

Annual Report

2017-2018

HM Chief Inspector of the Crown Prosecution Service

Presented to Parliament pursuant to Section 2(2) of the
Crown Prosecution Service Inspectorate Act 2000

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Letter from HM Chief Inspector to the Attorney General

The Rt Hon Geoffrey Cox QC MP

I am pleased to present to you this report on our inspection activity for the year 1 April 2017 to 31 March 2018.

The year has been a busy one. The Area Assurance Programme (AAP) we started in 2016 has now been completed in all CPS Areas, with the exception of London North and London South. Inspectors have read 1,290 files and thousands of documents, written to 500 plus stakeholders and interviewed over 700 staff during the inspections. I believe this gives you, and others with an interest in CPS performance and the criminal justice system, a valuable overview of how the CPS operates across England and Wales. AAP will be completed by August 2018 with the inspections of London North and South.

Although we have not sought to compare Area with Area, we have identified a number of examples of good practice which we believe should be applied across the CPS. We have also been able to discern trends in casework performance which give me cause for concern. Casework preparation and presentation are the core work for a prosecuting authority. The CPS does well at the beginning of the process by getting the charge right. This is vital to ensure the right cases are getting to court. But thereafter, there is an apparent lack of 'grip' on a case until just before trial. Our work this year has shown that all Areas could improve practices around the timeliness of review and case progression in both the magistrates' courts and Crown Court. Late or incomplete preparation causes delay, adds to the burden on other stakeholders and has the potential to cause a trial to be delayed or even abandoned; this results in inefficiencies. I am concerned that using the conviction rates in both the Crown Court and magistrates' courts (which are good) as the sole or main measure of CPS casework performance does not tell the whole story. We will during the course of the current year carry out an inspection that will try to identify what is being done in terms of case progression and casework preparation between charge and trial. We will also consider whether resourcing is an issue.

In addition to AAP we have published a joint inspection report with HMICFRS on disclosure in 'volume' Crown Court cases. Its publication made it clear that disclosure is a significant problem in the criminal justice system and I am pleased to note that as a result of that report and a number of failed cases, there has been a high degree of interest and a response from the police and CPS that provides a real prospect of significant improvement.

We have also published well-received reports on harassment and stalking and on the CPS response to the Modern Slavery Act 2015.

It is my intention in the coming year to formulate a more strategic approach to planning future inspections, seeking input from the CPS, Serious Fraud Office and your own officials to ensure that the resources we have are targeted at providing inspection reports that are of most use to stakeholders and those with an interest in the criminal justice system.

I would like to thank my inspectors and all staff at HMCPST for successfully delivering a very challenging programme of inspection in the last year.



Kevin McGinty CBE

HM Chief Inspector of the Crown Prosecution Service

Crown Prosecution Service geographical Areas



Overview of our inspection activity

Our assessment of the performance of the CPS is informed by findings from our Area Assurance Programme (AAP), our thematic inspections and joint inspection activity undertaken between April 2017 and March 2018. Additionally, we have included any reports which were due for publication shortly after this period. Details are set out in annex A.

Our approach to inspection takes account of the business needs and strategic priorities of the CPS, as well as the expectations of the general public, as to whether the CPS provides an efficient service and gives value for money. This assessment reflects those aspects in which CPS performance is crucial to public confidence or where casework failures might represent a high reputational risk to the organisation.

We want to be able to give as comprehensive an assurance as possible to the public and Ministers, with the resources we have available, on how the CPS is performing. To achieve this we have developed AAP, which was piloted in 2016. After assessing the two pilots, we reviewed the methodology and completed three more inspections with the updated framework in 2016-17. We continued the programme with this framework in 2017-18, undertaking AAP inspections in Thames and Chiltern,¹ North East,² West Midlands,³ East of England,⁴ South East,⁵ North West⁶ and Mersey-Cheshire.⁷ Therefore we are able to use the findings from the AAP reports, and in particular the considerable amount of data generated, to give a comprehensive assessment of how the CPS is performing in most of its Areas. This is the first time we have had such a detailed snapshot of CPS performance over a relatively short space of time. (The Overall Performance Assessments we carried out in 2005 and 2007 were a much more top level inspection and the Annual Casework Examination Programme, the parent of the AAPs, only looked at files with no stakeholder interviews or inspection of the business element of performance). This snapshot was the main aim of my tenure as Chief Inspector, in order to feel confident that the report I give to the Attorney General, as is my statutory remit, is an accurate reflection of the overall performance of the CPS.

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- 1 *Area Assurance Inspection of CPS Thames and Chiltern*; HMCPSI; July 2017.
www.justiceinspectorates.gov.uk/hmcpsi/inspections/area-assurance-inspection-of-cps-thames-and-chiltern/
 - 2 *Area Assurance Inspection of CPS North East*; HMCPSI; August 2017.
www.justiceinspectorates.gov.uk/hmcpsi/inspections/area-assurance-inspection-of-cps-north-east/
 - 3 *Area Assurance Inspection of CPS West Midlands*; HMCPSI; October 2017.
www.justiceinspectorates.gov.uk/hmcpsi/inspections/area-assurance-inspection-of-cps-west-midlands/
 - 4 *Area Assurance Inspection of CPS East of England*; HMCPSI; October 2017.
www.justiceinspectorates.gov.uk/hmcpsi/inspections/area-assurance-inspection-of-cps-east-of-england/
 - 5 *Area Assurance Inspection of CPS South East*; HMCPSI; January 2018.
www.justiceinspectorates.gov.uk/hmcpsi/inspections/area-assurance-inspection-of-cps-south-east/
 - 6 *Area Assurance Inspection of CPS North West*; HMCPSI; February 2018.
www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-north-west-area-assurance-inspection-feb-18/
 - 7 *Area Assurance Inspection of CPS Mersey-Cheshire*; HMCPSI; April 2018.
www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-mersey-cheshire-area-assurance-inspection-apr-18/

