

Witness summons

January 2016

WITNESS FOR THE PROSECUTION

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1 Headlines

1.1 The Crown Prosecution Service (CPS) has a high level priority to improve the quality of service given to victims. Previous inspections by Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS) have reviewed and evaluated the effectiveness of the services provided to victims and witnesses in order to maximise the likelihood of them attending court and improve their confidence in the criminal justice system (CJS). One of the powerful tools available to the CPS prosecutor to secure the attendance of a victim/witness at trial is the use of a witness summons. Once the witness summons is obtained from the court and served on the individual, there is a requirement to attend court and failure to do so can potentially result in the court issuing a warrant of arrest for the victim/witness.

1.2 The focus of this audit was on the use of witness summonses; the effectiveness of procedures and policies and whether this is successfully reconciled with the needs of vulnerable and intimidated victims; and the drive to reduce ineffective trials. Our methodology is set out at annex A, but in essence, we examined 120 cases from six CPS Areas which we also visited to speak with a range of CPS and CJS personnel.

Key findings

1.3 There is no national CPS guidance for seeking witness summonses for cases generally and there is little local CPS guidance in any of the Areas visited relating directly to witness summonses. However, there is specific CPS national policy guidance on the use of summonses in domestic abuse cases. Unfortunately there is a lack of compliance with this policy, including not requesting an early risk assessment of the impact of a witness summons on the individual, or of considering the possibilities of proceeding with the case without the support of the victim/witness by using other evidence. More could be done to utilise the resources of other agencies in supporting the victim.

1.4 Compliance with qualitative issues (see table at paragraph 3.3) around the application for a witness summons was generally poor and we concluded that in 12.7% of cases examined, applying for a witness summons was not the most appropriate course of action. Applications were often late which consequently impacted on the time available before the trial to effect service of the summons on the relevant witness. With the introduction of the Transforming Summary Justice initiative it is important that prosecutors consider the use of a witness summons early in the case preparation process. There was however good compliance by the CPS with the statutory requirements of section 97 of the Magistrates' Court Act 1980 and Part 2 of the Criminal Procedure Rules 2014, which cover the general rules on applications for summonses, warrants or orders in relation to the grounds for making the application and why it is necessary for the witness to give evidence.

1.5 Witness summonses were not routinely recorded on the CPS case management system. There is no facility to flag whether a witness summons has been granted across all case types and often the rationale for applying for one had not been recorded on the system.

1.6 Some magistrates' courts are automatically issuing a witness summons in all domestic abuse cases so that the CPS can use it if later required. This is regardless of whether the victim or witness at the stage it is issued is reluctant and is causing some difficulties which need to be addressed.

1.7 Witness attendance at court is declining generally and although the use of the summons procedure has increased there is little evidence to indicate that this has improved witness attendance. Although there is some evidence of relationship building with other support agencies, such as Independent Domestic Violence Advisors (IDVAs), Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Abuse Services (IDAS); this needs to be further encouraged to support and engage victims and witnesses in the CJS.

1.8 There was a lack of compliance with Rule 4.7 of the Criminal Procedure Rules 2014 by agencies on the service delivery of witness summons. There were some issues regarding on whom the summons should be served and arrangements for the provision of witness conduct money has been a long standing issue which needs to be addressed.

1.9 There is a general lack of witness summons data available and this means the CPS is unable to undertake any meaningful analysis on whether their use is effective and whether it has any impact on improving the level of successful outcomes.

Conclusion, recommendations and good practice

1.10 The decision to apply for a witness summons should not be taken lightly. A summons is the last resort for those who disengage from a prosecution and should only be considered when all other avenues have been exhausted. Ultimately it can result in the deprivation of liberty of the victim – often impacting on those who may be the most vulnerable. Any decision needs to be informed by a proper assessment and with the involvement of the police and other support organisations. The prosecutor can then subsequently make an informed decision on whether to proceed with the case on other evidence, pursue an application for a summons, or even consider whether to discontinue the case.

1.11 There are a number of key areas where improvements can be made to avert the use of a summons in the first instance. This could be through compliance with existing policy, ensuring that the case management system is updated appropriately, ensuring compliance checks are made, and liaising with partner agencies in order to agree a consistent approach.

1.12 We make the following recommendations:

1 The CPS ensures all operational staff are aware of the CPS domestic abuse policy and apply it in all cases where a witness summons is being considered. In particular: the need for an early risk assessment to determine the impact on the victim of applying for a witness summons; that other options for adducing the witnesses evidence are considered; and, the need to record the full rationale for applying for a witness summons (paragraph 3.7).

2 Any assurance checks undertaken by CPS managers around victim and witness issues, include the analysis and use of witness summonses (paragraph 5.6).

3 The case management system is used to flag all cases where a witness summons is issued (paragraph 5.7).

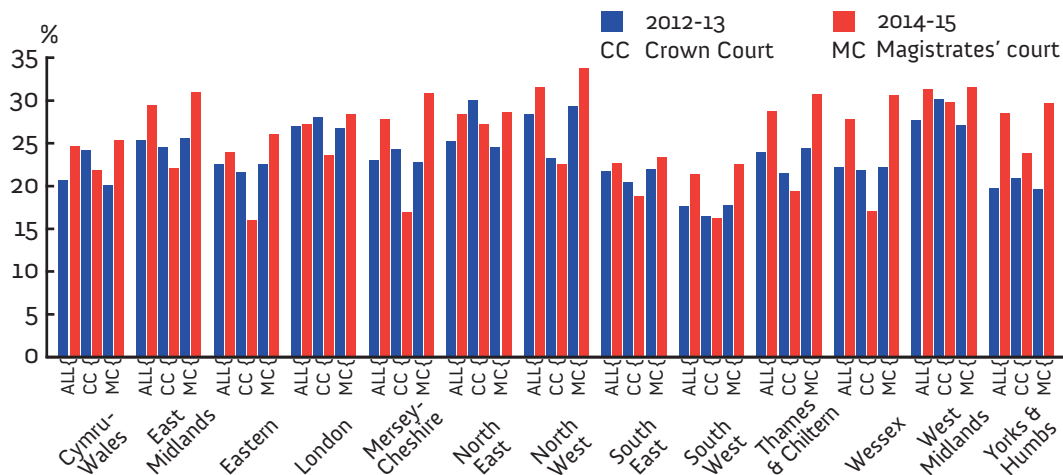
Good practice

1 CPS Cymru-Wales has produced a desk top guide to assist prosecutors when dealing with a witness summons in a domestic violence case (paragraph 3.1).



2 Context and background

Unsuccessful outcomes due to victim and witness issues

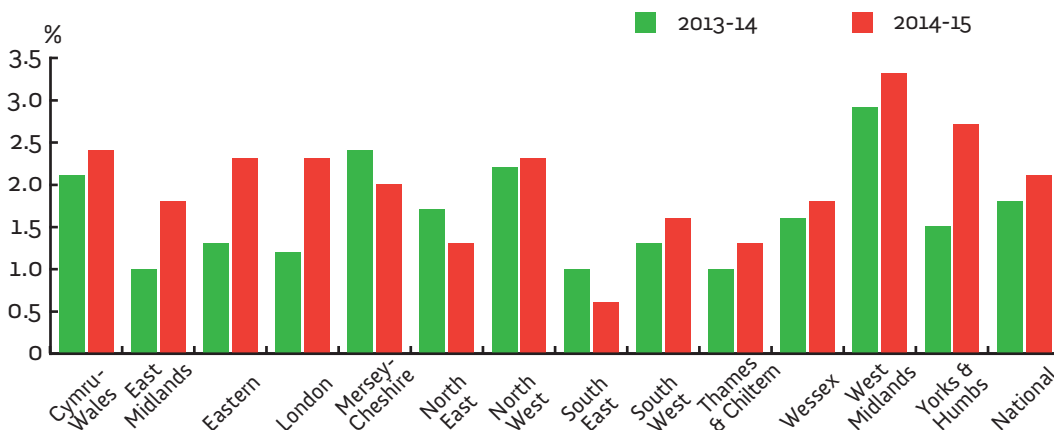


2.1 Each year in England and Wales a large number of criminal trials take place involving hundreds of thousands of witnesses, many of whom are also victims. In 2014-15 a total of 37,375 trials were listed to be heard in the Crown Court and 157,999 in the magistrates' court. Only 49.8% of Crown Court trials were effective (see annex D), a fall from 51.2% in 2013-14. Of those which were ineffective in 2014-15, 10.5% were due to prosecution reasons (4.5% of these due to non-attendance or the witness withdrawing).

