

CPS Surrey

The Inspectorate's report on CPS Surrey

July 2009





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CONTENTS

Preface

1	Introduction: description and caseload of CPS Surrey	1
	The report, methodology and nature of the inspection	2
2	Summary of inspection findings and recommendations	5
	Contextual factors and background	5
	Summary of findings.....	5
	Summary of judgements.....	8
	Recommendations	8
	Aspects for improvement	10
	Strengths.....	11
	Good practice.....	11
3	Pre-charge advice and decisions	13
	<i>Quality of advice and decisions</i>	13
	<i>Realising the benefits of pre-charge decision-making</i>	14
	<i>Operation of the charging scheme</i>	15
	Use of the case management system	16
	Conclusions	16
4	Decision-making, preparation and progression in magistrates' courts' cases	17
	<i>Quality of case decisions and continuing review</i>	17
	<i>Successful outcomes</i>	18
	<i>Discontinuances in the magistrates' courts</i>	18
	<i>Discharged committals</i>	18
	<i>Case preparation and progression</i>	19
	<i>Youth cases</i>	20
	<i>Effective, ineffective and cracked trials</i>	20
	<i>Use of the case management system – Compass CMS</i>	21
	Conclusions	21
5	Decision-making, preparation and progression in Crown Court cases	23
	<i>The quality of case decisions and continuing review</i>	23
	<i>Asset recovery (proceeds of crime)</i>	24
	<i>Adverse cases: judge ordered acquittals and judge directed acquittals</i>	24
	<i>Successful outcomes</i>	24
	<i>Case preparation and progression</i>	25
	<i>Appeals</i>	26
	<i>Effective, ineffective and cracked trials</i>	26
	<i>Use of case management system – Compass CMS</i>	27
	Conclusions	27
6	The prosecution of cases at court	29
	<i>The standard of advocacy</i>	29
	<i>Court endorsements</i>	31

7	Serious violent and sexual offences and hate crime	33
	Identification and management of sensitive cases	33
	<i>Specialists and experts</i>	33
	The quality of advice and decisions	33
	<i>Outcomes</i>	33
	<i>Homicide</i>	34
	<i>Rape and serious sexual assault</i>	34
	<i>Road traffic cases involving fatalities</i>	35
	<i>Domestic violence and hate crime</i>	35
	<i>Child abuse</i>	36
	<i>Safeguarding children</i>	36
8	Disclosure of unused material	37
	Decision-making and compliance with the duties of disclosure	37
	<i>Initial disclosure</i>	37
	<i>Continuing disclosure</i>	38
	<i>Sensitive material</i>	38
	<i>File housekeeping</i>	39
	<i>Use of the disclosure record sheet</i>	39
	<i>Action to improve</i>	39
9	Custody time limits	41
	Area custody time limit systems	41
	Adherence to custody time limits	41
10	The service to victims and witnesses	43
	Meeting the needs of victims and witnesses	43
	<i>Direct communication with victims</i>	43
	<i>Special measures</i>	44
	The care and treatment of victims and witnesses at court	45
	<i>Witness care units</i>	45
11	Managing performance to improve	47
	Accountability for performance	47
	<i>Analysis of data</i>	47
	<i>Management of local performance</i>	48
	<i>Area systems and processes</i>	48
	<i>Staff appraisal</i>	49
	Joint performance management	49
12	Managing resources	51
	<i>Value for money and budget control</i>	51
	Deployment of staff	52
	<i>Advocacy</i>	52
	<i>Staff sickness absence</i>	53
	<i>Flexible working</i>	53

13	Leadership and management	55
	Purpose and planning	55
	<i>Staff skills and training</i>	55
	<i>Change management</i>	56
	<i>Communication</i>	56
	Ethics, behaviours and values	57
	<i>Equality and diversity</i>	58
14	Partnership working and community confidence	59
	Joint working	59
	<i>Engagement with the community</i>	60
	Community confidence	60
	<i>Complaints</i>	60
Annexes		
A	Area inspection framework	61
B	Organisation chart	64
C	Casework performance data	65
D	Resources and caseloads	66
E	Total number of files examined for CPS Surrey	67
F	Local representatives of criminal justice agencies and organisations who assisted in our inspection	68
G	HMCPsi purpose and values	70
H	Glossary	71

PREFACE

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

HMCPISI's purpose is to enhance the quality of justice through independent inspection and assessment which improves the effectiveness of prosecution services, and provides assurances to Ministers, government and the public. Its statutory remit includes the Crown Prosecution Service (CPS) and the Revenue and Customs Prosecutions Office (RCPO). It also inspects, under delegated authority from the Chief Inspector of Criminal Justice in Northern Ireland, the Public Prosecution Service there.

We work in partnership with other agencies including the CPS itself, but without compromising our independence, and with other criminal justice inspectorates. Each year as well as conducting inspections and casework audits of the CPS business units - the 42 areas, Central Casework divisions and Headquarters directorates - we also carry out thematic reviews across the CPS, or the criminal justice system jointly with other criminal justice inspectorates.

In 2007-08 we undertook the second overall performance assessment of all 42 areas and published a summative report on the performance of the CPS as a whole. In those reports we assessed the individual areas as excellent, good, fair or poor. All our reports are available on our website www.hmcpisi.gov.uk.

In 2009-10 we are carrying out a full inspection of those areas found to be poor in order to assess whether performance has improved and will carry out other risk based inspections of areas as necessary. We are unlikely to be inspecting those assessed as good or excellent; they may nevertheless be visited in the course of a programme of casework audits or as part of thematic reviews.

The government has initiated a range of measures to develop cohesion and better co-ordinated working arrangements amongst the criminal justice agencies so that the system operates in a more holistic manner. Public Service Agreements between HM Treasury and the relevant departments set out the expectations which the government has of the criminal justice system at national level. However it is our experience that the targets can frequently be achieved notwithstanding significant inefficiencies in the processes and without work necessarily being of a suitable standard. HMCPISI does not therefore necessarily accept that simply meeting the targets is indicative of satisfactory performance. Additionally although in our reports we frequently make comparisons with national average performance, this does not necessarily mean that this is considered an acceptable standard. If a particular aspect of performance represents a weakness across areas generally, it will be possible to meet or exceed the national average without attaining the appropriate standard.

The Chief Inspector has set out a statement of his expectations of prosecuting authorities:

"The hallmark of good quality prosecution is that each case is dealt with individually at each stage according to its merits, with the degree of care which reflects the fact that it impacts on the lives of people, and with the degree of proactivity and vigour that would be expected by the public."

The inspection process focuses heavily on the quality of casework decision-making and handling that leads to successful outcomes in individual cases, and extends to overall CPS performance. Consistently good casework is invariably underpinned by sound systems, good management and structured monitoring of performance. We have made clear what we consider acceptable in our inspection framework (summarised at annex A) and in our casework standards.

Inspection teams comprise legal and business management inspectors working closely together. HMCPSI also invites suitably informed members of the public, nominated by national organisations, to join the process as lay inspectors. They are unpaid volunteers who examine the way in which the CPS relates to the public through its dealings with witnesses and victims; engagement with the community, including minority groups; handling of complaints; and the application of the public interest test contained in the Code for Crown Prosecutors.

HMCPSI has offices in London, which houses the Southern Group, and York where the Northern and Wales Group are based. Both groups undertake CPS business unit inspections, thematic reviews and joint inspections with other criminal justice inspectorates. At any given time HMCPSI is likely to be conducting several CPS based inspections and thematic reviews, as well as joint inspections.

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

1 INTRODUCTION: DESCRIPTION AND CASELOAD OF CPS SURREY

- 1.1 This is Her Majesty's Crown Prosecution Service Inspectorate's (HMCPSP's) report about CPS Surrey (the area) which serves the area covered by the Surrey Police. It has one office, at Guildford, that includes the area Headquarters (Secretariat).
- 1.2 At the time of the inspection area business was divided on a combination of functional and geographical lines. The two criminal justice units (CJUs), Staines/Reigate and Guildford/Woking, handled cases dealt with in the magistrates' courts and the trials unit (TU) covered those in the Crown Court. In April 2009, shortly after the inspection, the area moved to a combined unit structure. All the staff are based in the office at Guildford.
- 1.3 In March 2009 Surrey employed the equivalent of 73 full-time staff. The Secretariat comprises the Chief Crown Prosecutor (CCP), Area Business Manager (ABM) and the full-time equivalent of eight other staff. Details are set out below:

Grade	Number
CCP	1.0
Level E	1.0
Level D	3.0
Crown advocates	9.6
Level C lawyers (includes legal trainee)	20.9
Associate prosecutors	4.6
Level B3 and B2 caseworkers	3.0
Level B1 caseworkers	11.5
Level A caseworkers	18.4
Total	73.0

- 1.4 A detailed breakdown of staffing and structure can be found at annex B.
- 1.5 Details of the area's caseload in 2008-09 are:

Category	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge decisions resulting in charge	3,739	61.3	57.7
Pre-charge decisions not resulting in a charge	2,362	38.7	42.3
Total	6,101	100%	100%

Magistrates' courts' cases	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge decisions	6,101	33.2	34.0
Summary	7,597	41.4	38.3
Either way and indictable only	4,649	25.3	27.5
Other proceedings	12	0.1	0.2
Total	18,359	100%	100%

1.6 These figures include the cases set out in the next table, as all Crown Court cases commence in the magistrates' courts. In 3,739 (61.3%) of the 6,101 pre-charge decisions it was decided that there should be a prosecution. The remainder were dealt with by way of alternative disposals (cautions, final warnings etc), decisions to take no further action, or by writing off 'stale' cases. Where pre-charge advice results in the institution of proceedings the case will also be counted under the relevant category of summary or either way/indictable only in the caseload numbers.

1.7 Details of Surrey's Crown Court caseload in 2008-09:

Crown Court cases	Area numbers	Area % of total caseload	National % of total caseload
Indictable only	408	27.6	29.1
Either way offences	676	45.7	45.2
Appeals against conviction or sentence	226	15.3	10.0
Committals for sentence	168	11.4	15.8
Total	1,478	100%	100%

1.8 A more detailed table of caseloads and case outcomes compared to the national average is attached at annex C and a table of caseload in relation to area resources at annex D. These identify the continuing increases in budget provided to drive up performance and deliver new initiatives. Surrey has benefited from an increase of 17% in its budget since our last inspection (September 2007) from £3,202,877 to £3,747,894. Staff numbers have increased from 66.4 to 73.0 over the same period.

The report, methodology and nature of the inspection

1.9 The inspection process is based on the inspection framework summarised at annex A. The chapter headings in this report relate to the standards and the section headings to the criteria against which we measure CPS areas. The italicised sub headings identify particular issues within those criteria.

1.10 The overall performance assessment (OPA) of CPS Surrey, undertaken in September 2007, assessed the area as poor. As a result of this and recent performance data it was determined that the inspection should cover all aspects of the framework.

- 1.11 Our methodology was more detailed in this inspection than in the OPA and the framework differs in some respects. It combined examination of 81 cases finalised between July-December 2008 and interviews and questionnaires completed by criminal law practitioners, local representatives of criminal justice agencies and members of the judiciary, and interviews with CPS staff at all levels. Our file sample was made up of pre-charge decision cases, magistrates' courts and Crown Court trials (whether acquittals or convictions), and some specific types of cases. A detailed breakdown of our file sample is shown at annex E.
- 1.12 We make a number of assessments about the quality of decision-making and case handling in the course of the file examination. Key assessments are shown in tables at the start of chapters 3 and 4. Findings from the file examination cannot be compared to those from other inspections because this is the first follow-up to the OPAs.
- 1.13 A list of individuals we met or from whom we received comments is at annex F. The team carried out observations of the performance of advocates and the delivery of service at court in both the magistrates and the Crown Court and also at charging centres.
- 1.14 Inspectors visited the area between 16-27 March 2009. The lay inspector was Davina James-Hanman OBE, who was nominated by the Greater London Domestic Violence Project. The role of the lay inspector is described in the introduction. She examined files that had been the subject of particular public interest considerations or complaints from members of the public and considered letters written by CPS staff to victims following the reduction or discontinuance of a charge. She also visited some courts and had the opportunity to speak to some of the witnesses after they had given evidence. This was a valuable contribution to the inspection process. The views and findings of the lay inspector have been included in the report as a whole, rather than separately. Her time was given on a purely voluntary basis and the Chief Inspector is grateful for her effort and assistance.
- 1.15 The purpose and aims of the Inspectorate are set out in annex G and a glossary of the terms used is contained in annex H.

2 SUMMARY OF INSPECTION FINDINGS AND RECOMMENDATIONS

Contextual factors and background

- 2.1 In September 2007 Surrey was rated as poor in the OPAs of all CPS areas. This was primarily the result of a poorly planned restructure in early 2006, which caused administrative difficulties and a break down in relationships with external partners. Following a critical inspection there had been some changes in the management team with the appointments of a temporary CCP and ABM and the area had embarked upon a recovery process assisted by CPS Headquarters. At the time of the OPA a permanent CCP had recently been appointed who is now in post.
- 2.2 At the time of this inspection the area was undergoing a number of changes. It had recently moved to new premises and was preparing for another restructure which would place the magistrates' courts and Crown Court units into a combined unit, albeit split on geographical lines for the purposes of partnership working. These changes have involved some significant impacts upon staff and planning and resources.
- 2.3 This purpose of this inspection was to assess the progress made since the OPA and this summary provides an overview of the findings as a whole.

Summary of findings

- 2.4 Progress has been made against the majority of weaknesses identified in the last inspection and OPA. Of particular note is the transformation of the administrative team which is now significantly more efficient. Performance outcomes have improved in a wide range of measures, although it should be borne in mind that many of them are still at the lower end of the spectrum of national performance.
- 2.5 At the time of the last inspection the CPS had lost the confidence of many of its partner criminal justice agencies in Surrey. The position has improved considerably and most external agencies believe that it is now a more responsive and constructive organisation. There needs to be greater clarity over the role of the local prosecution team performance management meetings in the joint performance regime.
- 2.6 Whilst there are a number of positive examples of progress in this report there remains much to do. Communication between management and staff is a matter of concern and if not addressed swiftly could seriously hamper future progress. It has already impacted adversely on morale.
- 2.7 Our file examination indicated that there is a need to improve the all round handling of casework from initial advice and decision-making, through ongoing review to case preparation and presentation. The quality assurance systems need to be strengthened.
- 2.8 Although the outcomes in cases that have been the subject of pre-charge decisions have improved, the overall quality of pre-charge decision-making requires significant improvement. Ancillary issues and special measures for victims and witnesses were not considered in many cases and almost 20% of charging decision forms were rated as poor because, for example, they were not sufficiently detailed and often did not contain action plans. The file examination indicated that some prosecutors were being overly cautious and delaying decisions with requests for further unnecessary information. This supported views expressed by some police officers.

- 2.9 Successful outcomes in magistrates' courts' cases have improved since the last inspection and the conviction rate was 86.6% in 2008-09, which was slightly below national performance. The introduction of the optimum business model, together with the hard work of staff, has led to significant improvements in the progression of magistrates' courts' cases. However preparation is often undertaken very close to the trial date and the quality of the decision-making requires monitoring. The trial effectiveness rate is better than national performance.
- 2.10 Full file reviews in Crown Court cases were generally of a better quality and more detailed than those in the magistrates' courts. Successful outcomes have improved a little since the OPA but are still worse than national performance. The timeliness of actions post plea and case management hearings and case progression generally needs improvement. Trial effectiveness is good and significantly better than national performance. Performance in respect of asset recovery and confiscation is poor and needs improvement.
- 2.11 The progression of cases at court has improved, aided by a significant increase in the use of in-house advocates, and good progress has been made towards meeting the advocacy strategy targets. Although falling just short of advocacy deployment targets in 2008-09, the area is well positioned to achieve them in 2009-10. Preparation time remains an issue for advocates and this is sometimes reflected in the standard of advocacy, which is variable.
- 2.12 Specialists or champions for all categories of sensitive cases have been appointed but their roles and responsibilities need to be clarified. The area has established good links with the police for dealing with sensitive cases and there has been an improvement in unsuccessful outcomes in most categories. There has been some positive work in respect of rape cases which has led to the improvements in outcomes and the way they are handled. Sensitive cases are not always reviewed in accordance with CPS national policy and, in particular, the handling of road traffic cases involving a fatality requires improvement.
- 2.13 Compliance with the prosecution's duties of disclosure of unused material remains poor. The weaknesses were widespread and ranged from simple administrative issues to more serious failures to disclose relevant material. Sensitive material was generally handled better.
- 2.14 The systems for managing custody time limits are generally sound and there have been no failures since the last inspection. The results of our file examination indicate that management checks need to be more robust.
- 2.15 There has been improvement in the extent to which the area meets its obligations under the Victims' Code, assisted by the better flow of information between the CPS and witness care unit. Compliance with the direct communication with victims scheme (under which the CPS writes to a victim to explain why a charge has been dropped or substantially altered) has improved but requires significant further work, including the quality of letters. Witness warning systems are satisfactory and the target for witness attendance rates is being met.
- 2.16 There is a greater focus on performance management than was apparent in the past although the aspiration to introduce a culture of continuous improvement is some way away. Surrey has made good progress towards achieving national targets in a number of key issues but other important aspects of performance that are not subject to formal targets, such as disclosure of unused material, revealed weaknesses. The performance and development review process for individuals is not yet fully effective.