The Transforming Summary Justice (TSJ) initiative was implemented in the magistrates' courts in 2015, with the aim of speeding up the process and increasing the number of trials that go ahead without having to be adjourned to another day. Our report published at the beginning of 2016⁸ took an early look at how the CPS was contributing to its success. One of the first reports we published in 2017-18 was a follow-up to this earlier report.⁹

In addition we undertook a number of thematic inspections this year focussing on CPS processes. We conducted a review of the accuracy of recording case finalisations on the CPS case management system (CMS).¹⁰ Accurate recording on CMS is important as this is the data the CPS uses to manage its performance. We also looked at the operation of Individual Quality Assessments (IQAs),¹¹ a mechanism the CPS uses to quality assure casework and improve casework performance. The third thematic topic we inspected this year was the CPS's internal fraud controls.¹² Preventing and detecting fraud are key to ensuring proper use of public funds, reducing loss and preventing reputational damage therefore it is essential that the CPS, as with all organisations, has controls in place to achieve those ends.

We have looked at how some of the most vulnerable victims are treated in our joint inspection on harassment and stalking with our colleagues in Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS)¹³ and our report on the CPS response to the Modern Slavery Act 2015.¹⁴ The latter was a HMCPSI report but it is intended to lay the foundations, with a similar report produced by HMICFRS,¹⁵ for a future joint inspection on the subject.

8 *Transforming Summary Justice*; HMCPSI; February 2016.

www.justiceinspectorates.gov.uk/hmcpsi/inspections/transforming-summary-justice/

9 *Business as Usual? Transforming Summary Justice follow-up report*; HMCPSI; June 2017.

www.justiceinspectorates.gov.uk/hmcpsi/inspections/business-as-usual-transforming-summary-justice-follow-up-report/

10 *CPS Case Finalisations: An Inspection into the Timeliness and Accuracy of Recording Case Finalisations onto the Crown Prosecution Service Case Management System*; HMCPSI; May 2017

www.justiceinspectorates.gov.uk/hmcpsi/inspections/case-finalisations/

11 *The Operation of Individual Quality Assessments in the CPS*; HMCPSI; March 2018.

www.justiceinspectorates.gov.uk/hmcpsi/inspections/the-operation-of-individual-quality-assessments-in-the-cps-mar-18/

12 *Inspection of Crown Prosecution Service Internal Fraud Controls*; HMCPSI; November 2017.

www.justiceinspectorates.gov.uk/hmcpsi/inspections/crown-prosecution-service-internal-fraud-controls/

13 Prior to 19 July 2017 HMICFRS was Her Majesty's Inspectorate of Constabulary (HMIC).

14 *The CPS Response to the Modern Slavery Act 2015*; HMCPSI; December 2017.

www.justiceinspectorates.gov.uk/hmcpsi/inspections/the-cps-response-to-the-modern-slavery-act-2015/

15 *Stolen freedom: the policing response to modern slavery and human trafficking*; HMICFRS; October 2017.

www.justiceinspectorates.gov.uk/hmicfrs/publications/stolen-freedom-the-policing-response-to-modern-slavery-and-human-trafficking/

We carried out a joint inspection with HMICFRS on the handling of the disclosure of unused material.¹⁶ In my Annual Report of 2016-17 I mentioned that this is an aspect of casework where failures can lead to substantial reputational damage for both the police and the CPS, and this has been demonstrated in a number of recent cases that have hit the headlines due to disclosure issues.

HMICFRS has carried out a significant piece of work on hate crime which, as a much smaller organisation, we would have been unable to contribute to as a joint inspection. However we have trialled a 'modular' approach by carrying out a discrete piece of work with them on disability hate crime. We will publish a joint report in 2018-19 just on that topic but it will also form part of the much larger review of hate crime overall, on which HMICFRS will publish as a single agency report. I see this as the way forward for HMCPsi to enable us to overcome the difficulties of working with an organisation with much greater resource available to it.

Finally, with regard to the CPS, a joint inspection of National Crime Agency (NCA) search applications and production order processes was also carried out with HMICFRS and will report in 2018-19.

Outside our inspections of the CPS, we assisted Criminal Justice Inspection Northern Ireland (CJINI) in their undertaking of an inspection on domestic abuse and rape and other serious sexual offences, the report of which will be published later in 2018.

HMCPsi can undertake work in Northern Ireland on a delegated basis at the request of the Chief Inspector of Criminal Justice for Northern Ireland in accordance with his powers under the Justice (Northern Ireland) Act 2002. We also inspect other organisations by invitation but, since 2014, we have had a statutory duty to inspect the Serious Fraud Office (SFO) as well as the CPS.

Our annual inspection programme is determined by a combination of consultation with internal and external stakeholders and risk assessment based on evidence gathered from various sources, including previous inspections. We are a small organisation with limited resources so I have to ensure where best to allocate these resources in the inspection programme.

¹⁶ *Making it Fair: The Disclosure of Unused Material in Volume Crown Court Cases*; HMCPsi and HMICFRS; July 2017.
www.justiceinspectorates.gov.uk/hmcp/inspections/making-it-fair-the-disclosure-of-unused-material-in-volume-crown-court-cases/

In 2016 we published a detailed review of the governance arrangements in the SFO.¹⁷ I decided that in 2017-18 we would not carry out an inspection of the SFO but concentrate our resources on completing AAP in the CPS. I intend, however, to focus on the handling of the most serious crime next year and therefore this year I allocated resource to developing the methodology to undertake an inspection of case progression in the SFO.