2.2 Effectiveness in the magistrates' court is not as good as the Crown Court, although there has been improvement with an increase from 45.1% in 2013-14 to 45.9% in 2014-15. Of those which were ineffective in 2014-15, 10.4% were due to prosecution reasons (4.4% of these because of non-attendance or the witness withdrawing).

2.3 The CPS has an aspiration to reduce unsuccessful outcomes due to victim and witness reasons to 23.0% of all trials. The CPS data on unsuccessful outcomes due to victim and witness reasons shows that they have deteriorated, increasing from 24.3% in 2012-13 to 27.5% in 2014-15 nationally. There are significant variations across the CPS Areas (see graph above). The main deterioration has occurred in the magistrates' court with an overall increase from 24.2% to 28.8% of unsuccessful outcomes due to victim and witness reasons. The picture is better in the Crown Court where unsuccessful outcomes due to victim and witness reasons overall have reduced from 24.9% in 2012-13 to 22.2% in 2014-15. All but one of the 13 Areas have improved.

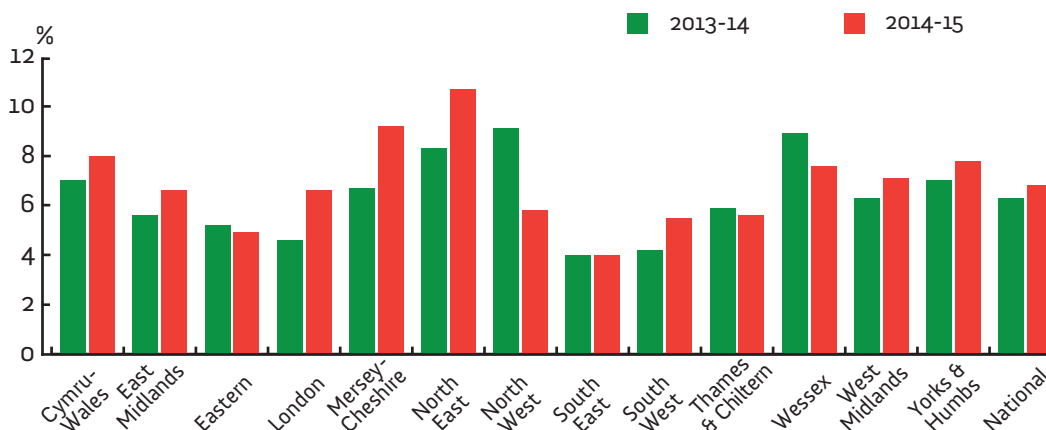
Crown Court trials which cracked due to the witness being absent or withdrawing on the day of trial as a percentage of all trials



2.4 Overall, the number of prosecutions which ‘cracked’ in the Crown Court on the day of the trial due to the witness being absent or withdrawing their evidence on the day remains a concern. Data for 2014-15 shows that nationally 2.1% of all trials (797 out of 37,375) cracked, this was worse than in 2013-14 when 1.8% (610) of trials cracked. As can be seen in the graph above only three Areas have improved on their 2013-14 performance figures.

2.5 Performance in the magistrates’ court for the number of prosecutions which cracked on the day of the trial for those reasons remains, overall, worse than the Crown Court. Nationally in 2014-15 this was 6.8% of all trials (10,676 out of 157,999), and worse than 2013-14 which was 6.3% (9,972/157,692). However five Areas (see graph below) have improved on their 2013-14 performance figures.

Magistrates’ court trials which cracked due to the witness being absent or withdrawing on the day of trial as a percentage of all trials



2.6 Previous HMCPSI inspections¹ have reviewed and evaluated the effectiveness of services provided to victims and witnesses to maximise the likelihood of them attending court and in improving their confidence in the criminal justice system (CJS). One of the powerful tools available to the CPS prosecutor in securing the attendance of a victim/witness at trial is the use of a witness summons. Although the witness summons forms only a small part of the overall victim and witness experience, it can impact adversely on the victim/witness experience in the CJS and, in particular, on the most vulnerable of victims/witnesses. In our CPS South Wales and Gwent Units: victims and witnesses focused inspection we found that the use of witness summonses was higher than the national average, indicating that their use might be disproportionate. Concerns were expressed that the default position of the units was to summons any witnesses who indicated they would not attend court or would be reluctant to do so, rather than apply CPS policy to each individual case.

2.7 It was felt by the Inspectorate that the time was right to undertake an audit of the use of witness summons and in particular consider:

- how effective is the use by the CPS of the witness summons and any subsequent measures to secure the attendance of witnesses, especially the victims of domestic abuse and other hate crimes, at trial?
- whether the current CPS policy and guidance on dealing with the witness summons procedure was widely known to staff and consistently applied?
- whether a robust application of the witness summons procedure's use by the CPS could be successfully reconciled with the needs of vulnerable and intimidated victims and the drive to reduce ineffective trials?

2.8 The methodology we used is set out in detail at annex A. In essence, we examined 120 cases from six CPS Areas which we also visited to speak with a range of CPS and CJS personnel.

¹ *Achieving Best Evidence in child sexual abuse cases*; CJI; December 2014. *Inspection of CPS performance in dealing with victims and witnesses in Gwent and South Wales (CPS Cymru-Wales)*; HMCPSI; April 2014. *Forging the links: Rape investigation and prosecution*; CJI; February 2014. *Joint inspection report on the experience of young victims and witnesses in the criminal justice system*; CJI; December 2012.



3 Findings

Applying for a witness summons

3.1 There is no national CPS guidance for seeking witness summonses generally for all cases and there is little local guidance in any of the Areas visited relating directly to witness summonses. However, there is specific guidance on the use of summonses in domestic abuse cases which is referred to in the CPS national policy guidance on domestic abuse. The domestic abuse policy clearly states that the seeking of a witness summons should be seen as: a last resort for complainants; considered for a child or young person in very limited and exceptional cases; and, only for other witnesses who have information that is integral to the prosecution case. The CPS is mindful of not 'criminalising' individuals by the issue of a summons, particularly vulnerable victims and witnesses, and one of its high level priorities is its service to victims. CPS Cymru-Wales has produced a desk top guide to assist prosecutors when dealing with a witness summons in a domestic violence case, which we regard as **good practice**.

3.2 In our file sample, in only 32.3% of all case types (21 out of the relevant 65) did the CPS request a background report or risk assessment before applying for a summons. Risk assessments are usually conducted by the police when they are required to investigate a domestic abuse incident and can provide invaluable background information to assist in understanding the circumstances the complainant may be experiencing. The domestic abuse policy states that prosecutors should request from the police a copy of the risk assessment for each case as a matter of routine. The policy also states that where possible prosecutors should, from the outset, contemplate the possibility of proceeding without the support of the complainant, seeking out other evidence to progress the case where available such as 999 tapes, statements from third party witnesses, CCTV, and medical evidence. To assist the prosecutor, the policy includes a checklist, prompting the prosecutor to ensure that all such evidence has been collected, together with a list of information regarding the victim. Such information includes any contact with the suspect/friends/family, relationship status, Victim Personal Statement, willingness to assist the prosecution and the possibility of making a retraction statement, safety, and any need for specialist support and/or special measures.

