

After the on-site visits, some checks were performed on CMS of the files reviewed on-site to ascertain if the selected cases went ahead as scheduled.

7 Terms of Reference of the original CPS Optimum Business Model project

7.1 Extract from the Optimum Business Model Project Initiation Document version 1.0

7.1.1 Purpose

To review and identify best practice to improve the efficiency and effectiveness of Magistrates' Courts processes and procedures.

7.1.2 Desired outcome

A framework of tested structures/key roles/processes and a tool kit for implementation, which will drive operational efficiency improvements as part of a continuous improvement cycle across CPS Areas.

7.1.3 Aims

- To identify the most effective and efficient way of delivering CPS business procedures in the Magistrates' Courts, with a view to creating best practice for implementation in CPS Areas. The review will include an assessment of how Areas organise themselves in delivering Magistrates' Courts work; of the various business models that exist across Areas; and of the best use of IT to support the process.
- To process map the current procedures in the Magistrates' Court from beginning to end, thereby establishing how the business operates and identifying procedural inefficiencies, focussing on those attributable to the CPS.

- To establish the best office structures to support team ownership of volume cases and the correct balance/mix of staff to ensure all cases can be dealt with by an appropriate member of staff within the team. Continuous individual ownership of serious and complex casework from start to finish.
- To clearly identify within the OBM processes:
 - Systems which will identify and prioritise urgent and high-risk cases.
 - Definitions of key roles and responsibilities of administrative staff, lawyers and managers to ensure tasks are carried out at the right level and in a timely way.
 - Trigger points within CMS to ensure key tasks and urgent tasks are completed and controls are in place.

8 The expected benefits of the Optimum Business Model

8.1 Magistrates' Court Optimum Business Model

In the original PID the following issues were raised as the benefits that were anticipated as a result of implementing OBM.

- An increase in efficiency through establishing a layered approach to improve structures and processes, and to establish key roles to prioritise and drive volume casework forward.
- An improvement in the timeliness with which the CPS delivers the prosecution process in the Magistrates' Courts. Measures will include:
 - a reduction in the number of adjournments/hearings per case;
 - an improvement in the timeliness of trial readiness through prompt full file review and early decision-making;
 - a reduction in double/manual working;
 - a reduction in file movement and therefore in the time spent searching for files; and
 - an improvement in the time taken to action correspondence.
- A reduction in the volume of inefficient administrative tasks that need to be undertaken, allowing staff to focus on more value added tasks and supporting para legalisation.
- A mechanism whereby identified good practice is tested and shared with all Areas as part of a continuous improvement cycle.

8.2 Crown Court Optimum Business Model

The Crown Court OBM PID set out the following expected benefits:

Benefit or improvement	Measurement
An increase in efficiency through establishing a Gateway Team which will improve timeliness of case preparation	Timeliness via CMS and Gateway Team
A reduction in the volume of inefficient administrative tasks that need to be undertaken, allowing staff to focus on more value added tasks and supporting para legalisation.	
<ul style="list-style-type: none"> • Correspondence • Judge's orders • Timeliness of full file review • Disclosure • Service of trial readiness certificates • Ineffective trials • Adverse outcomes 	<ul style="list-style-type: none"> A reduction of incoming correspondence and improved timeliness of outgoing Improved timeliness and compliance with deadline dates Improved timeliness Improved timeliness Improved timeliness A reduction in number A reduction in number

9 File sample outcomes

9.1 File sample

A total of 136 live cases were examined from six different CPS locations visited in September 2011; 81 awaiting trial in the Magistrates' Court and 55 awaiting Crown Court trial.

Area decision-making and file review quality			
Quality of review decisions	All cases %	Magistrates %	Crown %
The decisions at any post-charge review were compliant with the Code for Crown Prosecutors	93.3	92.3	94.4
All reviews met the required standard	46.7	44.4	50.0

Area case progression			
File examination findings	All cases %	Magistrates %	Crown %
There was timely compliance with directions in Magistrates' Courts cases	-	34.4	-
There was timely compliance with pre-PCMH directions in the Crown Court	-	-	70.6
There was timely compliance with directions given in the Crown Court at PCMH and up to trial	-	-	57.1
There was compliance with initial disclosure duties	79.7	72.0	90.1
Initial disclosure was timely	61.7	49.3	79.2
There was compliance with continuing disclosure duties	75.8	75.0	77.8
Continuing disclosure was timely	56.2	57.1	56.0
Pre-trial applications were complete and timely	29.7	25.0	34.4