Overview of CPS performance outcomes

The proportion of magistrates' court cases resulting in a successful outcome, either by way of a guilty plea or conviction after trial was 84.8%, unchanged from 2016-17.¹⁸ The successful outcome rate in the Crown Court has improved from 78.9% last year to 79.9% in 2017-18.

The magistrates' court caseload continues to decline, with a 9.4% drop from 499,816 in 2016-17 to 453,071. Crown Court caseload is also falling at a similar rate of 9.2%, from 88,205 in 2016-17 to 80,090 in 2017-18. This continues the trend of the last few years, with an overall reduction of 36.0% in the magistrates' court and 18.7% in the Crown Court caseloads since 2012-13. However the proportion of more complex cases is changing, with the number of contested cases increasing in the magistrates' courts.

The conviction rate for offences of violence against women and girls (VAWG)¹⁹ has improved from 75.3% in 2016-17 to 76.1%. The majority of offences (84.4%) within this category are those which meet the definition of domestic abuse. Rape convictions, which are a sub-category of VAWG, also rose from 57.6% to 58.3%.

The hate crime conviction rate has improved from 83.4% to 84.7%. It is now almost the same as the conviction rate for all categories of offence in the magistrates' courts (84.8%). Religiously and racially aggravated crimes make up the majority of offences within this category. The conviction rate for homophobic and transphobic hate crime was 84.5%, which was similar to that for hate crime overall. However the conviction rate for disability hate crime was much lower at 75.0%.

17 *Serious Fraud Office Governance Arrangements*; HMCPSI; May 2016.

www.justiceinspectorates.gov.uk/hmcpsi/inspections/sfo-governance-arrangements/

18 The data covers the whole of the CPS i.e. the 14 Areas and Headquarters Casework Divisions.

19 This also includes offences against men and boys which fall into the relevant category.

Overall assessment of the Crown Prosecution Service's performance

Introduction

In this section we set out the findings from our inspection activity in 2017-18.

The Area Assurance Programme findings

As in 2016-17, a substantial amount of our resource was focussed on delivering AAP in 2017-18. The seven AAP inspections undertaken in 2017-18, together with the five carried out the previous year, mean that all CPS Areas outside London have now been inspected. London North and London South will be inspected in 2018-19. The findings of these inspections will enable the Law Officers, CPS and others to identify trends, good practice to be shared and what should be improved. We have not given an overall score for each Area as it was this overall picture of the CPS that I wanted to provide, not a 'league table'.

The AAP inspection framework is at annex B.

The table sets out our findings in respect of the seven AAPs conducted in 2017-18:

CPS Area	The success of CPS people	Continuously improving	High quality casework	Public confidence
Thames and Chiltern	Good	Fair	Fair	Poor
North East	Good	Fair	Poor	Good
West Midlands	Excellent	Good	Fair	Good
East of England	Good	Good	Good	Good
South East	Good	Fair	Fair	Fair
North West	Good	Good	Fair	Fair
Mersey-Cheshire	Good	Excellent	Fair	Good

Twelve of the 14 CPS Areas have now been inspected and we have begun to collate the findings. We are now therefore able to identify overall trends in CPS performance and so I will describe those in this report, rather than just concentrate on the seven Areas inspected in 2017-18.

All CPS Areas have scored well on “the success of CPS people”, the section of the AAP framework that examines how Areas are led and managed and whether an Area has the right people with the appropriate skills and tools for their role. We found that the majority of CPS Areas were well managed.

Relationships with partners, such as other criminal justice agencies and Police and Crime Commissioners (PCCs), at a strategic level were universally positive, although this does not always result in substantive improvements in performance.

Most Areas have effective staff engagement and demonstrate actions that are consistent with CPS values. Between 2015 and 2017, the CPS engagement score in the Civil Service People Survey increased from 54% to 61% and this improvement was reflected in nearly all the Areas inspected. Areas recognise that good communication is critical to effective leadership and a number of inspection reports identified examples of good practice and strengths in how Areas communicate with their staff. In some Areas, this focus on communicating more effectively may be one factor in the improvement in engagement scores seen across most of the CPS. However the causes of improving staff engagement are multifaceted and complex and the CPS should continue to assess nationally what works and what does not.

We found that Areas with multiple locations still often present a challenge to the senior management team on how they engage in a meaningful way with all staff and build a ‘one team’ ethos. Some staff in offices away from the ‘centre’ indicated that they felt detached and not always part of their Area.

Recruitment was a particular problem in some Areas. In one a lack of prosecutors has led to inefficiencies. The importance of getting the balance right between legal and support staff was highlighted in another Area where inspectors found that lawyers were undertaking administrative tasks, which was not the best use of resources.

Our AAP has identified creative approaches being taken to dealing with a lack of staff or imbalance within particular grades. Improved digital working has often facilitated this, enabling teams in some Areas to provide services remotely to other Areas and it was good to note how well this can work. We also found that ‘smarter’ working has been broadly welcomed and was having a positive effect not only on staff engagement but also on productivity.

The scores for “continuously improving” were more mixed, with some Areas assessed as excellent but others as fair. This section of the AAP framework looks at how well Areas continuously improve the way they work, deploying resources to work effectively and using efficient processes.

Areas generally had a good focus on performance improvement and we found evidence that teams were held to account. In some Areas a drive for continuous improvement was well embedded in their performance culture. However routine benchmarking of performance and identification of best practice was not consistently applied across all Areas and could be better used as a tool to identify ways to assess and drive up local performance. Similarly there was a lack of consistency across Areas as to how robustly performance was managed and some could make better use of performance information and ensure that operational managers are regularly included and engaged in performance analysis and improvement work.