- 2.17 Systems for controlling non-ring fenced running costs are sound and Surrey remained within its allocated budget in 2008-09 for the first time in a number of years. Whilst improvements in the management of prosecution costs have been made, systems for forecasting them could be strengthened. The management of sickness absence has been very effective in 2008.
- 2.18 Whilst the management team has a clear vision and underlying priorities for the area, the business plan needs to set out how they are to be achieved, together with timescales. Progress against the plan needs to be reviewed.
- 2.19 The management of changes being undertaken at the time of the inspection was underpinned by sound planning and risk registers to manage risks. These needed to be complemented by more effective analysis and management of links between projects.
- 2.20 The main risk register does not cover all that would be expected and is not reviewed or updated regularly. Risk seems to be better managed at the individual project level.
- 2.21 Community engagement has been a higher focus than previously although activities have been largely contained to raising awareness of the CPS. The area needs to place greater emphasis on engaging a broader range of community groups in dialogue to improve services.
- 2.22 In conclusion the area has improved and is moving in the right direction in most aspects of work. However there is still a considerable way to go and some casework issues require significantly more attention because they can be regarded as only just adequate, and weaknesses remain. Key to success will be the extent to which managers engage more effectively with staff and improve the standard of decision-making and casework handling. In light of our overall findings CPS Surrey is now rated as **FAIR**.

Summary of judgements

Critical aspects	OPA 2007	Inspection 2009	Direction of travel
Pre-charge advice and decisions	Fair	Poor	Declined
Decision-making, preparation and progression in magistrates' courts' cases	Poor	Fair	Improved
Decision-making, preparation and progression in Crown Court cases	Fair	Fair	Stable
The service to victims and witnesses	Fair	Fair	Stable
Leadership and management ¹	Poor	Fair	Improved
Overall critical assessment level	Poor	Fair	
The prosecution of cases at court	Poor	Fair	Improved
Serious violent and sexual offences and hate crimes	Poor	Fair	Improved
Disclosure of unused material	Poor	Poor	Stable
Custody time limits	Poor	Fair	Improved
Managing performance to improve	Fair	Fair	Stable
Managing resources	Poor	Fair	Improved
Partnership working and community confidence	No direct comparator	Fair	No direct comparator ²
Overall assessment	Poor	Fair	

Recommendations

2.23 We make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance, which we consider to merit the highest priority. We have made 11 to help improve the area's performance.

- 1 Area managers should take action to improve the quality of the record of decision (MG3s) and undertake regular monitoring to ensure in particular that:
 - the correct charge is selected at pre-charge decision stage;
 - there is appropriate consideration of ancillary issues;
 - instructions to associate prosecutors are endorsed on MG3s; and
 - action plans are clearly set in the appropriate place on the MG3s with target dates (paragraph 3.8).

1 Leadership and management captures elements included formally in "Delivering change" which has now been removed from the framework as a stand alone aspect.

2 No direct comparison possible as the framework against which the area is inspected has been changed.

-
- 2 Area managers should undertake regular checks of the quality and timeliness of legal work undertaken on the optimum business model case preparation unit and where necessary ensure that appropriate mentoring or training is delivered (paragraph 4.15).
-
- 3 The Area Strategy Board should ensure that the strategies devised to improve performance in asset recovery are fully supported and progressed (paragraph 5.8).
-
- 4 Area managers should ensure that there is a more robust and systematic approach to the analysis of adverse outcomes in Crown Court cases. Issues identified should be the basis for more detailed feedback both within the organisation and to partner agencies to ensure lessons are learn (paragraph 5.11).
-
- 5 Area managers should examine the handling of road traffic fatality cases to ensure compliance with CPS policy (paragraph 7.12).
-
- 6 Prosecutors should always view the video recorded interviews with child witnesses, assess the quality of evidence and record this (paragraph 7.18).
-
- 7 The Area Strategy Board should implement the area action plan for disclosure and ensure systematic and robust monitoring is carried out and the disclosure record sheet is used in all cases to record the decisions and actions in relation to disclosure (paragraph 8.16).
-
- 8 The Area Strategy Board should:
- undertake a further review of the quality and timeliness of direct communication with victims and Victims' Code letters;
 - ensure that the witness care unit are provided with copies of all letters;
 - ensure letters are recorded on the case management system; and
 - ensure that where appropriate meetings are offered to victims (paragraph 10.7).
-
- 9 Unit heads should ensure that casework quality assessments are robust, that feedback is given quickly in appropriate cases, and that a more targeted approach is adopted (paragraph 11.8).
-
- 10 The Area Strategy Board should ensure that training, development, coaching and mentoring is provided to assist staff in their new roles under the restructure, and to improve skills, particularly in casework handling (paragraph 13.6).
-

- 11 The Area Strategy Board needs to take swift action to address communication issues between management and some staff by:
- ensuring that staff have the opportunity to raise and resolve issues with management openly;
 - ensuring that management regularly communicate with staff on a face-to-face basis and not rely too heavily on e-mail, especially in relation to changes that have a significant impact on staff; and
 - addressing the low morale amongst lawyers and issues around dignity and respect (paragraph 13.13).
-

Aspects for improvement

2.24 We additionally identified 14 aspects for improvement.

- 1 The optimum business model folder system for magistrates' courts' cases should be implemented (paragraph 4.13).
-
- 2 A system should be developed to improve case progression and ensure compliance with court directions (paragraph 5.14).
-
- 3 Adequate cover must be provided for cases heard at Kingston Crown Court and if necessary the Area Strategy Board should negotiate a service level agreement with CPS London for court cover (paragraph 6.8).
-
- 4 Advocates should complete court endorsements as soon as practicable and they should be clear, legible and completed on the appropriate part of the file jacket (paragraph 6.11).
-
- 5 There is a need to:
- fully define the role and responsibilities of the specialist crime champions/co-ordinators; and
 - allocate them time to monitor sensitive and hate crime cases and analyse unsuccessful outcomes (paragraph 7.4).
-
- 6 Steps should be taken to agree a protocol with Surrey Social Services for the disclosure of third party material (paragraph 8.11).
-
- 7 Managers should remind all relevant staff that custody time limit expiry dates apply to each charge. Endorsements on the file should indicate which expiry date applies to which charge. Applications to extend custody time limits should comprehensively set out the reasons why such an extension is justified (paragraph 9.7).
-
- 8 Prosecutors should ensure that they request police to seek a victim personal statement if one is not present in appropriate cases (paragraph 10.3).
-

-
- 9 When feedback is given to staff it should be handled in the most appropriate and constructive manner (paragraph 11.13).
-
- 10 There needs to be greater clarity over the role (if any) of the local prosecution team performance management meetings (paragraph 11.18).
-
- 11 Controls on prosecution costs should be reviewed (paragraph 12.5).
-
- 12 The business plan should set out how priorities will be achieved and the timescales for completion; and progress against priorities should be reviewed regularly and remedial action implemented where required (paragraph 13.3).
-
- 13 The risk register should be reviewed regularly and the scope of risk expanded to include those involving staff engagement and change management issues and interdependencies between projects (paragraph 13.9).
-
- 14 The community engagement strategy should be developed to consult with the local community and broaden the base of community groups the area engages with (paragraph 14.9).
-

Strengths

2.25 We identified two strengths within Surrey's performance.

- 1 Over the last 12 months the area rape co-ordinator has been proactive in engaging other agencies and implementing new initiatives to address the low conviction rate for rape offences (paragraph 7.9).
-
- 2 The management of sickness absence has been very effective (paragraph 12.18).
-

Good practice

2.26 We have identified one aspect of good practice that might warrant adoption nationally.

- 1 A form accompanies each complaints file and is signed off at conclusion by the Chief Crown Prosecutor, who notes any lessons to be learned and provides feedback (paragraph 14.11).
-

3 PRE-CHARGE ADVICE AND DECISIONS	OPA 2007	AI 2009	Direction of travel
	Fair	Poor	Declined

Quality of advice and decisions

3.1 We examined 72 finalised cases which had been the subject of a pre-charge decision (PCD) where the decision was to authorise charge and our findings are set out in the table below.

Pre-charge	Area performance
Advice and decisions complying with evidential stage in the Code	95.8%
Advice and decisions complying with public interest stage in the Code	100%
Appropriate alternative disposals and ancillary orders were considered and acted upon	59.7%
Prosecutor was active in identifying and remedying evidential defects	58.0%

3.2 The overall quality of decision-making is variable. The application of the evidential stage of the full test accorded with the Code for Crown Prosecutors (the Code) in 69 out of 72 cases (95.8%), and the public interest stage was applied in accordance with the Code in all cases. In 11 of the 72 (15.3%) the threshold test was applied initially. The reason for applying the threshold test was recorded in all cases and it was applied correctly in ten out of 11 (91.0%). There were three cases in the file sample that were subsequently discontinued with no change in circumstances from PCD. The most appropriate charge was selected in 63 out of 72 instances (87.5%).

3.3 The recording of charging decisions on MG3 forms (used to record the advice to the police and charging decisions) is variable, as shown in the table below: three were excellent, 28 good, 28 fair and 13 poor. In respect of the poor MG3s 12 out of 13 (92.3%) were advised upon by the area.

Standard of forms recording charging decisions (MG3s)

	Excellent	Good	Fair	Poor	Total
Overall	3 (4.2%)	28 (38.9%)	28 (38.9%)	13 (18.1%)	72
Full Code test (area and CPS Direct)	2 (3.3%)	20 (32.8%)	27 (44.3%)	12 (19.7%)	61
Threshold test (area)	0	1	1	0	2
Threshold test (CPS Direct)	1	7	0	1	9

3.4 Overall MG3s in magistrates' courts' cases were better than in the Crown Court. Managers have emphasised the importance of drafting MG3s that are clear, accurate and brief and, whilst we endorse this principle, the majority of the MG3s in our file sample lacked crucial detail insofar as there was no summary of the facts and no information on what material had been seen by the duty prosecutor, nor a detailed analysis of the strengths and weaknesses in the case. It was also rare for duty prosecutors to draft the charges.

- 3.5 Ancillary issues (for example, whether bad character, hearsay or special measures applications should be made) were considered appropriately in 43 out of 72 cases (59.7%). In respect of special measures to assist witnesses give good quality evidence we found that the duty prosecutor was rarely proactive in seeking further information to support an application where this was not provided by the investigating officer, even in those cases where the victim or witness would be automatically entitled to support.
- 3.6 The action plan met the required standard in 29 out of 50 cases (58.0%), while the remainder did not set out clearly what further material or evidence was required and the target date for submission. The action plan was often set out in the body of the MG3, rather than in its specific section.
- 3.7 There was a lack of instructions to associate prosecutors on plea before venue, or acceptability of pleas endorsed on the MG3.
- 3.8 Area managers dip sampled 11 PCDs in November 2008 and assessed all as being of a satisfactory standard, albeit with some weaknesses. We examined the same MG3s and the managers' assessments. Several of the forms contained serious weaknesses, which were identified by area managers. In our view only one MG3 was of a satisfactory standard. Feedback was provided to all duty prosecutors by e-mail and there was some one-to-one. Despite these relatively poor findings no specific training has been delivered to address the weaknesses and there are no established plans to repeat this exercise on a regular basis.

RECOMMENDATION

Area managers should take action to improve the quality of the record of decision (MG3s) and undertake regular monitoring to ensure in particular that:

- the correct charge is selected at pre-charge decision stage;
 - there is appropriate consideration of ancillary issues;
 - instructions to associate prosecutors are endorsed on MG3s; and
 - action plans are clearly set in the appropriate place on the MG3s with target dates.
-

Realising the benefits of pre-charge decision-making

- 3.9 The area is realising four out of six of the benefits of the charging scheme. The most recent key outcomes for 2008-09 against which the CPS measures performance are shown in the table below.

	National target March 2009	National performance 2008-09	Area performance 2008-09
<i>Magistrates' courts' cases</i>			
Discontinuance rate	13%	13.1%	10.3%
Guilty plea rate	70%	74.4%	74.5%
Attrition rate	23%	19.2%	17.4%

<i>Crown Court cases</i>			
Discontinuance rate	11%	11.7%	11.7%
Guilty plea rate	70%	72.9%	64.2%
Attrition rate	23%	19.4%	22.4%

- 3.10 Performance in respect of all magistrates' courts' outcomes has improved since the OPA and continues to show an improving trend. The area is meeting all national targets in magistrates' courts' cases and performance is also better than that found nationally. However performance in Crown Court cases is not as good; the area is only meeting the national target for attrition. The discontinuance rate is the same as national performance. Overall performance is worse than nationally and places Surrey in the lowest quartile of all CPS areas.

Operation of the charging scheme

- 3.11 CJU lawyers provide face-to-face pre-charge advice at Guildford, Reigate, Staines and Woking police stations between 9am and 5pm Monday-Friday with an hour for lunch. An appointment system is in place at all the charging centres. Agreement had been reached with police to close Woking charging centre due to a low level of work.
- 3.12 Some specialist and more complex cases may be referred by the police direct to the TU through the unit head. The area runs a 'clinic' on a weekly basis to provide advice on rape cases and this is covered by TU lawyers. Although CJU lawyers may consult with their TU counterparts in more serious or complex cases, there is no agreed criteria for the referral of cases by CJU lawyers when they consider that they do not have the necessary experience to advise on the particular case.
- 3.13 Although all duty prosecutors must have attended the Proactive Prosecutor Programme training course before they can provide pre-charge advice, a number of the CJU lawyers are relatively inexperienced and some have never prosecuted Crown Court cases. There were examples of cases within our file sample in which the charges were altered or the case discontinued once it was reviewed by a TU lawyer, with no change in circumstances. This may explain in part the poorer outcomes in Crown Court cases. CJU lawyers are rarely consulted or informed of the outcome of these cases, which is a missed learning opportunity.
- 3.14 A small number of cases are charged by the police without referring them to the CPS in accordance with the Director of Public Prosecution's Guidance on Statutory Charging. Where this occurs prosecutors should review the file and endorse the authority to charge before the case proceeds in court and bring these cases to the attention of managers to refer them back to the police for an explanation why they've been charged without authority from the CPS. There were two cases in our file sample where this procedure was not followed. No formal logs are kept of these cases but unit heads retain copies of e-mail referrals back to the police in respect of breaches of the Director's Guidance.

- 3.15 There are no difficulties for police officers obtaining an appointment with a duty prosecutor. The average number of days from first consultation to charge is 7.2 which compares favourably with national performance of 9.6 days. The area has worked collaboratively with the police to adjust the level of cover and the provision of face-to-face advice has improved from 22.5% at the time of the OPA to 61.2%, compared to national performance of 52.7%. This has led to improvements in relationships but some tensions still exist between investigating officers and a few duty prosecutors.
- 3.16 In 2008 83.1% of charging decisions were made at the first consultation. Some police officers remain of the view that too much information is sought by some duty prosecutors before they will make a charging decision. There were 42 cases in our file sample where more information was requested by the duty prosecutor in order to make the charging decision and in 28 of these (66.7%) it was our view that the material was unnecessary.

