



HM Crown Prosecution
Service Inspectorate

CPS South Wales

The inspectorate's report on CPS South Wales

Undertaken April 2010

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Chief Inspector's foreword

It is disappointing that, overall, South Wales' performance has declined since the 2007 Overall Performance Assessment to an extent that it is now rated as poor.

I am, however, encouraged by the new management team's determination to get to grips with the challenges highlighted in this report. Most importantly, it is essential for the Area to predicate improvement upon an effective relationship with its criminal justice partners. We have made a number of high priority recommendations and identified important steps that focus attention on the Area's core business performance, service delivery and efficiency.

This inspection has highlighted the need for CPS South Wales to improve its Crown Court casework and preparation of magistrates' courts cases for trial. In this context, the Area needs to review its current structure to ensure that its processes are streamlined and consistent across the Area and that sufficient resources are allocated for it to progress its most serious casework effectively. We have made a number of recommendations to address the quality and timeliness of review, case preparation and progression.

Budgetary control will continue to be a major challenge and financial pressures have clouded Area initiatives and implementation programmes, obscuring some of the key objectives and benefits. The Area needs to engage more effectively with its staff to communicate its priorities with greater clarity and transparency. This will improve cohesion and corporacy and help staff at all levels to pull together in the same direction to achieve objectives. I am pleased to note that the

deployment of associate prosecutors in the magistrates' courts has increased; we recommend that the Area needs to move to address how it instructs and deploys its crown advocates in the Crown Court in order to improve their efficiency and maximise value for money.

Overall, despite much work that has been completed around some discrete aspects, such as disclosure and custody time limits, there has been a lack of sustained performance improvement and the Area remains at risk of this continuing. The Area has had a measure of success improving the quality of its victim letters and the service provided in rape and violence against women cases. In order to move forward from its present position, the Area needs to ensure that its priorities and processes are supported by strong performance management at all levels.



Executive summary

Summary of findings

Since the 2007 OPA, CPS South Wales has taken a number of strategic and operational decisions in support of change initiatives and policy implementation. During the period, Area performance has been variable and, whilst some trends are positive, others have not moved in the right direction.

The Chief Crown Prosecutor (CCP) and Area Business Manager (ABM) have concentrated efforts on the implementation of national and local initiatives with mixed success. Responsibility for the Group structure has impinged upon their time. Circumstances have affected the Area's ability to present a profile of strong, visible leadership and both internal and external communication has become fractured, leading to deterioration in some key relationships with partners and a lack of staff ownership and understanding of the Area's vision, values and direction.

Declining caseload has impacted upon the Area's budget, necessitating the centre to provide further funding. Although the position was continually monitored and steps were taken successfully by the Area to reduce spending, more could have been done to underpin its finances. Operating within budget will continue to be a major challenge for the Area and it will need to make significant efficiency savings.

The Area has undertaken a considerable amount of activity around known areas of weakness and produced improvement plans across a number of discrete areas of work. These have resulted in some successes, but have not yet translated into sustained improvement since they have not been supported by robust performance

management. The Area also needs to engage more effectively with its staff and communicate its priorities more clearly.

The quality of casework and decision making, and the timeliness of case progression were very variable, and in some cases poor. This was readily apparent to the Area's criminal justice partners and to inspectors, through file examination and court observations. At the time of the inspection the courts had begun to lose patience and the prosecution enjoyed very little leeway when cases did not run smoothly. Consequently, cases have not been proceeding as they should and attrition rates are rising. Reputational damage had been done to the CPS. A significant amount of work is now being undertaken by the new management team to address this issue particularly.

The Area is not realising sufficient benefit from its pre-charge decision-making in volume cases. While this aspect of work is affected at the outset by the standard of some investigations and case building, the Area is not taking a consistent approach to addressing these issues at an early stage.

Reviews by lawyers at key stages are not always in accordance with the Code for Crown Prosecutors. A significant proportion of cases are prepared late and not progressed with appropriate expedition and steps need to be taken jointly with the police to improve disclosure handling. The Area has a high percentage of late guilty pleas, predicated upon incomplete case preparation, which adversely impact upon the effective trial rates.

Poor quality review and casework, combined with a lack of proactivity, can also impact adversely on the service provided to victims and witnesses and undermine the efforts made by witness care officers who endeavour to ensure that individual needs are catered for. Overall though, the Area has striven to produce a good level of service to victims and witnesses. The quality of work undertaken in serious violent and sexual cases is better, and the Area is working with criminal justice parties to make a greater impact on cases involving violence against women.

Whilst Area performance is affected by the timeliness and quality of the files it receives from the police, some internal processes are inefficient, creating a duplication of effort, and these need to be addressed urgently.

Prosecutors generally present cases in court competently and there are some examples of good advocacy within the Area. In the magistrates' courts, the Area has significantly increased its use of associate prosecutors during 2009-10 and reduced its reliance on agents accordingly. In the Crown Court, the Area needs to utilise its crown advocates effectively, balancing value for money with quality case presentation. Case allocation systems and court rotas need to ensure that all advocates have sufficient time to be properly prepared for court.

Custody time limits (CTL) remain a high risk for the Area and in recent years it has had an unacceptable increase in recorded failures. The Area has already taken steps to improve CTL performance. These need to be maintained.

The Area's three district structure had led to some fragmentation, with different systems and approaches in place across the Area. This structure was in the process of change at the time of the inspection. Senior managers have identified the principal weaknesses and are aware of poor individual performance. There are signs that the Area is now getting to grips with this aspect through effective performance management, supported through the line management chain.

The Area is now in a stronger position to move forward and there are signs that key partnerships are improving, which will place the Area in a better position to bring about change. Plans are afoot to restructure and align performance management to the CPS national core quality standards (CQS).

In the light of overall findings, CPS South Wales is rated as **POOR**.

Summary of judgements			
Critical aspects	OPA 2007	AEI 2010	Direction of travel
Pre-charge advice and decisions	Poor	Poor	Stable
Decision-making, preparation and progression in magistrates' courts cases	Fair	Poor	Declined
Decision-making, preparation and progression in Crown Court cases	Good	Fair	Declined
The service to victims and witnesses	Good	Good	Improved
Leadership and management ¹	Fair	Fair	Stable
Overall critical assessment level	Fair	Poor	
The prosecution of cases at court	Good	Fair	Declined
Serious violent and sexual offences and hate crime	Good	Good	Stable
Disclosure of unused material	Poor	Poor	Improved
Custody time limits	Fair	Poor	Declined
Managing performance to improve	Fair	Fair	Stable
Managing resources	Good	Fair	Declined
Partnership working and community confidence ²	Good	Good	Improved
OVERALL ASSESSMENT	FAIR	POOR	

¹ Leadership and management now captures elements included formerly in 'Delivering Change' which has now been removed from the framework as a stand alone aspect.

² Some aspects of this section were previously included in 'Managing Performance to Improve' and a full like for like performance comparison cannot be made.



Recommendations

Priority recommendations

There are seven key recommendations which need to be implemented within three months. These are:

-
- 1 The Area needs to:
 - ensure, in introducing the modernised charging arrangements, that all case reviews at the pre-charge decision-making stage are in accordance with the Code;
 - ensure that greater consistency is achieved in the quality of its charging advice; and
 - ensure that robust arrangements are put in place to monitor the quality of work being undertaken (paragraph 1.10).

 - 2 OBM processes should be streamlined and consistent across the Area. The Area must ensure that prosecutors complete summary trial reviews expeditiously (paragraph 2.11).

 - 3 The Area needs to take active steps to reduce the discharged committals rate so that performance is in line with, or better than, the national average (paragraph 3.9).

 - 4 The Area needs to:
 - ensure sufficient resources are allocated to progress its most serious casework effectively;
 - achieve greater consistency in the standard of its review work in Crown Court cases; and
 - ensure that prosecutors have sufficient time to complete Crown Court reviews effectively (paragraph 3.13).

 - 5 The Area needs to:
 - ensure that legal decision-making for disclosure is sound, properly reasoned and recorded; and
 - use the disclosure reports prepared by the Area disclosure champion to manage individual performance (paragraph 6.9).

 - 6 The Area needs to:
 - communicate clear expectations about the standards expected of its lawyers and ensure that there are robust processes in place to tackle individual performance; and
 - develop a culture where the giving and receiving of feedback, and responding to it, is part of everyday business (paragraph 9.7).

 - 7 The Area needs to engage more effectively with staff across the Area so that it:
 - delivers key messages and priorities clearly and transparently; and
 - adopts an ethos of inclusivity so that all staff feel they have the opportunity to contribute towards change (paragraph 11.6).

Recommendations

There are a number of other recommendations that relate to improving and tightening processes and systems. Whilst not immediate priorities they need to be implemented to improve the service offered by the Area. We would expect that these secondary recommendations are implemented within the next 12 months.

1 The Area needs to ensure that case progression meetings throughout the Area work in partnership to increase the proportion of trials that are effective, and reduce those which are vacated or crack, so that performance is in line with, or better than, the national average (paragraph 2.13).

2 The Area needs to address how it instructs and deploys its crown advocates and their relationship with Area colleagues (paragraph 10.9).

3 The Area needs to:

- achieve greater consistency in decision-making for all serious and sensitive cases; and
- put in place effective processes to monitor and manage individual performance (paragraph 5.13).

4 In partnership with South Wales Police, the Area should develop and implement a joint disclosure training programme to improve the timeliness and quality of police schedules and CPS legal decision-making (paragraph 6.17).

5 The Area needs to ensure CTL cases are monitored robustly and that regular CTL audits are completed. Performance needs to improve so that it is in line with, or better than, the national average (paragraph 7.12).

6 The Area should ensure with the police that WCU performance is monitored, managed and assessed in accordance with NWNJ primary and secondary measures. Improvement programmes need to be assessed in compliance with NWNJ indicators (paragraph 8.5).

7 Meetings should be streamlined and duplication removed to ensure that the impetus to bring about improvement does not become diluted (paragraph 9.4).

8 Project management must be robust, with realistic risk assessments made, achievable milestones identified and progress monitored and communicated (paragraph 11.8).

Compliance issues

We additionally identified three “quick wins” which relate to compliance issues. These should be addressed within three months.

-
- 1 Area managers must ensure that prosecutors complete tasks appropriately on CMS (paragraph 3.25).

 - 2 The Area needs to expedite adoption of the Third Party Protocol for disclosure (paragraph 6.12).

 - 3 The Area must ensure that special measures applications are properly drafted, supported by relevant information and made expeditiously, within the set timescales (paragraph 5.8).
-

Strengths and good practice

We identified two strengths and two good practices within the Area’s performance.

Strengths

-
- 1 The joint case progression meetings held by the Swansea district (paragraph 11.13).

 - 2 Joint working with criminal justice partners to improve performance in violence against women and rape cases (paragraph 5.10).
-

Good practice

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- 1 The disclosure reports and assessments compiled by the Area disclosure champion (paragraph 6.16).

 - 2 Community panels used to assess the quality of letters completed under the direct communication with victims (DCV) scheme (paragraph 8.12).
-



Inspection context

Contextual factors and background

CPS South Wales (the Area) forms part of the Wales Group of CPS Areas, which also comprises, Gwent, Dyfed Powys and North Wales. National strategy is promoted through the Group structure down to Area level. As Group chair, the Area's CCP is responsible for setting Group priorities. The Group Operations Centre (GOC) is located at the Cardiff office.

The Area serves the regions covered by the South Wales Police, which has a mix of both rural and urban communities. It has offices in three locations: Cardiff (the main office), Swansea and Merthyr Tydfil. The Area's secretariat is based at the Cardiff office.

The inspection

CPS South Wales was last subject to a full inspection in May 2004. In August 2007, the Area was rated 'fair' in an overall performance

assessment (OPA) and this inspection was undertaken because of the increased risks emerging to Area performance since that last OPA.

The inspection team visited the Area between 12 April 2010 and 23 April 2010. The lay inspector for this inspection was Tony Summers. In preparation, legal inspectors had completed an examination of 79 recently finalised cases comprising both magistrates' courts and Crown Court files.

The Chief Crown Prosecutor (CCP) for South Wales retired from the CPS during the inspection. The CCP for Gwent is presently acting CCP for South Wales, and Group Chair for the Wales Group of CPS Areas.

Area staffing and caseload

At the time of the inspection in April 2010, the Area employed the equivalent of 198.4 full-time staff. Details of staffing are set out below:

Area staffing Grade	Number
Chief crown prosecutor	1
Level E	3
Level D	9
Crown advocates	14.8
Level C lawyers (includes legal trainee)	47.2
Associate prosecutors	14.8
Level E staff	1
Level D staff	1
Level B staff	43.6
Level A staff	63
Total	198.4

A detailed breakdown of staffing and structure can be found at Annex E.

The Area has seen a slight reduction in its overall caseload from 2008-09, down by 1,263 cases, or 2.8%. However, this has not been spread evenly across the full the range of cases, as the Area's Crown Court work has increased by 5.9% compared to 2008-09. Staff numbers have decreased by 11.1% since the 2007 OPA, from

223.1 to 198.4, although some of this reduction is due to Area posts being re-allocated to the GOC and CCU.

Details of the Area's caseload in 2009-10 are as follows:

Caseload in 2009-10			
	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge decisions	15,562	35.7%	32.3%
Advice	0	0%	0.01%
Summary	15,186	34.8%	38.7%
Either way and indictable only	12,896	29.5%	28.8%
Other proceedings	7	0.02%	0.2%
Total	43,651	100%	100%

These figures include the cases set out in the next table, as all Crown Court cases commence in the magistrates' courts. In 6,608 of the 15,562 Area pre-charge decisions, the decision was that there should be no prosecution. Overall, decisions not to prosecute accounted for 15.1% of the Area's caseload; this was a higher proportion than for the previous year, 2008-09, when 14.4% of the Area's total caseload

resulted in no prosecution being brought. Where pre-charge advice results in the institution of proceedings, the case will also be counted under the relevant category of summary or either way/ indictable in the caseload numbers.

Details of the Area's Crown Court caseload in 2009-10 are:

Crown Court caseload in 2009-10			
	Area numbers	Area % of total caseload	National % of total caseload
Indictable only	1,222	26.5%	28.4%
Either way offences	2,170	47.1%	48.1%
Appeals against conviction or sentence	348	7.6%	10.0%
Committals for sentence	864	18.8%	13.5%
Total	4,604	100%	100%

The Area's total Crown Court caseload for 2009-10 has increased by 257 cases over the previous year. A more detailed table of caseloads and case outcomes compared to the national average is attached at Annex F and a table of caseload in relation to Area resources at Annex G. Since our last inspection in 2007, the Area has had a decrease in its budget from £9,494,000 to £9,364,000; the Area received a further £650,000 underpinning from CPS headquarters at the end of 2009-10.



Section one: the inspection report

1 Pre-charge advice and decisions

OPA 2007	Poor
AEI 2010	Poor
Direction of travel	Stable

1.1 At any point before charge, the police may seek advice from a prosecutor to assist with an investigation. Since 2004, the CPS has been responsible for determining the charges in more serious cases. In either instance, pre-charge decision-making needs to be timely, effective and in accordance with the Code for Crown Prosecutors (the Code). Investigator and prosecutor should work together to build strong, cost-effective cases which result in a successful outcome; or, prosecutors should advise no further action (NFA) in cases where there is no realistic prospect of conviction, or a prosecution is not required in the public interest.

1.2 Performance is assessed in terms of the quality and timeliness of the pre-charge decision-making (PCD), as well as the guilty plea, discontinuance and attrition rates in both magistrates' courts and Crown Court cases.

The timeliness and quality of pre-charge decision-making

1.3 We examined 70 of the Area's PCD cases for timeliness and whether decisions accorded with the Code and were correctly charged, whether relevant ancillary issues had been properly considered, and if action plans were used effectively.