There was effective budgetary control in all Areas and governance processes were working well. The majority of Areas had a grip on finance. In some there was an over reliance on agents, due to the current shortfall in the overall number of prosecutors as a result of the recruitment issues mentioned above, which impacted Area efficiency and caused some problems.

The scores for “high quality casework” were not so successful. Only one Area was assessed as good with the majority being rated as fair. This section of the AAP framework looks at the quality and timeliness of an Area’s legal decisions together with casework preparation and presentation, which is the core of the CPS’s business.

In every report some reference was made to aspects of casework which require improvement to increase the value that the CPS can add. In most Areas there was a weakness with the CPS’s handling of disclosure. A consistent issue across all Areas is the need to improve practices around the timeliness of review and case progression in both the magistrates’ courts and Crown Court. This lack of grip causes unnecessary work for stakeholders, particularly at court, with time being lost to address problems that should have been resolved much earlier in the process. Moreover, it can have a direct effect on the victim and witness experience which can ultimately affect public confidence in the criminal justice system as a whole.

The CPS performed much better on charging decisions. Roughly two thirds of the cases in our file sample were charged by CPS Direct or CPS Areas (rather than the police) and nearly all of these decisions were compliant with the Code for Crown Prosecutors.²⁰

A significant part of our AAP casework findings were gathered from our file reading. The results of this and other data can be found at annex C.

²⁰ *Code for Crown Prosecutors*; CPS; January 2013.
www.cps.gov.uk/publications/code_for_crown_prosecutors/

The fourth section of the AAP framework, “public confidence”, concerns the service delivered to victims and witnesses by the CPS and how the Areas work with local communities to build confidence in the criminal justice system. Again scores were mixed.

One issue affecting a number of Areas was that more could be done to communicate with victims and witnesses in a timely and effective manner. Within the court process however, we found that the CPS was generally effective at representing the interests of victims and witnesses, making timely and effective representations.

Overall, we found that most Areas had good levels of community engagement and worked effectively to use feedback to improve local practices and processes.

The CPS contribution to improving the efficiency of the criminal justice system

Transforming Summary Justice was implemented across England and Wales in 2015. The aim of TSJ is to reform the way that criminal cases are handled in the magistrates' courts and to create a swifter system, with reduced delay and fewer hearings. Amongst other benefits, this should improve the service to victims and witnesses. In our early look at the initiative in 2016, we found that the initial CPS contribution to TSJ had been positive with good legal training delivered and strong governance arrangements in place.

We carried out a follow-up inspection in 2017. We found that TSJ is firmly embedded across England and Wales and all of the criminal justice agencies accept the need for it to be a success and are working together to achieve this. Despite the high level of commitment however, it cannot be viewed as ‘business as usual’ yet. Whilst significant good work has been done by the CPS, only limited improvements have been realised since its introduction and there is inconsistency across Areas, which is not satisfactory for a national scheme that has a significant impact on service delivery. The future strategy of the CPS is predicated on the assumption that TSJ is fully operational so the impetus must be maintained; it cannot be allowed to fail as with previous initiatives.

We found a lack of clarity about the high level strategic arrangements but a national improvement team, led by the Deputy Senior Presiding Judge, is now in place for the oversight of TSJ (and Better Case Management in the Crown Court). At a local Area level there was regular liaison between the CPS, Her Majesty's Courts and Tribunals Service (HMCTS) and the police. The partners agreed that the cross-agency nature of TSJ had improved working relationships but meetings were still dominated by compliance issues rather than focussing on improving performance.

A joint 'dashboard' is used to monitor performance and shows that the anticipated improvement in performance has yet to be achieved. The average number of days from first listing to completion however has dropped by 9.4 for all cases and by 17.9 days for contested cases, resulting in a reduction of thousands of additional hearings since TSJ was implemented. Other performance was more mixed with a national increase in successful trial outcomes but a decrease in the number of effective trials. There was a striking difference in performance ranges across CPS Areas, leading to significant differences in the resources needed by the Service and its criminal justice partners to fulfil their obligations, and also differences in the experience of victims and witnesses.

The CPS's ability to manage and progress cases effectively for the first hearing is hampered by the quality of the police file but we found little challenge by the CPS of poor files. The expectation that the prosecutor will engage with the defence before the first hearing date in every contested magistrates' court case appears to be unrealistic in practice. There are also mixed results on serving papers to defence representatives, resulting in delays in court.

TSJ depends on the appropriate brigading of cases in courts, which is inconsistent across England and Wales and presents a challenge for the CPS, but it is the defendant's failure to attend which is the biggest single reason why first hearings are ineffective. Work is being undertaken by the CPS with the police in some Areas to devise processes whereby the prosecution can seek to prove the case in absence if a defendant fails to attend the first hearing. Stakeholders expressed concerns that some prosecutors were unable or unwilling to make decisions at hearings. We certainly found that the quality of CPS case management is enhanced considerably when a robust approach is taken by the court.

Dealing with hard copy media is still an issue, impacting on effective case progression, however the availability of secure court Wi-Fi for CPS prosecutors has vastly improved, resulting in benefits that facilitate case progression such as live access to CMS and use of the CPS Prosecutor App.

The focus on the first hearing has resulted in the initial review being prioritised at the expense of reviews required later in the case. After the first hearing, inspectors noted that little ongoing work on case management appears to be carried out, for a number of reasons. If the aims of TSJ are to be fully achieved the CPS must ensure that sufficient resources are allocated to have an effective process for timely review of cases after the first hearing, with actions undertaken promptly.