Use of the case management system

- 3.17 The backlogs of outstanding cases have reduced considerably since the OPA, primarily through a concerted clear up exercise in preparation for relocation. A high proportion of the clearances were by way of administrative finalisation, resulting in an overall rate of 10.7% for 2008-09; this is too high. Not all cases were finalised accurately and some should have been recorded as no further action. The area is aware of the need to prevent recurrence of the backlog and is monitoring the situation more carefully now. All but two MG3s in our sample were recorded on the case management system.

Conclusions

- 3.18 The outcomes of some cases subject to pre-charge advice and decision-making are good. However there are weaknesses in decision-making, action planning and dealing with ancillary issues. These are having an adverse impact on subsequent case handling in both magistrates' courts, and particularly Crown Court, casework.

4	DECISION-MAKING, PREPARATION AND PROGRESSION IN MAGISTRATES' COURTS' CASES	OPA 2007	AI 2009	Direction of travel
		Poor	Fair	Improved

Quality of case decisions and continuing review

4.1 We examined 42 case files and our findings are set out in the following table.

Magistrates' courts' and youth court casework	Area performance
<i>Case preparation</i>	
Cases ready to proceed at first hearing	91.4%
Timely completion of actions between plea and trial	48.8%
<i>Level of charge</i>	
Cases that proceeded to trial or guilty plea on the correct level of charge	83.9%
<i>Discontinuance</i>	
Discontinuance was timely	40.0%
Decisions to discontinue complying with the evidential stage of the Code test	80.0%
Decisions to discontinue complying with the public interest stage of the Code test	100%

- 4.2 The application of the evidential stage of the full Code test accorded with the Code in 41 out of 42 cases (97.6%), including five which had not been the subject of a PCD. We considered the test was not applied appropriately in one case, an assault allegation where the alleged victims' statements were highly inconsistent. The public interest stage of the Code test was met in all cases.
- 4.3 Files are appropriately checked if subject to a PCD or reviewed before the first date of hearing and advance information is made available to the defence so progress can be made at court. However the quality of subsequent full file reviews is mixed with some merely a 'cut and paste' from the PCD. In more complex cases or where further evidence has been gathered a full review is necessary. In our file sample there was an appropriate full file review in 34 out of 42 cases (81.0%), and the case proceeded to committal or summary trial on the correct charges in 47 out of 56 (83.9%).
- 4.4 In eight of the 37 relevant cases (21.6%) there was good proactive case management. Prosecutors identified at an early stage what more was required to ensure a successful outcome and took timely action to request further information/evidence and chase outstanding material. Case management was fair in 23 cases (62.2%) and poor in six (16.2%).

Successful outcomes

Case outcomes in the magistrates' courts	National performance 2008-09	Area performance 2008-09
Discontinuance and bindovers	8.7%	8.2%
No case to answer	0.2%	0.1%
Dismissed after trial	2.0%	3.2%
Discharged committals	0.2%	0%
Warrants	1.6%	1.9%
Overall conviction rate	87.3%	86.6%

- 4.5 The key outcomes are shown in the table above. The conviction rate in the magistrates' courts is 86.6%, which is slightly below national performance. It has improved since the OPA, although this is mainly attributable to reducing the number of warrants. There has been a reduction in the discontinuance rate but an increase in the rate of acquittals after trial by magistrates, which is comparatively high. We comment in paragraph 4.14 in respect of the lack of case building or late case preparation in magistrates' courts' cases. Stakeholders consider that weak cases are often prosecuted to trial rather than an earlier and more robust decision being made to discontinue.

Discontinuances in the magistrates' courts

- 4.6 The proportion of cases discontinued is better than national performance and improving. At the time of the OPA the discontinuance rate was 9.4% and this has now improved to 8.2%.
- 4.7 We examined ten discontinued magistrates' courts' cases, all of which had been the subject of a PCD. In three there had been no material change in circumstances since PCD and two should have proceeded as originally advised. The decision to discontinue was in accordance with the full Code test in eight of the ten cases (80%). The decision to discontinue was timely in four (40%) and the police were consulted in seven (70%) of the ten.
- 4.8 The authority of a unit head is only required to discontinue hate crime and domestic violence cases and not for other types of cases, whether or not they have been the subject of a PCD. The monitoring of discontinued cases is only done through the casework quality assurance scheme or if a case is drawn to the attention of unit heads by the police. We comment further on this in paragraph 11.8.

Discharged committals

- 4.9 There were relatively few cases (four in 2008-09) where the committal proceedings were discharged because the prosecution were not ready and the court refused an adjournment.

Case preparation and progression

- 4.10 The area implemented the CPS national optimum business model (OBM) for handling the progression of magistrates' courts' cases in January 2008. The purpose of OBM is to improve the timeliness of trial review through proactive case management. Surrey operates two case progression OBM teams which are run on similar lines. Two lawyers, some administrators and a case progression officer are allocated each day to both teams, with additional support being provided when available, but the competing priorities of court and charging centre cover have meant that there have been abstractions. We were concerned that accumulated backlogs were addressed by employing an agent for two weeks during the summer to work on the teams as he would not have had the legal status to make decisions on behalf of the CPS. However, the teams are consistently well covered by administrative staff.
- 4.11 Work within the OBM teams includes reviewing files for the first date of hearing, undertaking full file reviews, preparing applications to court, warning witnesses, dealing with disclosure of unused material and responding to correspondence. Work is delegated by the OBM managers, and prosecutors and associate prosecutors are required to complete time sheets to show how many cases they have dealt with each day. This is unpopular as staff feel it does not take account of the complexity of some cases which may require extensive consideration, while others can be dealt with relatively quickly. It should be possible to add such detail to the time sheets, which will add to their value as a performance management tool.
- 4.12 Although OBM has led to considerable improvements in administrative case preparation since the OPA, the absence of legal staff is having some detrimental effect on case preparation and progression. We undertook a check of how well the OBM teams were working and found a number of cases awaiting full file review, some unanswered correspondence and lack of clarity over what work was required on some files in the pending tray.
- 4.13 This confirmed findings from our file sample. Overall files are very untidy, making it very difficult to locate documents quickly. This can lead to duplication of effort by lawyers and time being wasted trying to establish the current position on a case. The OBM standard folder system for correspondence is in the process of being introduced and this should assist.

Aspect for improvement

The optimum business model folder system for magistrates' courts' cases should be implemented.

- 4.14 The absence of lawyers on the system has led to files being reviewed at the last minute which can impact on trial preparation. There is generally very little action on files, apart from chasing the full file or responding to correspondence, between setting the case down for trial and receipt of full file. This means that actions that should or could have been completed, for example making bad character applications, are often not dealt with until very close to the trial date and in some cases not at all. There was timely completion of actions between plea and trial date in 15 out of 31 cases (48.4%) and applications were made in a timely manner in eight out of 17 (47.1%).

- 4.15 Weaknesses in the quality of continuing review and decision-making seem on the whole to stem from lack of experience or knowledge (we discuss the disclosure of unused material in detail in chapter 8). Action is not always taken to build the prosecution case, for example by requesting further or supporting evidence. Appropriate decisions are not always made whether to warn, tender or serve witnesses statements. Witness summonses are almost routinely requested for witnesses who indicate an unwillingness to attend court, with no consideration of what action will be taken if they fail to respond to the summons. If the area is to build on the improvements that have been made there is a need for better management of the quality and timeliness of the legal work carried out under the OBM system and for training needs to be addressed.

RECOMMENDATION

Area managers should undertake regular checks of the quality and timeliness of legal work undertaken on the optimum business model case preparation unit and where necessary ensure that appropriate mentoring or training is delivered.

- 4.16 Criminal Justice: Simple, Speedy, Summary (CJSSS) was introduced in September 2007 for both adult and youth cases and is regarded as a success by external partners. Cases were set down for trial or pleas were taken at first hearing in 32 out of 35 files (91.4%) in our sample. However there were signs of some recent slippage and a rise in the number of cases set down for pre-trial reviews, and this will require future monitoring.

Youth cases

- 4.17 A youth specialist has been appointed and has delivered training to prosecutors, which was well received. External stakeholders are positive about the handling of youth cases. The government pledged to halve the time taken in 1996 to deal with cases involving persistent young offenders to 71 days from arrest to sentence. The average in Surrey was 63 days during 2008 compared to 57 nationally.

Overall persistent young offender performance (arrest to sentence)

National target	National performance (2008)	Area performance (2008)
71 days	57 days	63 days

Effective, ineffective and cracked trials

- 4.18 There is a shared target to reduce the rate of ineffective trials. These adversely affect victims and witnesses if they have attended court and delay the conclusion of individual cases. We consider it important to raise the rate of effective trials and reduce the rate of cracked trials.
- 4.19 Trial effectiveness is good and is better than national performance in all respects, as shown in the table below.

	National performance 2008	Area performance 2008	OPA 2007
Effective trial rate	43.4%	51.6%	50.8%
Cracked trial rate	38.3%	32.3%	29.7%
Ineffective trial rate	18.2%	16.1%	19.5%
Vacated trial rate	21.0%	17.4%	13.9%

4.20 The overall effective trial rate has increased slightly and is very good. The ineffective trial rate has improved from 19.5% at the time of the OPA to 16.1%, with the main reason for trials not proceeding being a lack of court time. Although the vacated trial rate has increased from 13.9% to 17.4%, this remains better than national performance. Although the main reason is late guilty pleas being entered by the defence, it may also be due in part to earlier identification by prosecutors of those cases which are not yet ready to proceed. The cracked trial rate has increased (become worse) from 29.7% at the time of the OPA to 32.3% and the main reason is similarly late guilty pleas being entered by the defence.

4.21 There were four ineffective trials in our sample of which two could have been avoided by prosecution actions. There were five cracked trials, two of which were dropped at court, one discontinued very close to the trial date and the remaining two where late guilty pleas were entered by the defence.

Use of the case management system – Compass CMS

4.22 There have been improvements in the use of CMS and all cases that had a full file review were recorded on it. Hearing outcomes were recorded within one day in 75.4% of cases in January 2009, as against a target of 75%. 70.7% of cases were finalised within one day against a target of 75%, which is a significant improvement from April 2008 when hearing outcomes were recorded in 23.8% of cases and finalised in 21.2%. Care also needs to be taken to ensure accurate finalisations; there were four cases in our sample that had been incorrectly finalised.

Conclusions

4.23 There have been significant improvements in administration and in the ability to proceed with hearings and trials. However weaknesses remain in both decision-making and the quality of case preparation.

5	DECISION-MAKING, PREPARATION AND PROGRESSION IN CROWN COURT CASES	OPA 2007	AI 2009	Direction of travel
		Fair	Fair	Stable

The quality of case decisions and continuing review

5.1 We examined 39 Crown Court case files and our findings are set out below.

Crown Court casework	Area performance
Decisions to proceed at committal or service of papers in accordance with the evidential stage of the Code test	89.7%
Decisions to proceed at committal or service of papers in accordance with the public interest stage of the Code test	100%
Indictments that were appropriate and did not require amendment	72.9%
Cases where prosecutor took action to progress case at PCMH	91.9%
Cases where there was timely compliance with PCMH directions	85.7%
Applications made and served within time limits	83.9%
Timely completion of actions and compliance with directions between PCMH and trial date	38.7%
Actions carried out by the correct level of prosecutor	100%
Cases where there was no continuity of prosecutor	12.8%
Ineffective trials that could have been avoided by prosecution action	50.0% (4 out of 8 cases)
Adverse outcomes that could have been avoided by better case preparation	36.3% (4 out of 11 cases)

5.2 The application of the evidential stage of the full Code test at either the committal stage or service of the prosecution case accorded with the Code in 35 out of 39 cases (89.7%) and the public interest test was met in all cases. Full file reviews were endorsed in 33 out of 39 (84.6%) and they were generally of better quality and more detailed than the full file reviews in the magistrates' courts' cases.

5.3 The area has an established protocol for the referral of cases to the CPS South Eastern Group complex casework unit. To date only three have been transferred and all were in accordance with the protocol. Cases are usually allocated to lawyers and caseworkers according to experience and ability, although time pressures sometimes override this. Casework is currently handled by a very small number of lawyers, including the unit head, who each carry a substantial caseload including the more serious cases retained by the area. To date there has been a lack of succession planning and we have concerns over these lawyers' workload. The move to combined units may, in part, address this as CJU lawyers begin to take on Crown Court casework; however, significant training and ongoing mentoring will be required.

- 5.4 The counts selected at committal or service of the prosecution case were correct in 27 out of 37 (73.0%) cases. Four amendments related to form, five to substance and one to both form and substance and all cases proceeded to trial on the correct indictment. There were five cases where pleas were accepted and the basis of the acceptance of the plea was endorsed in two.
- 5.5 Case management, whereby prosecutors work proactively with the police to build stronger cases by identifying what more is required to ensure a successful outcome, is generally good. However action was only timely in 18 out of 39 cases (46.2%). In the remaining 53.8% it was only fair (17 cases) or poor (four).

Asset recovery (proceeds of crime)

- 5.6 Duty prosecutors should consider asset recovery with police at the charging stage. It is then for police to investigate the defendant's financial situation and the CPS thereafter prepares and handles applications for confiscation of the proceeds of crime. The CPS has only limited ability to influence enforcement.
- 5.7 Surrey's performance has been historically poor and there has been little improvement despite several initiatives being discussed over many months. Although attempts have been made by managers to raise the profile of asset recovery cases by nominating a CJU lawyer to provide guidance to colleagues, and some training has been delivered, the majority of CJU lawyers lack the knowledge and confidence to deal with these cases.
- 5.8 The 2008-09 targets for confiscation were not met; 31 confiscation orders were obtained against a target of 83 with a value of £903,194 against a target of £2,007,000, although performance did improve in the final quarter of the year. However there is some doubt over the accuracy of the data. Performance is discussed at the local criminal justice board (LCJB) and, following liaison, there has been agreement by the police to commit more resources to their financial investigation unit. There have also been discussions over running a proceeds of crime clinic, similar to the rape clinic, to deal with serious financial offences but this is yet to commence.

RECOMMENDATION

The Area Strategy Board should ensure that the strategies devised to improve performance in asset recovery are fully supported and progressed.

Adverse cases: judge ordered acquittals and judge directed acquittals

- 5.9 We examined 11 cases ending in a judge ordered acquittal: in seven there was a material change in the evidential strength or public interest since the PCD, but in four (36.4%) the adverse outcome could have been avoided by better case preparation. We examined three judge directed acquittals. Although the outcome was foreseeable in all on the day of trial, none would have been avoided by better case preparation. Adverse outcome reports were not completed in any of the judge directed acquittals.

Successful outcomes

- 5.10 The overall conviction rate in the Crown Court is 77.7%, which is below the national performance of 80.8% but slightly better than 76.5% at the time of the OPA. The key outcomes are shown in the following table.

Case outcomes in the Crown Court	National performance 2008-09	Area performance 2008-09
Judge ordered acquittals	11.7%	11.7%
Judge directed acquittals	1.0%	1.4%
Acquittals after trial	5.5%	8.4%
Warrants	1.1%	0.8%
Overall conviction rate	80.8%	77.7%

- 5.11 There has been some improvement - particularly in respect of jury acquittals which have improved from 12.0% to 8.4% - since the last OPA, but overall performance remains poor. Adverse outcome forms are prepared but vary in quality and there should be a more detailed analysis of potential trends. Closer scrutiny of individual cases would allow more beneficial feedback to individuals and partner agencies. We discuss this further in chapter 11.

RECOMMENDATION

Area managers should ensure that there is a more robust and systematic approach to the analysis of adverse outcomes in Crown Court cases. Issues identified should be the basis for more detailed feedback both within the organisation and to partner agencies to ensure lessons are learnt.