3.3 Almost all CPS staff spoken to during this audit stated that they were aware of the national domestic abuse guidance to prosecutors and felt they were applying this. Despite this, of the 61 applicable domestic abuse cases examined, in only 19 (31.1%) had a background report or needs assessment been obtained or requested. This indicates a poor level of service to the most vulnerable victims and witnesses and shows a lack of consideration of important issues in the checklist such as safety and need for specialist support. We found that a needs assessment was often generated too late or the case was reviewed late. Compliance with this policy in the Areas visited as part of this audit ranged from no compliance in one, up to 63.6% in the best performing Area. Of the 41² domestic violence cases where no report or needs assessment had been obtained or requested, 39 (95.1%) resulted in an application being made by the CPS for a witness summons. Had the prosecutors followed the principles of the domestic abuse policy, such as considering alternative methods of presenting the evidence, use of special measures and use of supporting agencies, it is possible that a request for a witness summons may have been avoided in some of these cases.

	Domestic abuse cases			Non-domestic abuse cases		
	No of cases where CPS complied	Total no of case type	% of compliance	No of cases where CPS complied	Total no of case type	% of compliance
Did the CPS request a background report/needs assessment from the police before applying for a summons	19	78	24.4%	1	29	3.4%
Was the application in accordance with either s97 MCA 1980 or s2 Criminal Procedure (Attendance of Witnesses) Act 1965	65	78	83.3%	21	29	72.4%
Was it appropriate in all the circumstances of the case for a summons to be applied for by the prosecution	63	78	80.8%	22	29	75.9%
Was the file endorsed appropriately with the rationale for making an application	31	78	39.7%	7	29	24.1%
Was an application for a summons made in compliance with Part 28 of the Criminal Procedure Rules	15	78	19.2%	11	29	37.9%

² There was also one case where the prosecutor was unable to determine whether a risk assessment had been obtained or not.

3.4 We looked at a number of qualitative issues around summonses applications, as detailed in the table on the previous page. Although compliance was better in most of the domestic abuse cases, it was poor overall.

3.5 From 1 June 2015 the CPS began to operate a new initiative Transforming Summary Justice (TSJ). The aim of this CJS-wide reform is to create a CJS with: reduced delay, fewer court hearings, and more trials being effective on the day in the magistrates' court. Whilst domestic abuse does not currently come within the TSJ initiative the principles of the scheme are still considered relevant, so it is essential that prosecutors consider the policy at an early stage to determine whether background reports and/or support agencies are required at an early stage and in order to avoid any conflict with the TSJ principles.

3.6 There was no evidence of any dedicated training in relation to the use of witness summonses. Most operational staff indicated that they had undertaken training in respect of the domestic abuse policy through an e-learning module. Any face to face training that had been provided specifically on witness summonses was from desk side instruction from other prosecutor colleagues. It was generally felt that formal training on witness summonses was not necessary. However inspectors found that not all relevant staff understood fully all aspects of the process. Given the issues around compliance with the domestic abuse policy in relation to the issue of witness summonses, the qualitative issues and the fact that some staff were unclear on what was required by the court, it would be prudent for the CPS to raise awareness of the relevant aspects of the domestic abuse policy.

3.7 We found that there were no specific team or individual staff objectives for how operational staff might use witness summonses as a tool for increasing successful outcomes and effective trial rates. Most operational staff and managers did, however, have an objective relating to the service given to victims and witnesses. It was felt by managers that this would encompass the consideration and use of witness summonses.

Recommendation

The CPS ensures all operational staff are aware of the CPS domestic abuse policy and apply it in all cases where a witness summons is being considered. In particular: the need for an early risk assessment to determine the impact on the victim of applying for a witness summons; that other options for adducing the witnesses evidence are considered; and, the need to record the full rationale for applying for a witness summons.



4 Operational processes and decision-making

The witness summons application

4.1 An application for a witness summons should be a last resort. However it can remain a useful tool where other measures have proved unsuccessful. A decision to use a witness summons should not be taken lightly and the CPS needs to take a strategic and targeted approach to their use. When using the witness summons route the CPS also needs to consider whether it is prepared to take the final step of inviting the court to issue a warrant where the summons is ineffective and the witness/victim has failed to attend court. Above all it needs to consider whether the use of witness summonses and warrants are the most appropriate method of securing the attendance of a victim or witness at court.

4.2 Victim and witness non-attendance at court is a real problem for the CJS in securing justice, improving successful outcomes and reducing costs. Early liaison and consideration of victims' and witnesses' needs throughout the process helps to provide solutions and support to get victims and witnesses to court. Victims and witnesses can be offered a range of measures to help support them in attending court. As part of our checks we considered what support had been offered at the pre-charge stage and later, between first court hearing and trial. The principle method of support offered by police or prosecutors was special measures. They were offered by the police or CPS in 23 of 24 (95.8%) applicable cases before the first hearing and 26 of 31 (83.9%) applicable cases after the first hearing. Our findings suggest that, whilst special measures are not an alternative to a witness summons in securing the attendance of a witness, they can have the effect of assisting the witness's engagement in the court process in many cases. Therefore we were pleased to see the use of special measures in a high percentage of appropriate cases. However we would suggest that discussion about the applicability and availability of special measures takes place with victims as early as possible to seek to secure their engagement in the process from the outset. This may reduce the number of cases in which an application for a witness summons is required. In our file sample the victims and witnesses were not directed to, or referred to, any of the appropriate support agencies. This indicates a lack of imagination on the part of the prosecution as early contact by the victim with the trained staff in a Witness Care Unit (WCU) or, through them, with voluntary agencies such as the Witness Service, Citizens Advice and Independent Domestic Abuse Services, might build their confidence to such an extent that they are more likely to co-operate.

4.3 We checked our file sample to see if there was any indication from the witness or victim that they were likely to be reluctant to attend court. There were 58 applicable cases where the inspectors felt that reluctance should have been highlighted as a concern. Our audit found only 27 of those cases (46.6%) had an endorsement on the MG5 report from the police, or elsewhere on the file, that reluctance might be an issue. Furthermore, we found that on occasions the prosecutor did not notify the WCU of a reluctant witness until they undertook their final checks, which left little time to resolve any issues.

4.4 In the file sample we found that the CPS made an appropriate application to the court for a witness summons in 87.3% (96 of 110) of the applicable cases. In the remaining 14 (12.7%) inspectors considered applying for a witness summons was not the most appropriate course of action. The main reasons we disagreed with the prosecutor's decision included a combination of the following:

- the case was wrongly charged at the outset because there was no realistic prospect of conviction
- a lack of compliance with the domestic abuse policy
- a summons was not the right option at the time it was sought and other options should initially have been considered to secure the victim's or witness's attendance
- the case should have been discontinued earlier when there was no longer a realistic prospect of conviction.

4.5 The applications which set out the reasons for seeking a witness summons were often lacking in some way and frequently adopted an almost 'cut and paste' approach of the legislation. The interests of justice element of the application was often poorly laid out, if at all, and included such phrases as "a lawyer has looked at the file and instructed us to apply for a summons". However in our file sample, despite these short comings, the court granted the application in every case where it was sought.

4.6 We also considered the timeliness of applications and assessed 67.7% as timely, in that they were requested when police would still have had a reasonable opportunity to serve the summons on the relevant individual before the trial date. This meant a third of the applications were late. This was because either the CPS had been advised of issues late in the day or the CPS had not reviewed the case, or reviewed it late, and as a consequence had not noted the problems until the eleventh hour. As a result, the summons went to the police at a late stage, sometimes even on the day of trial, inevitably resulting in problems serving these on the relevant individual. Our evidence found that in some Areas the level of service of a summons subsequently led to the court being reluctant to issue a warrant or admit hearsay evidence.

4.7 Prosecutors are required to record their decision-making electronically on the case management system (CMS). In our file checks we found that the decision to apply, or not apply, for a summons and how this was determined was not well recorded. In only 16 of 35 relevant cases (45.7%) did the CPS indicate at the charging stage on the MG3 (record of charging decision) that a summons might be required. Where an application was subsequently made, the rationale for doing so was recorded on CMS in only 42.9% of

cases, making it difficult for inspectors and other prosecutors to understand the rationale for the application. The application itself can and should contain the reasoning, but mostly this is a standard recitation of the relevant phrases in section 97 of the Magistrates' Court Act 1980 (s97 MCA).