1.4 PCD cases need to be dealt with expeditiously, so that suspects on bail are processed efficiently and victims and witnesses are not kept waiting inordinately long for a final

CPS decision. Bail management has not been as effective as it should be during 2009-10, resulting in suspects spend a longer time on police bail. PCD bail cases in our file sample suffered from delay at the charging and first appearance stage. More recently, however, the Area has been proactive in addressing bail management issues and improved performance considerably.

1.5 In the Area, delay has occurred due to a backlog of cases building up at times when there has been a lack of prosecutor capacity to make charging decisions. This required the Area to divert lawyers away from other tasks when the backlogs have become too great. This has impacted directly on the Area's ability to complete case preparation tasks and supply in-house prosecutors for court, increasing expenditure on external agents.

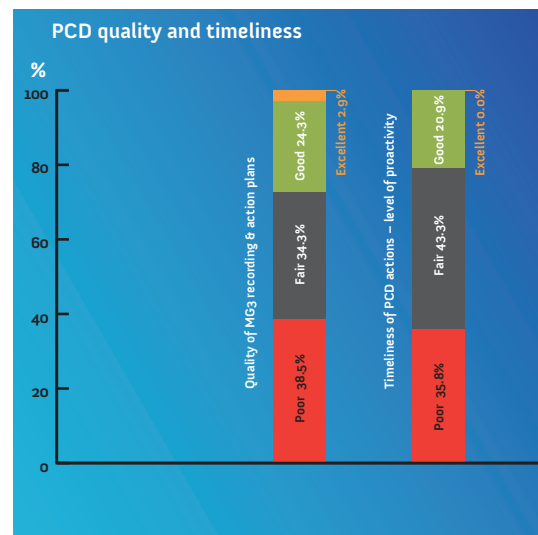
1.6 At the time of the inspection the Area was in the process of introducing the national CPS modernising charging programme, intended to improve timeliness of advice and decision-making in volume cases, by adopting a 'call centre' approach to provide PCD advice, similar to CPS Direct. Face-to-face arrangements are to continue only for the Area's more complex cases. The new process began operation shortly after the inspection. Whilst the new scheme is designed to improve the arrangements for giving advice to the police, the quality of advice and decision-making will still need to improve.

1.7 Area prosecutors are not applying the Code consistently when making charging decisions and improvements need to be made in relation to the application of both the threshold test and the full Code test. Charges do not always fully reflect the offending and in 17%

of cases examined, the most appropriate charge was not selected. Assault cases, in particular, were prone to be under-charged.

1.8 Overall, quality of the written record of decision-making is variable, with poorer examples paying insufficient attention to the needs of victims or witnesses. Ancillary issues were dealt with adequately in less than a third of cases. Failure to highlight victim and witness issues at the outset has a knock-on effect on the timeliness of subsequent applications for special measures, and may impact adversely on the facilities available to the witness at court.

1.9 Prosecutors need to make better use of PCD action plans, and monitoring needs to improve to ensure that investigators complete them on time. This would reduce the incidence of late case preparation and relieve the administrative burden on CPS staff continually chasing outstanding actions. Charging advice needs to be of a consistent standard and delivered with clarity so investigators know exactly what is required. PCD cases involving more than one prosecutor have led to contrary views being taken of the same case, which is frustrating for the police as well as wasteful of their time. Moreover, not all the decisions to postpone charging pending further evidence were correct, adding further delay and leading to the unnecessary re-bailing of defendants.



1.10 Compared to the Area's volume crime, pre-charge advice for serious and complex cases is provided by experienced prosecutors and the quality of decision-making in these cases is better, reflecting the higher standard of investigation and case preparation. However, greater continuity is needed to ensure that the same lawyer who provides the early investigative advice also makes the final charging decision. The Area is creating a rape and serious sexual offences (RASSO) team in Cardiff to provide a bespoke, continuous service for victims and investigators.

Benefits realisation				
Performance	2008-09 Area	National	2009-10 Area	National
Magistrates' courts cases				
Discontinuance	15.1%	13.1%	15.4%	14.5%
Guilty plea	72.6%	74.4%	71.5%	72.3%
Attrition	20.6%	19.2%	22.0%	21.0%
Crown Court cases				
Discontinuance	10.7%	11.7%	11.4%	11.7%
Guilty plea	75.7%	72.9%	76.5%	73.1%
Attrition	18.7%	19.4%	19.1%	19.5%

Priority recommendation

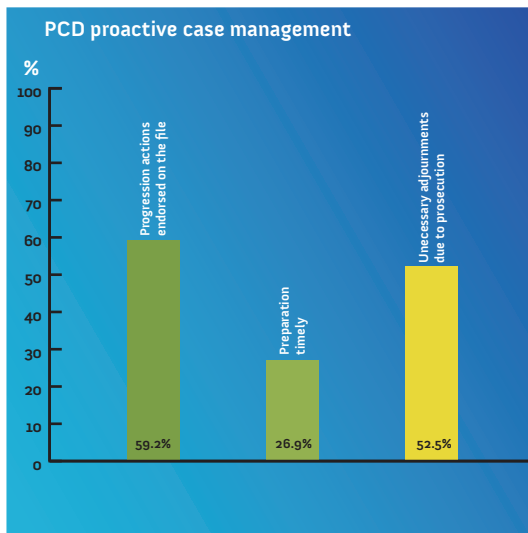
The Area needs to:

- ensure, in introducing the modernised charging arrangements, that case reviews at the pre-charge decision-making stage are in accordance with the Code;
- ensure that greater consistency is achieved in the quality of its charging advice; and
- ensure that robust arrangements are put in place to monitor the quality of work being undertaken.

Benefits realisation - guilty pleas, discontinuance and attrition rates

1.11 Overall, the Area's PCD case outcomes are mixed. In magistrates' courts cases, the discontinuance, guilty plea and attrition rates for the year 2009-10 were worse than national performance and represent a decline on that of the previous year. In Crown Court cases, the Area performed better than the national average in all three categories, but performance in 2009-10 was below that of the previous year.

1.12 The Area has experienced difficulty in realising the benefits of charging since it was introduced and has instituted several reviews and adopted a number of measures designed to improve PCD delivery. Operation of the charging scheme under the Director's Guidance on the Streamlined Process (DGSP) is not without its problems at the charging stage. The perception of criminal justice partners is that the Area is often poorly served by the police in relation to the standard of investigation and case building, but that the CPS is not proactive in tackling the situation. Our file examination findings support that view.



1.13 Recent efforts by the CPS and police to re-invigorate the prosecution team performance management (PTPM) regime show willingness and a commitment to tackle blockages and improve performance jointly. Action has now been taken at Group level with the collaboration and support of ACPO Cymru. Both sides will need to continue to work together to ensure that recent commitment is maintained and that the PTPM meetings produce sustained improvement.

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

OPA 2007	Poor
AEI 2010	Poor
Direction of travel	Stable

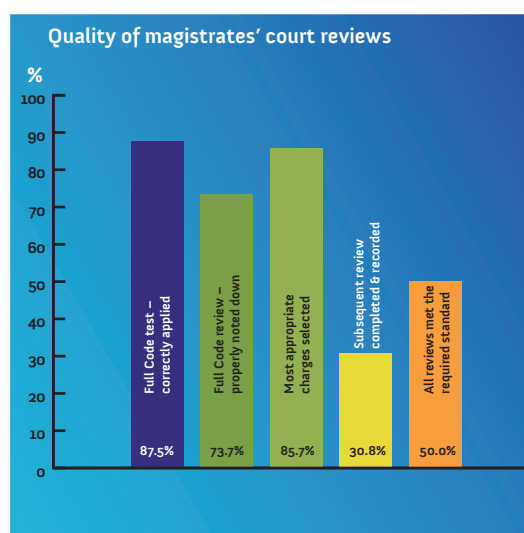
2.1 Volume and straightforward cases are generally heard in the magistrates' courts. The majority of defendants plead guilty and are dealt with under the Director's Guidance on the Streamlined Process³ (DGSP), using a basic file prepared by the police, containing the key information and a case summary. Cases for trial require further preparation. Once notified, the police prepare and submit an upgraded file containing the full evidence and information required for summary trial. The CPS then reviews the evidence and documents provided, before formally serving the defence and court with material necessary for a fair trial to take place. A bespoke electronic case management system (CMS) is used to record and process the casework.

2.2 Performance is assessed in terms of the quality and timeliness of case review and preparation, the proportion of cases listed for trial which proceed on time, and the eventual outcome of proceedings. Additionally, the Area keeps a record of cases that should have progressed to the Crown Court, but were not ready to proceed and so discharged by the magistrates at committal.

The quality and timeliness of review

2.3 We examined 37 magistrates' courts cases and found that the decision-making accorded with the Code in 87.5%. This figure

is sufficiently low to cause concern and needs to be urgently addressed. Lawyers tend to rely heavily on the charging decisions, which are themselves not always in accordance with the Code, and often not sufficiently formulated to amount to a full evidential review appropriate to preparing the case properly for trial. Improvements are needed to shaping and strengthening those prosecution cases which proceed to trial.



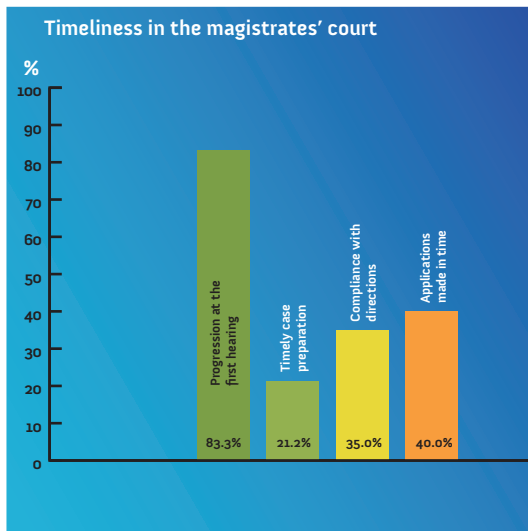
2.4 In most of cases in the file sample, prosecutors made progress at the first hearing; although, in a significant minority, more could have been done to comply with criminal justice: simple, speedy, summary (CJSS) requirements. In about two thirds of cases, excluding ineffective trials, which did not proceed expeditiously, the unnecessary adjournment was not attributable to the prosecution. However, in the remaining third that were, most could have been avoided by earlier prosecution action.

3 Guidance applicable to cases chargeable by the police, without reference to a crown prosecutor and for a staged and proportionate approach in the preparation of the cases which must be referred to a prosecutor for a charging decision.

The timeliness and quality of case preparation

2.5 The CPS should prepare its cases promptly, allowing committal hearings and summary trials to take place on the appointed date. The Area’s magistrates’ court case preparation has been affected by the higher priority afforded to charging and court coverage and some inefficiencies in the processes.

2.6 The Area’s discharged committals rate is a cause for concern and has risen during the last year to over twice the national rate. These are generally serious cases which should have proceeded to the Crown Court. Of equal concern is that, once discharged, the likelihood is that the case will not be reinstated in good time or at all.

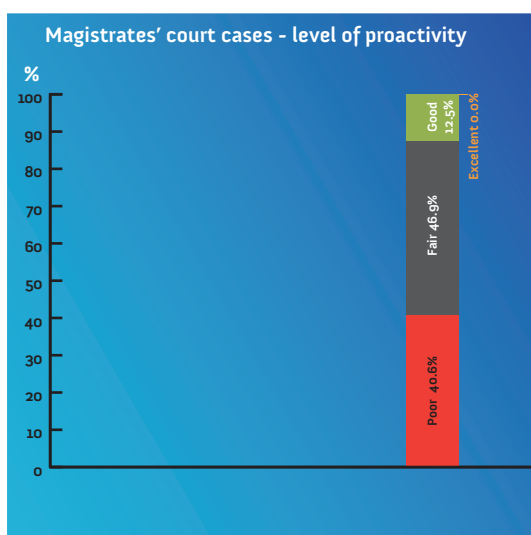


2.7 Trial reviews are taking place too near the hearing date for any remedial work to be carried out to strengthen the case. As a result, key decisions are delayed and communication is too late to be adequately considered by the defence and court. Some actions, such

as disclosure, are not completed until the day of trial itself and the percentage of Area cases which are ineffective due to prosecution disclosure problems is running at over two and a half times the national rate.

2.8 There are significant variations in the timeliness and quality of police investigations and file preparation, especially in relation to “upgrade” files for committal and summary trial. This situation is not improved by an overoptimistic anticipation by the police of early guilty pleas under the DGSP arrangements and CPS staff spend an unnecessary amount of time and energy chasing outstanding evidence and information, compromising their ability to add value to case progression. The Area has re-introduced a paper-based system to monitor timeliness and quality of police upgrade files, but this has not produced the required improvement.

2.9 Director’s Guidance on the Streamlined Process (DGSP) is not yet operating effectively throughout England and Wales, and guidance has recently been circulated addressing compliance. The proliferation of late guilty pleas indicates that the Area needs to improve case preparation for the first hearing. In one district, the police have chosen to send an officer to court to sort out problems on the day.



2.10 The Area has implemented the national optimum business model (OBM), utilising a prosecution case progression team (PCPT) to progress its summary trial cases. However, due to insufficient lawyer input on the PCPT, the Area struggles to prepare its summary trial cases effectively. As a result, backlogs occur at regular intervals which eventually have to be blitzed. Lawyer productivity on the PCPT is monitored by a paper-based activity recording system, but the information recorded varies in detail and is not being used to address performance issues. A specific problem exists in Cardiff, where the prosecutor rota is creating conflicts for those allocated to PCPT work. This needs to be addressed.

2.11 The Area's OBM systems would benefit from an overall review. Whilst in some locations they are essentially sound, processes are not homogenous across all districts and work is required to ensure that staff across the Area have a clear understanding of their role. Steps need to be taken to promulgate Area best practice across all districts. The table shows the poor quality and timeliness of case preparation.

Priority recommendation

OBM processes should be streamlined and consistent across the Area. The Area must ensure that prosecutors complete summary trial reviews expeditiously.

2.12 Due to the regularity with which problems over case progression can occur, it was evident to inspectors that the Area's criminal justice partners have become desensitised to the relative merits of any prosecution requests for further preparation time and have lost patience, affording the prosecution little leeway when cases did not run as smoothly as they might.

Effective, ineffective and cracked trials

2.13 The target to reduce ineffective trials is shared with partner agencies and magistrates' courts pay particular attention to factors which inhibit cases proceeding on time. The Area is less likely to have an ineffective trial than nationally and performance has improved compared to 2008-09. Whilst the Area has improved its effective trial rate from the previous year, the rate in 2009-10 is both worse than it was in 2007, and in relation to the national average performance for 2009-10. There is an increasing need to vacate trials and the cracked trial rate is heading in the wrong direction. Overall, the Area needs to take steps to improve the timeliness of its case preparation.

Trial rates			
Performance	OPA 2007 Area	2009-10 Area	National
Effective trial rate	44.0%	40.4%	43.7%
Cracked trial rate	42.5%	46.3%	37.7%
Ineffective trial rate	13.5%	13.3%	18.6%
Vacated trial rate	22.5%	27.9%	21.9%

Successful outcomes in the magistrates' courts					
Performance	Area OPA 2007	National 2008-09	Area 2008-09	National 2009-10	Area 2009-10
Overall conviction rate	81.4%	87.3%	84.6%	86.8%	85.3%

Recommendation

The Area needs to ensure that case progression meetings throughout the Area work in partnership to increase the proportion of trials that are effective, and reduce those which are vacated or crack, so that performance is in line with, or better than, the national average.

Outcomes in the magistrates' court

2.14 As a proportion of its caseload, the Area obtains fewer convictions in magistrates' court cases, and discontinues a greater percentage of them, than the national average. However, in both measures, Area performance for 2009-10 shows a slight improvement compared to the previous year.

2.15 We examined 18 cases which resulted in an adverse outcome; 11 of them were discontinued by the Area. In two cases, there had been no material change in the evidential strength or public interest elements of the case. In nearly half of the cases, the outcome had been reasonably foreseeable at the charging stage and the decision not to proceed was made later than it should have been. Although there are undoubtedly instances of the defence waiting to see if prosecution witnesses will attend court, there is an Area culture of late decision-making; four of the cases in the file sample were discontinued either shortly before or on the day of trial.