Case preparation and progression

- 5.12 Caseworkers are responsible for preparing committals and papers for service of the prosecution case. The high level of deployment of TU lawyers to conduct advocacy means that lawyers are not always available in the office to review committal papers. All cases in our file sample were committed on the date set down by the court, although it was apparent that they were being prepared very close to the committal date and were invariably served on the defence on the day itself. The court and defence were notified in circumstances where the prosecution were unable to meet the timescales for service of papers in sent cases.
- 5.13 Progress at the plea and case management hearing (PCMH) was timely in 34 out of 37 cases (91.9%) and directions made pre-PCMH were complied with in 30 out of 35 (85.7%). Applications such as special measures and bad character were made in a timely manner in 26 out of 31 cases (83.9%) and plea and sentence documents were usually present on the files examined.
- 5.14 The completion of all necessary actions and compliance with directions between PCMH and trial was less satisfactory; only 12 out of 31 cases (38.7%) were completed on time. This may in part be due to caseworkers acting as their own case progression officers rather than having a central dedicated case progression team. There is no agreed system for monitoring directions, which is left to individuals to manage. No management checks are carried out and compliance is on an exception basis, for example if lack of progress on a case is brought to a manager's attention by stakeholders. Caseworkers have a sound knowledge of their own cases but there is no agreed system for dealing with case progression in the event of unplanned absence.

Aspect for improvement

A system should be developed to improve case progression and ensure compliance with court directions.

- 5.15 CPS crown advocates conduct the majority of PCMH cases which are then passed to a crown advocate with the necessary expertise within the area jury unit, or to external counsel, to conduct the trial. There is no system for ensuring that the crown advocate or counsel who prosecuted the PCMH will retain the case for trial. There is non-compliance with the CPS/Bar framework that cases likely to be contested should be allocated to the trial advocate before the PCMH. Crown advocates are not specifically allocated preparation or reading time in advance of a trial and cases often require remedial work to be undertaken on the day of trial to ensure they can proceed.
- 5.16 The quality of instructions to counsel in our file sample was variable. None were assessed as excellent. Out of 39 cases 15 (38.5%) were good; 15 (38.5%) fair and nine (23.1%) poor. Those not meeting the necessary standard lacked a detailed analysis of the case identifying strengths and weaknesses and did not contain instructions on acceptability of pleas.

Appeals

- 5.17 Appeals against conviction or sentence and committals for sentence are handled appropriately. All lawyers dealing with Crown Court work are aware of the need to refer cases to the unit head promptly where it may be appropriate to send the case to the Attorney General to consider a reference to the Court of Appeal in relation to an unduly lenient sentence. One case was referred during the last 12 months and the sentence was increased.

Effective, ineffective and cracked trials

- 5.18 There is a shared target with criminal justice system partners to reduce the level of ineffective trials. These adversely affect victims and witnesses if they have attended court, delay the conclusion of individual cases and waste available court time.

	National performance 2008	Area performance 2008	OPA 2007
Effective trial rate	47.5%	64.0%	60.7%
Cracked trial rate	41.0%	21.6%	27.4%
Ineffective trial rate	11.6%	14.4%	11.9%

- 5.19 Trial effectiveness is good and significantly better than national performance, moreover there has been an improvement of almost 3.5% since the OPA report. Cracked trials are almost half of the national figure which is commendable. The ineffective trial rate has risen from 11.9% at the time of the OPA to 14.4%, and is now worse than national performance of 11.6%.
- 5.20 We received mixed feedback, some of which indicated that there were regular defects or faults in case preparation that meant cases did not proceed promptly or led to ordered acquittals.

Use of case management system – Compass CMS

5.21 Full file reviews and other work is usually completed on CMS and the flagging of cases is good. However as discussed at paragraph 4.22 care needs to be taken when finalising cases as three in our file sample were incorrectly finalised.

Conclusions

5.22 Outcomes remain significantly less successful than nationally. The ability of the prosecution to proceed with cases is good, but the quality of decision-making and case preparation is variable. Performance can therefore be described only as adequate, and with some weaknesses.

6 THE PROSECUTION OF CASES AT COURT	OPA 2007	AI 2009	Direction of travel
	Poor	Fair	Improved

- 6.1 At time of the last OPA the prosecution of cases at court was being severely hampered by the administrative difficulties in the area, to the point that files were frequently not available in court. This has improved significantly although there are still examples of files not being at court at the right time. The area has substantially reduced its use of agents in the magistrates' courts which has been well received and crown advocates are undertaking a significant amount of Crown Court advocacy. The use of in-house advocates means that decisions can be made immediately without the need to delay proceedings or waste court time.
- 6.2 Advance information is available before the court hearing and, where the identity of the defence representative is known, it will be served in advance. Cases are ready to proceed on the first hearing. Advocates usually arrive at court in a timely manner, but we were given examples of a few late arrivals. This leads to delays in proceedings because defence solicitors/counsel may not have a chance to speak to the prosecutor and take instructions from their client before court sits.
- 6.3 Preparation time remains an issue for advocates in both the magistrates' courts and Crown Court. In the magistrates' courts advocates are allocated half a day to prepare for youth courts or early administrative hearing courts. In the Crown Court no specific time is allocated and there were still examples of counsel receiving cases very close to the hearing date. None of this allows for adequate preparation, nor does it permit any remedial work to be undertaken.
- 6.4 The lack of preparation time is reflected in the standard of advocacy. Advocates are described as reactive rather than proactive and are not always able to address issues raised by the court. This can give the impression that the advocate does not have the requisite knowledge of the case papers. Advocates in the magistrates' courts are further hampered by untidy files which can make it difficult to find papers as required. This can give the impression of a lack of professionalism or preparation. We saw examples of this in our court observations.

The standard of advocacy

- 6.5 The CPS has set national standards for its advocates, internal or external. They were updated in autumn 2008 and contain standards, guidance and prompts. Paramount is that prosecution advocates act and are seen to act, in the public interest, independently of all other interests, fairly, fearlessly and in a manner that supports a transparent system that brings offenders to justice, respects the rights of the defendant and protects the innocent. We assess advocates against these standards, bearing in mind that the court sessions will vary from trials to bail applications to pleas of guilty and remand courts.
- 6.6 We observed a number of advocates in different courts. Our findings are set out in the table below.

Advocacy standards

	Level	Number	Number	Number	Number
		CPS advocates/ associate prosecutors in the magistrates' courts	Counsel/ solicitor agents in the magistrates' courts	Crown advocates and other CPS advocates in the Crown Court	Counsel in the Crown Court
Assessed as	1	-	-	-	-
above normal	2	1	1	1	1
requirements					
Against CPS	3+	2	-	-	-
national standards	3	3	-	-	3
of advocacy	3-	2	-	1	2
And those	4	1	-	-	-
assessed as	5	-	-	-	-
less than					
competent					

Assessment:

1 = Outstanding; 2 = Very good, above average in many respects; 3+ = Above average in some respects

3 = Competent in all respects; 3- = Technically competent, but lacking in presence or lacklustre

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

- 6.7 We found that the quality of advocacy is significantly variable, as set out in the table above. We assessed 18 advocates in both the magistrates' courts and Crown Court. Most of the advocacy that we observed was competent or above average but there were concerns over the performance of a few in-house prosecutors in both courts. Feedback in respect of crown advocates indicates that not all have the requisite skills and knowledge and further training or mentoring may be necessary. Associate prosecutors are exercising their extended powers and are highly regarded.
- 6.8 Guildford Crown Court has four court rooms in its own building and one located in the magistrates' court. Caseworkers provide cover and one covers two courts. A third of Surrey's Crown Court cases are heard at Kingston. The area only provides caseworker cover for the start of more complex or sensitive cases and so it is not uncommon for counsel to have no support at court other than the police officer in the case. This can have an adverse impact on counsel and the police and can cause unnecessary delay in proceedings where documents have to be located and copies made. Implementation of the paralegal review may assist. There is no agreement with CPS London to cover these cases.

Aspect for improvement

Adequate cover must be provided for cases heard at Kingston Crown Court and if necessary the Area Strategy Board should negotiate a service level agreement with CPS London for court cover.

- 6.9 The level of compliance with the Prosecutors' Pledge, Victims' Code of Practice and Witness Charter is satisfactory. Prosecutors introduce themselves to victims and witnesses, although in the Crown Court victim and witness care is left mainly to the Witness Service, with whom the area has a good working relationship.

Court endorsements

- 6.10 The quality of file endorsements in the magistrates' courts is variable. Some are incomplete, lack detail, clarity and are difficult to read. None of the files we examined were rated as excellent; 37 (46%) were good; 37 (46%) fair; and six (8%) poor. There is no consistency in how files are endorsed. Most were on the inside of the file jacket but a few files had court endorsement sheets, or separate pieces of paper. Not only does this make it difficult for the advocate in court to trace the history of the case, but it can lead to out of court actions being missed. The endorsements in Crown Court cases are significantly better than in magistrates' courts' cases.
- 6.11 We noted that endorsements are not always completed contemporaneously in the magistrates' courts. We observed nine advocates (one associate prosecutor and eight CJU lawyers) in the magistrates' courts. Only one of these lawyers made endorsements contemporaneously, that is during the cases whilst the bench were considering a matter or reading a document. One lawyer made notes on a piece of paper which was slipped into the file. Others made a contemporaneous endorsement of the next hearing date and occasionally any action points, for example special measures. Apart from that they would do their endorsements at the end of the court day. This would account for the lack of detail and clarity referred to above and there is risk that important information could also be missed.

Aspect for improvement

Advocates should complete court endorsements as soon as practicable and they should be clear, legible and completed on the appropriate part of the file jacket.

7 SERIOUS VIOLENT AND SEXUAL OFFENCES AND HATE CRIME	OPA 2007	AI 2009	Direction of travel
	Poor	Fair	Improved

- 7.1 Serious violent crime includes causing grievous bodily harm and wounding, offences using weapons, fatal road traffic offences, homicide, rape, child abuse and domestic violence. Hate crime includes racially aggravated and homophobic offences, elder abuse and disability aggravated offences. The CPS is committed to helping make communities safer and to bringing offenders to justice.

Identification and management of sensitive cases

- 7.2 The major crime unit at Surrey Police have established good links with the CPS trials unit head. Early warning of sensitive cases is given if this is possible. Unit heads are responsible for the allocation of all case work and this is usually done according to experience and taking account of specialisms. The TU head retains personal conduct of a number of serious and sensitive cases.
- 7.3 Most cases are identified correctly and flagged on CMS, although the correct flags were not used in all the relevant cases in our file sample. Unlike many areas Surrey does not use any additional markers such as coloured stickers or highlighters on the front of file jackets to draw the file to the attention of the prosecutor in court.

Specialists and experts

- 7.4 The area has a list of champions and co-ordinators for all categories of sensitive cases, but there is a lack of clarity as to what is expected of them in this role, and whether or not they have an objective in their personal development review is left to the individual's line manager. None of the champions or co-ordinators are allocated specific time to develop their specialisms. Only the rape co-ordinator has been involved in the analysis of adverse outcomes. A recent decision has been made that unit heads should have a strategic overview of the co-ordinator role but it is not clear exactly what this will involve.

Aspect for improvement

There is a need to:

- fully define the role and responsibilities of the specialist crime champions/co-ordinators; and
 - allocate them time to monitor sensitive and hate crime cases and analyse unsuccessful outcomes.
-

The quality of advice and decisions

Outcomes

- 7.5 The area has achieved better than national performance in terms of unsuccessful outcomes for each of the serious violent, sexual and hate crime offence categories listed below. It has also improved its performance for each category from 2007-08.

Unsuccessful case outcomes

	National target	National Performance 2008-09	Area performance 2008-09
Rape	41%	42.3%	40.6%
Domestic violence	28%	27.8%	25.8%
Racially/religiously aggravated	18%	17.6%	12.5%
Homophobic	18%	19.5%	13.3%

- 7.6 In particular the percentage of unsuccessful outcomes for domestic violence offences has improved from 36.1% in 2007-08 to 25.8% in 2008-09. Unsuccessful outcomes for racially/religiously aggravated hate crimes have been reduced by half, with 12.5% unsuccessful outcomes in 2008-09 for these offences compared to 24.2% in 2007-08.

Homicide

- 7.7 There are few homicides and we examined two cases. They are dealt with by one or two experienced lawyers who have established good liaison with the murder investigation team at Surrey Police. They retain personal conduct of the case from the investigation stage, when they will provide out-of-hours advice if requested, until the conclusion. Both cases were dealt with to a high standard. One crown advocate has acted as a junior in a homicide case.

Rape and serious sexual assault

- 7.8 Since the last inspection the area recognised that performance on prosecuting rape cases needed to improve. It has redefined who can be classified as a rape specialist and cases are now usually allocated more appropriately. A lawyer with external experience in this field was appointed as rape champion and has undertaken considerable work within the area and with external partners. New and more constructive lines of communication have been opened with the police and the local Sexual Assault Referral Centre. All outcomes have been scrutinised on a one-to-one basis with a senior police officer, which identified training needs for both organisations and produced changes in the way evidence was gathered and presented. A protocol for handling rape cases has now been agreed with the police and a rape clinic has been established one half day every week, which has been welcomed by the police. Individuals are not specifically scheduled and so there can be a lack of continuity, particularly if a case has to return at a later date once additional work has been completed.
- 7.9 The rape conviction rate has improved from 57.1% in 2007-08 to 59.4% in 2008-09.

Strength

Over the last 12 months the area rape co-ordinator has been proactive in engaging other agencies and implementing new initiatives to address the low conviction rate for rape offences.

7.10 We examined ten rape cases, all of which were handled by rape specialists. The decision-making and quality of the initial review was consistently good with one deemed excellent. However we identified a number of issues in the cases:

- there was a lack of continuity of prosecutor in four cases (40%);
- a report from counsel was only obtained in two out of four cases where an adverse outcome occurred; and
- in two cases there was no record of a second opinion being obtained where this was appropriate.

Road traffic cases involving fatalities

7.11 We examined three cases and agreed with the decision to charge in all of them, albeit in one careless driving should have been added to the imprisonable failing to stop and report offences to cover the standard of driving. Although the cases were handled well insofar as preparation and progression was concerned, there were a number of aspects that did not accord with CPS national policy and where there was a lack of awareness of our recent second thematic review of the CPS's decision-making, conduct and prosecution of cases arising from road traffic offences involving fatalities (published November 2008).

- There was a lack of liaison with the magistrates' courts over the first listing of the cases to ensure proper arrangements could be made for the families of the deceased.
- There were a lack of instructions to associate prosecutors as to the relationship between the inquest and fixing of a trial date, or to presenting the case in the event of a guilty plea.
- There was no continuity of prosecutor for the family of the deceased if the case went to the Crown Court.
- There were no endorsements on the file to show the CCP had approved the decision to charge.

7.12 In two of the three cases examined there were complaints from families which highlighted a lack of awareness of their needs. There were also issues around not offering meetings with the families of the victims, or indeed declining to hold a meeting in one case because the family wanted their lawyer present.

RECOMMENDATION

Area managers should examine the handling of road traffic fatality cases to ensure compliance with CPS policy.

Domestic violence and hate crime

7.13 Since the OPA the area has ensured all prosecutors have received the national training on the prosecution of domestic violence cases. Despite this the prosecutor at the charging centre did not consider the availability of special measures in eight out of the 18 cases examined (44.4%). The conviction rate for offences of domestic violence in 2008-09 was 74.2%, compared to national performance of 72.2%. The overall conviction rate for violence against women was 73.0% compared to a national performance figure of 71.9%.

- 7.14 Successful outcomes in racially and religiously aggravated offences have improved and are 87.5%, compared to the OPA when it was 75.8% and to current national performance of 82.4%. We examined five cases involving racially and religiously aggravated offences. In one there was a failure to comply with CPS national policy. The quality of the record of charging decisions was mixed: two were good; two fair; and one poor. In this case the appropriate charge was not advised and the requirements for dealing with sensitive cases were not met.
- 7.15 A hate crime scrutiny panel has been established jointly with Sussex CPS and is proving to be a successful tool for external and independent examination of hate crime cases. Feedback from the panel is disseminated by the attending CPS representatives. However only a small number of cases are examined by the panel, so to rely on this as the main means of assessing overall performance in hate crime is a risk.