4.8 We found good compliance with the statutory requirements of s97 MCA and Part 2 of the Criminal Procedure Rules 2014. Ninety five of the 98 cases (96.9%) where it was applicable complied with the statutory requirements. Generally those requirements are not difficult to meet given that only materiality and the interests of justice need to be established by the prosecutor. On the other hand compliance with the requirements of the Criminal Procedure Rules was less satisfactory; only 60.8% of the applications made complied fully with them. This was primarily because they did not satisfy Rule 28.3 (2) as to the content of the application.

4.9 Where a defendant is anticipated to plead not guilty (referred to as Not Guilty Anticipated Plea (NGAP) cases under the TSJ scheme) lawyers need to consider the possibility of witness summonses applications earlier in the process than they might have previously. This is because they need to ensure all issues are identified before the first hearing.

4.10 Additionally, we found that in a bid to speed up case progression some magistrates are providing 'automatic' witness summonses in domestic abuse cases. An automatic summons is where the magistrate provides a witness summons, even when the prosecutor has not sought one, which then 'lays on the file' so that if in the future the relevant witness becomes reluctant to attend the trial the summons can be used. The CPS has issued instructions to prosecutors indicating the approach they should take when the magistrates' courts decides to issue an automatic witness summons – prosecutors were reminded that applying for one of these summons should be regarded as a last resort. However we found some lawyers were not challenging the automatic summons.

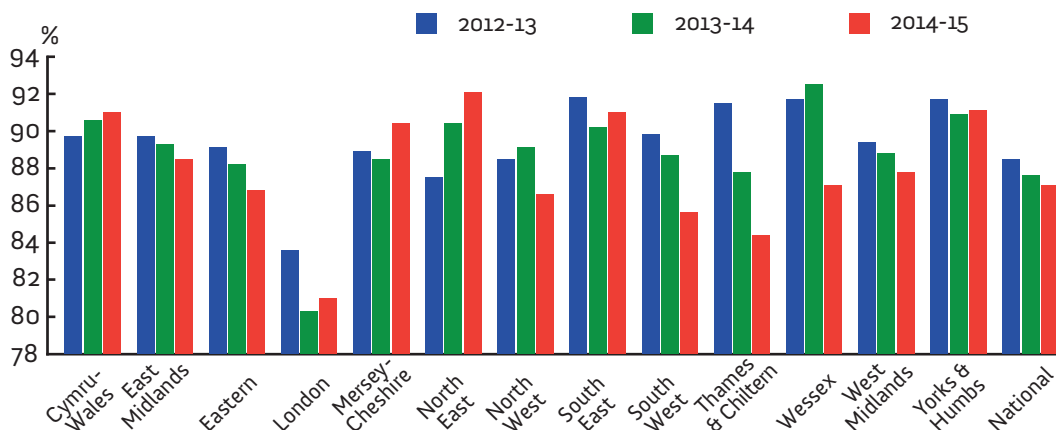
4.11 We recognise the importance of cases progressing quickly and there is merit in ensuring witness summonses are used effectively. However, the CPS will no doubt wish to ensure in a case where an automatic summons is issued, that it is only served on the individual where the merits of the case require that to happen. It is important that the witness summons process does not alienate victims who have expressed no unwillingness to give evidence. It is important that the CPS revisits this issue and ensures that they agree the process with the magistrates' court. This is particularly important given that, as part of our audit, we found that in one Area all summonses were sent direct from the magistrates' court to the Witness Care Unit, effectively by-passing the CPS. This meant that in that Area all summonses were being served regardless of the view of the CPS and whether or not the witness had indicated any reluctance.

Serving the summons

4.12 As part of our audit we considered whether the service of the summons was timely, namely that service was seven days or more before the day of trial. Of the 98 witness summonses issued by the court in our file sample, only 56.1% were served on the relevant individual, 30.6% were not served and in 13.3% (13 cases) we were not able to establish whether the summons had been served. Of the summons that had been served, we found that this was timely in 62.5%.

4.13 Clear procedures³ outlining good service delivery and expectations are covered in the legislation and CPS partner agencies need to ensure that these are being adhered to. We found limited evidence of local agreements or protocols in respect of the service of summons. There were some local police procedures but no joint ones, nor had the CPS input into any of the police procedures. We were given anecdotal examples of service, such as leaving a summons with a neighbour.

Witness attendance rates for all case types



³ Criminal Procedure Rules 4.7, 4.3 and 4.4.

Attendance at court

4.14 Witness attendance rates nationally were at 87.1% in 2014-15; although there is a significant difference between Areas. Nationally attendance rates declined by 1.4% between 2012-13 and 2014-15.

4.15 We also considered whether the witness attended court following service of the summons. We found that the witness attended in only 32 of the 55 applicable cases (58.2%). Attendance varied considerably across the Areas visited; ranging from 28.6% to 80.0%, which indicates that in some Areas the use of witness summonses was not a particularly effective method to secure attendance. This is also supported by the data which shows that although the number of witnesses summons issued has increased from 2012-13 to 2014-15 (see chapter 5), over the same period witness attendance has decreased (see graphs on previous page). In light of these audit findings the CPS may wish to establish why there are such striking differences across the Service.

4.16 Of the 32 witnesses who attended court after being summonsed, only 18 gave evidence. Again the proportion of those giving evidence varied significantly across the Areas ranging from as low as 22.2% in one to 100% in another. It was disappointing that in 13 of the 14 cases where witnesses refused to testify, no further consideration was given to running the case on other evidence. In only one case did the prosecutor try to persuade the court to admit the evidence of the absent witness through the hearsay provisions or otherwise. Only two of the 14 cases resulted in a conviction and the others were discontinued (including any judge ordered acquittals). A court can hold a witness in contempt if they refuse to give evidence, leave court before their examination is complete, or continue to refuse to give evidence. However we found no examples where this had occurred.

4.17 Where a witness fails to attend court, after they have been served with a summons a warrant for their arrest can be obtained. However, in our file sample, of the 24 witnesses who failed to attend court following the service of the summons, the CPS only applied for a witness warrant in seven cases. There were three of 19 (15.8%) applicable cases in the magistrates' court and four of five (80.0%) in the Crown Court. This accords with what we were told by CPS staff, namely that warrants in magistrates' court cases were rare. In Liverpool Magistrates' Court there is a dedicated officer in the Specialist Domestic Violence Court (SDVC) who can be contacted for information if a witness does not attend on a summons and a warrant is being considered. The court will issue a warrant for that day and the police will try to execute it and bring the witness straight to court. There

are limited court sittings,⁴ so if a warrant is issued early in the day there is time to get it executed before the trial is due to start. If the summons is served and the witness comes but refuses to give evidence, the magistrates' court will allow the prosecutor more time in conjunction with the Witness Service to sit down with the witness and discuss what can be done to help the witness by, for example, the possible use of special measures.