2.16 The Area is not routinely completing adverse reports in appropriate cases, meaning that opportunities to learn lessons are not being taken and promulgated effectively to drive improvement.

Unsuccessful outcomes in the magistrates' courts					
Performance	Area OPA 2007	National 2008-09	Area 2008-09	National 2009-10	Area 2009-10
Discontinuance and bindovers	12.6%	8.7%	10.9%	9.0%	10.3%
No case to answer	0.1%	0.2%	0.1%	0.2%	0.1%
Dismissed after trial	1.4%	2.0%	1.6%	2.3%	1.8%
Discharged committals	0.3%	0.2%	0.4%	0.3%	0.7%
Warrants	4.2%	1.6%	2.5%	1.4%	1.8%

Use of Compass, the electronic case management system - CMS

2.17 General usage of CMS was fair overall, but with some areas of significant weakness, in particular, the failure to record outcomes accurately. Our file examination revealed that, in over a quarter of cases, the finalisation information was incorrect, giving a misleading picture of the how the case was eventually concluded. Additionally, lawyer attitudes to utilising CMS are inherently negative and managers have not been able to overcome this successfully. This adds to the burden placed upon administrative staff and impacts upon their ability to add value to cases, by requiring them to spend their time inputting handwritten reviews and information onto the system.



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

OPA 2007	Good
AEI 2010	Fair
Direction of travel	Declined

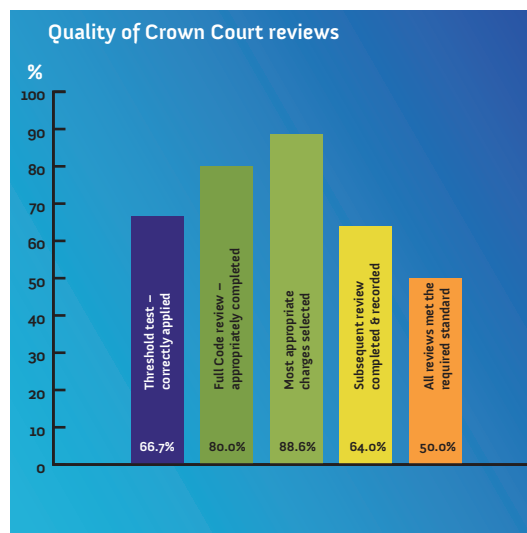
3.1 Serious and complex cases are generally dealt with in the Crown Court. Casework and advocacy are more demanding, and the relative cost per case is higher, than for prosecutions conducted in the magistrates' court. Cases are prepared by teams comprising a mix of lawyers, caseworkers and administrators. Once notified, the police prepare an upgraded file containing all the necessary evidence and information required for proceedings in the Crown Court. The CPS reviews the evidence and material provided and compiles a prosecution bundle which is then served on all parties in the case. The electronic case management system (CMS) is used to record and process the casework.

3.2 Performance is assessed in terms of the quality and timeliness of case review and preparation, the proportion of cases listed for trial which proceed on time, and eventual outcome of proceedings. Additionally, the Area has set targets for assisting in the recovery of criminal assets. Whilst a number of key indicators remain above the national average, overall, the Area's Crown Court performance has seen a general decline in 2009-10 from the previous year.

The quality and timeliness of review

3.3 We examined 42 of the Area's Crown Court cases⁴ and found that the full Code test had been incorrectly applied at the charging stage in 10% of them; this figure is sufficiently

high to cause concern and needs to be urgently addressed. Overall, the quality of decision-making was only marginally better than that in the magistrates' court and similar improvements need to be made in the delivery of pre-charge advice as has already been outlined in the preceding chapters.



3.4 The quality of Crown Court review needs to improve. Lawyers place too much reliance on the charging decision and need to develop a greater understanding of how evidence should be marshalled and the prosecution case put in the Crown Court. Realistic determinations of how the case should be advanced must be made and actions taken to shape and strengthen the evidence required for court. Benefit would be gained from formal feedback by the crown advocates (CAs). Presently, the Area's CA system is not integrated into the prosecution team and their role is viewed as separate and specialist. This represents a missed opportunity to expand the knowledge base of the Area's lawyers and improve the general standard of review and case building.

⁴ Our key findings are set out in the table at Annex C.

3.5 On average, cases in the Crown Court invariably take longer to conclude than in the magistrates' courts. From the file sample, a number of cases suffered from delay in the early stages. A proportion was due to investigations not proceeding expeditiously, but in others, the prosecutor had overbuilt the case too early through a desire to ensure all evidence was obtained before commencing a prosecution. In appropriate circumstances, this may be the right approach; however, consideration needs to be given to whether the greater risk to a successful outcome arises from the delay in commencing proceedings. Prosecutors need to take a more balanced view at the pre-charge stage and not delay charging decisions unnecessarily.

3.6 In most of the cases in the file sample, advocates had taken the necessary action to ensure satisfactory progress was made at the plea and case management hearing (PCMH); albeit that, in a significant minority, more could have been done by the prosecutor at that stage in proceedings. Overall, excluding ineffective trials, most unnecessary adjournments were not the fault of the prosecution. Earlier prosecution action could have progressed the case more quickly in about 15% of adjourned cases.

3.7 The Area has an established protocol for the referral of cases to the Wales Group complex casework unit (CCU) and cases are generally referred the unit head for allocation. Access arrangements are understood by Area staff and the police and inappropriate referrals are kept to a minimum.

3.8 Cases are not always linked effectively and judicial comment has highlighted that prosecutors often lack full knowledge of their cases. Relevant information which could have an impact upon the prosecution case can be overlooked and is not routinely made available by police when it should be, adding to the incidence of late decision-making.

The timeliness and quality of case preparation

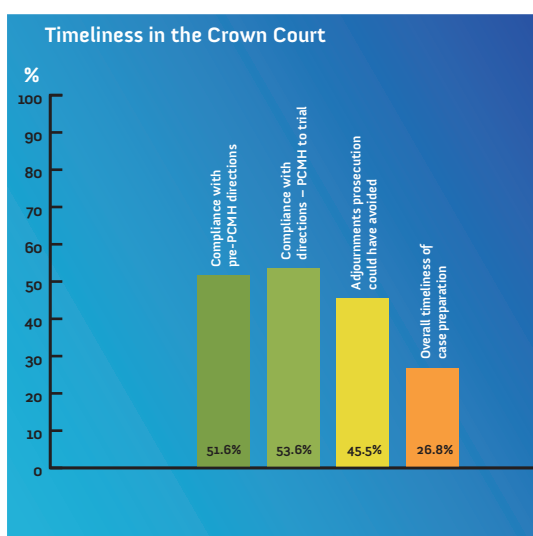
3.9 The CPS should prepare its Crown Court cases promptly, allowing guilty pleas to be entered at the earliest opportunity and fair trials to take place on the appointed date. The Area's Crown Court case preparation has been affected by the higher priority afforded by the Area to charging and court coverage and inefficiencies in some of the processes. This has led to an increase in the number of cases discharged at committal, see paragraph 2.6, and a rise in the Area's Crown Court attrition rate. The position is undoubtedly compounded by the long-standing incidence of poor quality file preparation by the police and a lack of investigative expedition in individual cases.

Priority recommendation

The Area needs to take active steps to reduce the discharged committals rate so that performance is in line with, or better than, the national average.

3.10 The quality of indictments has been raised as a concern by the judiciary and our inspection noted several examples of documents drafted without sufficient care and attention. The Area does not monitor the quality of its indictments and basic errors are allowed to

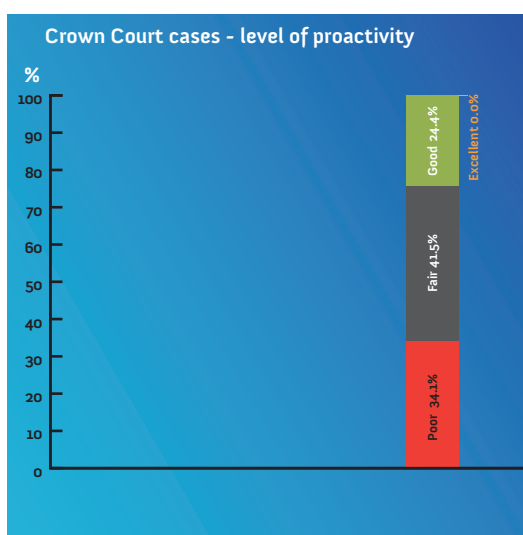
slip through, symptomatic of a casual approach taken to producing some documents generally. Steps need to be taken by the Area to improve the quality of drafting overall and indictments in particular.



3.11 Instructions to advocates were variable, but with some good and excellent examples. However, there is a variation in quality across the Area which needs to be eliminated; it is noticeable that the poorest produced examples came from the office where caseworkers played no part in the process. In general, instructions need to be tailored to the case, with reference to the relevant facts, strengths and weaknesses; indicating anticipated outstanding evidence, and realistic, acceptable pleas.

3.12 Case progression systems have been unable to keep on top of timeliness. Poor compliance with court orders, late service of evidence and disclosure, and poorly drafted applications have contributed to a localised break down in the relationship between the judiciary and the CPS which is of particular

concern. The Area recognises that it needs to rebuild this vital partnership and make improvements to its Crown Court work and is taking active steps to do so. This is a priority area as too many cases have been allowed to drift, with a lack of proactivity preventing deficiencies in earlier decision-making from being addressed. We consider this aspect further at paragraphs 11.14 and 11.15.



3.13 The Area is in the process of introducing the Crown Court optimum business model (OBM) to tackle a number of the preparation weaknesses. The system is predicated upon a restructured process, designed to make more efficient use of Crown Court resources. Presently, the new system is in its infancy and not all staff have a clear understanding of how the process will operate in practice. The Area needs to address this issue.

Priority recommendation

The Area needs to:

- ensure sufficient resources are allocated to progress its most serious casework effectively;
- achieve greater consistency in the standard of its review work in Crown Court cases; and
- ensure that prosecutors have sufficient time to complete Crown Court reviews effectively.

3.14 The Area has not achieved consistency in the deployment of crown advocates (CAs) across its three districts. In Cardiff, the CAs appear full-time as advocates in the Crown Court. In Swansea and Merthyr Tydfil, the CAs appear in the Crown Court less frequently and as part of their wider, general prosecutor duties. Either system can provide the expected benefits, but in neither case has this been realised by the Area. Plans to establish a full-time advocacy unit in Swansea have existed for some time. Initially due to be operative from November 2009, it is now due to commence very soon.

3.15 The crown advocate unit in Cardiff has been in place for some time and the CAs now conduct the majority of cases listed for plea and case management hearing (PCMH). Case allocation, however, is not in accordance with the national CPS agreement reached with the self-employed bar. Advocates are given their cases only after the PCMH list has been finalised. This prevents them preparing effectively for the hearing and allows cases to go into court without rectifying deficiencies first. The quality of CA advocacy is considered in the following chapter and their productivity is examined in chapter 12.

Effective, ineffective and cracked trials

3.16 The target to reduce the level of ineffective trials is shared by the CPS with its criminal justice partners. The Area has a responsibility to ensure that its cases are ready to proceed to trial on time. Victims and witnesses have a legitimate expectation that their cases will be heard on the appointed day, without adding the frustration, inconvenience and wasted time of an ineffective trial. Ineffective trials can also increase costs and delay justice.

Trial rates	OPA 2007 Area	2009-10 Area	National
Performance			
Effective trial rate	54.6%	46.8%	44.9%
Cracked trial rate	33.7%	42.9%	42.2%
Ineffective trial rate	11.7%	10.3%	13.0%

3.17 Area performance is above the national average in the Crown Court for effective and ineffective trials and near to it for cracked trials. However, the cracked and effective trials rates have declined since 2007. Future criminal justice focus is set to concentrate on improving the effective trial rate and reducing the level of cracked trials, making the most efficient use of available court time.

Outcomes in the Crown Court

3.18 A greater proportion of the Area's Crown Court cases result in a conviction than the national average and the Area discontinues fewer of them, in percentage terms, than is the case nationally.

3.19 Resident Judges at all Crown Court venues across the Area afford a high priority to case progression and take a keen interest to ensure that cases are effectively managed and brought to trial. This has undoubtedly had a positive effect upon the Area's Crown Court outcomes generally and ineffective trials in particular. The Area is less likely to have an ineffective trial than is the case nationally and has reduced the proportion of cases which are cracked or ineffective due to prosecution

reasons. However, judges are having to drive the prosecution elements of the case more than should be the case and courts have lost a measure of patience with the prosecution and attrition rates are rising.

3.20 We examined 16 cases which resulted in an adverse outcome. Some ought not to have been charged, whilst others were wrongly discontinued when circumstances had not changed materially since the pre-charge decision. In a significant proportion, the decision to discontinue was not in accordance with the Code and more could have been done to have strengthened the prosecution, which might have avoided the outcome. Discontinuance is not routinely made in good time or on the earliest, appropriate occasion and opportunities to make the correct judgments are being missed. In some of the cases examined, it was apparent that the outcome had been reasonably foreseeable either at the time of charging or at the Crown Court review stage. However, at neither stage did the review identify the evidential weaknesses that ultimately led to the prosecution being abandoned. In the majority of cases, prosecutions were not stopped until the plea and case management hearing (PCMH) or later.

Successful outcomes in the Crown Court					
Performance	Area OPA 2007	National 2008-09	Area 2008-09	National 2009-10	Area 2009-10
Overall conviction rate	78.2%	80.8%	82.1%	80.6%	81.8%

Unsuccessful outcomes in the Crown Court					
Performance	Area OPA 2007	National 2008-09	Area 2008-09	National 2009-10	Area 2009-10
Judge ordered acquittals (discontinuance)	10.7%	11.7%	10.2%	11.7%	10.9%
Judge directed acquittals	1.9%	0.9%	1.0%	1.0%	0.6%
Acquittals after trial	7.0%	5.5%	6.0%	5.7%	5.9%
Warrants	1.1%	1.1%	0.8%	1.0%	0.9%

3.21 Adverse outcome reports are not always compiled and valuable lessons are only intermittently learned. Where they are completed, the reports are not used consistently to drive improvements in performance as they concentrate upon justifying the prosecution decision to charge, rather than focusing on elements capable of being enhanced. Although there is some individual feedback, learning points are not disseminated widely across the Area. For cases prosecuted in-house, there is clear scope for CAs to take a more active role in assisting the charging and case preparation lawyers to produce better cases.

3.22 More needs to be done to ensure that victims are appropriately consulted prior to their cases being dropped, as this was completed in only half of relevant files examined. Steps also need to be taken to improve communication with the police so as to ensure that representations are appropriately considered before a prosecution is discontinued.

Asset recovery (proceeds of crime)

3.23 Area performance has improved for 2009-10 over the 2008-09 results, where it fell short of the target in value by £217,847. The Area has provided further training to 14 of its lawyers selected from each of the districts. The training was delivered by the Wales Regional Asset Recovery Team (RART) lawyer in June 2009, and again in February 2010. The POCA figures

for 2009-10 show the Area to have exceeded its target in value by £1,601,015 (or 66.8%) a significant achievement.

Use of Compass, the electronic case management system - CMS

3.24 Compass, or CMS, is used effectively by the Area's caseworkers and administrators to receive and record information and documents in cases. The position is reversed, however, in respect of the lawyers who do not make good use of the system and are still using outmoded paper-based templates to prepare cases for the Crown Court. The practice is inefficient and the Area needs to take urgent steps to address this.

3.25 As with the magistrates' court, the Area is incorrectly recording the outcomes in a significant number of cases at finalisation. The error rate is sufficiently high to influence the statistical integrity of some indicators submitted to headquarters and give a misleading picture of performance. The Area needs to improve the accuracy of its Crown Court case finalisation, to ensure performance improvement strategies which are correctly targeted.