The issues above were found in our specific follow-up inspection of TSJ but many of the same themes were identified in the AAP inspections.

Victims and witnesses

In the AAP inspections we found that there was some good work taking place in most Area Victim Liaison Units (VLUs) and in two Areas the VLU was noted as a strength. However, in the majority of Areas we found that there were issues with Areas identifying when letters needed to be sent and, when the need is identified, that letters are sent in a timely manner. There were also issues with the quality of letters.

We also noted how well victims' interests were dealt with and how well victims' views were represented in the court process. However in one report it was noted that victim and witness issues arising during the progress of the case were not being prioritised and this resulted in cases where victim issues were not being addressed. In a number of Areas we found that delays in response times to witness queries and this lack of proactive handling was impacting the number of cases that failed due to victim issues.

The AAPs considered the overall victim and witness experience but in our joint inspection with HMICFRS on harassment and stalking we were looking at very vulnerable victims. We found that the persistent nature of the offending had an immensely detrimental effect on the lives of victims. We concluded that there is still much work to do at every level by the police and CPS in order to improve the experience of these victims and to ensure they are given a consistently high quality service in the criminal justice system. There were however aspects where improvement was promising; in the case files reviewed the most appropriate charges were advised at the pre-charge stage in 70 of 88 applicable cases (79.5%) and the majority of cases that required a restraining order had one applied for and granted.

We nevertheless found that often risks posed by perpetrators were not assessed and managed appropriately by the police or CPS, leaving victims vulnerable to increasingly violent behaviour. If an investigation was started, there was often a failure to impose bail conditions or other safeguards on perpetrators, which could leave victims at risk of further offending.

Harassment and stalking is often characterised by obsessive and fixated motivations of the perpetrators, resulting in a persistence of behaviour. Often the criminal justice system fails to consider all the actions of the perpetrator taken together, despite victims consistently highlighting this, leading to inappropriate charging, prosecution and sentencing. In particular we found that stalking was misunderstood by the police and CPS resulting in offences that were not dealt with using stalking-specific powers such as the power to search premises and seize evidence and lesser charges, particularly of harassment, were used.

Modern slavery and human trafficking also affects the most vulnerable victims. They are threatened and abused and often too scared to risk escape, making it a complex and hidden crime. The NCA has estimated that there are tens of thousands of victims in the UK alone working in, for example, food processing, fishing, agriculture, construction, car washes and domestic and care work, as well as brothels and cannabis farms.

Modern slavery covers a full spectrum of crime types but it is not treated as a single body of work. That involving sexual exploitation and domestic servitude falls under the well-established violence against women and girls category. The other strands are often complex and still involve particularly vulnerable victims but fall outside the VAWG structure. The most complex casework is dealt with in the specialist Casework Divisions at CPS Headquarters, although work also sits in the various units at Area level from the Complex Casework and Rape and Serious Sexual Offences (RASSO) units to the Crown Court and magistrates' courts units. There is no clear, overarching framework for all the crime types leading to a lack of clarity and consistency, so there is a need for a more formal structure nationwide. There is, however, an effective policy lead in CPS Headquarters providing a national point of contact for Areas and working with specialist police units and operational teams.

We found that there was considerable knowledge and experience in the Areas with prosecutors who have had direct experience of cases and individual cases are often handled well. There was an example of good practice using prevention orders and risk orders in a case that was being investigated but had yet to be charged, which protected victims from further harm. However there is little consistency across the CPS.

Victims of modern slavery and human trafficking can be the most vulnerable, requiring significant support and work to engage at the outset and maintain that engagement throughout the prosecution in court. There could be better awareness of the vulnerabilities of victims, ensuring they are properly safeguarded and supported and building an evidence-led prosecution. Special measures have been extended to all victims of trafficking and slavery such as allowing them to give evidence via a live link and other initiatives are being rolled out such as the use of pre-recorded cross-examination of victims.

Thematic work

Accuracy of the data on the CPS case management system is critical to maintaining public confidence and must be seen to deliver robust compliance monitoring and assurance, good governance and accountability. We found that overall management of case finalisations on CMS had improved significantly since 2013-14. The CPS has made a considerable investment in the data quality and integrity of information on the system with much work having been

done to update guidance, train lawyers and administrators and improve knowledge, ownership and accuracy of the finalisation outcomes data. We found that there were some issues with certain categories but the CPS was already taking steps to improve these.

Preventing and detecting fraud are key to ensuring proper use of public funds, retaining reputational value and reducing loss. In February 2017, the Cabinet Office launched its Counter Fraud Framework²¹ and its Functional Standards came into force that April. The CPS, in common with other departments that have a budget over £100m, has to align and report against these Standards.

In line with the Standards the CPS has already made good headway with clear roles and responsibilities at both strategic and operational levels. It has delegated responsibilities for reducing and detecting fraud to the Accounting Officer and others and has implemented a number of policies to address the issue. It has implemented a number of relevant policies which we found to be reasonably accessible, although some staff were unclear where to find them.

We identified good practice and systems in place. The CPS has a zero tolerance policy on fraud and there is a strategic level commitment to minimizing it. There is a review of controls and assurance at the highest level to identify key risks but at Area level awareness of fraud risk is more limited. There is also no requirement for Areas and Directorates to report instances to Headquarters where no further action is being taken, so Headquarters cannot report the full position to the Cabinet Office as they should. In addition, there is currently no system in place to report on progress and identified loss to the Cabinet Office in line with the Standards.

Most staff were aware of what to do if they suspected a fraud had occurred against the CPS, but a small number stated they would not report suspicious behaviour, which is contrary to the CPS Code of Conduct.