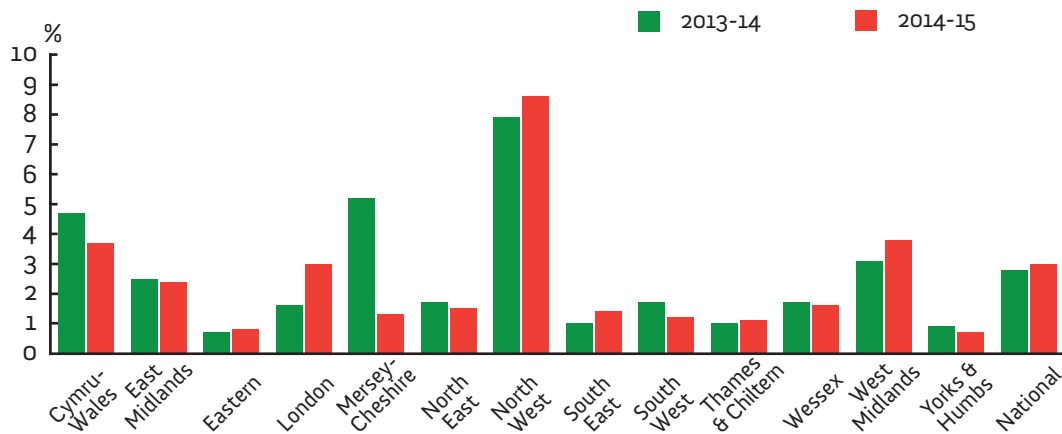
4.18 Legislation⁵ requires that before a warrant can be issued, the court must be satisfied that the summons has been duly served **and** at the same time that a reasonable sum has been paid or tendered to him/her for travel costs and expenses. We found much inconsistency of practice and understanding among CPS and police staff concerning this requirement, known as "conduct money", and a national approach to this issue would be of benefit. Of the seven cases where a warrant had been issued, only two of the warrants were executed; one case resulted in a conviction and the other was discontinued. In the discontinued case two witnesses failed to attend court on either witness summonses or warrants and could not be located. In light of this the CPS reviewed the case and discontinued the proceedings. However the two witnesses were later held to be in contempt of court by the trial judge.

4 A court will have a number of sittings during the day. At each sitting a case or a number of cases will be heard. If a case which requires a warrant is held early in the day there may be time to move the hearing to a sitting later in the day, when the witness has been brought to the court on warrant.

5 Criminal Procedure Rule 28.3.

5 Performance data, outcomes and quality assurance

Witness summonses issued as a percentage of all witnesses required to attend court



5.1 Her Majesty's Courts and Tribunals Service (HMCTS) collates the number of witness summonses issued each year (detailed at annex D). The number of summonses issued varies considerably across Areas ranging from 0.7% to 8.6% of all witnesses required to attend court in 2014-15. This is an increase from 2013-14 when the range was 0.7% to 7.9%. Nationally between 2013-14 and 2014-15 there has been an increase overall of 4.2% in the numbers of witnesses required to attend court, however the number of summonses issued over the same period has risen by 12.4%.

5.2 There is a general lack of CPS performance data available on witness summonses, for example there is no data collected to show the number served and whether the person being summonsed attended and gave evidence. This means that the CPS is not able to undertake any analysis on whether its use of witness summonses has any impact on trial effectiveness or successful outcomes.

5.3 Although the outcome of the case was reviewed as part of our file checks, it was not possible to determine whether another approach, other than the issuing of a witness summons, would have produced a different outcome. We were however able to compare domestic abuse cases with non-domestic abuse cases. Domestic abuse cases account for the majority of those where the summons procedure is invoked and these cases tend to attract priority treatment by all the agencies, including the use of SDVCs and specialist prosecutors. Of the cases which resulted in a conviction we found little difference in the number of summonses applied for in the different case types. However, CPS applications to the court for the issue of summonses in domestic abuse cases were found to be more timely, 83.3% compared with 57.1%. Conversely, service of the summonses was more timely for the non-domestic abuse cases, although the difference between the case types was less significant. The percentage of victims and witnesses who testified following the issue of a summons was better (higher) in domestic abuse cases (see table on the next page).

Witness summonses applications in the file sample

	Cases resulting in a conviction		Discontinued cases	
	Domestic abuse	Non-domestic abuse	Domestic abuse	Non-domestic abuse
CPS applied for a summons	23.1%	24.1%	55.1%	55.2%
CPS applications were timely	83.3%	57.1%	74.4%	50.0%
Applications were served in a timely way (ie seven or more days before trial)	38.9%	42.9%	32.6%	31.3%
Victims/witnesses who testified following a summons	66.7%	28.6%	None	6.3%
Other action taken to admit evidence where there was a refusal to testify	None	None	2.3%	None
Warrants issued as a percentage of summonses applied for	None	None	4.7%	18.8%
Warrants executed	None	None	None	33.3%

5.4 In the cases that were discontinued there was little difference between case types for the application of the summonses made by the CPS. The domestic abuse case applications for a summons were timelier than for non-domestic abuse. However service of the summonses in both case types, although similar, was worse than service in the convicted cases. Only 6.3% of witnesses testified following a summons and these were only in the non-domestic abuse cases.

5.5 Prosecutors rarely tried to adduce the victim’s evidence by other means where they had refused to give evidence. This happened in only 2.3% of domestic abuse cases in our file sample and none of the non-domestic abuse ones. Only two warrants were applied for in domestic abuse cases (4.7%) and none were executed. In the non-domestic abuse category a warrant was applied for in three (18.8%) cases, of which only one was executed.

5.6 There are no systematic quality assurance checks by CPS managers of applications for witness summonses in terms of their appropriateness, timeliness or quality. We were informed that any assurance checks were through other routine management checks, dip sampling of cases through Individual Quality Assessment, or unsuccessful outcomes reports. However we have found during other inspections that unsuccessful outcome reports need significant improvement to enable lessons to be learnt. More generally, witness summons applications may come to the attention of managers only if a problem occurs on a case.

Recommendation

Any assurance checks undertaken by CPS managers around victim and witness issues, include the analysis and use of witness summonses.

5.7 There is no facility on CMS to flag witness summonses generally. There are a number of additional flags around the use of summonses available for hate crime cases, but not in other case types. This means that the potential use of CMS data cannot be relied on or used in any meaningful way for identification of summons cases for assurance checking or for any analysis. HMCTS supplies the CPS with performance information on the number of witness summonses issued by the court as a percentage of the number of witnesses required to attend court. This information is stored on the CPS management information system (MIS). However, no managers with whom we spoke were aware of this data.

Recommendation

The case management system is used to flag all cases where a witness summons is issued.

5.8 Although it would be possible for Areas to record the ethnicity and gender of witnesses against whom summonses are issued, this is not being undertaken. Similarly, there is no recording of the relationship (if any) between the defendant and the victim or witness summonsed. As part of our audit we looked at some demographic data. In 113 (of the 120 in our file sample) cases the defendants were adults, the remaining seven were youths. An application for a summons was made in 90 of the 113 adult cases (79.6%) and six of the seven youths (85.7%). In 110 of the 120 cases (91.7%) the defendants were male. In 88 of the 110 (80.0%) where the defendant was male, there was an application for a witness summons. Of the ten cases where the defendant was female, only two were subject to an application for a summons.



6 Joint management of witnesses summonses

- 6.1** There were no joint local inter-agency agreements in the Areas visited that dealt specifically with the summons procedure and processes, except those single agency guidelines and policies which dealt specifically with domestic abuse cases and warrants.
- 6.2** There was little evidence of any systematic joint working or joint meetings between partner agencies where witness summons and or warrants were discussed.
- 6.3** The effectiveness of liaison between the CPS, police, WCUs and the courts was sporadic but typically took place through groups set up under Local Criminal Justice Board or Criminal Justice Delivery Groups – often dealing with Specialist Domestic Violence Courts. Most felt they had groups in place where issues around summonses could be raised with their partner agencies.
- 6.4** The CPS and WCUs have varying levels of direct liaison with regard to reporting issues, and applying for, despatching and serving summonses. There is inconsistency about the information required by the parties and the steps they will each take. For instance, the police should provide early risk assessments and retraction statements and the CPS should then deal expeditiously with issues so summonses are not applied for at the last minute. When the appropriate actions have been undertaken by the police and CPS, the courts will grant the applications in accordance with legislation. The WCUs will then liaise with police to serve summonses effectively and provide appropriate documentation to prove service. The police should then serve the summons in line with the legislative instructions on their service. We have covered most of the inter-agency causal factors throughout this report but generally we found that contact was often late and that there were differing practices across England and Wales between all agencies on the applying, issuing, dispatching and service of summonses. This was particularly confusing where a CPS Area deals with a number of differing police forces and court centres.
- 6.5** There was some promising evidence of relationship building between the CPS and local voluntary support agencies such as Independent Domestic Violence Advisors, Independent Sexual Violence Advisors and Independent Domestic Abuse Services. All these groups and the Witness Service and Victim Support could offer safe and useful contact with victims if they were brought into the process at a much earlier stage. Referrals are often so late in the process that the input by such agencies is limited.
- 6.6** No data on witness summonses is collated locally by any of the agencies although one WCU had some limited information around the late issue of summonses for service. The only available witness summons information is the HMCTS data on the number of summonses issued.