Compliance issue

Area managers must ensure that prosecutors complete tasks appropriately on CMS.

4 The prosecution of cases at court

OPA 2007	Good
AEI 2010	Fair
Direction of travel	Declined

4.1 The CPS employs both its own staff and external advocates to prosecute cases in the magistrates' courts and the Crown Court. Regardless of whether the advocate happens to be in-house or self-employed, the same standards apply. Prosecutors should present cases fairly and firmly, assist the court in any sentencing process, and deal effectively with any proceeds of crime issues.

4.2 Performance is assessed in terms of the quality of case presentation, whether cases are progressed effectively and the value for money of prosecutor deployment.

The quality of case presentation

4.3 We observed 29 advocates in both the magistrates' courts and the Crown Court and found the quality of advocacy variable. The majority of advocates were competent, but there were concerns in relation to a few in-house prosecutors. Criminal justice partners considered the standard of advocacy varied markedly, from the very good to the poor, and that a few crown prosecutors and crown advocates lacked some basic knowledge. Trial advocacy was identified as the in-house prosecutors' weakest area.

Advocacy standards					
	Level	Number of CPS advocates/ associate prosecutors in the magistrates' courts	Number of counsel/solicitor agents in the magistrates' courts	Number of crown advocates and other CPS advocates in the Crown Court	Number of counsel in the Crown Court
Assessed as above normal requirements	1	-	-	-	-
	2	-	-	1	1
Against CPS national standards of advocacy	3+	3	-	-	1
	3	7	-	4	7
	3-	-	-	1	2
And those assessed as less than competent	4	1	-	1	-
	5	-	-	-	-

Assessment: 1 = Outstanding; 2 = Very good, above average in many respects

3+ = Above average in many respects; 3 = Competent in all respects; 3- = Below average in some respects, lacking in presence or lacklustre

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

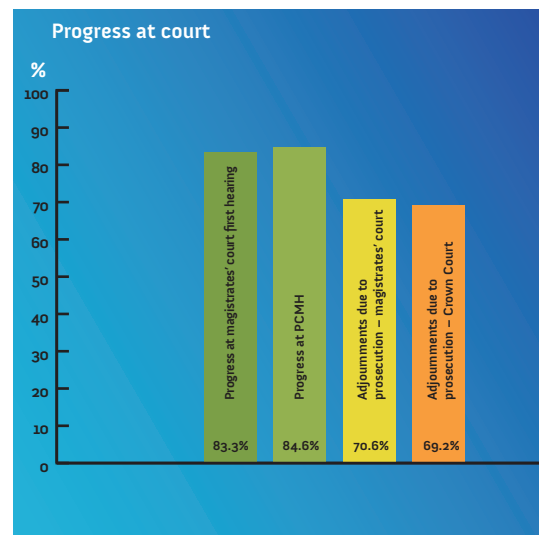
4.4 In the magistrates' courts, associate prosecutors (APs) received higher overall praise from the district judges and justices than their qualified colleagues as they appeared better prepared and more familiar with the case papers. The Area has yet to assess the number of APs with extended rights of audience (AP2s) it requires to implement the national AP2 programme.

4.5 In the Crown Court, some judicial concern was expressed about the standard of in-house advocacy, especially trial advocacy. Common areas for complaint were: the lack of thoroughness in preparation for court; poor case presentation; inadequate knowledge of the facts and law pertinent to the case; and the professionalism of some.

4.6 In June 2009, the CPS formulated a national 'advocacy quality management strategy', a scheme designed to regulate and monitor the quality of courtroom advocacy. In response, an experienced crown advocate has been taken from the Area to perform advocacy assessments for the Wales Group. This monitoring needs to be taken forward and an effective training programme put in place to improve in-house advocacy skills, particularly trial advocacy.

Progressing cases at court

4.7 APs appearing in the larger magistrates' courts have good access to experienced prosecutors from whom they can take advice when necessary. In the smaller magistrates' court venues, however, the situation is different and delays can occur which interrupt proceedings and undermine effective case progression. Conversely, prosecutor deployment becomes inefficient on occasions when non-AP cases appear in an AP designated list, requiring the additional appearance of a lawyer at court to prosecute it. The Area needs to continue to work with the local HM Court Service managers to streamline listing patterns in order to maximise efficiency.

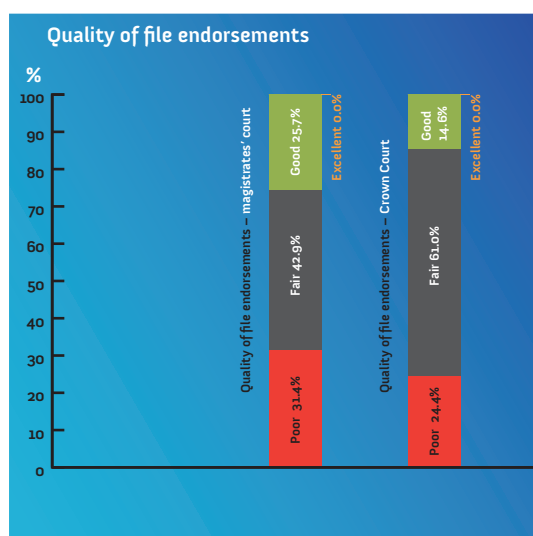


4.8 Although fewer applications for adjournments are required than there used to be, progress is not always made at the first hearing. Criminal justice partners reported generally that they are frustrated by the inability of the prosecution to get cases ready on time, and commented that the CPS routinely blames poor and late file preparation by the police for the lack of readiness, although our own observations were inconclusive on this latter point.

4.9 Overall, weak case preparation is a fundamental issue in both the magistrates' courts and Crown Court and one which has not gone unnoticed by the Area's criminal justice partners. There is a lack of prosecutor time available for work to be completed and cases can remain unprepared until the afternoon before the hearing. Prosecutors must rely on arriving early at court to review their cases or otherwise prepare them at home. None of this allows for adequate court or case preparation, and there are associated increased manual handling and data security risks.

4.10 The level of poor quality case preparation has been acknowledged internally by a number of Area prosecutors, who have made their views known, citing back-to-back court sessions, inefficient deployment practices, and the lack of case ownership under the optimum business model as causes for increasing concern amongst the Area's lawyers. As set out in 2.10 and 3.9, further work is needed to re-assess the processes and examine the deployment of staff in the Area's case preparation units.

4.11 Effective progress can often be affected by the quality of file endorsements. Most were legible and clear, but a significant number lacked sufficient details of the hearing. This makes it difficult for the succeeding advocate to obtain a comprehensive and accurate history of the case, which can lead to misunderstandings or a duplication of work. It may also provide some explanation of why a high proportion of cases in our file sample were incorrectly finalised on the electronic case management system (CMS).



4.12 Caseworkers provide advocates with support at all Crown Court venues, with the degree of coverage across the Area being relatively high, averaging a ratio of one caseworker to two court rooms and, on some occasions, reaching parity. PCMH, mention and applications lists can be extremely busy, requiring efficient organisation on the day. Necessarily, caseworkers covering these lists are unlikely to have an in-depth knowledge of each case and must rely on the prosecuting advocate having a familiarity with the file. This is not always the case and risks relevant facts and circumstances not being properly advanced, adversely affecting subsequent case progression.

4.13 Prosecution advocates arrive at court in a timely manner and comply with the Prosecutor's Pledge, Victims' Code of Practice and Witness Charter. The prosecutors work well with the Witness Service and routinely introduce themselves to victims and witnesses and ensure that they are kept informed of the progress of cases at court. We observed appropriate care and consideration being provided to victims and witnesses by prosecutors and counsel during the course of our court observations.

Value for money of prosecutor deployment

4.14 The Area has exceeded its 25% target for AP deployment in 2009-10 and is now only slightly below the national average figure. The use of agents has fallen accordingly. The Area has also seen a reduction in the overall number of magistrates' court sessions it must cover, which has assisted deployment.

4.15 Crown advocates (CAs) appear in greatest concentration at Cardiff Crown Court, where they are deployed full-time, prosecuting a range of cases, including some trials, and the majority of cases listed for plea and case management hearings (PCMHs). A few CAs have also acted as junior advocates in some bigger cases. At Swansea and Merthyr Tydfil, the CAs are not deployed full-time in the Crown Court, appearing irregularly as part of their general prosecuting duties. Whilst there is certainly merit in CAs undertaking charging and review tasks in cases destined for the Crown Court, regular deployment of CAs to undertake magistrates' courts work, either routinely or as cover for staff shortages, is inefficient and does not represent value for money. Moreover, such a deployment pattern neglects developing the necessary confidence and skills required of a CA to prosecute competently in the more demanding venue. The Area needs to address its CA usage. A recommendation is made at paragraph 10.9.

5 Serious violent and sexual offences and hate crime

OPA 2007	Good
AEI 2010	Good
Direction of travel	Improved

5.1 Serious violence and sexual offences include: causing grievous bodily harm and wounding, offences using weapons, fatal road traffic offences, homicide, rape, child abuse and domestic violence. Hate crime includes: racially, religiously and disability aggravated offences, homophobic offences, and elder abuse.

5.2 Performance is assessed in terms of the level of specialist expertise devoted to serious violence and sexual cases, the quality and timeliness of review and preparation, and the level of successful outcomes.

Specialists and experts

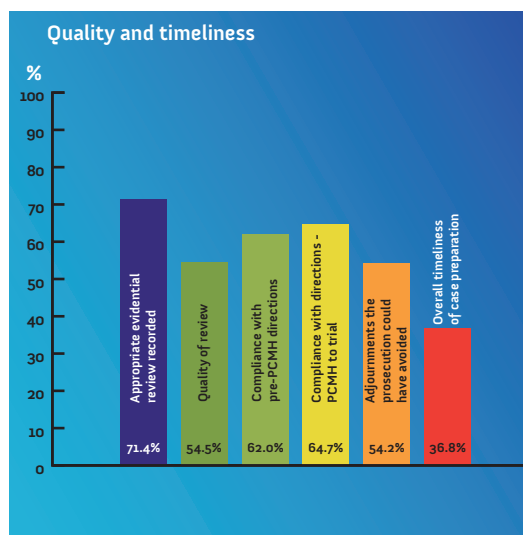
5.3 The Area has specialist prosecutors to deal with serious violent and sexual offences and hate crime, and who provide appropriate assistance to other prosecutors and caseworkers. All charging decisions involving a fatality are brought to the attention of the Chief Crown Prosecutor (CCP). Serious cases which fall within the Area's volume crime, such as domestic violence, are dealt with by experienced prosecutors who may consult with specialists if needed.

5.4 From the file examination, serious violence and sexual offence cases were not always dealt with from beginning to end by a designated specialist. Although the Area needs to balance the benefits of case ownership with the requirement to develop more junior prosecutors, that balance is not always being

struck appropriately. Greater continuity is needed at the early advice and charging stages, whilst less experienced lawyers need to be nurtured through proper training and effective supervision.

5.5 The Area has sought to address weaknesses in its rape and serious sexual offences (RASSO) prosecutions and is piloting a dedicated RASSO unit in Cardiff. This is intended to promote closer joint working with specialist investigators, increase prosecution team continuity and improve the overall service delivered to victims. Before this system is extended Area-wide, its effectiveness, cost and impact on other serious work needs to be properly evaluated.

The timeliness and quality of review and case preparation



5.6 The quality of Area reviews for serious violence and sexual cases is better than in other non-specialist crimes, save in respect of domestic violence and child abuse. From the file examination, it was noted that not all of the

full reviews were in accordance with the Code. However, it was equally noticeable that in a significant proportion of domestic violence, child abuse, and also rape investigations, the police failed to provide the prosecutor with important material which should have been made available at the time of the charging decision.

5.7 Selection of the most appropriate charges is more frequent in serious violence and sexual cases, but decision-making around ancillary issues and action plans is only marginally better than in other cases at the pre-charge advice stage. There is clear room for improvement around the consideration of victim and witness issues, relevant applications in support of the prosecution evidence and the necessary actions needed to strengthen the prosecution case for court.

5.8 The majority of cases in the file sample were correctly identified as priority crimes on the CPS case management system (CMS). Once up and running, the quality and timeliness of further review and preparation in serious violence and sexual cases is better than the standard achieved in the remainder of the Area's Crown Court work. Notwithstanding the favourable comparison, in absolute terms, our file examination suggests that work is needed to improve consistency of serious violence and sexual offences casework.

Compliance issue

The Area must ensure that special measures applications are properly drafted, supported by relevant information and made expeditiously, within the set timescales.

Outcomes for serious violent and sexual offences

5.9 The Area is reducing the level of unsuccessful outcomes in respect for all serious violent and sexual offences cases, but performance remains below the corresponding national averages.

Unsuccessful outcomes					
Performance	National 2008-09	Area 2008-09	National Target	National 2009-10	Area 2009-10
Violence against women	28.1%	31.6%	28.0%	28.2%	29.2%
Rape	42.3%	47.5%	41.0%	40.6%	44.7%
Domestic violence	27.8%	31.0%	28.0%	28.0%	28.4%
Sexual offences	24.9%	30.5%	28.0%	24.0%	27.5%

5.10 The Area is working with criminal justice partners to make a greater impact on violence against women. Following a joint review of sexual offences handling in South Wales, the Area held a rape training seminar in January 2010 involving support agencies from across the whole of Wales. The Area has improved its links with local sexual assault referral centres (SARCs) and relationships between the two agencies are now more cooperative.

Strength

Joint working with criminal justice partners to improve performance in violence against women and rape cases.

5.11 The Area has recently agreed with Victim Support the provision of an enhanced service to vulnerable victims and witnesses. The initiative started in Cardiff in February 2010 and is undertaking referrals in respect of child witnesses. It is hoped in due course to roll out the scheme in respect of all casework on an Area-wide basis.

Outcomes for hate crime

5.12 The Area has been successful in reducing its adverse outcomes significantly for hate crime and current performance has bettered both the unsuccessful outcomes target and the national average results.

5.13 The Area has been focussing more recently on disability hate crime and performance has improved in the individual categories. Training has been provided for staff on disability hate crime, as well as domestic violence. The Area has a disability hate crime action plan to deal with such cases and monitor its performance in order to improve where necessary.

Recommendation

The Area needs to:

- achieve greater consistency in decision-making for all serious and sensitive cases; and
- put in place effective processes to monitor and manage individual performance.

Unsuccessful outcomes

Performance	Target	2008-09 Area	National	2009-10 Area	National
Hate crime: combined racist, religious, homophobic and disability	18%	20.2%	18.0%	16.1%	18.1%



6 Disclosure of unused material

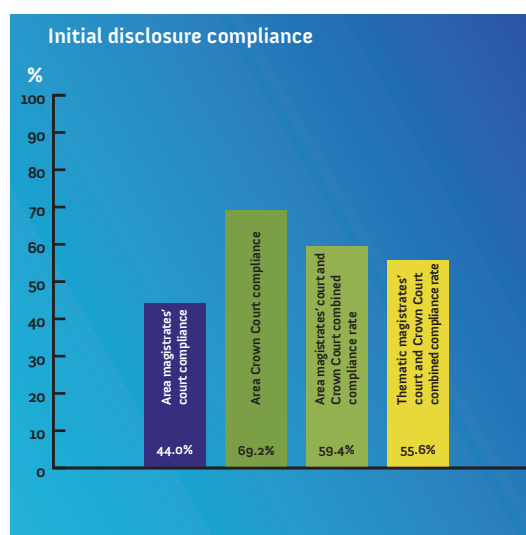
OPA 2007	Poor
AEI 2010	Poor
Direction of travel	Improved

6.1 A criminal investigation can generate more material than will be used by the prosecution. Police have a duty to retain and reveal this material to the prosecutor on schedules, detailing what items have been gathered. The CPS lawyer must consider whether any of the items listed should be served on the defence. The process is called disclosure, and the individual items are referred to as unused material. Failure to disclose something which should have been disclosed can lead to an injustice to the defendant and have severe consequences for the prosecution.