Child abuse

- 7.16 We examined five child abuse cases all of which were handled to a satisfactory standard, save for the lack of consideration of social services' records until many months after charge. There were four cases in our sample where this happened, one of which resulted in a late discontinuance in a case which should not have proceeded. In three that were discontinued letters of explanation were not sent to the victims or their parents or guardians.
- 7.17 Special measures are not always considered in child abuse cases at the PCD stage even where the victim is automatically entitled to them. Once the case is set down for trial significant effort is made to ensure that young witnesses are given sufficient care and consideration. The rape co-ordinator has worked closely with other agencies to ensure that where possible an application is made to use a remote video link site to allow young victims not to attend the Crown Court unnecessarily. Where attendance is required the area notifies a local NSPCC group to provide information and support to the witness.
- 7.18 It was highlighted in our last full inspection of Surrey that it was not always possible to tell from the file whether the CPS lawyer had viewed the video recorded interview of the child victim before advising on charge, which is in breach of CPS guidance. In our small sample three files had no such indication. Furthermore in a fourth case the lawyer had failed to record any assessment of the evidence contained in the video.

RECOMMENDATION

Prosecutors should always view the video recorded interviews with child witnesses, assess the quality of evidence and record this.

Safeguarding children

- 7.19 The area has limited contact with the local safeguarding children board through the LCJB.

8 DISCLOSURE OF UNUSED MATERIAL	OPA 2007	AI 2009	Direction of travel
	Poor	Poor	Stable

Decision-making and compliance with the duties of disclosure

8.1 The last OPA assessed compliance with the prosecution's duties of disclosure as poor. There has been no improvement in the quality of decision-making and compliance, which remains poor. In the table below we compare the findings in this inspection with those in our thematic review of the duties of disclosure of unused material undertaken by the CPS (published May 2008).

	Overall findings in thematic review	Area performance in this inspection
Initial (or primary) disclosure dealt with properly in magistrates' courts' cases	55.0%	43.8%
Continuing (or secondary) disclosure dealt with properly in magistrates' courts' cases	81.8%	40.0%* (6 out of 15 cases)
Initial (or primary) disclosure dealt with properly in Crown Court cases	57.5%	13.9%
Continuing (or secondary) disclosure dealt with properly in Crown Court cases	69.7%	60.0%
Disclosure of sensitive material dealt with properly in magistrates' courts' cases	26.7%	66.7%* (2 out of 3 cases)
Disclosure of sensitive material dealt with properly in Crown Court cases	54.5%	70.0%* (7 out of 10 cases)

* Based on a small file sample

Initial disclosure

8.2 Initial disclosure means providing the defence with any material which has not previously been disclosed to them and which satisfies the test that it might undermine the prosecution case or assist that of the defence. The duty to disclose under the Criminal Procedure and Investigations Act 1986 (CPIA) arises when a not guilty plea has been entered in the magistrates' courts, the defendant is committed to the Crown Court, or upon service of the prosecution case when the defendant is sent to the Crown Court.

8.3 There were 68 cases in our file sample where initial disclosure was applicable. It was handled properly in 14 out of 32 (43.8%) in the magistrates' courts and in five out of 36 in the Crown Court (13.9%). These findings are significantly worse than the assessments carried out of a number of CPS areas in our thematic report. Although it would appear that initial disclosure is better handled in the magistrates than the Crown Court this is not necessarily the case because there is some reliance in Crown Court cases on the service of schedules in the magistrates' courts, as discussed in the next paragraph.

- 8.4 Since the introduction of CJSSS, which is intended to reduce time between a not guilty plea and trial date, the area has reached agreement with the police that unused material schedules will be provided with the initial file. Rather than waiting for the full file to be provided by the police prosecutors serve unused material prior to, or at, the first magistrates' court hearing, which is often before a not guilty plea has been entered by the defendant. The reason for this is to avoid ineffective trials for non-disclosure on the part of the prosecution. Although this has had the desired effect insofar as 0.6% of cases were ineffective for reasons connected with disclosure, many of the examples of non-compliance were as a direct result of this practice. The timing does not comply with the CPS/Association of Chief Police Officers (ACPO) Disclosure Manual or the CPIA Code of Practice.
- 8.5 There was an over reliance on the views of the police disclosure officer's report; non-sensitive unused material schedules (MG6Cs) were frequently served when there was clearly more material that should have been included or where there were poor descriptions by the police as to the content of the material, and copies of the material had not been requested by the prosecutor. This was compounded by a lack of endorsements or blanket endorsements on the MG6C by prosecutors, which meant it was unclear that they had studied the material and made a considered decision as to whether that listed should be disclosed. Prosecutors sometimes failed to sign the schedule.
- 8.6 More significantly in three cases out of 49 (6.1%) the failure was due to non-service of material that might undermine the prosecution or assist the defence. Although there is no suggestion that in any of these cases the outcome would have been affected this, coupled with our findings in paragraph 8.8 below, represents a significant risk.

Continuing disclosure

- 8.7 There is a continuing duty upon the prosecutor to keep under review the question of whether or not there is any material which satisfies the disclosure test. This would be particularly important in Surrey in the light of the provision and service of the MG6C at a very early stage. This duty applies whether or not a defence statement is received. No files in our sample were endorsed to the effect that the decision in respect of initial disclosure was ever reconsidered, except where a defence statement was received.
- 8.8 Continuing disclosure was dealt with correctly in six out of 15 magistrates' courts' cases (40%) and 18 out of 30 Crown Court (60%). In four out of 21 relevant cases (19%) there was non-disclosure of potentially undermining or assisting material.

Sensitive material

- 8.9 There were 13 cases in our sample which contained sensitive material schedules (MG6Ds) and this was generally handled much better than non-sensitive unused material. The schedules and material were handled appropriately in two out of three magistrates' courts' cases (66.7%) and in seven out of ten (70.0%) Crown Court. There were, however, four cases in the Crown Court file sample where non-sensitive material was listed inappropriately on the sensitive schedule and action was only taken by the prosecutor to have the material relisted on the non-sensitive schedule in one case.

- 8.10 There are very few cases where public interest immunity (PII) considerations apply and they are always referred to the unit heads and the CCP. Managers are aware of the correct procedures for notifying CPS Headquarters in such cases. There was only one case in our file sample involving PII issues, which was handled appropriately. There are secure systems for the storage of sensitive material and those schedules which, on the face of it, contain sensitive material. However in those cases where the MG6D is stored separately the file is not always endorsed to show the existence or whereabouts of the schedules.
- 8.11 Although some attempts have been made to agree a protocol with Surrey Social Services for the disclosure of third party material, this has so far been unsuccessful. This has led to delays in some cases and on occasions ineffective trials and late discontinuance of cases once the material has been considered.

Aspect for improvement

Steps should be taken to agree a protocol with Surrey Social Services for the disclosure of third party material.

File housekeeping

- 8.12 File housekeeping in respect of magistrates' courts' cases is poor generally and this includes disclosure documents. Disclosure letters and schedules were frequently mixed with general correspondence or within the body of the file. Copies of the schedules were not always attached to the copies of letters to the defence, so where a full file was subsequently received it was difficult to assess whether this contained the same schedule as the one originally served. In a few cases the schedules were missing from the file, with the implication being that the original had been served on the defence.
- 8.13 Crown Court files were significantly better organised with a separate disclosure folder being utilised in nearly all cases. This contained unused material, schedules and correspondence with the defence and police.

Use of the disclosure record sheet

- 8.14 Despite the CPS requirement and our comments in the last two OPAs and the last inspection, the disclosure record sheet is still not routinely used in cases to record the chronology of events and reasons for disclosure decisions. It was used correctly in 22 out of 68 cases (32.4%), of which only five were magistrates' courts (7.4%).

Action to improve

- 8.15 The area's two disclosure champions have provided training to the police and internally. Other members of staff have also contributed to training newly recruited police officers and those dealing with sexual offences. This training has been well received.
- 8.16 Our earlier poor assessment was confirmed by a CPS Headquarters review and by an internal dip sampling exercise. Feedback was provided to staff by e-mail and in writing and some limited face-to-face training has subsequently taken place. The area developed an action plan to improve the handling of unused material but this has not been reviewed as regularly as intended

and progress against the majority of items has been loosely assessed as 'ongoing'. We appreciate that there are competing priorities but this casual attitude to the important duties of disclosure is not one that can continue.

RECOMMENDATION

The Area Strategy Board should implement the area action plan for disclosure and ensure systematic and robust monitoring is carried out and the disclosure record sheet is used in all cases to record the decisions and actions in relation to disclosure.

9 CUSTODY TIME LIMITS	OPA 2007	AI 2009	Direction of travel
	Poor	Fair	Improved

Area custody time limit systems

- 9.1 The area has adopted the updated national policy and standards for custody time limits (CTLs) and is currently drafting desk top instructions. Administrative and legal champions have put in place quality and assurance checks to ensure that CTLs are correctly calculated, updated and dealt with in good time.
- 9.2 Weekly checks of both CMS and manual diaries are completed by case progression managers responsible for the magistrates' courts. The checks examine CTL cases for the following three weeks. These reports are passed to the unit heads for assurance purposes. Where expiry of a time limit is within the following ten day period applications to extend them are served on the court and defence. Similarly in Crown Court cases regular, although less frequent, checks are conducted by the senior casework manager who submits a report to the unit head for assurance purposes. Whilst the checks are being conducted the results of our file examination indicate that they need to be more robust, particularly for more complex cases with multiple defendants and/or charges.

Adherence to custody time limits

- 9.3 There have been no CTL failures since the last inspection.
- 9.4 We examined nine files and the time limits were correctly calculated in all but one. Expiry and review dates were recorded in the manual diary system and on CMS. There was evidence on most files that the dates had been double checked. However file endorsements were of variable quality, including some instructing administrative staff to begin monitoring CTLs without indicating if they applied to all the charges or only particular ones. Indeed only one file indicated that separate expiry dates applied to different charges. In one case where a charge was added a new date was not added to the case file.
- 9.5 In one particular case the original calculation of the expiry date (56 days) had been correctly entered onto the file but had subsequently been changed wrongly. This error was not identified by any checks; fortunately the trial was fixed before the 56 day expiry date.
- 9.6 CTLs are treated seriously by managers. Training is given to relevant staff and forms part of their induction process. Updates from CPS Headquarters and other good practice points are also circulated through the champions. Despite this, and the systems employed to bring about improvement, some staff are not aware of or are not adhering to the systems that are in place. This emphasises the need for continuous awareness of CTL procedure and practice.
- 9.7 Applications to extend limits were made in time in all relevant cases examined. There was one example where a clear explanation was made regarding the reasons why the prosecution requested an extension but most relied on a template letter that, in some cases, was not properly edited. Whilst all applications to extend had a chronology attached, most contained little detail of whether there was "good and sufficient cause" in the case or whether the prosecution has acted with "all due diligence and expedition" as required.

Aspect for improvement

Managers should remind all relevant staff that custody time limit expiry dates apply to each charge. Endorsements on the file should indicate which expiry date applies to which charge. Applications to extend custody time limits should comprehensively set out the reasons why such an extension is justified.

- 9.8 A service level agreement has recently been agreed between the CPS and Her Majesty's Courts Service to the effect that, in magistrates' courts' cases, the prosecutor will agree CTL expiry dates with the legal advisor to the court for each charge when a defendant is first remanded into custody. In Crown Court cases the prosecutor should confirm the expiry date with the judge at the first hearing. It also agrees with the police that they will expedite actions relating to CTL cases and that the CPS will keep police informed of the defendant's time limit status. Although the agreement has only recently been signed (March 2009) the practical application should have been operating for some time, although there was limited evidence of this from the file examination or the court observations undertaken by inspectors.

10 THE SERVICE TO VICTIMS AND WITNESSES	OPA 2007	AI 2009	Direction of travel
	Fair	Fair	Stable

Meeting the needs of victims and witnesses

- 10.1 There is a service level agreement with the magistrates' courts and witness care unit (WCU) to promote standard practice and ensure a quality service to witnesses. It aims to ensure that the information flow is accurate, timely and compliant with the Victims' Code.
- 10.2 Prosecutors should assess the needs of victims and witnesses at the PCD stage and take into account any specific requirements and the views of the victim or victims' family in deciding whether or not to charge a case. As we have discussed in chapter 3, this is not always done.
- 10.3 Victim personal statements (VPSs) are not always available and performance in obtaining them had declined. In January 2008 the opportunity to make a VPS was offered by police to 50 out of 124 victims (40.3%) and was taken up by 23. In December 2008 one was offered and taken up out of 107 (0.9%). In our file sample there were 30 cases where a VPS should have been offered and there was one present in the file in nine (30.0%) of them, all of which were Crown Court cases. There was nothing on the file to indicate that the prosecutor had taken action to request police to seek a statement from the victim in the remaining 21 cases.

Aspect for improvement

Prosecutors should ensure that they request police to seek a victim personal statement if one is not present in appropriate cases.

Direct communication with victims

- 10.4 At the time of the last report compliance with the direct communication with victims (DCV) scheme, whereby the CPS writes to a victim explaining why a charge has been dropped or substantially changed, was weak which was mainly attributable to the administrative backlogs. Since then the area has undertaken work to improve compliance with the timeliness and quality of letters. Following a review by CPS Headquarters an action plan was drawn up and training has been delivered to all staff.
- 10.5 Timeliness of all letters has improved. In 2008-09 Surrey sent 81.6% within the timeliness target; at the time of the last OPA the corresponding figure was 39.0%. Performance for vulnerable and intimidated witnesses is even better at 91.9% although not all relevant cases are being flagged, either on the file jacket or on CMS. Despite the improvement overall timeliness is still weak compared to national performance. In terms of volume performance has also improved and the area achieved 85% of its proxy target, although again comparison to national performance (of 117%) indicates room for improvement.

- 10.6 There were 25 cases in our file sample where the DCV initiative applied. There was full compliance in seven (28%) by way of timeliness, quality of the letter and an offer of a meeting in mandatory cases. The quality of the letters varied from excellent to poor, with the majority being fair. Most contained an adequate explanation but there was an over reliance on standard paragraphs and templates, meaning they lacked empathy or the personal touch and often did not include the details of appropriate support groups. Ideally letters should be despatched at the same time or before the discontinuance notice to ensure that the alleged victim does not find out the case has been dropped indirectly (for example, through the media) or after the defendant. A number of letters were sent very late and these rarely included an apology.
- 10.7 In certain categories of cases such as rape, child abuse, those involving a fatality, or racially aggravated offences, a meeting should be offered to the victim or victim's family to explain the reasons for the decision to discontinue the case. Between April 2008-January 2009 38 letters were sent in rape, child abuse and racially aggravated offences. Meetings were not offered in any of these. In our file sample there were three child abuse and one rape cases where no meeting was offered and they were not held in two fatal road traffic cases where they should have been.

RECOMMENDATION

The Area Strategy Board should:

- undertake a further review of the quality and timeliness of direct communication with victims and Victims' Code letters;
 - ensure that the witness care unit are provided with copies of all letters;
 - ensure letters are recorded on the case management system; and
 - ensure that where appropriate meetings are offered to victims.
-

Special measures

- 10.8 As discussed at paragraph 3.5 duty prosecutors do not always consider special measures at the PCD stage. Information is not always provided by the police and prosecutors lack proactivity in seeking further information or supporting evidence. This was particularly so in respect of young witnesses in child abuse cases, and domestic violence cases. In several instances the duty prosecutor seemed to be unclear as to the eligibility of the particular witness. There were also three cases where victims had disabilities that were not addressed at PCD.
- 10.9 Needs assessments are carried out by the WCU when they make initial contact with the witness and the majority of applications made are appropriate and timely. Performance is better in the Crown Court where consideration is automatically part of the PCMH process, than the magistrates' courts where applications are often made out of time. The WCU and Witness Service are not always informed when special measures have been granted or refused.

The care and treatment of victims and witnesses at court

- 10.10 Most prosecutors introduce themselves to victims and witnesses at court and they are treated in a courteous manner and kept informed of the progress in the case.
- 10.11 The level of satisfaction of victims and witnesses is monitored via the national witness and victim satisfaction survey (WAVES). The latest data from February 2009 shows a good performance with 89% satisfied with their treatment by staff in the criminal justice agencies, which is an improvement on 87% at the time of the last OPA. However waiting times at court continue to be an issue. It was apparent from our court observations that witnesses are routinely warned to attend court at 9.30am for the first day of trials although their evidence may not be heard until much later that day or on a following day. Better consideration should be given to the use of 'batting orders' to meet the Victims' Code objective that no witness should wait for more than two hours.