7 Conclusion

7.1 The decision to apply for a witness summons should not be taken lightly. A witness summons is the last resort for those who disengage from a prosecution and should only be considered when all other avenues have been exhausted. Ultimately it can result in the deprivation of liberty of the victim – often impacting on those who may be the most vulnerable.

7.2 We found a number of issues during this audit which need to be addressed. The key issues are a lack of compliance with the current CPS domestic abuse policy, particularly around the failure to request an early victim risk assessment.

7.3 Summonses and the rationale for applying for a summons are not routinely recorded on the CPS case management system and there is no facility to flag on the system when a summons has been requested. There is also a lack of data available and subsequently this means the CPS is unable to undertake any meaningful analysis on whether their use is effective and whether it has any impact on improving the level of successful outcomes.

7.4 The use of automatic summonses is causing some difficulties which need to be resolved with HMCTS. Although the use of the witness summons procedure has increased, the number of witnesses attending court is declining. Other avenues such as better use of support agencies needs to be explored further.

7.5 There is some lack of compliance with the prescribed process for the service of a witness summons and conduct money has been a long standing issue which needs to be addressed.

7.6 Any decision to apply for a witness summons needs to be informed by a proper assessment and with the involvement of the police and other support organisations. The prosecutor can then make an informed decision on whether to proceed with the case on other evidence, pursue an application for a summons, or even consider whether to discontinue the case.



Annexes

A Methodology

The team

The team was comprised of three legal inspectors and two business management inspectors. To inform the inspection we used the framework at annex B.

File examination

The file sample was assessed against set criteria and the data from the file examination is set out in annex C.

We examined 120 files from six CPS Areas: North West; Mersey-Cheshire; Yorkshire and Humberside; Cymru-Wales; East Midlands; and Thames and Chiltern. We examined 20 finalised cases from each Area made up of 15 magistrates' court cases and five Crown Court cases. We selected cases which resulted in both unsuccessful and successful outcomes. In 96 of them a summons had been sought.

The majority of our cases, 87 of the 120, were sensitive cases, comprising:

- 78 domestic abuse
- four racially or religiously aggravated; and
- five which involved sexual offending.

We selected 29 successful cases and 91 unsuccessful. 28 of our 29 successful cases (96.6%) had summonses applied for. Of our 91 unsuccessful ones, witness summonses were applied for in 68 (74.7%).

Analysis and surveys

The inspection team reviewed various published reports along with unpublished internal CPS reviews, CPS policies and guidance, and other partner agency policies and guidance. We also looked at data systems to establish what data was available on witness summonses.

Surveys were conducted on our behalf by the Witness Service with those who had to attend court on summons, over a two week period. Although we were unable to use the survey results in this report due to the low response rate (only three respondents), we would like to take the opportunity to thank the Witness Service for their efforts on our behalf.

The fieldwork

The inspection team visited the six CPS Areas the file sample was taken from, speaking to managers and operational staff. They interviewed CPS national leads for victims and witnesses and violence against women and girls. The team also saw members of the judiciary sitting in the Areas visited and police criminal justice leads and spoke to Witness Care Managers, Witness Service and Domestic Violence Advisors.



B Audit of witness summonses framework

1 Responsibilities for the issue of witness summonses are clearly defined, understood and followed

- Area guidance/policy on issuing witness summonses is in place and correlates with CPS national guidance/policy
- the guidance/policy for the issue of witness summonses is fit for purpose
- adequate training has been delivered in the Area on the issue of witness summonses
- there is consistent compliance with witness summonses guidance/policy by staff at all levels
- there is clarity as to the Area's priorities/objectives on witness summonses and how they will be achieved

2 Operational processes and decision-making

Application

- where applicable did the CPS or police attempt to persuade a reluctant witness to attend court voluntarily?
- did the police highlight the likelihood of a reluctant witness on the MG5 or elsewhere on the police file?
- where other measures were unsuccessful in persuading a reluctant witness to attend court voluntarily, did the CPS apply for a witness summons?
- did the prosecutor consider the risks and weaknesses in the case and whether the case should proceed?
- was it appropriate in all the circumstances of the case for a summons to be applied for by the prosecution?
- prosecutors identify any special requirements for victims and witnesses, and make timely and appropriate applications which reflect the victim's or witness's wishes
- did the CPS indicate the need for a summons on the MG3?
- was the file endorsed appropriately with the rationale for making or not making an application?
- was any application made in a timely fashion?
- was any application granted by the court?
- was the application (if any) in accordance with either s97 MCA 1980 or s2 Criminal Procedure (Attendance of Witnesses) Act 1965?

- was any application for a summons made in compliance with Part 28 of the Criminal Procedure Rules?
- how many witnesses were covered by any application?
- was any witness summonsed also a victim?

Service

- did the police serve the summons on the witness?
- was service of any summons timely (no more than seven calendar days before any trial)?
- are there policies in place to agree arrangements at the time of service eg conduct money?

Attendance at court

- did the witness [on whom the summons had been served] attend the trial?
- did the witness [on whom the summons had been served] testify?
- if the witness [on whom the summons had been served] refused to testify, was any action taken by the prosecutor to admit the evidence of that witness?
- if the witness failed to attend the trial, was a warrant applied for?
- were any other measures taken to persuade the witness (after the first hearing) to attend court on a voluntary basis?

Outcome

- what was the outcome of the case?
- what finalisation code was added to the CMS record for the case?
- effective decision-making of witness summonses contributes to successful outcomes
- cracked and ineffective trials due to witness issues are minimised by proper application of the rules and proactive decision-making
- the relationship between the witness and the defendant was considered by the prosecutor when issuing a summons

3 Data and information is analysed effectively and drives performance improvements in quality and/or efficiency

- are managers aware of whether applications for witness summonses are timely?
- are managers aware of whether applications for witness summonses are of the appropriate quality?
- are managers aware of whether the service of witness summonses are timely?
- do managers receive data on timeliness and quality on the applications and service of witness summonses?
- witness summons cases with a sensitive element are dealt with expeditiously and effectively, and they are handled by those with appropriate training, experience and expertise wherever possible
- there is an effective quality assurance regime to:
 - * monitor and manage processes and systems
 - * review ineffective hearings to learn future lessons
 - * consider a number of contested cases where the CPS has chosen not to invoke the witness summons procedures to secure the attendance of reluctant victims or witnesses
- districts and units are held to account for their performance in the issuing of witness summonses
- data produced takes account of equality and diversity factors eg gender, ethnicity
- data produced takes account of other factors that may influence a witness's decision to attend court eg relationship with defendant, trend analysis/common themes

4 There are effective systems for joint management of witness summonses with partner agencies

- local inter-agency agreements are in force to manage the procedure for securing the attendance of reluctant witnesses including summonses and warrants
- effective liaison between the CPS, the police and Witness Care Officers to drive performance between relevant agencies
- have managers considered the potential impact of the implementation of the Transforming Summary Justice project and any judicial intervention at plea and case management or NGAP hearings on the witness summons procedure
- good practice is identified and shared within the CPS and with relevant CJS partners