6.2 Prosecutors must disclose any material which may undermine the prosecution, assist the defence or otherwise prevent a fair trial taking place. Unused material is classed as either non-sensitive, for example police note books, or sensitive, such as intelligence information. On occasions, relevant material may be in the possession of another agency, or third party, such as social services records. Where sensitive material is determined to be disclosable, the prosecution can ask the judge for it to be withheld by making a public interest immunity (PII) application.

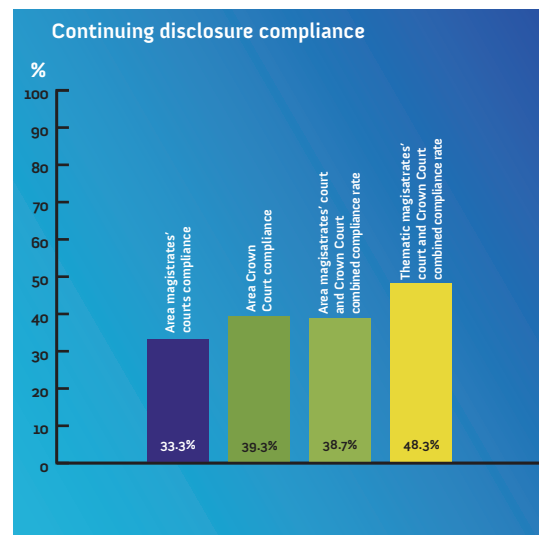
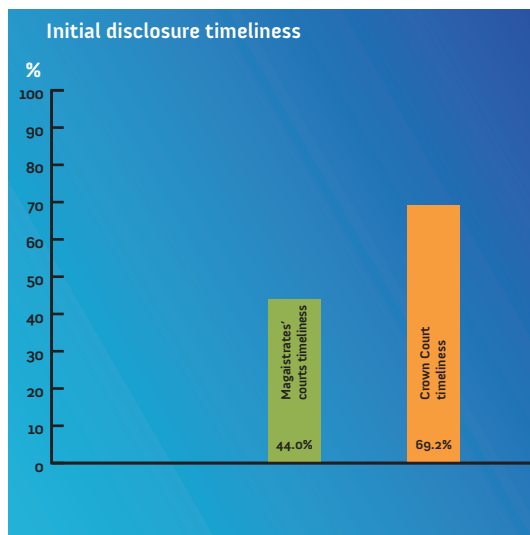
6.3 Performance is measured in terms of the quality and timeliness of initial and continuing disclosure reviews, the effective handling of any third party and sensitive material, the accuracy of disclosure records and the overall management of the process. We also consider Area performance

in comparison to the national findings from our 2008 thematic disclosure review. The table detailing the findings of this inspection with those in our thematic inspection is within Annex C. Although the Area has improved its disclosure handling since our last Area assessment in the 2007 OPA, a number of key aspects remain below the 2008 thematic findings. The Area recognises the need to make sustained, substantial improvement to disclosure.



The quality and timeliness of initial disclosure

6.4 We examined 64 of the Area's cases in which the duty to make initial disclosure arose. We found that improvements are needed in relation to both quality and timeliness. In four cases, non-compliance was a failure to disclose undermining or assisting material. Such failings are serious and made more likely by Area lawyers viewing disclosure as a process step needing to be completed, rather than as a proper review of unused material.



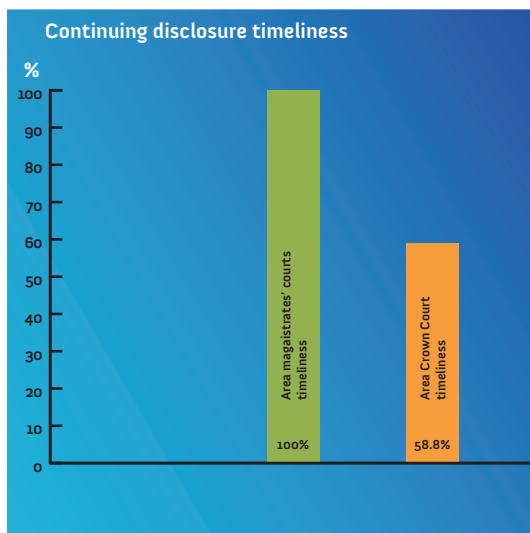
6.5 Timeliness was markedly different between the magistrates' courts, where it was poor, and the Crown Court, where it was better. The Area is over two and a half times more likely to have an ineffective case in the magistrates' courts because of a disclosure issue than is the case nationally.

6.6 The quality and timeliness of disclosure is affected by the performance of the police disclosure officers responsible for identifying and scheduling the unused material. It is apparent that the Area is unlikely to achieve any wholesale improvement to disclosure handling, unless it also succeeds in persuading the police to raise their baseline performance at the same time. The Area is aware that this is the case.

6.7 The Area has managed, by and large, to eliminate the practice of 'blanket' disclosure, where documents are simply copied to the defence, without determining whether they might undermine or assist. This is a positive step, but raises the bar on the need for proper compliance with the duty of disclosure.

The quality and timeliness of continuing disclosure

6.8 The duty of disclosure is a continuing one and prosecutors must remain alive to the need to keep all relevant material continually under review. Disclosure may occur at any time, but must be completed formally in cases where the defence have served a satisfactory case statement (DCS) detailing their defence. A DCS is obligatory in the Crown Court, but discretionary in the magistrates' court. A report prepared for the Wales Group in August 2009 highlighted the poor police response rate following receipt of the DCS, a conclusion our file examination supports. This adversely affects both compliance and timeliness rates for continuing disclosure.



6.9 We examined 28 cases where continuing disclosure arose. In one case, non-compliance was a failure to disclose undermining or assisting material. In some of the cases, there were examples where continuing disclosure was left to the trial advocate to be resolved. Whilst it is right for counsel to be involved in the process, the duty to make the disclosure rests with the CPS lawyer. Although this practice can sometimes be linked to a shortage of lawyer availability for review, a proportion is the result of a lack of confidence in decision-making on the part of some of the Area's lawyers.

Priority recommendation

The Area needs to:

- ensure that legal decision-making for disclosure is sound, properly reasoned and recorded; and
- use the disclosure reports prepared by the Area disclosure champion to manage individual performance.

Sensitive and third party material

6.10 A schedule of sensitive material is submitted by the police in each case proceeding to summary trial or to the Crown Court; in a high percentage, the schedule simply confirms that there is no sensitive material. Unlike the non-sensitive schedule, the defence do not receive a copy of the sensitive form.

6.11 We examined eight cases which had relevant sensitive material recorded; two in the magistrates' court and six in the Crown Court. Disclosure was dealt with properly in five of them. In three Crown Court cases, inappropriate material had been listed on the sensitive schedule; but in only one was a request made for it to be transferred onto the non-sensitive schedule and so made apparent to the defence.

6.12 Relevant third party material needed to be considered in six Crown Court cases and was correctly dealt with half of them. A specific protocol agreement exists nationally between the CPS, police, social services and other welfare protection agencies to assist the process and expedite decision-making. The Area has not yet implemented the protocol and this may, in part, explain a lack of understanding over the correct treatment of third party material evident from the file examination.

Compliance issue

The Area needs to expedite adoption of the Third Party Protocol for disclosure.

6.13 Public interest immunity (PII) decisions arose in respect of sensitive third party material in two Crown Court cases. In one, it was dealt with correctly, but very late in the day, whilst in the second, it had been completely overlooked. Both cases concluded in an unsuccessful outcome.

6.14 One disclosure case stands as representative in general of difficulties the Area has in its decision-making and case preparation. Relevant third party material identified by the CPS Direct charging lawyer was included in a case action plan. It was highlighted again a few weeks later by the Area lawyer at the full evidential review. 88 days then elapsed between the initial court appearance and first active steps taken by the prosecutor to obtain the material. It was a further 70 days, or ten weeks, before the decision to drop the case was eventually taken because of the further information received. The judgment to discontinue was correct, but not recorded anywhere; and the finalisation code entered on the CPS electronic case management (CMS) system was incorrect, indicating a very different reason for the prosecution not proceeding. This case illustrates the cumulative affect of: the poor quality file submitted by police; information which investigators ought to have discovered early not being made available until much later; the lack of proactivity from both police and CPS in progressing the case; the failure to record the discontinuance decision; and the wrong finalisation information.

The accuracy of disclosure records

6.15 File housekeeping in respect of disclosure documents is generally good, although some documents can occasionally appear in the wrong folder. There was a disclosure record sheet (DRS) on most files, but not all disclosure actions were routinely endorsed on the form. This undermines the value of the DRS as a chronology of disclosure actions and means that there is not a complete audit trail.

Management of the disclosure process

6.16 Area managers have completed a great deal of work in relation to disclosure and it has not been through a lack of attention that sustained improvements have not been forthcoming. Rather, a lack of expedition by some officers conducting the investigation, together with the change-resistant behaviour of some CPS employees and a reluctance to performance-manage known problem areas, has undermined overall disclosure performance.

Good practice

The disclosure reports and assessments compiled by the Area disclosure champion.

Recommendation

In partnership with South Wales Police, the Area should develop and implement a joint disclosure training programme to improve the timeliness and quality of police schedules and CPS legal decision-making.

6.17 Training, particularly joint training with the police, has taken a backward step and the Area has not made best use of its most experienced lawyers who regularly appear in the Crown Court to provide guidance and mentoring in respect of disclosure. Some elements of poor streamlining around casework systems and processes adversely affect the timeliness of disclosure. The Area needs to adopt a two-pronged offensive in relation to disclosure: firstly, addressing poor police performance by engaging with them and bringing substandard cases to their attention; and secondly, addressing individual disclosure performance internally through robust performance management.

7 Custody time limits

OPA 2007	Fair
AEI 2010	Poor
Direction of travel	Declined

7.1 There is a limit, set by parliament, on the length of time a defendant can remain in custody awaiting trial. When this is reached, the court must consider whether the defendant should remain in custody beyond the statutory period or be released on bail. It is the prosecution's responsibility to apply for any custody time limit (CTL) to be extended and to persuade the court that the extension is for good reason and that the case is being progressed with diligence and expedition. The regime is onerous and intended to be so, as it imposes a safeguard on the indefinite detention of an unconvicted individual. Conversely, CTLs invariably apply in cases where the level offending is serious or the likelihood of repeated criminal behaviour is high; in such circumstances, the release of a defendant into the community due to a CTL failure poses an increased risk to the public.

7.2 Applications to extend must be made by the prosecution before the CTL expires. Failure to do this in time results in the defendant being released from custody without further consideration, unless the person is a serving prisoner or deprived of their liberty for other reasons. Where an application is made in time, but the prosecution cannot show good cause to extend the CTL or demonstrate due diligence and expedition, the defendant will be released from custody by the court. In either case, the CPS counts this as a CTL failure.

7.3 Performance is assessed in terms of the number of cases where the prosecution has failed to apply in time for a CTL to be extended, as these are caused by errors at some point within the CTL process; and the number of cases which the court determines are not being satisfactorily progressed, as this reflects poor case preparation.

7.4 Overall, the Area had three CTL failures in 2008 and five failures in 2009. This compares unfavourably with our last two visits to the Area.

Area CTL processes – failure to make CTL applications within time

7.5 The CPS has detailed national guidance setting out the processes which should be in place for handling all CTL cases. This is designed to ensure that cases are appropriately considered and applications properly prepared before the time limit expires.

7.6 The Area revised its written CTL systems in June 2009, which now accord with national guidance. A good audit trail exists of CTL reviews and actions, and monitoring is in compliance with agreed standards. A local protocol with HM Courts Service has been in place since April 2009 and is being complied with in practice, although file endorsements do not always record that CTL expiry dates have been agreed with the court.

7.7 Our 2009 national CTL audit identified that both in-house and self-employed advocates at Swansea Crown Court were not routinely proactive when dealing with CTLs, neglecting to ensure that critical dates were mentioned and agreed by all parties in court.

The Area champion has addressed the issue internally and raised the matter directly with local chambers. The Area needs to build on this communication and improve the quality of its instructions to prosecute so that CTLs have greater prominence; presently, they lack sufficient emphasis to mark its importance.

7.8 We examined 17 finalised cases and 12 live cases where a defendant had been remanded into custody. The CTL expiry date was correctly calculated in all but one case, where a discrepancy was revealed. This was brought to the attention of the district concerned.

7.9 Three of the Area's recorded CTL failures for 2008 and 2009 were the result of applications to extend CTLs being missed and all were the result of individual failings, most notably poorly recorded file endorsements leading to confusion over which offences carried a CTL, and miscalculated CTL expiry dates. Area CTL checks ought to have identified the errors and recovered the situation, but in each case they were missed.

Area case preparation - failures of due diligence and expedition⁵

7.10 In 2008 and 2009, five Area cases resulted in a CTL failure being noted because the court could not be satisfied that the prosecution had acted with due diligence; and there were four such cases in our file sample. In each, the application was timely, but the quality of drafting was poor. Improvements need to be made so that CTL applications include a full

chronology and that the reasons for seeking the extension are properly identified, concentrating on issues of due diligence and expedition.

7.11 The increasing incidence of CTL failures is of particular concern, especially in relation to those resulting from poor case preparation; when compared to the number of recorded failures nationwide, Area performance is significantly weaker than average. All failures, for whatever cause, must be notified to the CPS centrally. The last Area failure led to the Area inviting CPS headquarters to conduct a CTL audit at Cardiff in January 2010. It is worthy of note that, not long after that review, the Area had another 'near miss' in March 2010.

7.12 The Area has undeniably undertaken a lot of work on CTL compliance since the last OPA and in consequence of our 2009 audit, and a number of systems have been revised and updated. Staff have received relevant training. Yet this has resulted not in the anticipated improvement in performance, but an unexpected and marked decline. The overall score for this aspect reflects the large number of CTL failures recorded by the Area since 2007.

Recommendation

The Area needs to ensure CTL cases are monitored robustly and that regular CTL audits are completed. Performance needs to improve so that it is in line with, or better than, the national average.

⁵ Cases within this category are now reportable by Area to CPS headquarters for consideration. Previously, refusals to extend CTLs were not included, and only those cases where no application to extend had been made were recorded as a CTL failure. This represents a tightening of the CTL regime.

8 The service to victims and witnesses

OPA 2007	Good
AEI 2010	Good
Direction of travel	Improved

8.1 The CPS is committed to delivering a high standard of service to victims and witnesses and is required to inform victims when a decision is taken to drop or substantially reduce a charge, under the direct communication with victims scheme (DCV). Overall responsibility for witness care is divided between the police, CPS and Witness Care Units (WCUs). WCUs were implemented as a result of the No Witness, No Justice (NWNJ) initiative and contain a mix of police and CPS employees, although the vast majority are populated and managed by the police.

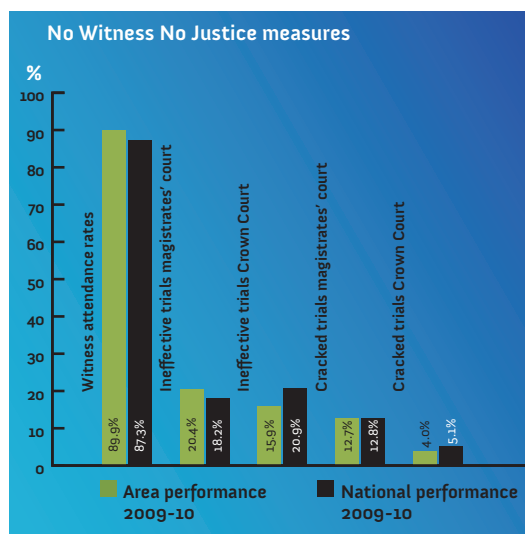
8.2 CPS performance is assessed in terms of the timeliness and quality of DCV letters it sends out and the NWNJ primary and secondary measures, which include: cracked and ineffective trials due to witness reasons; witness attendance rates and satisfaction levels; and the number of victim personal statements taken and special measures applications made. The level of care and treatment of victims and witnesses receive at court is also important.