Witness care units

- 10.12 The WCU is staffed and managed by the police with one member of CPS staff. The unit is based at the CPS office which facilitates a good working relationship between it and CPS staff and there is a specific service level agreement in place. Needs assessments are completed for all victims at the earliest opportunity and in particular the WCU has two trained domestic violence witness care officers. A victim contract agreement has been developed with the police specialist teams for sensitive cases which sets out who will be the single point of contact for victims or victim's families. However this was not endorsed on the CPS copy of the file in any of the cases in our sample.
- 10.13 The WCU manager meets regularly with the Witness Service and CPS to discuss issues of concern. There is a good working relationship with Victim Support and the Witness Service, who regard senior area managers as approachable and committed to improving the service to victims and witnesses. Performance is discussed at the local performance group meetings and the LCJB victim and witness sub group.
- 10.14 Timeliness of the provision of lists of witnesses to attend court has improved. These are usually e-mailed to the WCU who also have a direct link to the police, which enables them to provide up to date availability of police witnesses in advance of the first hearing. The area is exceeding the target for witness attendance rates, which have improved. In the year ending 31 December 2008, 2.9% of magistrates' courts' cases and 1.7% of Crown Court cases were cracked due to witness difficulties, compared to national performance of 4.7% and 1.9% respectively. Trials were ineffective due to witness difficulties in 7.1% of magistrates' courts' cases and 3.4% of Crown Court, compared to 9.3% and 2.7% nationally.

11 MANAGING PERFORMANCE TO IMPROVE	OPA 2007	AI 2009	Direction of travel
	Fair	Fair	Stable

Accountability for performance

- 11.1 There is a greater focus on performance management than was apparent during the previous two inspections, although the drive for improvement is not yet embedded with all staff. Whilst managers aspire to a culture of continuous improvement the area is some way from achieving such a goal at the moment. This is in part due to the fact that staff had not been held accountable for performance in the past and partly to the communication style adopted by managers on occasions which has not successfully engaged all staff. Nevertheless staff were generally more aware of performance than has been evident in previous inspections.
- 11.2 Following the last inspection a multi-functional area improvement programme was instigated, with some support from CPS Headquarters, to implement the recommendations in our report. Progress was formally monitored until the project was absorbed into 'business as usual' in May 2008 on the basis that sufficient progress had been made to justify a lower level of attention.
- 11.3 As part of the national restructuring exercise, Surrey no longer employs a dedicated performance manager and the performance function is now managed at the Group Operations Centre (GOC) that provides reports and some analysis to the areas (Kent, Sussex and Surrey) within the South Eastern Group. The roles are still developing and greater clarity over responsibilities is likely to be achieved in 2009-10. At area level managers are clear as to their duties in terms of managing the performance of their teams on a day-to-day basis.
- 11.4 Performance reports are produced by the GOC and sent to areas on a monthly basis. Timeliness has improved recently, enabling the data to be examined prior to management meetings. Ad hoc requests for information are channelled via the GOC, although the area has retained management information system licenses enabling local production of data where necessary. Work has been conducted to establish if there is any good practice in reporting formats within the group, which has led to some standardisation. Further improvements are planned.

Analysis of data

- 11.5 The monthly reports provided by the GOC include some basic analysis and occasionally some possible actions or solutions where performance is below expectation. Area managers hold a separate performance meeting at which performance is discussed prior to Area Strategy Board (ASB) meetings. Performance is discussed in some team meetings. Whilst analysis has improved a little since the previous inspection it still requires further development to be fully effective. There is scope to improve understanding of relative performance in the area through benchmarking activity and work looking at performance across the group is still in the early stages of development. Some positive work has been undertaken with other CPS areas in preparation for the restructure to combined units and in evaluating joint police/CPS criminal justice teams.

- 11.6 Area managers sometimes take an overly optimistic view when assessing progress and performance. There is no doubt that progress has been made but the generous approach to assessments and some performance issues may lead to some aspects not being addressed fully. Whilst recognising that managers need to motivate staff and raise morale, it is important that realistic assessments are made and shared with relevant staff.

Management of local performance

- 11.7 At the present time the area focuses strongly on attainment of national targets and encouraging progress has been made against a number of these in 2008-09. Examples include the overall unsuccessful outcome rates, improved performance against all six PCD measures and significant progress towards the area advocacy strategy targets. However managers need to monitor important aspects of performance that are not subject to formal targets, such as disclosure. Our file examination identified a number of weaknesses in decision-making and case handling that need to be addressed. It must also be borne in mind that whilst improvements are being made, outcomes against a number of measures are still at the lower end of the spectrum of national performance levels.
- 11.8 The quality of casework is monitored by managers, mainly through the use of the national casework quality assurance (CQA) scheme and monitoring of some unsuccessful cases. Whilst the area has done well in terms of the volumes of CQA checks undertaken, the monitoring needs to be more robust. The ratings achieved through self assessment appear generous in light of the findings of the file examination. There is limited evidence of any targeting of cases that are more likely to yield learning points, for example those that have been discontinued, and the quality of adverse outcome reports needs to be improved. The performance regime is a little more systematic in the magistrates' courts' teams.

RECOMMENDATION

Unit heads should ensure that casework quality assessments are robust, that feedback is given quickly in appropriate cases, and that a more targeted approach is adopted.

- 11.9 The rape co-ordinator has conducted some thorough reviews of rape cases in line with national guidelines and these identified a number of learning points which were included in the ASB minutes. Other sensitive cases would benefit from some similar targeted monitoring.
- 11.10 Formal advocacy monitoring has been carried out, particularly in the magistrates' courts. A national scheme is to be rolled-out in 2009-10 which should improve the internal monitoring of advocates in all courts.

Area systems and processes

- 11.11 Systems and processes have been subject to review and considerable improvement has been made in the efficiency of administrative work. This is partly attributable to national initiatives including the optimum business model, and partly due to the hard work of staff. Of particular note is the improvement in timeliness of case updating and finalisations achieved in the latter half of the year. More work is still required, particularly in light of the restructuring, but the systems are now on a much firmer footing. More management oversight is needed of the legal side of the OBM process. The area has recently initiated a CJSSS improvement team to look at ways to maintain and/or improve performance. For most major initiatives a project or local implementation team has been set up involving a range of roles and grades.

- 11.12 In our examination seven of the 81 files (8.6%) assessed were finalised incorrectly; there was no trend in the type of errors. Some PCD administrative finalisations were not the most appropriate recording of the outcome. There were examples of cases not being flagged appropriately and suggestions that there was under reporting of Proceeds of Crime Act cases. Managers should include these when completing quality assurance checks.

Staff appraisal

- 11.13 The performance and development review (PDR) process which should apply to each member of staff is not fully effective, particularly in the trials unit where there was limited evidence of interim assessments; this was better for magistrates' courts' teams. In some cases individual's PDRs did not take account of specific responsibilities eg expectations and objectives of champions. The move to combined units is an opportunity to reinvigorate the PDR process to make it more meaningful. The process was working better for administrative staff. There was evidence of feedback being given to staff, although the manner of presentation was sometimes likely to negate the potential benefit.

Aspect for improvement

When feedback is given to staff it should be handled in the most appropriate and constructive manner.

Joint performance management

- 11.14 There has been improvement in the approach of CPS managers to joint performance management. The perception of external agencies is that the CPS is now more receptive and responsive to issues. There is still some variability in the attendance at, and participation in, formal meetings.
- 11.15 There are regular informal meetings between the unit heads, Area Business Manager (ABM) and the police superintendent responsible for criminal justice matters. There was consensus that these meetings were having a positive impact in driving forward issues; examples include the preparation for a joint administrative unit in the future and changes to the level of cover provided at charging centres.
- 11.16 There are formal structured joint performance meetings at strategic and operational level. The operational local performance groups have been refocused recently with a view to making more progress on a narrower range of issues. The groups have not always found it easy to balance key local priorities with the requirements to manage the key performance issues set down by the Office for Criminal Justice Reform.
- 11.17 There is a quarterly strategic prosecution team performance management (PTPM) meeting between the CPS and police at a county-wide level. Issues raised should be carried forward by local operational PTPM meetings that should meet on a monthly basis. We found limited evidence that they were taking place. Some of the issues have been addressed in the less formal meetings with the police although there was not always a clear audit trail of how matters have been, or are to be, progressed. A number of documents and plans refer to the local PTPM meetings as the means for delivering improvement in PCD related matters.

11.18 The exchange of data between the agencies is satisfactory with PTPM and cracked and ineffective trial information readily available. Concerns raised by partners at the time of the last inspection have been overcome. Until recently trial effectiveness was assessed at individual case level via the local performance group meetings but the meetings are now encouraged to look at trends. A combination of these approaches may be effective.

Aspect for improvement

There needs to be greater clarity over the role (if any) of the local prosecution team performance management meetings.

12 MANAGING RESOURCES	OPA 2007	AI 2009	Direction of travel
	Poor	Fair	Improved

Value for money and budget control

- 12.1 The area has improved the deployment of staff with a view to improving value for money, which includes a reassessment of the level of cover at charging centres. Finance has received a higher profile in management meetings.
- 12.2 The systems for controlling non-ring fenced running costs (NRFRC) are sound. At the present time finance is managed centrally although there are plans to devolve this to unit heads in 2009-10. Recent changes to staff, partly as a result of implementing the CPS group structure, have reduced the level of experience in managing finance. The appointment of a South Eastern Group finance manager should help in the future. There is a risk in the short term until new staff become more familiar with their roles and the systems. The ASB needs to ensure that any skills gap is carefully managed.
- 12.3 Over recent years the area has struggled to operate within its allocated NRFRC budget. However the outlook was much brighter for 2008-09 and, due to significant changes to staff deployment practices, it remained within budget in 2008-09 with 99.6% spent. This is an encouraging outcome, but must be tempered by the fact that Surrey has benefited from larger than average increases to allocated budgets as the clearance of backlogs has affected their share under the activity based costing model used by the CPS to distribute funding. The tighter financial constraints anticipated in the coming years present a challenge.
- 12.4 No additional NRFRC funding was received for specific purposes in 2008-09. Additional capital was used to finance the office moves. LCJB funding (handled via the CPS budget) is accounted for appropriately.
- 12.5 There has been some improvement in the management of prosecution costs, although further work is desirable. Timeliness of counsel fees payment was erratic at the beginning of the year but is now more consistent and usually better than national performance. Tighter controls have been put in place over the use of two counsel in any individual case. Despite the renewed focus on prosecution costs, unit costs for Crown Court cases and the proportion of fees paid in two counsel cases are still higher than most other areas. There is a designated clerk who is responsible for payment of all counsel fees, although there is no effective back up at present during times of absence. Systems for forecasting prosecution costs can be strengthened to ensure that the area is aware of committed and expected expenditure. Whilst Surrey was projecting to operate within budget we were concerned that year end activity means that spend in March is usually higher. The latest year end results show that prosecution costs were overspent by 6.4%.

Aspect for improvement

Controls on prosecution costs should be reviewed.

- 12.6 The roles and responsibilities for financial management within the South Eastern Group are still developing. Meetings between ABMs have taken place during which finance has been discussed. Discussions were held to consider whether to reallocate any funding within the areas in the group; no adjustments were made to Surrey's allocation.

Deployment of staff

- 12.7 The area was in the final stages of implementing a restructure into combined units. The move is designed to offer greater flexibility in terms of distributing work and offers opportunity for development of lawyers currently doing purely magistrates' courts' cases. It was envisaged that the more experienced Crown Court lawyers would be able to support colleagues by undertaking some charging centre cover and some magistrates' courts' work; the timing and scope of this was not clear at the time of the inspection. Not all staff were satisfied with the new arrangement and managers will need to keep this under review to ensure that it balances the requirements of the organisation, area and individuals.
- 12.8 Some aspects of the restructure are either not understood or not popular with some staff and will require careful and sensitive management and review. Some TU lawyers are not keen to undertake magistrates' courts' duties and some CJU lawyers are nervous of taking on committal preparation as an additional duty.

Advocacy

- 12.9 Since the last inspection considerable progress has been made towards meeting the area and national advocacy strategy targets and significantly more advocacy is being undertaken in-house in both the magistrates and Crown Court. Although Surrey has fallen just short of all three key advocacy targets this needs to be seen in the context of the position at the time of the last inspection and the amount of overall remedial work that has had to be undertaken in response to our findings. The area is now well positioned to achieve the relevant targets in 2009-10.
- 12.10 In 2006-07 only 46.2% of magistrates' courts' sessions were handled in-house which was the worst in the country. In 2008-09 coverage had improved to 78.4% and, whilst still in the lower quartile of national performance, represents significant progress. The improvement was mainly attributable to an increase in the number of lawyers employed. From the mid point of the year the area bettered the target of 85% in-house cover and in some months achieved over 90%. This bodes well for the future, particularly as the number of court sessions has reduced recently.
- 12.11 There is no formal local target for the number of sessions that each prosecutor should undertake but the roster system sets out clearly how staff will be deployed in the magistrates' courts. Lawyers are allocated to a specific court, charging centre, the case progression lawyer role on the OBM team, or to prepare for the following day's youth or early administrative hearing court. There is no dedicated 'office time' and this has meant that prosecutors have found it necessary to prepare cases, particularly trials, in their own time although trial preparation could sometimes be done whilst allocated to a charging centre or the OBM team dependant on the volume of work. Managers will need to monitor this carefully as it was causing concern to a number of staff, albeit we noted periods of 'down time' in charging centres and at court.
- 12.12 Surrey has been able to utilise associate prosecutors more effectively. At the time of the last inspection they conducted 13.7% of magistrates' courts' sessions, but in 2008-09 achieved 22.1%, just short of the target of 23%. An increase in associate prosecutor staffing levels was a primary factor, although changes to the court listing patterns also helped. With the additional staff available the area will need to undertake an additional 280 sessions in 2009-10 if the ratio of sessions per full-time equivalent is to be retained.

- 12.13 At the time of the inspection there were normally 16 courts each week suitable for associate prosecutors and the area usually managed to cover 15 of them. Managers will need to continue to work closely with the courts to ensure that listing practices provide the optimum number of courts suitable for them.
- 12.14 Crown advocate deployment has also increased. In 2006-07 counsel savings were £37,512 and in 2008-09 £272,678 was achieved. Whilst just below the area target it represents considerable progress and will have assisted in remaining within budget. In previous years Surrey has had to 'repay' money to CPS Headquarters as they fell so far short of targets (which had been funded up front). For the calendar year 2008 the area earned an additional £4,300 as a result of the progress made.
- 12.15 The area has recently drafted a formal strategy to optimise the deployment of crown advocates in the Crown Court which shows a more systematic approach than was previously the case. This was partly driven by the need to meet targets and partly to take account of the impact of restructuring.
- 12.16 There are 14 crown advocates although the level and type of cases covered by each varied considerably, ranging from 171 sessions for one down to less than ten for four others. Whilst it is evident that some staff are spending a considerable amount of time in court others do not and it was not always easy to reconcile staff perceptions as to how busy they were with the available data. Three of the crown advocates have now been allocated to a dedicated trials team who will focus almost all their time on advocacy in the Crown Court. Some of those excluded from the trials team are rated as level three (experienced). Clearly the area will need to take account of this when allocating work as it would be unusual and inefficient if level three crown advocates did not do work commensurate with their experience and grade.
- 12.17 Overall the area has made good progress in implementing the CPS vision of being an organisation that routinely conducts its own high quality advocacy in all courts. It now needs to ensure that the quality of advocacy is high. Furthermore as with many other CPS areas the increased time spent in court has had an adverse impact on case preparation and progression and this has had a knock on effect in terms of staff morale. We comment elsewhere in the report on the need to address these issues.

Staff sickness absence

- 12.18 Sickness absence monitoring procedures are effective and have contributed to a significant improvement in the rate of absence. At the time of the last inspection the average level of sickness was 13.7 days per year per staff member. For the calendar year 2008 this had reduced to 4.6 days which was among the best in the country.

Strength

The management of sickness absence has been very effective.