C File examination results

Question	Answer	All cases	Mags' Court	Crown Court
1 Was an application made by the CPS for a witness summons	Yes	80.0%	79.6%	81.5%
	No	17.5%	17.2%	18.5%
	NK	2.5%	3.2%	0%
2 What was the relationship (if any) of the defendant to the victim or witness [against whom a summons was applied for]	Spouse or partner	37.5%	50.5%	7.4%
	Ex-spouse/partner	12.5%	16.1%	18.5%
	Other family member	25.0%	8.6%	11.1%
	Not related	25.0%	24.7%	63.0%
3 How many witnesses were covered by any application(s)	1	77.8%	81.8%	63.6%
	2	17.2%	15.6%	22.7%
	3+	5.1%	2.6%	13.6%
4 Was any application granted by the court	Yes	99.0%	98.7%	100%
	No	0%	0%	0%
	NK	1.0%	1.3%	0%
5 Did the police highlight the likelihood of a reluctant witness on the MG5 or elsewhere on the police file	Yes	46.6%	47.7%	42.9%
	No	53.4%	52.3%	57.1%
6 Did the CPS indicate the need for a summons on the MG3	Yes	45.7%	46.2%	44.4%
	No	54.3%	53.8%	55.6%
7 Were any other measures suggested by police or CPS before first hearing to persuade the reluctant witness to attend voluntarily	Special measures	95.8%	100%	85.7%
	Live link	4.2%	0%	14.3%
8 In domestic abuse cases, did the CPS request a background report/needs assessment from the police before applying for a summons	Yes	32.3%	36.2%	0%
	No	66.2%	63.8%	85.7%
	NK	1.5%	0%	14.3%
9 Was any witness summonsed also a victim	Yes	84.8%	84.6%	85.7%
	No	15.2%	15.4%	14.3%

NK Not known

Question	Answer	All cases	Mags' Court	Crown Court
10 Was the application (if any) in accordance with either s97 MCA 1980 or s2 Criminal Procedure (Attendance of Witnesses) Act 1965	Yes	96.9%	96.1%	100%
	No	3.1%	3.9%	0%
11 Was it appropriate in all the circumstances of the case for a summons to be applied for by the prosecution	Yes	87.3%	84.5%	96.2%
	No	12.7%	15.5%	3.8%
12 Were any other measures taken to persuade the witness (after the first hearing) to attend court on a voluntary basis	Special measures	83.9%	81.0%	90.0%
	Live link	9.7%	14.3%	0%
	Other	6.5%	4.8%	10.0%
13 Was the file endorsed appropriately with the rationale for making an application	Yes	42.9%	50.6%	14.3%
	No	57.1%	49.4%	85.7%
14 Was any application made in a timely fashion	Yes	67.7%	66.2%	72.7%
	No	32.3%	33.8%	27.3%
15 Was any application for a summons made in compliance with Part 28 of the Criminal Procedure Rules	Yes	60.8%	59.2%	66.7%
	No	39.2%	40.8%	33.3%
16 Did the police serve the summons on the witness	Yes	56.1%	59.2%	45.5%
	No	30.6%	28.9%	36.4%
	NK	13.3%	11.8%	18.2%
17 Was service of any summons timely (no more than seven calendar days before any trial)	Yes	62.5%	59.6%	77.8%
	No	33.9%	36.2%	22.2%
	NK	3.6%	4.3%	0%
18 Did the witness [on whom the summons had been served] attend the trial	Yes	58.2%	60.9%	44.4%
	No	41.8%	39.1%	55.6%
19 Did the witness [on whom the summons had been served] testify	Yes	54.5%	53.6%	60.0%
	No	42.4%	46.4%	20.0%
	NK	3.0%	0%	20.0%

NK Not known

Question	Answer	All cases	Mags' Court	Crown Court
20 If the witness [on whom the summons had been served] refused to testify, was any action taken by the prosecutor to admit the evidence of that witness	Yes	7.1%	7.7%	0%
	No	92.9%	92.3%	100%
21 If the witness failed to attend the trial, was a warrant applied for	Yes	29.2%	15.8%	80.0%
	No	70.8%	84.2%	20.0%
22 Was any warrant executed	Yes	22.2%	20.0%	25.0%
	No	55.6%	40.0%	75.0%
	NK	22.2%	40.0%	0%
23 What was the outcome of the case	Convicted	23.7%	23.1%	25.9%
	Acquitted	0.8%	1.1%	0%
	No case to answer	0.8%	1.1%	0%
	JDA	0.8%	1.1%	0%
	Discontinued (inc JOA)	74.6%	73.6%	74.1%

JDA Judge directed acquittal

JOA Judge ordered acquittal

NK Not known



D National CPS data

Numbers of witness summons issued

CPS Area	2013-14			2014-15		
	No of witness summons issued	No of witnesses required to attend court	% of witness summons issued	No of witness summons issued	No of witnesses required to attend court	% of witness summons issued
Cymru-Wales	591	12,658	4.7%	508	13,707	3.7%
East Midlands	398	15,678	2.5%	391	16,017	2.4%
Eastern	87	11,649	0.7%	100	12,163	0.8%
London	662	42,574	1.6%	1,346	40,449	3.3%
Mersey-Cheshire	444	8,485	5.2%	127	9,601	1.3%
North East	198	11,398	1.7%	203	13,208	1.5%
North West	2,075	26,268	7.9%	2,264	26,458	8.6%
South East	94	9,311	1.0%	146	10,474	1.4%
South West	173	10,480	1.7%	138	11,064	1.2%
Thames and Chiltern	123	12,772	1.0%	166	14,745	1.1%
Wessex	66	3,900	1.7%	64	4,109	1.6%
West Midlands	722	23,207	3.1%	932	24,271	3.8%
Yorkshire and Humberside	188	20,332	0.9%	157	21,140	0.7%
National	5,821	208,712	2.8%	6,542	217,406	3.0%

Percentage of ineffective trials due to prosecution reasons

CPS Area	Crown Court 2013-14														Total % ineffective due to prosecution reasons
	Total trials	Prosecution not ready: served late notice of additional evidence on defence	Prosecution not ready: specify in comments	Prosecution failed to disclose unused evidence	Prosecution witness absent: police	Prosecution witness absent: professional/expert	Prosecution witness absent: other	Prosecution advocate engaged in another trial	Prosecution advocate failed to attend	Prosecution increased time estimate - insufficient time for trial to start	Total no ineffective due to prosecution reasons	Total % ineffective due to prosecution reasons			
Cymru-Wales	1,559	7	12	3	2	0	22	0	1	3	50	3.2%			
East Midlands	1,831	5	18	3	4	2	37	0	4	2	75	4.1%			
Eastern	1,922	11	19	2	6	2	21	0	2	7	70	3.6%			
London	3,341	21	41	3	8	3	110	0	5	12	203	6.1%			
Mersey-Cheshire	8,870	54	117	19	60	17	253	1	5	18	544	6.1%			
North East	1,370	8	20	4	1	0	20	0	1	5	59	4.3%			
North West	1,840	4	47	5	2	1	64	1	0	8	132	7.2%			
South East	1,853	9	25	2	9	2	37	0	0	7	91	4.9%			
South West	1,344	6	9	4	1	2	18	0	1	3	44	3.3%			
Thames and Chiltern	1,867	8	27	1	12	3	49	0	1	5	106	5.7%			
Wessex	1,338	5	13	2	1	2	17	0	1	3	44	3.3%			
West Midlands	3,065	17	21	6	6	4	58	1	1	4	118	3.8%			
Yorkshire and Humberside	3,320	13	30	6	7	5	54	0	4	4	123	3.7%			
National	33,520	168	399	60	119	43	760	3	26	81	1,659	4.9%			