Witness care units

8.3 Each district in the Area has its own witness care unit staffed by dedicated witness care officers (WCOs) who assist witnesses with their queries, liaise with support agencies and arrange pre-trial visits to court. They have had no specific training on how to deal appropriately with witnesses, although some talks given by support agencies at monthly meetings have

provided valuable insight in how to approach dealing with vulnerable victims and witnesses. WCUs can sometimes provide services which go beyond their responsibilities, such as counselling witnesses and attending trials at their request.

8.4 WCUs have developed in a piecemeal, isolated fashion with little coordination between them. The Area has now strengthened the management structure by putting an Area coordinator in place with individual responsibility for performance and completing a review directed at standardising the way that WCUs operate. One much needed recommendation from the review is the need for WCO objectives and performance to be managed in support of the NWNJ measures. Area witness attendance figures have seen an improvement and are now better than the national average. Performance overall has improved in the Crown Court, but more work is required in the magistrates' courts, where it has declined.



8.5 Witness warnings are generally timely, although problems can occur when the court transfers a case late in the day to a different venue. There are still some communication tensions between the CPS and the WCUs over providing information to WCOs, and so witnesses are not always updated and kept abreast of progress in special measures applications. Despite improved levels of contact between the WCU staff, and the lawyers and caseworkers in the CPS, the view of WCOs across the Area was that CPS staff had little appreciation of the WCO role.

Recommendation

The Area should ensure with the police that WCU performance is monitored, managed and assessed in accordance with NWNJ primary and secondary measures. Improvement programmes need to be assessed in compliance with NWNJ indicators.

Special measures

8.6 Duty prosecutors should consider all relevant ancillary issues when deciding on charges, but a lack of proactivity and available supporting evidence on special measures causes frustrations for WCU staff when dealing with enquiries from witnesses. The Area acknowledges that more needs to be done and the police have redesigned the witness statement form to prompt officers to consider witness needs and take a victim personal statement. The CPS has provided additional special measures training, and improved its contact with the sexual assault referral centres (SARCs) and independent domestic violence advocates (IDVAs). The new serious sexual offences (RASSO) unit is intended to provide

an empathetic and bespoke level of service to victims through better prepared cases, earlier special measures applications and a more holistic approach overall.

The care and treatment of victims and witnesses at court

8.7 At court, additional help and support is provided directly by the Witness Service, part of Victim Support, a national charity. To operate effectively, the Witness Service relies heavily on the information it receives from local WCUs in order to prepare for pre-court visits and to assist those attending court for a hearing. The Area has positive relationships with the Witness Service, but needs to improve the flow of information to the organisation, particularly in relation to vulnerable and intimidated witnesses and special measures requirements, so that their appropriate needs can be planned and catered for rather than simply reacted to.

8.8 In the magistrates' courts, prosecutors make efforts to see the witnesses through the witness service volunteers at court. Whilst the readiness of advocates to engage with witnesses varies according to the individual, in general the majority of Area prosecutors are conscientious in this regard. The ability to speak with witnesses can be affected by a prosecutor's other commitments to the court and some witnesses may have to wait for a time before the prosecutor is able to see them.

8.9 In the Crown Court, caseworkers engage with witnesses although, again, levels of court coverage and other duties may restrict their ability in this respect. Counsel will usually introduce himself or herself to witnesses, but contact is often brief and rather formal.

8.10 In domestic violence and sexual offences cases, witnesses may be assisted by the independent domestic violence advocate or someone from the sexual assault referral centre (SARC). In some instances, witness care officers have themselves gone to court to support a witness at trial.

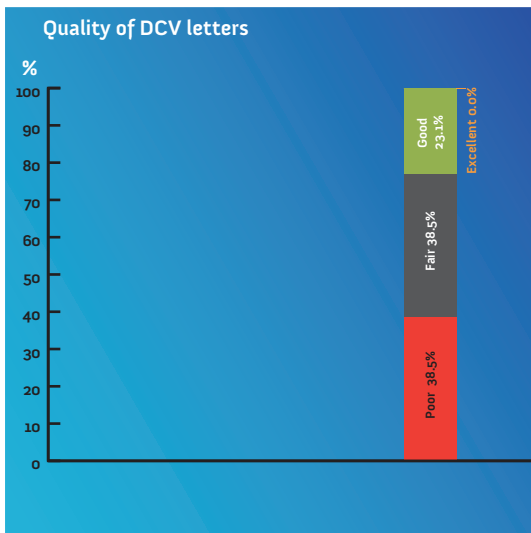
Direct communication with victims

8.11 Overall, the quality of Area letters sent under the direct communication with victims (DCV) scheme needs to improve. Some letters are poorly drafted, lacking in information, detail and empathy. Although performance varies across the Area, shortcomings in the quality of letters is Area-wide.

8.12 The Area has acknowledged a need to improve the quality of its DCV letters and introduced quality management panels, following Swansea’s lead, to develop best practice. Recently assessed examples from Swansea show a marked improvement in content over earlier letters. The timeliness for DCV letters has shown a dip in performance from the previous year.

Good practice

Community panels used to assess the quality of letters completed under the direct communication with victims (DCV) scheme.





9 Managing performance to improve

OPA 2007	Fair
AEI 2010	Fair
Direction of travel	Stable

9.1 CPS management needs to be aligned to performance, concentrating on core business need, effective service delivery, and the attainment of key objectives. Area structures should support the organisation's vision and values so that all staff have a clear understanding of their role, achievable objectives and be aware of their contribution to the process. Systems must be efficient and improvement programmes managed and implemented effectively. Productive links with criminal justice partners need to be maintained, promoting effective, streamlined working practices. The overall direction of travel should be positive.

9.2 Performance takes account of criminal justice measured outcomes across the spectrum and is considered in terms of delivery through effective systems and processes, individual performance management and joint working.

Performance management systems and processes

9.3 Accountability for overall Area performance rests with the Chief Crown Prosecutor (CCP), supported by the Area Business Manager (ABM), with senior managers at district level responsible for local performance. The Area CCP is also the Wales Group chair, so cannot concentrate exclusively on Area performance and must take account of the wider portfolio.

9.4 Area performance is addressed within a series of meetings. These are comprehensive, but would benefit from being more streamlined, so as to combine strategy with implementation, where appropriate. This would remove an element of duplication, resulting in greater clarity and impetus to the actions needed to drive improvement forward. Area performance in the wider context is considered with criminal justice partners at regular external meetings.

Recommendation

Meetings should be streamlined and duplication removed to ensure that the impetus to bring about improvement does not become diluted.

9.5 The performance framework is essentially target driven and incorporates Area and national initiatives, as well as bespoke projects implemented locally. Reports are supplemented by a quality assurance framework and discrete, ad hoc reviews to determine what action should be taken to improve performance. Prosecution team performance management (PTPM) reports are considered jointly with police and have seen a recent improvement, although there is still some way to go before all obstacles which hinder progress are fully overcome. A performance culture has not been strongly embedded across the Area and front line staff have a limited understanding of how well their team or district is doing. Blockages identified by Area management are not being dealt with effectively at the service delivery level. This is something that the Area will want to address.

Individual performance management

9.6 There is a general reluctance on the part of some managers to tackle individual performance directly, which has left elements of poor performance unchallenged for some time. As a result, they have become repetitive and allowed to impede performance improvement programmes. This needs to change.

9.7 The Area needs to guard against staff perceptions that differing standards are used to monitor individual performance, and needs to take steps to ensure that a consistent approach is taken by managers across the Area. The introduction of national core quality standards (CQS) will allow the Area to build those expectations and standards into an accepted framework which is used across the Area.

Priority recommendation

The Area needs to:

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

9.8 Area advocacy monitoring has been patchy and piecemeal, with too few assessments undertaken and not all prosecutors observed within the year. The future is more promising, with the engagement of a full-time Group advocacy assessor. In moving to the new process, however, the Area should benchmark its performance in order to determine whether the assessments have improved advocacy standards over time and provided value for money.

9.9 The Area carries out yearly performance appraisals, but acknowledges that there have been some issues around the quality of objectives. The majority of staff express the view that the process has not been valuable and is more or less a 'tick box' exercise. The Area is addressing this through internal learning and development.

Joint performance management

9.10 Some elements of service delivery require the Area to work effectively with its criminal justice partners to improve standards. The main framework for managing joint performance is the Local Criminal Justice Board (LCJB) with its supporting sub-groups. Most managers are involved, at some level, with inter-agency meetings examining joint performance. Operationally, frustrations persist around a number of aspects of joint working; for example, the timeliness and quality of police files. The Area's relationship with criminal justice partners has been mixed; with some, such as the police and local RASSO units, it has improved. With others, in particular Cardiff Crown Court, it has reached a low ebb. This important aspect is now being actively addressed.

10 Managing resources

OPA 2007	Good
AEI 2010	Fair
Direction of travel	Declined

10.1 The national CPS budget is set by the treasury and devolved by CPS Headquarters to the Groups. As with other government departments, the CPS is required to find annual efficiency savings in line with planned public spending reductions. The Group share is set according to the combined size of the individual Areas it comprises, and calculated according to the activity based costing (ABC) model. The Group has the facility to transfer funding between its Areas to adjust for shortfalls and underspends. In exceptional circumstances, a business case can be made to headquarters for additional resources to be released.

10.2 Performance is assessed in terms of overall Area spending against the allocated budget, the value for money returned from resource deployment and the management of sickness and flexible working. The Area's ABC allocation has reduced its budget due to a falling caseload.

Area spend against the allocated budget

10.3 As a consequence of its reduced ABC share, the Area projected it would overspend its 2009-10 budget by 7%, a significant amount, increasing pressure on its non-ring-fenced administration costs (NRFAC). This likely deficit was identified at the beginning of the business year and an action plan implemented to manage the situation. Regular workforce capacity planning meetings brought together issues

around change, staffing profiles and funding, whilst increased advocate deployment and a reduced agent usage eased some budgetary pressure. Although the Area has not been completely successful in its attempts to reduce spending against the budget, for example more could have been done to improve the cost-effectiveness of crown advocate deployment, the measures introduced were sufficiently robust for the centre to release an additional £650,000 to the Area. This reduced the Area's end-of-year shortfall to a 1.29% overspend.

10.4 The budget has formed a constant element of discussions between the CCP, ABM and senior managers at regular performance meetings. All managers are aware of the need to control expenditure, although the ability to manage the NRFAC has been affected by the change implementation programme and initiatives, such as the Crown Court OBM, modernising charging and the RASSO unit. Whilst there has undoubtedly been considerable effort to reduce spending, the Area has lacked clarity over how efficiencies will be achieved, the impact initiatives will have on the budget, what the associated risks to the business may be and where gaps in performance may be expected to arise as a result of change. The Area needs to set a clear direction, balancing resourcing and responsibility with business risk and cost benefit to establish an equitable allocation across the Area.

10.5 The other main component of Area expenditure is prosecution costs, the money paid for cases to be prosecuted externally by self-employed advocates. These are monitored along with NRFAC spend on a regular basis and form a key element of discussion between the

CCP, ABM and senior district crown prosecutors at quarterly performance meetings. Prosecution costs were returned within budget for 2008-09, but underspent in 2009-10, resulting in the Area releasing a proportionate amount back to the Group. The Area has effective systems in place to chase up outstanding invoices from chambers and this is reflected in the timely payment under the graduated fees system (GFS). Since 2007, the Area has reduced the average prosecution cost per case in the Crown Court and its GFS unit costs for 2009-10 is significantly below the national average figure.

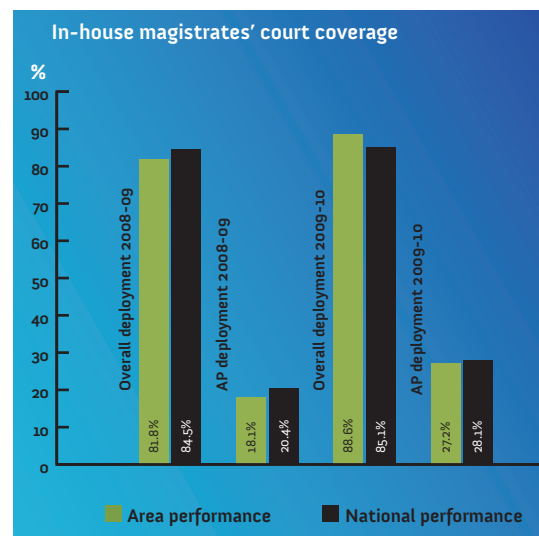
Deployment of staff

10.6 The drive to reduce the NRFAC has left gaps across the districts where individuals have left a position and not been replaced. Management regularly review staffing numbers and use the workforce capacity meetings to inform them of the overall staffing strategy. This has been partially successful, but management cannot be certain that its priorities are being met Area-wide. Isolationist office structures are contributing to inconsistent delivery of Area objectives and managers in different districts with equal responsibilities, have different levels of accountability. Staff perception is that resources are not balanced across the Area and that some arrangements are prone to favouritism. Continuity planning needs to be improved to ensure that the Area places staff in accordance with its business need.

10.7 Elements of ‘fire fighting’ have emerged in order to plug gaps in performance. Although a cooperative team spirit still prevails, the constant challenge to maintain an operational prosecution service has led to increasing

pockets of low morale, leading to criticism of management and structures. At one office, completion of the weekly deployment rota for lawyers and APs was universally thought to be inefficient, burdensome and inflexible, and often failed to take account of individual ability and need. The Area needs to consider its deployment holistically and review its arrangements to ensure an appropriate balance is set.

10.8 The Area increased the deployment of in-house prosecutors in the magistrates’ courts during the year and has had some success in reducing the number of court sittings to provide more effective use of CPS resources, although managers acknowledge that more needs to be done and that this is a continuing process. AP deployment coverage is unbalanced across the Area, with some more frequently required to conduct “back-to-back” courts, whilst others have time to help out with OBM work. Lawyer and AP court preparation time also varies across the Area – from some, to none.



10.9 In respect of in-house Crown Court deployment, the Area has not exploited its crown advocates (CAs) effectively and Area savings have significantly decreased over the period in relation to salary cost. The Area was set a target of realising £707,193 in counsel, or graduated fee scheme (GFS), savings for 2009-10, which was achievable. However, the Area only recorded savings of £561,553 over the year, a shortfall of some £145,610, representing only 79% of the target, making it one of the poorest performing nationally. The failure to reach the target has been due to an under-utilisation of CAs, and a tendency for some of them to be used as cover for charging advice and magistrates' court sessions in order to reduce spending on agents. This represents a false economy.

Managing sickness and flexible working

10.10 The Area has successfully reduced sickness levels from a high of 11.7 days in April 2008 to the current figure of 6.8 days, which is better than the national target and the CPS average of 8.4 days. The Area operates sickness monitoring systems in line with CPS guidance.

10.11 The Area operates a number of flexible working patterns, and most staff believed that flexible working was managed well. The ABM authorises all applications for a new working pattern to ensure it can be accommodated without disruption to other or the business need.

Recommendation

The Area needs to address how it instructs and deploys its crown advocates and their relationship with Area colleagues.



11 Leadership and management

OPA 2007	Fair
AEI 2010	Fair
Direction of travel	Stable

11.1 Delivering a quality service requires strong, determined leadership, supported by managers who deliver the key messages effectively to staff who take ownership of the organisation's vision and values and work individually and collectively towards achieving them. Internally, the senior management team should have the respect of its staff and value the contribution of its employees. Externally, the organisation's ambassadors at all levels should engender the confidence and cooperation of its criminal justice partners to realise the full benefits of joint working.

11.2 Performance assessment takes account of the effectiveness of the structures, purpose and planning through which the Area's priorities and change management are delivered, the ownership and corporacy of those who carry out the work and the profile the Area enjoys with its criminal justice partners. Additionally, we comment briefly on the Area's ethics, behaviours and values.