Flexible working

- 12.19 The area has always shown a commitment to flexible working practices, although in the past only limited consideration was given to the impact on the business of working patterns. Managers now take a more business orientated but pragmatic approach with proper consideration of business needs as well as trying to allow flexibility where possible. Approximately 25% of staff have some form of flexible working arrangements.

13 LEADERSHIP AND MANAGEMENT	OPA 2007	AI 2009	Direction of travel
	Poor	Fair	Improved

Purpose and planning

- 13.1 The ASB has set out an area vision (to be achieved within three years) and key priorities for 2008-09 as part of the area business plan. The priorities are specific and link in with the CPS national priorities. A top down approach was utilised with limited input from staff; management intend to take a more inclusive approach to future planning. The dissemination of the strategy was not wholly successful.
- 13.2 Individual managers have been assigned responsibility for achievement of the priorities and good progress had been made against a number of these. For example the area has delivered on its objectives to reduce the case preparation backlog and increase the use of in-house advocates.
- 13.3 Whilst the management team has developed a clear vision and underlying priorities there was less detail in the business plan about how they would be achieved. There was also a lack of regular review of the progress made against each of the priorities. This meant that some, for example implementing a process for succession planning and meeting Proceeds of Crime Act targets, received less focus and progress was less evident.

Aspect for improvement

The business plan should set out how priorities will be achieved and the timescales for completion; and progress against priorities should be reviewed regularly and remedial action implemented where required.

- 13.4 At the time of the inspection the responsibilities of the South Eastern Group and the area in business planning were still being embedded. A business plan for 2009-10 was being prepared at the group level, with input from the areas. The area managers were still undertaking their own business planning.

Staff skills and training

- 13.5 A plan was developed for 2008-09 which linked training activities to the delivery of Surrey's six key priorities. Not all of the planned training was carried out, with only 50% of staff undertaking any in the year. Some lawyers also had difficulty finding time to complete their requisite continuing professional development (CPD) training. In the 2008 staff survey, only 25% of respondents in CPS Surrey said that they were satisfied with the opportunities they have to progress their career (compared to 49% in the 2006 survey and 32% nationally). The increased level of in-house advocacy may have impacted on the area's ability to run training sessions and free-up staff for training activities.
- 13.6 The restructure to combined magistrates' courts and Crown Court units should improve the number of development opportunities available for many staff. Training to help them in their new roles is included in the 2009-10 training plan and staff have completed a skills gap assessment to determine what their additional needs are. Our file examination reveals a need to improve the skills of prosecutors in effective handling of casework.

RECOMMENDATION

The Area Strategy Board should ensure that training, development, coaching and mentoring is provided to assist staff in their new roles under the restructure, and to improve skills, particularly in casework handling.

Change management

- 13.7 The area was undergoing a number of changes at the time of inspection, including a recent move to new premises and the restructure to combined magistrates and Crown Court units. There was evidence of planning and risk management in both these change initiatives, including the development of detailed project, stakeholder and communications plans and risk registers to manage risks. There was, however, limited evidence of analysis and management of the links between projects.
- 13.8 Staff engagement activities around these change initiatives were less successful. Whilst most staff were satisfied with the level of engagement and information they received around the office move and considered that activities such as the site visits organised prior to the move were helpful, there was a lack of effective engagement on the restructure. Despite the area holding a series of focus groups for staff to discuss options for the proposed restructure a number of them, particularly prosecutors, were not satisfied that their concerns and issues were addressed effectively by management.
- 13.9 Although a risk register is maintained it is not reviewed and updated regularly or discussed at ASB meetings. Risks around people issues, such as staff dissatisfaction about the move to combined units, have not been included. Nor have risks about potential impacts of initiatives on other projects. Risk seemed to be better managed at the individual project level.

Aspect for improvement

The risk register should be reviewed regularly and the scope of risk expanded to include those involving staff engagement and change management issues and interdependencies between projects.

Communication

- 13.10 The management team are communicating a common vision and in most respects are operating as a unified and corporate team. Tensions that have developed between management and trials unit staff around the restructure have led to some isolated incidents of non-corporate behaviour.
- 13.11 Staff survey results showed that management were holding regular team meetings (85% of respondents in Surrey said team meetings are held regularly compared to 58% in the CPS overall). However some staff expressed the view that team meetings were held at inconvenient times so that not all could attend. Ideally they should be held when all staff can attend but this will not always be possible. Minutes are available on the IT network for staff to follow up on the meeting discussions.

- 13.12 A number of communication channels have been used to improve openness and provide information to staff, including the running of focus groups and local implementation teams to handle issues around change projects. Despite these measures a number of staff were unhappy with the amount and, occasionally, the tone of communication from management. The management team were trying to keep staff informed and consulted, but there was an over reliance on e-mail to communicate important information. The style of delivery used also undermined some important messages.
- 13.13 More worryingly a number of staff said that they did not feel confident about speaking up and challenging things. This is reflected in the 2008 staff survey results where only 31% of respondents in Surrey (30% nationally) said that it was safe to speak up and challenge the way things are done in the CPS (compared to 53% in the 2006 survey). The area conducted a follow-up survey in early 2009 but issues around communication persist. This is hampering effective two-way dialogue and represents a significant risk to the change initiatives if not addressed.

RECOMMENDATION

The Area Strategy Board needs to take swift action to address communication issues between management and some staff by:

- ensuring that staff have the opportunity to raise and resolve issues with management openly;
 - ensuring that management regularly communicate with staff on a face-to-face basis and not rely too heavily on e-mail, especially in relation to changes that have a significant impact on staff; and
 - addressing the low morale amongst lawyers and issues around dignity and respect.
-

Ethics, behaviours and values

- 13.14 Good performance is recognised and acknowledged at team meetings and through e-mails to individuals from line managers and the CCP. In the CJU the “Good Results Board” is a notice board used to highlight positive results obtained by individual prosecutors. Administrative staff were generally happy with the level of feedback received from management, with lawyers less so. In the staff survey only 33% of respondents said that they received regular and constructive feedback on performance (compared with 41% in the CPS nationally) but 74% thought that their team acknowledged one another's efforts.
- 13.15 Managers have made some attempts to improve morale and team spirit. A document listing the team ethos has been created and a local vision for CPS Surrey was devised out of discussions with staff in focus groups. Morale amongst the administrative staff is high, having improved significantly since the time of the last inspection. This has probably been helped by the clearing of major administrative backlogs that were creating tensions at the time.
- 13.16 There is evidence of low morale among lawyers. Communication issues with management and increased and changing workloads were the primary causes of any dissatisfaction. There are examples of lack of dignity at work behaviour in both directions between management and staff. Improved communication and engagement with staff is needed in order to reduce the risk of stalling the positive progress that has been made since the last inspection. If the problem is not

addressed there is likely to be an adverse impact on team working and staff retention. In the 2008 staff survey only 69% (albeit not dissimilar to the national figure of 71%) said they intended to be working for the CPS in 12 months' time compared with 84% in 2006.

Equality and diversity

13.17 Surrey is well represented in terms of black and minority ethnic (BME) and female staff; 14% identified themselves as BME and 69% are female. These groups are also represented on the senior management team. Equality and diversity issues are considered as part of the area's community engagement strategy, although the South Eastern Group is still waiting to recruit an equality and diversity officer to take the lead on this. We have commented above on dignity at work issues.

14 PARTNERSHIP WORKING AND COMMUNITY CONFIDENCE	OPA 2007	AI 2009	Direction of travel
	No direct comparator	Fair	No direct comparator³

Joint working

- 14.1 Relationships with external agencies have improved considerably from the time of the last OPA in 2007, albeit from a very low baseline. The external agencies interviewed for this inspection described working relations with Surrey's management team as being more open, positive and constructive. All were in agreement that they had moved in the right direction from the position two years ago.
- 14.2 The CPS has established a good relationship with Surrey Police at both the strategic and operational level. The ABM attends performance management group meetings with the police superintendent and participates in a quarterly strategic PTPM group. The CCP chairs the LCJB. The police and the CPS have also been working together on restructuring initiatives.
- 14.3 At the operational level, the ABM and unit heads are communicating with senior police staff on both a formal basis and informally as issues arise. Evidence of effective PTPM meetings at the local level was not available, however.
- 14.4 The area has also established effective dialogue with court management. The CCP attends twice yearly meetings with the Bench Chairs of the magistrates' courts and is in regular discussion with the Resident Judge at Guildford Crown Court. These meetings were being used to discuss issues and CPS area management has demonstrated a willingness to address problems as they are raised, although there has been delay in progressing some aspects.
- 14.5 Regular communication with partner agencies occurs at the 'prosecution team' level also. Unit heads represent the CPS at local performance group meetings with police, courts and Witness Service staff, although CPS attendance and the general effectiveness of these meetings should be improved. The police and area have also had a number of meetings to resolve issues around charging and feedback from both police and prosecutors on charging procedures has been circulated to staff in the two agencies. A further example of joint working has been that undertaken in respect of rape cases, which is discussed in chapter 7.
- 14.6 The area has worked jointly with Surrey criminal justice agencies to implement CJSSS. A review of the scheme conducted in September 2008 (after 12 months of operation) concluded that it has had a positive impact and increased inter-agency cooperation. While performance under CJSSS initially improved, in terms of an increase in guilty pleas and a reduction in hearings the rate of improvement has not been sustained. The CPS needs to continue to work closely with the other agencies to ensure the benefits of CJSSS are realised.

³ The framework against which the area is inspected has been changed. Some of the issues covered in this part of the report used to feature in "Leadership", therefore the rating cannot be directly compared.

Engagement with the community

- 14.7 There is a community engagement plan for 2008-09, engagement features in a number of actions in the area business plan and is a standing item at ASB meetings. Management team members have been made accountable for a community engagement task as part of their performance and development reviews.
- 14.8 The area and CPS Sussex have jointly held two community involvement panels and a number of hate crime scrutiny panels. The CCP and members of the Secretariat of the LCJB have also met the local media. The area has achieved some positive coverage on the local radio.
- 14.9 While there has been increased focus on engagement, for example with the Muslim community, most of the activities undertaken have involved raising awareness rather than effectively consulting with community groups to bring about improvements. Additionally when events are run the CPS is not systematically evaluating the feedback to improve service delivery to the community. The area is planning to consult with their community involvement panel on their 2009-10 Business Plan, which is a positive development and more engagement work of this kind needs to be undertaken.

Aspect for improvement

The community engagement strategy should be developed to consult with the local community and broaden the base of community groups the area engages with.

Community confidence

- 14.10 Community confidence in the criminal justice agencies in Surrey has been consistently higher than the national average. The latest available data (for the year ending March 2008) shows that public confidence in the criminal justice system in Surrey was 46.7% compared to 44.3% nationally.

Complaints

- 14.11 Surrey was one of the areas included in Inspectorate's thematic review of complaints handling by the CPS (published March 2009). During that inspection a total of 15 complaints files were examined. Three of the 15 were considered to be of a poor standard whilst two were excellent. Timeliness was very good and the system for tracking was effective. All files have a 'lessons learned' form that is signed off by the CCP. In this inspection we examined a further six complaint files; one was considered to be poor while the remainder were good or excellent and timeliness was consistently good.

Good practice

A form accompanies each complaints file and is signed off at conclusion by the Chief Crown Prosecutor, who notes any lessons to be learned and provides feedback.

ANNEX A: AREA INSPECTION FRAMEWORK

Standards and criteria

1 Pre-charge advice and decisions

Standard: *Pre-charge advice and decisions are of high quality and contribute to improved casework outcomes, and are delivered efficiently and in a way that meets the circumstances of the case.*

Criteria 1A: The quality of decision-making contributes to improving casework outcomes.

Criteria 1B: Pre-charge decision-making processes are effective and efficient.

2 Decision-making, preparation and progression in magistrates' courts' cases

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

Criteria 2A: Decision-making is of a high quality and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case.

Criteria 2B: Cases are prepared and progressed effectively.

3 Decision-making, preparation and progression in Crown Court cases

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

Criteria 3A: Decision-making is of a high quality and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case.

Criteria 3B: Cases are prepared and progressed effectively.

4 The prosecution of cases at court

Standard: *Prosecution advocates are prepared and proactive in prosecuting cases fairly, thoroughly and firmly and ensure that cases progress at all hearings.*

Criteria 4A: Advocates are active at court in ensuring cases progress and hearings are effective and advocacy and case presentation are of a high standard.

5 Serious violent and sexual offences, and hate crimes

Standard: *The area makes high quality decisions and handles serious violent and sexual offences, and hate crimes effectively.*

Criteria 5A: The area ensures that serious violent and sexual offences and hate crime cases are dealt with to a high standard.

6 Disclosure

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

Criteria 6A: There is compliance with the prosecution's duties of disclosure.

7 Custody time limits

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

Criteria 7A: The area ensures that all cases with a custody time limit are dealt with appropriately and time limits are adhered to.

8 The service to victims and witnesses

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

Criteria 8A: The area ensures timely and effective consideration and progression of victim and witness needs and the service to victims and witnesses is improving.

9 Managing performance to improve

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

Criteria 9A: Managers understand and are held accountable for performance.

Criteria 9B: There is an effective and proportionate approach to managing locally performance at individual, team and area level.

Criteria 9C: The area is committed to managing performance jointly with CJS partners.

10 Managing resources

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

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

Criteria 10B: All area staff are deployed efficiently.

11 Leadership and management

Standard: *Senior managers engage with and inspire CPS staff and CJS partners to achieve area and national objectives, and drive performance improvements and change.*

Criteria 11A: The management team has a clear understanding of what needs to be delivered to meet CPS and CJS priorities, underpinned by effective planning and change management

Criteria 11B: The management team communicates the vision, values and direction of the area well.

Criteria 11C: Senior managers act as role models for the ethics, values and aims of the area and the CPS, and demonstrate a commitment to equality and diversity policies.

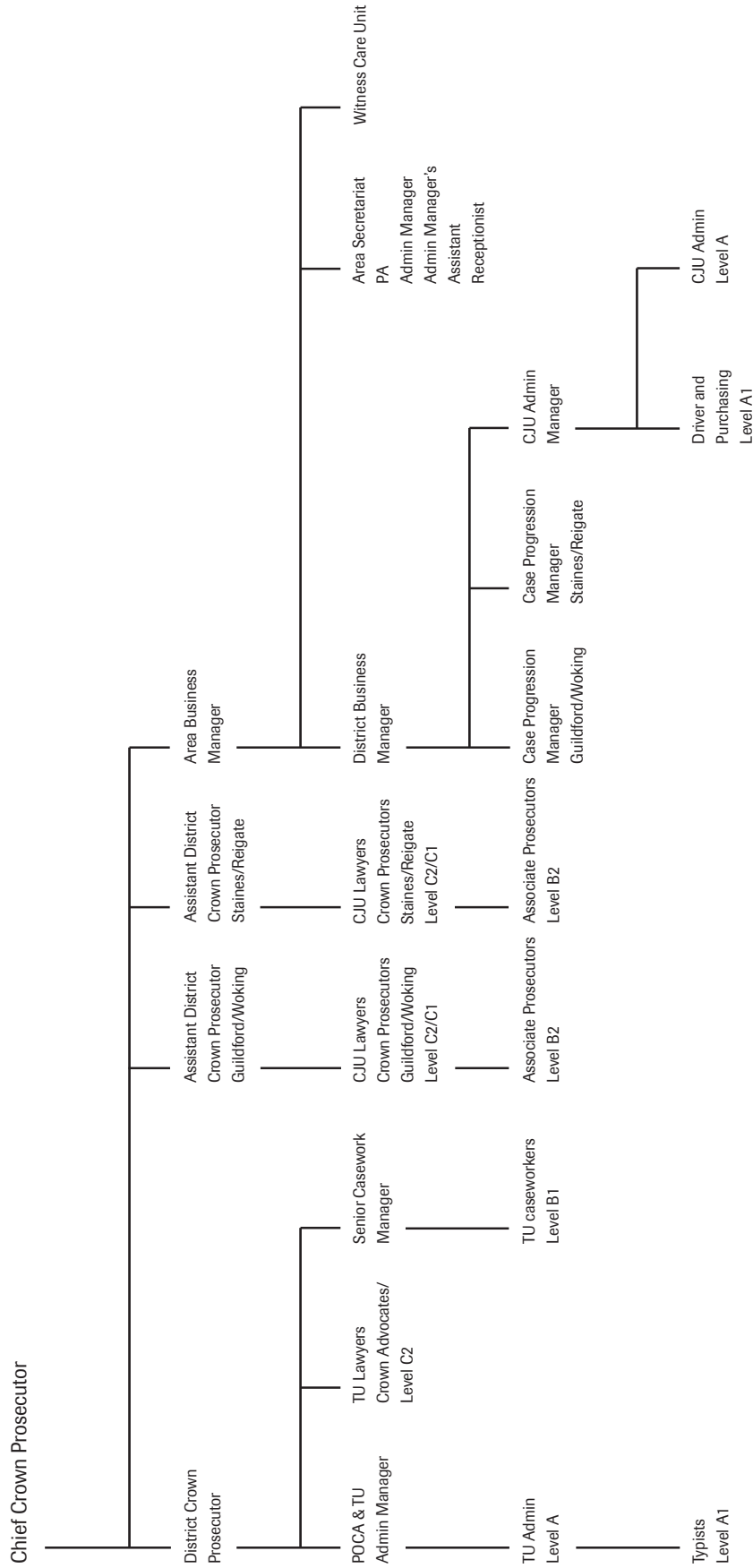
12 Partnership working and community confidence

Standard: *The CPS is engaging positively and effectively with the agencies it works with and communities it serves.*

Criteria 12A: The area is committed to engaging with partners and jointly improving levels of service.