The risk of fraud was assessed by the CPS to be low, due to established management practices, awareness and continuous testing of procedures. Overall the Areas have a good standard of checks, although often the emphasis was on checking for errors and reviewing quality and value for money rather than on checking for fraudulent activity. The majority of checks were risk based and used random sampling, which we judged to be a strength.

21 *Counter Fraud Framework*; Cabinet Office; February 2017.
www.gov.uk/government/groups/counter-fraud-standards-and-profession

The final CPS process we inspected as a thematic topic this year was the Individual Quality Assessments (IQA) scheme. It is the leading casework quality assurance mechanism in the CPS. Previous schemes designed to achieve the same objective fell into disuse or became 'tick box' tasks. Rolled out fully in 2015, it seemed IQA might be destined for the same fate but it has been refreshed recently and has the feel of a fairly new initiative. Clear governance has been established, guidance improved and a new tool developed to analyse the data produced. At present though, it is not embedded across the CPS and the standard of assessments and the use made of them is not consistent.

There has been little national training since the scheme was introduced. Although Headquarters has organised some activities such as 'webinars', personnel changes have meant many legal managers have little experience of undertaking IQAs. We found that there were aspects where a lack of robustness or misunderstanding of the requirements of the scheme and guidance were hampering efforts to deliver improvements. When we assessed the same files, we found that CPS staff were often more lenient in their assessment than us.

We found specific examples in CPS Areas that IQA is delivering improvements in aspects of casework, particularly by focussing their IQAs on specific issues such as domestic abuse or the robustness of decision-making at first hearings. However, as highlighted in our joint report disclosure is the most significant casework issue facing the CPS and police at present, yet it does not have its own specific question in IQA - coming under the umbrella of other questions - so the scheme is not helping to raise standards in this important aspect of casework. In our assessment of the same files, the degree of disagreement between the CPS and inspectors on disclosure issues in these questions is of particular concern in light of the joint report's findings.

Disclosure

If disclosure of unused material is not done correctly it may result in cases being discontinued or the trial process being delayed through unnecessary adjournments, thereby incurring extra cost and adding emotional distress to victims, witnesses and defendants. It can lead to miscarriages of justice and the Criminal Cases Review Commission informed us that disclosure failures are the basis for a significant number of cases they consider. (I must emphasise though that we found no examples of miscarriages of justice in the cases we examined in our inspection.) Consequently, disclosure is a significant reputational risk to the CPS.

Our joint report generated significant interest from many sources when it was published and my inspectors and I gave a number of presentations on our findings to various stakeholders. Then later in the year a number of cases made the headlines when they were abandoned due to disclosure issues, culminating in January 2018 with the CPS issuing a statement saying that all current rape and serious sexual assault cases in England and Wales would be reviewed 'as a matter of urgency' to ensure evidence had been disclosed. Our report was referenced in many of the media articles at the time.

Our joint report looked only at volume Crown Court cases and found widespread failures. We found many issues with the police handling of disclosure, including poor recording of material and little revelation to the prosecutor of material that may undermine the prosecution case. The CPS fails to challenge the poor quality schedules and provides little input to the police. Neither party manages sensitive material effectively and prosecutors are failing to manage ongoing disclosure. This failure to grip issues often leads to last minute, often unauthorised, disclosure at the court.

There are practical issues with regard to disclosure. We recommended improvements in training and in communication between the police and prosecutors, including the information and communication technology (ICT) systems used to support the transfer of information. Though the CPS training was comprehensive and good practice was identified, it was not leading to commensurate performance improvement. Above all there needs to be a cultural shift so that disclosure is seen as key to the prosecution process where both agencies add value; at the moment it is seen as an administrative function. There also needs to be a greater level of importance given to disclosure by those in key strategic roles in the CPS and police, especially for the non-complex cases such as those we examined, which form the bulk of the cases going to court.

Following the announcement to review disclosure in all current RASSO cases, the CPS, College of Policing and National Police Chiefs' Council issued a Joint National Disclosure Improvement Plan.²² This referenced the report on disclosure as well as an earlier HMCPSI report on a case that collapsed due to failings in the disclosure of sensitive material.²³

22 *National Disclosure Improvement Plan*; National Police Chiefs' Council, College of Policing, CPS; January 2018. www.cps.gov.uk/publication/national-disclosure-improvement-plan

23 *Disclosure Handling in R v Mouncher and Others*; HMCPSI; July 13. www.justiceinspectorates.gov.uk/hmcpsi/inspections/disclosure-handling-in-r-v-mouncher-and-others-south-wales/

The Serious Fraud Office

We did not undertake any specific inspection activity this year in respect of the SFO. As I said previously, we carried out a detailed inspection of the governance arrangements in the SFO in 2016. The Director of the SFO provided me with an action plan of how the organisation was going to address the recommendations we made. He has updated me on the progress that has been made against the recommendations, which included the appointment of a Chief Operating Officer.

We undertook scoping work in 2017-18 for an inspection of SFO case progression as part of our intended focus on the handling of the most serious crime in 2018-19.

Work with Criminal Justice Inspection Northern Ireland

Following the renewal of our working relationship with Criminal Justice Inspection Northern Ireland in 2016-17, this year we assisted in its undertaking of an inspection on domestic abuse and rape and other serious sexual offences. CJINI will be publishing the report later in 2018.

The Service Prosecuting Authority

We continue to maintain a close working relationship with the Service Prosecuting Authority (SPA), which we inspect by invitation. This year we have carried out preliminary discussions with the SPA about future inspection activity as well as attending its Annual Conference.

Making an impact

HMCPSI has no regulatory powers in respect of the CPS or the SFO. It is our role to provide evidence based findings on what is working well and where improvement is needed. It is then for those with responsibility for the CPS or SFO, either within the organisation or through their powers of superintendence, to effect the necessary changes. In joint inspections this can extend to those bodies or agencies that have oversight or directive authority, for example the National Police Chiefs' Council or the College of Policing.