Structures, purpose and planning

11.3 The Area forms part of the Wales Group of CPS Areas. The CCP for South Wales is also Chair of the Wales Group, setting the Group vision and priorities. The Area's business objectives are taken from the Group business plan and were communicated to managers at a leadership conference in the form of a delivery plan, which details responsibility for the delivery of objectives. The draft delivery plan for

2010-11 is built around the two remaining national targets; the delivery of a quality service through the core quality standards (CQS), and improving efficiency and productivity. Area objectives are taken forward at district level by the senior district crown prosecutors (SDCPs) who are accountable for local delivery, management and partnerships.

11.4 Inspectors found a considerable degree of independence afforded to the three districts, leading to the development of different systems, processes and procedures. There had also been a level of autonomy in the way each district implemented some key initiatives, for example the OBM unit in Cardiff, which was staffed and operated differently from both the other two OBM units. Differences were sharpest in relation to the Area's extensive change programme where interdependencies were weak. The Area was addressing this as our inspection commenced, streamlining its structure, reducing from three SDCPs to two, by combining the Cardiff and Merthyr Tydfil posts. Although this rests responsibility for around two-thirds of the Area's work on a single district manager, it is envisaged that implementation will bring benefits in the shape of improved flexibility of resources and a greater consistency across the Area's systems and processes.

11.5 All staff should receive an end of year review completed by their line manager and agree a personal development plan (PDP) projected over the succeeding 12 months. Although a few remained outstanding, most reviews had been completed and individual PDPs incorporated into an Area training strategy. The majority of staff are aware of their own roles and take a definite pride in their work,

but would benefit from greater knowledge of how their personal objectives fitted in with those of the Area. For too many, appreciation of the Area's direction had been reduced to an awareness of the need to save money.

11.6 Area management places an over-reliance on impersonal emails and bulletins to deliver key messages. This exacerbates staff feelings of isolation and helps to fuel a genuine anxiety and fear over issues concerning workload and job security, which they felt were not being adequately addressed.

Priority recommendation

The Area needs to engage more effectively with staff across the Area so that it:

- delivers key messages and priorities clearly and transparently; and
- adopts an ethos of inclusivity so that all staff feel they have the opportunity to contribute towards change.

Change management

11.7 The Area has implemented, and is still implementing, a large number of local and national change initiatives. These have been introduced with mixed results, success being largely dependant upon the effectiveness of an individual district's ability to implement it. Greater coordination across the Area with tighter direction and control would have embedded change programme objectives more robustly. The Area must ensure that its management structures do not contribute to a loss of impetus implementing change programmes.

11.8 Local implementation teams (LIT) have not consistently engaged in a two-way dialogue and staff complained about a lack of meaningful involvement in decision-making or how changes could be best introduced. Staff disengagement from the change programme has led to a lack of ownership, manifesting in a degree of detachment and resistance which has served to fuel some long-standing cultural issues, causing progress to stall.

Recommendation

Project management must be robust, with realistic risk assessments made, achievable milestones identified and progress monitored and communicated.

11.9 A regional approach has been developed to deliver training across the Area and places are allocated to those who need it to carry out their function. This provides value for money, although it limits opportunities for some to increase personal development. Notwithstanding, the 2009 staff survey showed a much improved picture in respect of learning and development and that specific training given to Area managers has been effective, with more staff now believing that poor performance was being tackled.

Ownership and corporacy

11.10 At the time of the inspection, the CCP for South Wales had been in post for six years, since 2004. At varying points during that time, additional duties have distracted the CCP's attention away from Area business, weakening cohesion. Senior managers at both Group level and Area level work together in collaboration and corporacy is displayed by the legal and senior administrative

managers. They were positive about the Group structure as an effective vehicle for driving forward a more corporate approach and allowing for greater collective efficiencies across the Areas. Below that level, a degree of corporate disconnection between the organisation and its staff was apparent. Staff are locally focused, with most concentrating on their own strata of work. Individuals operate parochially and loyalties only extend as far as immediate colleagues, the team or district. Appreciation of the broader picture was limited and there was a tendency for individuals not to lift their eyes towards the horizon.

11.11 Many operational staff expressed the belief that the Area management team had no visible presence, were remote and did not comprehend the business sufficiently to appreciate the daily pressures placed upon employees. Most felt that their immediate manager did what they could to make their views known higher up the management chain, but that no tangible action, or any expression of concern, was forthcoming in return.

11.12 In general, staff were appreciative and supportive of local managers, but felt that their effectiveness was being undermined by the number and frequency of meetings which they were required to attend, as this took them out of the office too regularly and diverted attention away from core business.

Area profile with criminal justice partners

11.13 Localisation is prevalent in the districts. This is compounded by a lack of communication between front line staff and middle managers doing similar jobs across the Area. External links

with criminal justice partners at district level, however, are stronger and some relationships are good, leading to examples of productive partnership working and good practice, such as the newly formed community justice teams and the joint case progression meetings held at Swansea.

Strength

The joint case progression meetings held by the Swansea district.

11.14 2009-10 has been a watershed year in respect of partnership working with the Crown Court, when the Area finally lost the confidence of the judiciary at a senior level in Cardiff. Relationships with the judiciary and magistracy have been put under strain due to late and poor quality case preparation. Joint working with the police, however, has made some progress at the management level, but it is still affected by blockages to effective performance improvement on the ground. A stronger 'prosecution team' ethos needs to be embedded, and the remains of a blame culture swept away before improvement becomes achievable.

11.15 Recent developments have demonstrated the Area's commitment and determination to improve its position and standing within the criminal justice arena. A new CCP, and Group Chair for the Wales Group of CPS Areas, was appointed during the course of the inspection. The new CCP and senior management team have taken steps to ensure that focus is now on the quality of core business and service delivery and that this is supported by effective Area managers committed to robust individual performance management, predicated upon the implementation of CPS national Core Quality Standards (CQS).

Ethics, behaviours and values

11.16 Staff feel that good performance has not always been consistently recognised or acknowledged, with little praise forthcoming from senior management to staff. At a local level, some managers did recognise good work, but this depended on the individual concerned. Generally, support staff felt more recognised for the work they did than lawyers and associate prosecutors, who considered that they had better recognition from the police and court staff. There was a very strong sense of team spirit among staff, who value the thanks and praise received from their peers.

11.17 The OPA in 2007 highlighted that some concerns had been raised in a survey regarding the 'dignity at work' programme. Since then, measures have been put in place and training delivered by the Group equality and diversity officer which has improved the situation.

11.18 In general, the staff makeup reflects the communities served. The Area has taken positive steps to help address under-representation at lawyer levels.

12 Partnership working and community confidence

OPA 2007	Good
AEI 2010	Good
Direction of travel	Improved⁶

12.1 The CPS needs to engage with communities so that it is aware of local concerns and can make informed prosecution decisions. It should also deal promptly and openly with any complaints about those decisions or the level of service provided.

12.2 Performance assessment takes account of the effectiveness of community engagement planning, how it is organised and delivered and the degree to which community feedback is embedded into performance improvement programmes. Community confidence is monitored through the British Crime Survey, but this is too broad a measure to disaggregate the CPS contribution from the combined impact of all criminal justice agencies collectively.

12.3 Overall, the Area's level of engagement is good. It has broadened the range of communities with whom it has links. More work needs to be done to incorporate community feedback into its change programmes.

Community engagement planning

12.4 Senior managers in the Area have community engagement activities set as a personal objective as part of their personal development plan and undertake community engagement activities. The Area Business

Manager (ABM) has Area responsibility for community engagement and managers at all levels play an active part in local criminal justice schemes. The Area has access to a Group equality, diversity and community engagement manager to facilitate engagement with some minority groups in the Area.

12.5 Community engagement activity is built into the Area business delivery plan. Examination of the Area log indicates that the level and nature of engagement activity is good and, whilst much of it remains with local schools and youth organisations, it has now been broadened to reflect more diverse sections of the community. A recent community engagement assessment conducted by the CPS strategic performance advisor has commended the Area for its good performance over the year and noted that it has positively demonstrated good practice in relation to its community engagement activity.

Community feedback

12.6 The Area has a hate crime scrutiny panel (HCSP) in place which meets on a quarterly basis and reviews cases in detail, looking at file endorsements, outcomes and decision-making. Following an internal review, the Area prioritised work with the lesbian, gay, bisexual and transgender (LGBT) community, and disability communities. This has achieved some measure of success as prosecutions for transphobic, homophobic and disability hate crime have increased and unsuccessful outcomes have fallen.

12.7 The Area has improved its community engagement profile over the year and engagement is now taking place with a wider range of groups representing more

⁶ The scores reflect the performance in relation to partnership working and community confidence; however, in this report it was appropriate to capture relationships with partners in the leadership chapter where there is considerable overlap.

diverse community interests. The Area has also achieved some service improvements as a result. Moving forward, as the recent report has indicated, the Area will need to consider whether it can be proactive in leading community engagement activities, and should ensure that the mechanisms in place to capture any feedback from the community are effective.

Organisation and delivery

12.8 Towards the end of 2009, two developments occurred aimed at strengthening front-line service delivery. In November, the South Wales Criminal Justice Board, introduced multi-agency district criminal justice groups (DCJGs) to focus more on local issues and in October, regional community justice teams (CJTs) were created to increase engagement between the criminal justice agencies and community safety partnerships and support organisations. This was in response to the government's Green Paper launched in April 2009. The CJT representatives meet bi-monthly and report to the newly established DCJGs. This provides a mechanism through which local concerns can be incorporated into Area strategy.

12.9 Each district has a designated community prosecutor who represents the CPS at their local community safety partnerships and is on the district community justice team to ensure that local concerns are identified and action taken. They also take the lead responsibility in respect of the special domestic violence courts within the Area.

Section two: annexes

A HMCPPI purpose and values

Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI) was established by the Crown Prosecution Service Inspectorate Act 2000 as an independent statutory body. It seeks to enhance the quality of justice through independent inspection and provide assurances to Ministers, government and the public.

The Chief Inspector is appointed by the Attorney General and HMCPPI works in partnership with criminal justice agencies, including the CPS itself, and other inspectorates. Inspection teams comprise legal and business management inspectors and also experienced volunteers, able to provide a 'lay' dimension to the process and who give their time freely. For this service the Chief Inspector is most grateful.

The inspectorate's reports make priority and other recommendations, identify compliance issues and also draw attention to any strengths and good practice found by the team. Progress against recommendations is then monitored and measured, forming a basis for follow-up inspection. All our reports are available on our website: www.hmcpai.gov.uk.

Purpose

HMCPPI'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

HMCPPI 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	Thoroughness
Adopting the same principles and core procedures for each inspection, and apply the same standards and criteria to the evidence we collect.	Ensuring that our decisions and findings are based on information that has been thoroughly researched and verified, with an appropriate audit trail.
Integrity	Professionalism
Demonstrating integrity in all that we do through the application of our other values.	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.

B 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.

Associate prosecutor

Formerly a designated caseworker (DCW), a CPS employee who is trained to present straightforward cases on pleas of guilty or to prove them where the defendant does not attend the magistrates' courts. 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 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 provides that counsel, having read and considered the papers, will where necessary advise in writing on any matter requiring advice.

Standard 3 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 deals with the timely claim of fees by, and payment of fees to, counsel at the end of a case.

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.

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*).

Committal

Procedure whereby a defendant in an either way case is moved from the magistrates' courts 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.

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 Justice: Simple, Speedy, Summary (CJSS)

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

Crown advocate

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

Director's Guidance on the Streamlined Process (DGSP)

Provisions agreed between the CPS and Association of Chief Police Officers (ACPO) concerning the streamlining of certain prosecution case files, whereby a restricted amount of information and evidence is initially included where there is an expectation that the defendant will plead guilty.

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.

Evidential stage

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

Group operations centre (GOC)

A unit within the group (combination of a number of CPS Areas) which is responsible for dealing with specific aspects of business on behalf of Areas, for example performance management and monitoring, equality and diversity.

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.

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.

Local criminal justice board

The chief officers of police, probation, the courts and 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 Public Service Agreement targets.

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.

Overall performance assessment (OPA)

An assessment carried out at Area level by the inspectorate which rates overall performance. Each aspect of performance is scored and an overall assessment made. These have been carried out in 2005 and 2007.

Performance against targets

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

Prosecution team performance management (PTPM)

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

Public interest stage

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

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 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.

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.

C CPS South Wales file examination data and comparisons to national performance

Chapter 1: Pre-charge advice and decisions

Quality of MG3s

Standard of forms recording charging decisions (MG3s)	Quality of MG3s				Total
	Excellent	Good	Fair	Poor	
Overall	2 (2.9%)	17 (24.3%)	24 (34.3%)	27 (38.5%)	70

Quality of advice and decision-making at the pre-charge stage

PCD cases – advice and review	Area performance
Cases where the threshold test was correctly applied	70.0%
Cases where the evidential stage of the full Code test was correctly applied at the PCD stage	90.9%
Cases where the public interest stage of the full Code test was correctly applied at the PCD stage	96.7%
Cases where the most appropriate charges were advised at the PCD stage	82.9%
Cases where the charging advice adequately covered all ancillary issues	38.5%
Cases where the action plan requirements met the standard	42.9%
Cases where the charging advice set out clearly the necessary instructions to the prosecutor at court	33.3%

Benefits realisation

Benefits realisation	2008-09 Area	National	2009-10 Area	National
Magistrates' courts cases				
Discontinuance	15.1%	13.1%	15.4%	14.5%
Guilty plea	72.6%	74.4%	71.5%	72.3%
Attrition	20.6%	19.2%	22.0%	21.0%
Crown Court cases				
Discontinuance	10.7%	11.7%	11.4%	11.7%
Guilty plea	75.7%	72.9%	76.5%	73.1%
Attrition	18.7%	19.4%	19.1%	19.5%

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

Magistrates' courts case outcomes

Case outcomes in the magistrates' courts					
Performance	Area OPA 2007	National 2008-09	Area 2008-09	National 2009-10	Area 2009-10
Discontinuance and bindovers	12.6%	8.7%	10.9%	9.0%	10.3%
No case to answer	0.1%	0.2%	0.1%	0.2%	0.1%
Dismissed after trial	1.4%	2.0%	1.6%	2.3%	1.8%
Discharged committals	0.3%	0.2%	0.4%	0.3%	0.7%
Warrants	4.2%	1.6%	2.5%	1.4%	1.8%
Overall conviction rate	81.4%	87.3%	84.6%	86.8%	85.3%

File examination

We examined 37 magistrates' courts case files from the Area and our findings are set out in the following table.