Criteria 12B: The area is working proactively to secure the confidence of the community.

ANNEX B: ORGANISATION CHART



ANNEX C: CASEWORK PERFORMANCE DATA

Caseloads and outcomes for 12 months ending 31 March 2009

	Surrey Number	Percentage	National* Number	Percentage
1 Magistrates' courts - types of case				
Pre-charge decision	6,101	33.2	532,464	33.9
Advice	0	0	198	0.01
Summary	7,597	41.4	602,195	38.3
Either way and indictable	4,649	25.3	432,340	27.5
Other proceedings	12	0.1	3,812	0.2
Total	18,359	100	1,571,009	100
2 Magistrates' courts - completed cases				
Discontinuances and bind overs	922	8.2	80,661	8.7
Warrants	213	1.9	15,060	1.6
Dismissed no case to answer	14	0.1	1,707	0.2
Acquittals after trial	356	3.2	18,682	2.0
Discharged	4	0.04	1,984	0.2
Total unsuccessful outcomes	1,509	13.4	118,094	12.7
Convictions	9,740	86.6	810,605	87.3
Total	11,249	100	928,699	100
Committed for trial in the Crown Court	994		105,790	
3 Magistrates' courts - case results				
Guilty pleas	7,855	77.7	636,887	76.6
Proofs in absence	1,243	12.3	140,328	16.9
Convictions after trial	642	6.4	33,390	4.0
Acquittals after trial	356	3.5	18,682	2.2
Acquittals: no case to answer	14	0.1	1,707	0.2
Total	10,110	100	830,994	100
4 Crown Court - types of case				
Indictable only	408	27.6	40,498	29.1
Either way: defence election	95	6.4	7,614	5.5
Either way: magistrates' direction	581	39.3	55,315	39.7
Summary: appeals; committals for sentence	394	26.7	35,922	25.8
Total	1,478	100	139,349	100
5 Crown Court - completed cases				
Judge ordered acquittals and bind overs	127	11.7	12,061	11.7
Warrants	9	0.8	1,121	1.1
Judge directed acquittals	15	1.4	989	1.0
Acquittals after trial	91	8.4	5,693	5.5
Total unsuccessful outcomes	242	22.3	19,864	19.2
Convictions	842	77.7	83,552	80.8
Total	1,084	100	103,416	100
6 Crown Court - case results				
Guilty pleas	697	73.5	75,661	83.8
Convictions after trial	145	15.3	7,891	8.7
Acquittals after trial	91	9.6	5,693	6.3
Judge directed acquittals	15	1.6	989	1.1
Total	948	100	90,234	100

* The 42 areas and CPS Direct.

ANNEX D: RESOURCES AND CASELOADS

Area caseload/staffing CPS Surrey

	March 2009	October 2006
Staff in post	73	69
Lawyers in post (excluding CCP)	34.5	27.8
Pre-charge decisions/advices per lawyer (excluding CCP)	183.2	166.5
Associate prosecutors in post	4.6	5.0
Magistrates' courts' cases per lawyer and associate prosecutor (excluding CCP)	326.1	319.0
Magistrates' courts' contested trials per lawyer (excluding CCP)	29.3	32.2
Committals for trial and sent cases per lawyer (excluding CCP)	31.4	31.8
Crown Court contested trials per lawyer (excluding CCP)	7.3	7.8
Level B1, B2, B3 caseworkers in post (excluding associate prosecutors)	14.5	15.4
Committals for trial and sent cases per level B caseworker	94.3	57.5
Crown Court contested trials per level B caseworker	21.8	14.2
Level A1 and A2 staff in post	15.4	17.8
Cases per level A staff member	997.8	587.8
Running costs (non-ring fenced)	£3,747,894	£3,190,417

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

ANNEX E: TOTAL NUMBER OF FILES EXAMINED FOR CPS SURREY

	Number of files examined
Magistrates' courts' cases (subject to PCD)	
Guilty pleas	8
Convictions after trial (including 3 youth cases)	8
Acquittals after trial (including 2 youth cases)	9
Discontinued cases	10
No case to answer	2
Magistrates' courts' cases (non-PCD)	
Convictions after trial	3
Acquittals after trial	2
Crown Court cases	
Guilty pleas	8
Judge ordered acquittals	10
Judge directed acquittals	3
Convictions after trial	9
Acquittals after trial	9
Total	81

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

Crown Court

His Honour Judge Critchlow
His Honour Judge Tilling
Mrs S Machin

Magistrates' courts

Ms S Barnes
Mrs J Berliand MBE JP
Mr J Blackburn JP
Mr P Cottell JP
Ms J Cowley JP
Ms S Legg JP
Mrs C Lemon JP
Mr G Parris JP
Mr P Renshaw JP
Mrs A Stilgoe JP
Mr I York
Mr J Baker

Police

Mr M Rowley, Chief Constable
Chief Superintendent A Harper
Chief Superintendent H Collins
Detective Superintendent J Boshier
Superintendent M Bristow
Superintendent B Russell
Detective Chief Inspector A Colewood
Detective Chief Inspector C Raymer
Chief Inspector S Bush

Defence solicitors

The Castle Partnership
Goodhand and Forsyth
Frame Smith & Co

Counsel

Mr S Connolly
Mr M Dennis QC
Mr R Sellers

Witness Service

Mrs D Backhouse
Ms G Clark
Mr M Hall
Ms W Pritchard

Local Crime and Disorder Reduction Partnerships

Safer & Stronger Communities Partnership Board

Youth offending teams

Mr T Wells

Community groups

Mr S Connor - National Centre of Domestic Violence

Members of Parliament

Mr J Hunt MP

Other Members of Parliament with constituencies in Surrey were invited to contribute.

ANNEX G: HMCPSI PURPOSE AND VALUES

Purpose

HMCPSI's purpose is to enhance the quality of justice through independent inspection and assessment which improves the effectiveness of prosecution services and provides assurances to Ministers, government and the public. In order to achieve this we want to be an organisation which:

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

Mission

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

Values

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

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

Taken together, these mean:

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

ANNEX H: GLOSSARY

Adverse case

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

Agent

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

Area business manager (ABM)

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

Aspect for improvement

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

Associate prosecutor

A senior caseworker (level B2) who is trained to present straightforward cases on pleas of guilty or to prove them where the defendant does not attend the magistrates' court. This role has been extended and will include trials of non-imprisonable offences.

Bar/CPS service standards

Jointly agreed standards that lay down what is expected in terms of performance by the Bar and the CPS in the way they deal with each other.

Standard 1 (August 1994) requires the CPS brief to counsel to be delivered within 14 days of committal in standard fee cases and 21 days in cases involving trials of three days or more and pleas of guilty to serious offences.

Standard 2 (August 1994) provides that counsel, having read and considered the papers, will where necessary advise in writing on any matter requiring advice.

Standard 3 (October 1996) concerns returned briefs and is designed to reduce the numbers of returns and any adverse impact which may result because of a returned brief.

Standard 4 (October 1996) deals with the timely claim of fees by, and payment of fees to, counsel at the end of a case.

Brief (*see Instructions to counsel*)

Caseworker

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

Charging scheme

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

Charging standards

Standards agreed with the police that give guidance about how to select the appropriate charge to be pursued, determined by the facts of the case. Charging standards have been issued about:

- offences against the person;
- driving offences; and
- public order offences.

Chief crown prosecutor (CCP)

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

Code for Crown Prosecutors (the Code)

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

Co-location

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

Committal

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

Compass CMS

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

Court session

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

CPS Direct

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

Cracked trial

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

Criminal case management framework

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

Criminal justice unit (CJU)

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

Crown advocate

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

Crown Court case preparation package

A word processing package that provides a template for standard instructions in a brief to counsel. There is a free text facility to allow CPS staff to advise counsel about particular aspects of an individual case. *Compass CMS* should now be used.

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)

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

Disclosure, initial and continuing

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

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

Discontinuance

The dropping of a case by the CPS in the magistrates' courts, whether by written notice (under section 23, Prosecution of Offences Act 1985), withdrawal, or offer of no evidence at court.

Early administrative hearing (EAH)

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

Early first hearing (EFH)

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

Effective trial management programme (ETMP)

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

Either way offences

Those triable in either the magistrates' courts or the Crown Court, eg theft, assault occasioning actual bodily harm.

Evidential stage

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

Ex parte

A case or a hearing in a case conducted in the absence of the other party.

Glidewell

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

Good practice

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

Indictable only offences

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

Ineffective trial

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

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.

Joint performance management (JPM)

A management system that collects information about aspects of activity undertaken by the police and/or the CPS. It is a joint system with the police, aimed at securing improvements in performance. Largely replaced by *PTPM*.

Judge directed acquittal (JDA)

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

Judge ordered acquittal (JOA)

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

Level A, B, C, D, E staff

CPS grades below the senior civil service, from A (administrative staff) to E (senior lawyers or administrators).

Local criminal justice board

The chief officers of police, probation, the courts, and the CPS, a local prison governor and the youth offending team manager in each criminal justice area who are accountable to the National Criminal Justice Board for the delivery of *PSA* targets.

MG6C, MG6D etc

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

Narey courts, reviews etc

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

Narrowing the justice gap (NJG)

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

No case to answer (NCTA)

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

No Witness No Justice (NWNJ)

A project to improve witness care: to give them support and the information that they need from the inception of an incident through to the conclusion of a criminal prosecution. It is a partnership of the CPS and the Association of Chief Police Officers (ACPO) and also involves

Victim Support and the Witness Service. Jointly staffed witness care units were be introduced into all areas by December 2005.

Performance against targets

Measures of performance against targets set nationally and locally in support of CPS objectives.

Performance indicators (PIs)

Internal statistics collected in the CPS that indicate how much and what type of work is undertaken and processed and the outcomes of that work. They also contain information about the quality of judgements in cases.

Persistent young offender (PYO)

A youth previously sentenced on at least three occasions in the last three years.

Pre-trial review

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

Proceeds of Crime Act 2002 (POCA)

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 that has largely replaced the system of *JPM*.

Public interest stage

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

Public Service Agreement (PSA) targets

Targets set by the government for the criminal justice system relating to dealing with serious offences and raising public confidence in the system.

Recommendation

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

Returned briefs

A returned brief (see *Instructions to counsel*) is one returned by a barrister to their instructing solicitor (the CPS) when they discover they are unable to undertake the work. This can occur very close to the date of the trial.

Review, initial, continuing, summary trial etc

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

Section 9, Criminal Justice Act 1967

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

Section 51, Crime and Disorder Act 1998

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

Sensitive material

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

Specified proceedings

Minor offences which are dealt with by the police and the magistrates' courts and do not require review or prosecution by the CPS, unless a not guilty plea is entered (section 3 (2) (A), Prosecution of Offences Act 1985).

Strengths

Work undertaken properly to appropriate professional standards ie consistently good work.

Summary offences


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

Threshold test

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

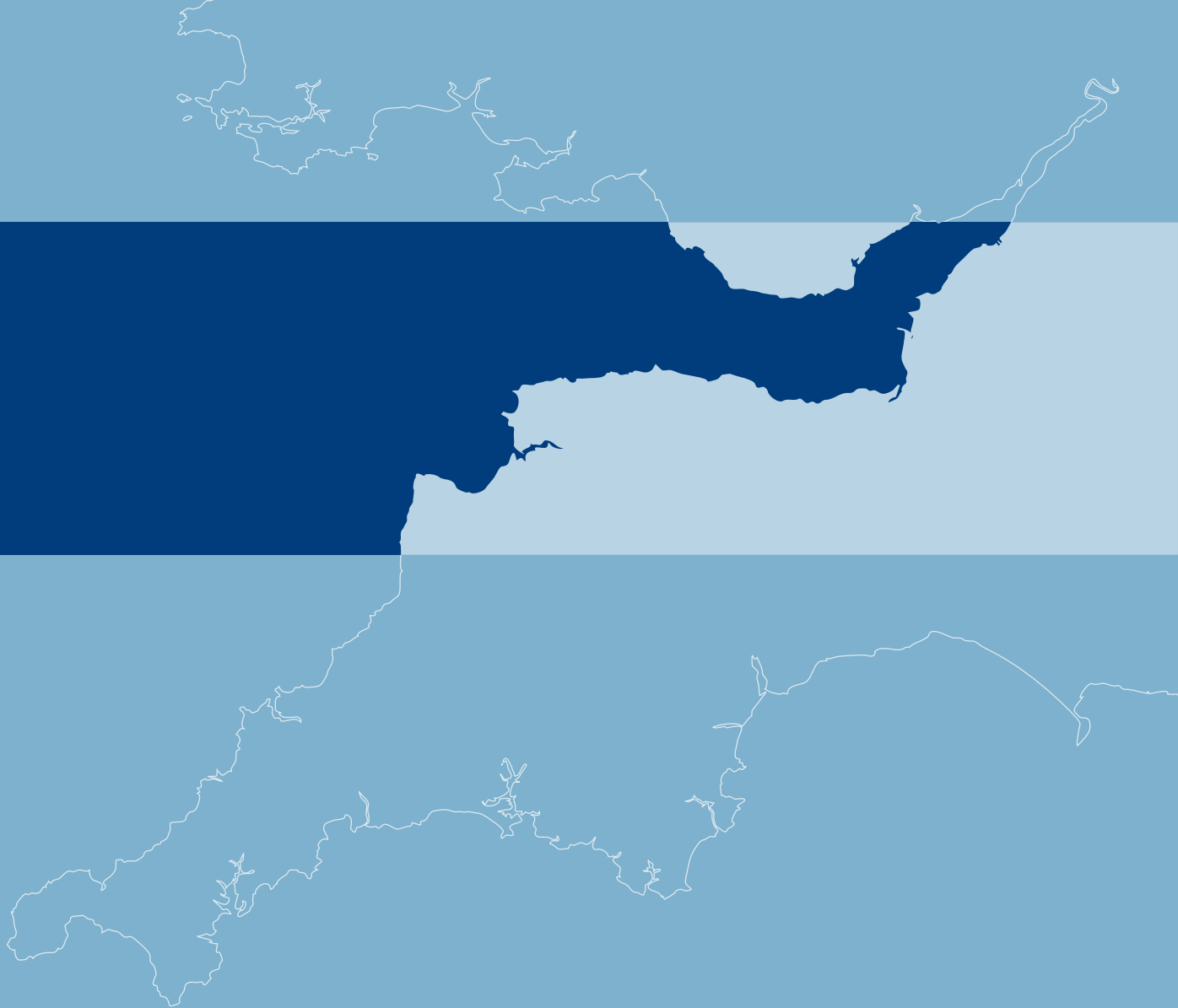
Trial unit (TU)

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



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