	Excellent %	Good %	Fair %	Poor %
Was overall case progression timely and proactive				
All cases	6.7	28.9	41.5	23.0
Magistrates' Court	7.4	25.9	43.2	23.5
Crown	5.6	33.3	38.9	22.2
Use of CMS				
All cases	20.7	32.6	37.0	9.6
Magistrates' Court	17.3	32.1	38.3	12.3
Crown	25.9	33.3	35.2	5.6

10 Key findings from on-site spot checks

10.1 Magistrates' Court Optimum Business Model on-site file checks¹⁶

Timings of key case progression stages based on a sample of ten Magistrates' Court files per Area							
	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	Total
Average days between plea and request for file	5.3	2.9	1.0	4.3	1.0	0.2	2.5
Average days between receipt and file review	28.0	20.0	10.0	39.0	65.0	67.0	40.7
Average days between file review and trial	26.9	47.5	29.0	18.5	69.0	67.4	43.7
Average day range to action correspondence	3-10	3-10	>10	>10	3-10	3-10	3-10

Trial readiness – Magistrates' Court files							
	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	Total
Files inspected within 2 weeks of their trial date	9	10	1 ¹⁶	10	10	10	50
Number assessed as trial ready	6	9	0	5	9	9	38
Trial ready %	66.7	90.0	0.0	50.0	90.0	90.0	76.0%

Ineffective hearings for prosecution reasons – Magistrates' Court files							
	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	Total
Number of ineffective hearings pre-trial	0	4	6	10	4	0	24
Number of hearings pre-trial	27	26	36	20	21	27	157
Hearings that were ineffective pre-trial %	0.0	15.4	16.7	50.0	19.0	0.0	15.3%

¹⁶ The absence of a key staff member meant we were only able to get access to one file that was approaching its trial date in Area 3.

10.2 Crown Court Optimum Business Model on-site file checks

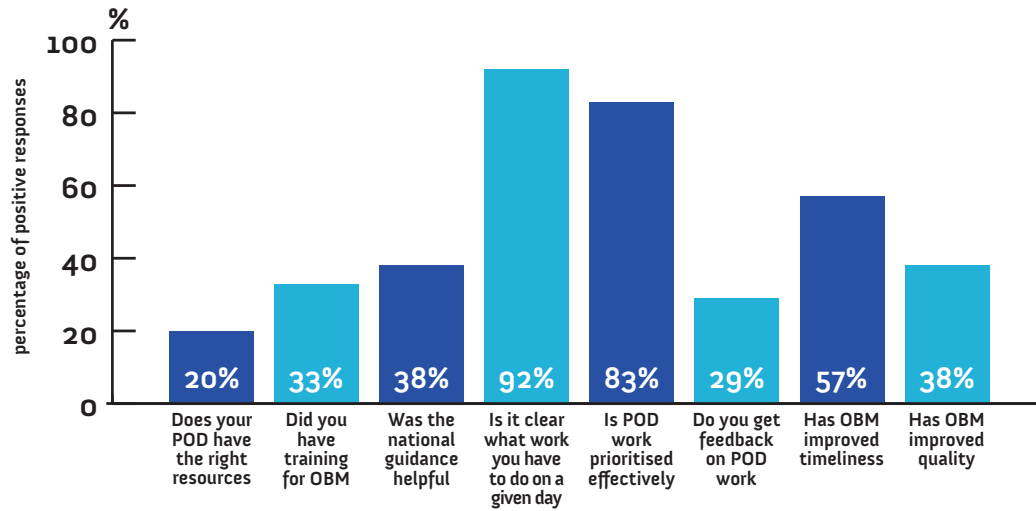
Timings of key case progression stages based on a sample of ten Crown Court files per Area							
	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	Total
Average days between plea and request for file	2.4	3.0	1.9	3.6	6.9	8.9	4.7
Average days between receipt and file review	18.7	10.5	23.5	20.9	5.3	21.7	15.7
Average days between file review and committal/service of papers	11.0	17.3	0.4	14.6	21.4	9.6	13.1
Average day range to action correspondence	3-10	3-10	3-10	3-10	3-10	3-10	3-10

Trial readiness – Crown Court files							
	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	Total
Files inspected within 2 weeks of their trial date	7	10	10	10	10	10	57
Number assessed as trial ready	1	6	8	4	3	6	28
Trial ready %	14.3	60.0	80.0	40.0	30.0	60.0	49.1%

Ineffective hearings for prosecution reasons – Crown Court files							
	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	Total
Number of ineffective hearings pre-trial	0	1	0	1	4	1	7
Number of hearings pre-trial	22	53	23	20	28	26	172
Hearings that were ineffective pre-trial %	0.0	1.9	0.0	5.0	14.3	3.8	4.1

11 Response to key survey questions

Positive responses to OBM survey questions (lawyers, admin and paralegals)



12 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.

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.

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.

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.

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

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

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