Magistrates' court and youth court casework	Area performance
Cases that proceeded to trial or guilty plea on the correct level of charge	90.6%
Discontinuance was timely	45.5%
Decisions to discontinue complying with the evidential stage of the Code test	100%
Decisions to discontinue complying with the public interest stage of the Code test	100%
Decisions to proceed to trial complying with the evidential test	91.7%
Decisions to proceed to trial complying with the public interest test	95.2%
Cases with summary trial review properly recorded	60.0%
Cases where all aspects of case preparation was timely	21.2%
Cases where there was timely completion of all directions between first hearing and trial	35.0%
Applications made and served within time limits	40.0%
Adverse outcomes that could have been avoided by better case preparation	8.3%

Cracked and ineffective trials

Trial rates			
	AEI 2006 Area	2009-10 Area	National
Effective trial rate	44.0%	40.4%	43.7%
Cracked trial rate	42.5%	46.3%	37.7%
Ineffective trial rate	13.5%	13.3%	18.6%
Vacated trial rate	22.5%	27.9%	21.9%

Chapter 3: Decision-making, preparation and progression in Crown Court cases
Crown Court case outcomes

Case outcomes in the Crown Court					
Performance	Area OPA 2007	National 2008-09	Area 2008-09	National 2009-10	Area 2009-10
Judge ordered acquittals (discontinuance)	10.7%	11.7%	10.2%	11.7%	10.9%
Judge directed acquittals	1.9%	0.9%	1.0%	1.0%	0.6%
Acquittals after trial	7.0%	5.5%	6.0%	5.7%	5.9%
Warrants	1.1%	1.1%	0.8%	1.0%	0.9%
Overall conviction rate	78.2%	80.8%	82.1%	80.6%	81.8%

File examination

Crown Court Casework		Area performance
Decisions to proceed at committal or service of papers in accordance with the evidential stage of the Code test		100%
Decisions to proceed at committal or service of papers in accordance with the public interest stage of the Code test		97.1%
Indictments that were appropriate and did not require amendment		82.1%
Cases where prosecutor took action to progress case at PCMH		84.6%
Cases where there was timely compliance with PCMH directions		51.6%
Applications made and served within time limits		80.0%
Timely completion of actions and compliance with directions between PCMH and trial date		53.6%
Actions carried out by the correct level of prosecutor		90.2%
Cases where there was no continuity of prosecutor		87.5%
Ineffective trials that could have been avoided by prosecution action		18.2% (2 out of 11)
Adverse outcomes that could have been avoided by better case preparation		37.5% (6 out of 16)

Cracked and ineffective trials

Trial rates			
	Area OPA 2007	2009-10 Area	National
Effective trial rate	54.6%	46.8%	44.9%
Cracked trial rate	33.7%	42.9%	42.2%
Ineffective trial rate	11.7%	10.3%	13.0%

Chapter 4: The prosecution of cases at court

Advocacy observations

Advocacy standards					
	Level	Number of CPS advocates/ associate prosecutors in the magistrates' courts	Number of counsel/solicitor agents in the magistrates' courts	Number of crown advocates and other CPS advocates in the Crown Court	Number of counsel in the Crown Court
Assessed as above normal requirements	1	-	-	-	-
	2	-	-	1	1
Against CPS national standards of advocacy	3+	3	-	-	1
	3	7	-	4	7
	3-	-	-	1	2
And those assessed as less than competent	4	1	-	1	-
	5	-	-	-	-

Assessment: 1 = Outstanding; 2 = Very good, above average in many respects

3+ = Above average in many respects; 3 = Competent in all respects; 3- = Below average in some respects, lacking in presence or lacklustre

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

Magistrates' courts hearings per case

Magistrates' courts cases					
	Target	2008-09 Area	National	2009-10 Area	National
Average number of hearings per guilty plea	2.1	2.1	2.2	2.1	2.1
Average number of hearings per contest	4.0	3.6	4.4	3.8	4.0

File endorsements

Quality of endorsements				
	Excellent	Good	Fair	Poor
Magistrates' courts file endorsements	0	9 (12.5%)	15 (42.9%)	11 (31.4%)
Crown Court file endorsements	0	6 (14.6%)	25 (61.0%)	10 (24.4%)
Magistrates' courts CMS recording	0	10 (28.6%)	23 (65.7%)	2 (5.7%)
Crown Court CMS recording	0	12 (30.0%)	26 (65.0%)	2 (5.0%)

Chapter 5: Serious violent and sexual offences and hate crime

Sensitive case outcomes

Unsuccessful outcomes					
	National target	2008-09 Area	National	2009-10 Area	National
Violence against women	28%	31.6%	28.1%	29.2%	28.2%
Rape	41%	47.5%	42.3%	44.7%	40.6%
Domestic violence	28%	31.0%	27.8%	28.4%	28.0%
Sexual offences	28%	30.5%	24.9%	27.5%	24.0%
Hate crime: combined racist, religious, homophobic and disability	18%	20.2%	18.0%	16.1%	18.1%

Chapter 6: Disclosure of unused material

In May 2008 HMCPSI published a thematic review of the duties of disclosure of unused material undertaken by CPS. Below is a comparative of the Area performance and the findings of that review.

Disclosure rates	Overall findings in thematic review 2008	Area performance in this inspection
Initial (or primary) disclosure dealt with properly in magistrates' court cases	55%	44%
Continuing (or secondary) disclosure dealt with properly in magistrates' court cases	81.8%	33.3%
Initial (or primary) disclosure dealt with properly in Crown Court cases	57.5%	69.2%
Continuing (or secondary) disclosure dealt with properly in Crown Court cases	69.7%	39.3%
Disclosure of sensitive material dealt with properly in magistrates' court cases	26.7%	50%
Disclosure of sensitive material dealt with properly in Crown Court cases	54.5%	66.7%

D 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 crime

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 of unused material

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.

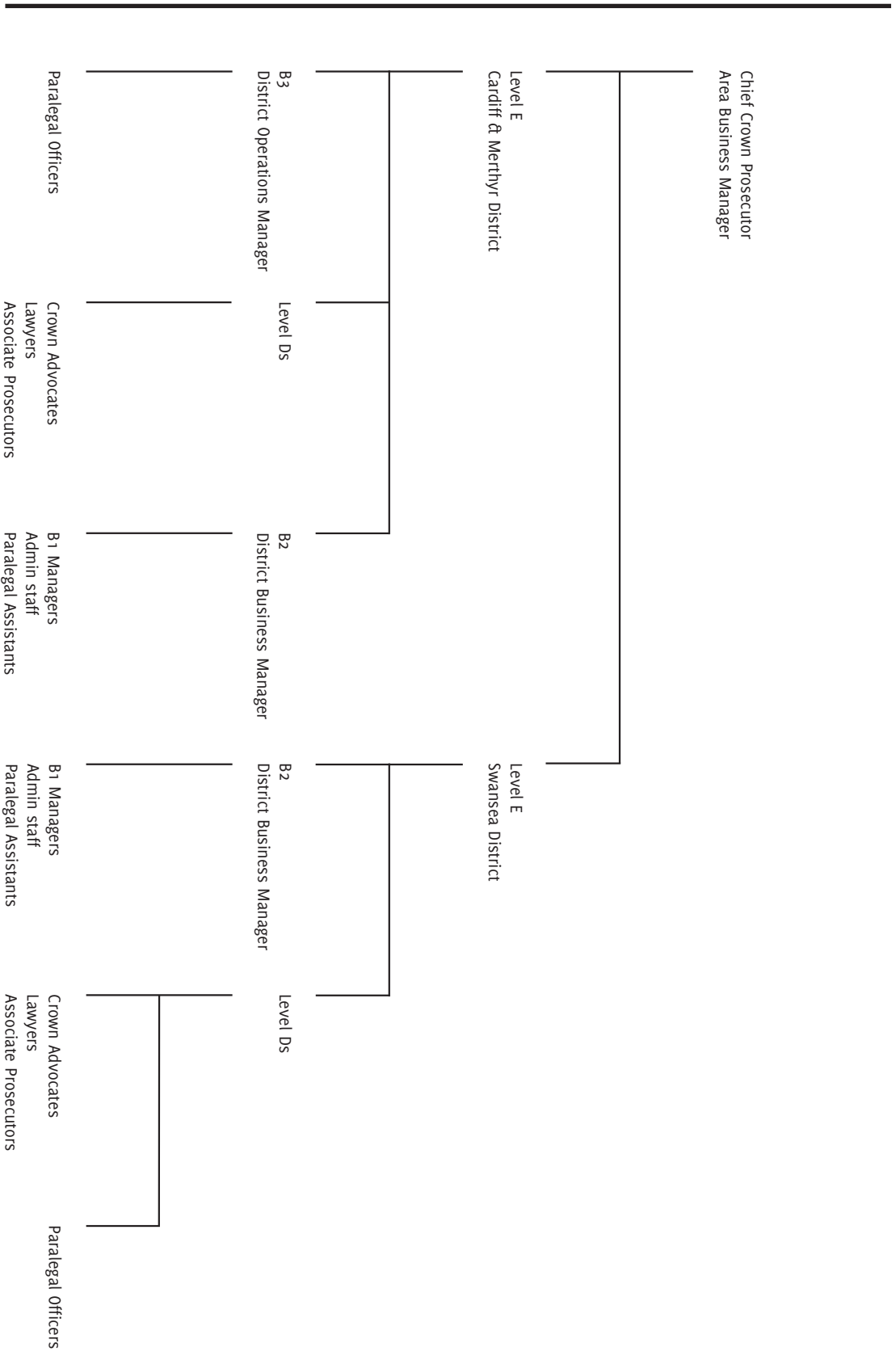
12 Partnership working and community confidence

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.

E Organisation chart



F Casework performance data

Caseloads and outcomes for the 12 months ending 31 March 2010

	South Wales number	Percentage	National* number	Percentage
1 Magistrates' courts – types of case				
Pre-charge decision	15,562	35.7	473,235	32.3
Advice	0	0	165	0.01
Summary	15,186	34.8	565,592	38.7
Either way and indictable	12,896	29.5	421,057	28.8
Other proceedings	7	0.02	3,302	0.2
Total	43,651	100	1,463,351	100
2 Magistrates' courts – completed cases				
Discontinuances and bindovers	2,549	10.3	78,901	9.0
Warrants	437	1.8	12,138	1.4
Dismissed no case to answer	17	0.1	1,605	0.2
Acquittals after trial	449	1.8	20,322	2.3
Discharged	175	0.7	2,252	0.3
Total unsuccessful outcomes	3,627	14.7	115,218	13.2
Convictions	21,087	85.3	757,349	86.8
Total	24,714	100	872,567	100
<i>Committed for trial in the Crown Court</i>				
3 Magistrates' courts – case results				
Guilty pleas	17,373	80.6	589,789	75.7
Proofs in absence	2,901	13.5	133,844	17.2
Convictions after trial	813	3.8	33,716	4.3
Acquittals after trial	449	2.1	20,322	2.6
Acquittals: no case to answer	17	0.1	1,605	0.2
Total	21,553	100	779,276	100
4 Crown Court – types of case				
Indictable only	1,222	26.5	40,651	28.4
Either way: defence election	107	2.3	9,170	6.4
Either way: magistrates' direction	2,063	44.8	59,729	41.7
Summary: appeals; committals for sentence	1,212	26.4	33,646	23.5
Total	4,604	100	143,196	100
5 Crown Court – completed cases				
Judge ordered acquittals and bindovers	370	10.9	12,814	11.7
Warrants	31	0.9	1,113	1.0
Judge directed acquittals	19	0.6	1,041	1.0
Acquittals after trial	199	5.9	6,288	5.7
Total unsuccessful outcomes	619	18.2	21,256	19.4
Convictions	2,773	81.8	88,289	80.6
Total	3,392	100	109,545	100
6 Crown Court – case results				
Guilty pleas	2,625	87.8	80,499	84.2
Convictions after trial	148	4.9	7,790	8.1
Acquittals after trial	199	6.7	6,288	6.6
Judge directed acquittals	19	0.6	1,041	1.1
Total	2,991	100	95,618	100

* The 42 Areas and CPS Direct.

G Resources and caseloads

Area caseload/staffing CPS South Wales	April 2010	January 2004
Staff in post	198.4	201.4
Lawyers in post (excluding CCP)	74.0	71.2
Pre-charge decisions/advices per lawyer (excluding CCP)	210.2	35.2
Associate prosecutors in post	14.8	9.0
Magistrates' courts cases per lawyer and associate prosecutor (excluding CCP)	316.3	596.8
Magistrates' courts contested trials per lawyer (excluding CCP)	17.2	25.8
Committals for trial and sent cases per lawyer (excluding CCP)	45.4	36.1
Crown Court contested trials per lawyer (excluding CCP)	5.0 ⁷	7.1
Level B1, B2, B3 caseworkers in post (excluding associate prosecutors)	43.6	52.3
Committals for trial and sent cases per level B caseworker	80.3	49.2
Crown Court contested trials per level B caseworker	8.5	9.6
Level A1/2 staff in post	63.0	74.4
Cases per level A staff member	703.5	676.4
Running costs (non-ring fenced)	£10,077,799	£7,341,500

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 case in the statistics relating to the magistrates' courts or the Crown Court as appropriate.

⁷ This figure does not take into account the fact that crown advocates do not have any personal caseload.

H Total number of files examined for CPS South Wales

Finalised files	Number of files examined
Magistrates' courts cases (including youth cases)	
<i>Magistrates' courts (subject to PCD)</i>	29
Guilty pleas	11
Convictions after trial	7
Acquittals after trial	3
Discontinued	7
No case to answer	1
Discharged committals ⁸	15 ⁸
<i>Magistrates' courts (non-PCD)</i>	8
Guilty plea	0
Convictions after trial	1
Acquittals after trial	3
Discontinued	4
No case to answer	0
	37
Crown Court	
Guilty pleas	14
Judge ordered acquittals	13
Judge directed acquittals	4
Convictions after trial	5 ⁹
Acquittals after trial	7
	43
Total	80

⁸ Discharged committal cases were considered by the inspection team on site, but have not been included within the file examination results, as this would have unbalanced the file selection process and been unfair to the Area.

⁹ This figure includes one case handled by the Group Complex Casework Unit and has, therefore, not been included as part of the Area file examination results. The Area has been assessed on the results achieved in 42 Crown Court cases.

I Local representatives of criminal justice agencies and organisations who assisted in our inspection

Crown Court

HHJ Cooke QC, Recorder of Cardiff,
Cardiff Crown Court
HHJ Diehl QC, Recorder of Swansea,
Swansea Crown Court
HHJ Curran, Resident Judge,
Merthyr Tydfil Combined Court
HHJ Hopkins QC, Cardiff Crown Court
HHJ Wynn Morgan, Cardiff Crown Court
Mr H Evans, Court Manager,
Merthyr Tydfil Combined Court
Mrs L Mills, Head of Operations,
Cardiff Crown Court
Mrs L Vincent, Crown Court Manager,
Swansea Crown Court
Ms M Loonan, Merthyr Tydfil Combined Court
Ms L Stinchcombe, Swansea Crown Court
Mr A Morris, Swansea Crown Court

Magistrates' courts

District Judge Charles, Cardiff
District Judge Williams, Cardiff
Mr J Hehir, Clerk to the Justices
Mr T Dodson, Deputy to the JC, Barry
Mr J Lewis Deputy to the JC, Cardiff
Mr D Richmond,
Deputy Clerk to the Justices, Cardiff
Mr M Morgan JP, Bench Chair, Pontypridd
Mr J Roberts JP, Bench Chair, Cardiff
Mr D Taylor JP, Bench Chair, Barry
Mr A Thomas JP, Bench Chair, Merthyr Tydfil
Mr C H Thomas JP, Bench Chair, Bridgend
Mrs E Williams JP, Bench Chair, Swansea
Mr M Philips, Merthyr Tydfil
Rev N Lea,
Youth Panel Chair, Neath and Port Talbot
Mr H Davies JP,
Neath and Port Talbot Youth Panel
Ms J Mallinson JP,
Neath and Port Talbot Youth Panel

Police

Mr P Vaughan, Chief Constable
Mrs B Ranger, Assistant Director
Mr J Cooksley, Head of Policy & Strategy Unit
CJ Dept
Superintendent D Hubbard
Superintendent R Tooby
Chief Inspector I Bellshaw
Chief Inspector R Bignell
Inspector J Diffey
Inspector G Evans
Inspector B Heard
Inspector T Newman
Ms L Ashby, WCU Manager Cardiff
Mr A Roberts, WCU Merthyr Tydfil

British Transport Police

Detective Sergeant D Goddard

Defence Solicitor

Mr D James, Graham Evans & Partners

Victim Support

Mrs B Logan,
Witness Care & Victim Support Manager
Ms S Moore, Witness Care Co-ordinator
Ms L Roberts, Witness Care Co-ordinator
Ms S Singer, Witness Care Co-ordinator
Ms J Wilkinson, Witness Care Co-ordinator

Sexual Assault Referral Centre

Ms S Hale, Cardiff
Ms R Hammonds, Cardiff
Ms L Jones MBE, Merthyr Tydfil

National Autistic Society Cymru

Ms K Shore

Members of Parliament

Mrs M Moon MP, Bridgend

National Assembly for Wales

Ms J Randerson

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