Each Area is required by CPS Headquarters to produce an action plan setting out how it proposes to deal with the issues to address flagged in our AAP reports. This enables progress to be monitored both by ourselves and the CPS Compliance and Assurance Team (CAT). We work closely with CAT to assess the progress made against recommendations from earlier reports, including a formal six monthly request for updates.

As I mentioned, the SFO has also provided an action plan and updated me on progress against the recommendations made in our report on governance arrangements.

At the request of the Justice Committee we provide them with briefing notes before they see key representatives of the organisations we inspect. I appeared before the Committee in March 2018 to give evidence at their inquiry into disclosure in criminal cases.

How we intend to take work forward in 2018-19

The first inspections of 2018-19 will be the completion of AAP in respect of the remaining two CPS Areas, London North and South. After those inspections, as I have stated, our focus will be on the handling of the most serious crime. We will inspect the governance of the International Justice and Organised Crime Division and Special Crime and Counter Terrorism Division and look at case progression in the SFO.

These inspections will require significant resource but we are committed to continuing to resource joint inspection work and will undertake inspections of evidence-led domestic abuse prosecutions and crimes against older people, both with HMICFRS. Although no future work is planned currently with CJINI, our inspectors continue to assist them with their report on domestic abuse and rape and other serious sexual offences.

HMCPPI corporate issues

Performance against the Business Plan

The 2017-18 Business Plan sets out the strategic objectives of HMCPPI:

- to deliver high quality assessments on the CPS and SFO to inform them and those who hold them to account
- to work collaboratively with other inspectorates and develop effective working relationships with the CPS and SFO
- to promote HMCPPI to targeted stakeholder and media audiences to widen and maintain the interest in the work of the Inspectorate
- to ensure that HMCPPI reports are well written so that they are of use to the target audiences
- to recruit and develop the best people so HMCPPI has a high performing workforce with the right skills and values for the job
- to run an efficient and effective organisation that meets the best standards of a government department in order to provide value for money.

Our 2017-18 inspection activity has enabled us to meet those objectives which relate directly to inspection work. As set out in the next section, this work has been carried out within budget and it has been well received by stakeholders. Changes to the organisational structure implemented in 2017-18 have improved efficiency and the number of reports published this year has increased significantly compared to recent years, despite a reduction in the number of staff and a decreased budget.

We did not undertake fresh inspection activity in respect of the SFO this year although extensive work was carried out on the methodology for the inspection planned in 2018-19.

Finance

The Inspectorate's budget comprises part of the overall Government Legal Department's (GLD) budget vote. The final outturn for 2017-18 was £2,451,000 which is within the budget allocated for the financial year. The Government's Spending Review and Autumn Statement 2015 confirmed that our budget is to be reduced by 15% by 2019.

A review of staffing and organisational structure during 2016-17 put us in a strong position to face the challenges of the reducing budget. Although our future resourcing will stretch our capacity to undertake our inspection programme, and as we reduce in size our levels of resilience are challenged, I am confident we can deliver an effective programme of inspection.

I will continue to drive out efficiencies through a culture of continuous improvement and further exploration of how working with other organisations will improve value for money. This will include keeping shared services under review.

Organisational structure and accommodation

As reported in the 2016-17 report the role of Deputy Chief Inspector at Senior Civil Service level was removed from the structure. The structure put in place in 2017-18 means I am directly supported by a Head of Inspection and a Head of Corporate Services. These roles form my Senior Management Team and are key to the day-to-day running of the organisation.

As I stated last year we will move from our current premises in London as part of GLD's general relocation. Although where we are to move is yet to be finalised we shall remain in central London.

Our York staff continue to share premises with the CPS at Foss House and our understanding is that this arrangement will remain stable.

Human resources

As reported last year we have a much closer alignment with GLD employment policies and now have a much more streamlined Corporate Services Group.

I have taken the step when advertising roles within the Civil Service to offer more roles on a loan basis to ensure that we have the right balance of experienced inspectors and staff with recent operational experience, particularly where that experience is gained in the organisations which we inspect.

We continued to utilise associate inspectors²⁴ in 2017-18. This gives us the flexibility to allocate additional resources at 'pinch points' in our work programme.

²⁴ Associate inspectors are self-employed and contracted to work a number of days a year. They have previous inspection experience.

I was delighted that Peter Lewis (previously the Chief Executive of the CPS) accepted my offer to be the new advisor to our Strategy Board in 2017-18. Peter made a very positive impact with regard to the governance of HMCPsi. Unfortunately Peter has resigned from this role with effect from 1 April 2018, due to taking on a full-time appointment overseas. I thank him for the breadth of knowledge he brought to the organisation.

Communication

We continue to use our shared internet site (www.justiceinspectors.gov.uk/hmcpsi) to act as an 'outward face' of HMCPsi. All new inspection reports are launched on the website and a detailed evaluation is undertaken of the number of visitors to the site (at various times, including post-publication of a report). The GLD Shared Communications Team continues to provide us with invaluable support in communicating the findings from inspection reports to our stakeholders.

During 2017-18 we reviewed the HMCPsi elements of the website to ensure it met the needs of those viewing it. As a result we re-categorised our reports section to make it clearer.

Our intranet continues to be a key tool for communicating within the organisation. The minutes of both the Strategic Board and Operational Management Body are made available to all staff and key messages are communicated shortly after the meetings.