CPS Area	Crown Court 2014-15													
	Total trials	Prosecution not ready: served late notice of additional evidence on defence	Prosecution not ready: specify in comments	Prosecution failed to disclose unused evidence	Prosecution witness absent: police	Prosecution witness absent: professional/expert	Prosecution witness absent: other	Prosecution advocate engaged in another trial	Prosecution advocate failed to attend	Prosecution increased time estimate - insufficient time for trial to start	Total no ineffective due to prosecution reasons	Total % ineffective due to prosecution reasons		
Cymru-Wales	1,623	5	10	3	3	2	25	0	2	3	53	3.3%		
East Midlands	1,927	8	31	2	5	4	33	0	3	4	90	4.7%		
Eastern	2,305	21	21	10	11	4	53	1	3	7	131	5.7%		
London	9,595	41	164	16	54	15	219	1	16	30	556	5.8%		
Mersey-Cheshire	1,870	8	20	5	6	2	38	0	0	7	86	4.6%		
North East	2,085	12	43	6	11	2	58	0	2	3	137	6.6%		
North West	3,503	14	62	7	9	2	99	1	1	13	208	5.9%		
South East	2,272	16	31	6	11	3	49	0	6	4	126	5.5%		
South West	1,506	12	19	2	1	2	27	0	1	8	72	4.8%		
Thames and Chiltern	2,183	10	23	1	10	2	71	1	0	7	125	5.7%		
Wessex	1,635	15	15	0	0	4	28	1	4	3	70	4.3%		
West Midlands	3,416	19	39	7	8	4	75	1	2	4	159	4.7%		
Yorkshire and Humberside	3,455	17	42	9	8	4	58	0	5	6	149	4.3%		
National	37,375	198	520	74	137	50	833	6	45	99	1,962	5.2%		

CPS Area	Magistrates' court 2013-14													
	Total trials	Prosecution not ready: served late notice of additional evidence on defence	Prosecution not ready: specify in comments	Prosecution failed to disclose unused evidence	Prosecution witness absent: police	Prosecution witness absent: professional/expert	Prosecution witness absent: other	Prosecution advocate engaged in another trial	Prosecution advocate failed to attend	Prosecution increased time estimate - insufficient time for trial to start	Total no ineffective due to prosecution reasons	Total % ineffective due to prosecution reasons		
Cymru-Wales	8,559	27	46	34	20	10	148	4	4	4	297	3.5%		
East Midlands	9,910	30	138	64	42	18	290	5	8	19	614	6.2%		
Eastern	7,353	33	58	27	28	6	119	4	9	11	295	4.0%		
London	16,074	71	135	83	69	10	338	6	12	20	744	4.6%		
Mersey-Cheshire	37,305	207	520	372	245	38	936	23	60	36	2,437	6.5%		
North East	6,093	41	60	38	37	7	85	5	4	16	293	4.8%		
North West	8,645	85	112	73	52	7	130	1	11	7	478	5.5%		
South East	10,246	51	125	180	44	13	210	6	19	6	654	6.4%		
South West	6,393	35	41	27	23	5	90	3	5	4	233	3.6%		
Thames and Chiltern	9,501	44	94	68	38	8	182	1	12	13	460	4.8%		
Wessex	6,846	22	80	52	16	5	114	1	8	4	302	4.4%		
West Midlands	16,329	50	180	55	44	10	260	4	16	16	635	3.9%		
Yorkshire and Humberside	14,438	49	132	58	57	14	329	5	15	11	670	4.6%		
National	157,692	745	1,721	1,131	715	151	3,231	68	183	167	8,112	5.1%		

CPS Area	Magistrates' court 2014-15													
	Total trials	Prosecution not ready: served late notice of additional evidence on defence	Prosecution not ready: specify in comments	Prosecution failed to disclose unused evidence	Prosecution witness absent: police	Prosecution witness absent: professional/expert	Prosecution witness absent: other	Prosecution advocate engaged in another trial	Prosecution advocate failed to attend	Prosecution increased time estimate - insufficient time for trial to start	Total no ineffective due to prosecution reasons	Total % ineffective due to prosecution reasons		
Cymru-Wales	8,344	19	63	15	18	4	112	1	10	4	246	2.9%		
East Midlands	10,665	64	136	57	62	13	288	10	18	13	661	6.2%		
Eastern	7,627	34	68	48	34	3	135	2	15	10	349	4.6%		
London	34,852	143	395	306	179	34	751	15	66	23	1,912	5.5%		
Mersey-Cheshire	6,506	25	60	18	25	3	135	6	5	14	291	4.5%		
North East	9,013	60	126	49	58	9	145	8	11	10	476	5.3%		
North West	16,084	73	130	92	54	9	344	8	14	12	736	4.6%		
South East	10,227	48	112	70	41	3	193	3	12	11	493	4.8%		
South West	6,969	26	43	59	21	9	99	3	5	8	273	3.9%		
Thames and Chiltern	10,720	43	147	83	51	9	253	6	13	11	616	5.7%		
Wessex	7,588	33	95	25	20	8	135	4	9	5	334	4.4%		
West Midlands	15,893	57	162	55	23	10	213	4	14	17	555	3.5%		
Yorkshire and Humberside	13,511	41	134	50	42	8	275	4	5	9	568	4.2%		
National	157,999	666	1,671	927	628	122	3,078	74	197	147	7,510	4.8%		



E Glossary

Cracked trial

On the date set for trial, the defendant offers acceptable pleas or the prosecution offers no evidence. A cracked trial requires no further trial time, but as a consequence the time allocated has been wasted and witnesses have been unnecessarily inconvenienced, thus impacting confidence in the system.

Criminal Procedure Rules

Give courts explicit powers to actively manage the preparation of criminal cases waiting to be heard, to get rid of unfair and avoidable delays.

Case management system (CMS)

IT system for case management used by the CPS. Through links with police systems CMS receives electronic case material. Such material is intended to progressively replace paper files.

Hearsay evidence

Hearsay evidence and the rules relating to it are a very complex part of the law. In criminal proceedings hearsay is “a statement not made in oral evidence in the proceedings that is evidence of any matter stated” (section 114 (1) Criminal Justice Act 2003).

Ineffective trial

On the date set for trial, the trial does not go ahead due to action or inaction by one or more of the prosecution, defence or the court and a further listing for trial is required.

Individual Quality Assessment (IQA)

The CPS’s new scheme to assess the performance of individuals and compliance with the CPS Casework Quality Standards.

Local Criminal Justice Board

There are a number of Local Criminal Justice Boards in England and Wales, who bring together the chief officers of all the criminal justice agencies and partnerships in order to co-ordinate delivery of the criminal justice system.

MG5

A police case file summary setting out the circumstances of the offence(s) and the evidence that is relied upon in the case.

Special measures

The Youth Justice and Criminal Evidence Act 1999 introduced a range of measures that can be used to facilitate the gathering and giving of evidence by vulnerable and intimidated witnesses. These are collectively known as “special measures” and include: screens to shield the witness from the defendant, live link, evidence given in private, and removal of wigs and gowns amongst others.

Successful outcomes

Cases in which the defendant pleads guilty or is convicted after trial.

Transforming Summary Justice (TSJ)

An initiative led by Her Majesty's Courts and Tribunals Service, but involving also both the CPS and the police, designed to deliver justice in summary cases (those which must be tried in the magistrates' court) in the most efficient way by reducing the number of court hearings and the volume of case papers.

Unsuccessful outcomes

Cases which result in an acquittal or are discontinued.

Victim Personal Statement (VPS)

Gives a victim an opportunity to describe the effect that the crime has had on them mentally, physically, emotionally, financially or in any other way.

Warrant

A document issued by a legal or government official authorising the police or another body to make an arrest, search premises, or carry out some other action relating to the administration of justice.

Witness summons

A legal document, issued by the court, which makes it a legal requirement for a witness to attend court to:

- give evidence
- produce a document or other item in court as evidence.

Witness Care Unit (WCU)

Unit responsible for managing the care of victims and prosecution witnesses from the point of charge to the conclusion of a case. Staffed by Witness Care Officers and other support workers whose role it is to keep witnesses informed of progress during the course of their case. Units may have a combination of police and CPS staff (joint units) but most no longer have CPS staff.

Witness Service

Now comes under Citizens Advice. It helps victims, witnesses, their families and friends when attending any criminal courts in England and Wales. This includes facilitating pre-trial visits and support on the day of the court hearing.

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