Learning and development

The Strategy Board agreed that one of our greatest strategic risks as an organisation was around recruiting and retaining staff. It was therefore decided to create a new group, the People and Equality Group (PEG), with responsibility for learning and development, employee engagement and equality and diversity. However PEG is still in its infancy so many of its plans have yet to be implemented.

Despite this, staff continue to access a wide range of learning opportunities, related to both our core business and their personal development. As well as training for individuals, this year we provided group training on project management. We also had training on goal setting and a workshop on engagement and resilience.

Employee engagement

After the poor results of the Civil Service People Survey 2016, we conducted a ‘pulse’ survey early in 2017. The results were promising, with most questions answered more positively than in 2016. An action plan was put in place and when we then participated in the Civil Service People Survey 2017 the Overall Engagement Index was 53% (up 6% from the previous survey). Whilst the results were a definite improvement on those of 2016, there is still some work to do in building employee engagement.

Most of the scores for the engagement themes in the survey increased from 2016. There was a drop in the positive responses to the pay and benefits offered by HMCPST, down 10% to 45%, but this is still 9% higher than the average Civil Service high performer score reflecting the scope of flexible working opportunities offered to staff which contributes to their work-life balance.

Following our engagement with the Advisory and Conciliation Service (ACAS) we continue to work consistently to ensure we all follow our agreed values which are:

- Integrity: Act professionally to build confidence and trust
- Respect: Treat others as you would expect to be treated
- Transparent: Be open and honest in all dealings with colleagues
- Equality: Value the diversity of our colleagues and provide equal opportunities for development of skills and capabilities.

Equality and diversity

Before it was superseded by PEG later in the year, the Equality and Diversity (E&D) Co-ordinating Group had continued to oversee a range of activities. The group was responsible for monitoring our compliance with our E&D objectives and maintained awareness of E&D issues by ensuring staff completed online training on unconscious bias. The group also continued to organise social activities to raise awareness of E&D issues such as the diversity awareness book club and film nights. Our intranet is used to publicise relevant E&D activities and events.

Externally, representatives of the Inspectorate attend meetings of the CPS Violence against Women and Girls Group and the CPS Community Accountability Forum. These groups give us an opportunity to understand the current thinking of community groups, as well as giving feedback on the relevant findings from our inspection reports.

Liaison with other jurisdictions

Before he left the organisation, the Deputy Chief Inspector undertook a follow-up visit to the Pakistan Monitoring Service (the closest equivalent of an inspectorate) to gauge progress so far on recommendations he made earlier to strengthen the independence of their inspection functions.

A delegation from the Scottish Parliamentary Justice Committee visited our London office to discuss some of our inspection findings and to find out more about how the Inspectorate works in England and Wales.

Annex A: Inspection review and audit reports published between April 2017 and March 2018

Inspection reports, reviews and audits	Date
Area Assurance Inspection of CPS Thames and Chiltern	July 2017
Area Assurance Inspection of CPS North East	August 2017
Area Assurance Inspection of CPS West Midlands	October 2017
Area Assurance Inspection of CPS East of England	October 2017
Area Assurance Inspection of CPS South East	January 2018
Area Assurance Inspection of CPS North West	February 2018
Thematic review and bespoke inspections	
CPS Case Finalisations: An Inspection into the Timeliness and Accuracy of Recording Case Finalisations onto the Crown Prosecution Service Case Management System	May 2017
Business as usual? Transforming Summary Justice follow-up report	June 2017
Crown Prosecution Service Internal Fraud Controls	November 2017
The CPS Response to the Modern Slavery Act 2015	December 2017
The Operation of Individual Quality Assessments in the CPS	March 2018
Joint inspections	
Living in fear: the police and CPS response to harassment and stalking	July 2017
Making it Fair: The Disclosure of Unused Material in Volume Crown Court Cases	July 2017
Reports to be published in 2017-18 referenced in this Annual Report	
Area Assurance Inspection of CPS Mersey-Cheshire	April 2018
Disability hate crime (with HMICFRS)	
Domestic abuse and rape and other serious sexual offences (led by CJINI)	
National Crime Agency search applications and production order processes (with HMICFRS)	



Annex B: Area Assurance Programme inspection framework

Introduction

The framework is split into five sections: The success of CPS people; Continuous improvement; Delivering high quality casework; Ensuring public confidence; and Efficiency and value for money. Each section has a performance expectation and a number of criteria against which evidence will be gathered. Sub criteria have been identified for each section which can be used as a guide to help assess performance.

The framework aligns significantly with the current CPS priorities and takes account and considers other key initiatives such as Standard Operating Practices (SOPs), Transforming Summary Justice (TSJ) and Better Case Management (BCM).

Overall, inspectors are looking to see that the CPS delivers the maximum benefit for users and stakeholders with the resources available. This means the right people doing the right things at the right time for the right cost, and delivering the right outcome. The focus will be on ensuring that successful outcomes and quality service delivery are achieved through proper governance, casework quality, the effective use of resources, and efficient and effective processes that avoid unnecessary, duplicated or additional work.

Part A: The success of CPS people

<p>Performance expectation</p> <p><i>The Area is led and managed effectively to ensure it has the right people equipped with the appropriate tools and skills for the job to deliver a high quality service. This is achieved by ensuring all staff have the right technology, systems and skills, to enable decisions to be made fairly, at the right time and at an appropriate level.</i></p>

Criteria

- 1 **Senior management demonstrates effective leadership and engages with staff to identify and utilise opportunities to deliver a quality of service.**
 - 1.1 Senior managers act as role models demonstrating commitment to CPS values and equality and diversity policies.
 - 1.2 Senior managers have effective engagement with staff on strategic and operational matters.
 - 1.3 Senior managers effectively communicate the vision, values and direction of the CPS.

- 1.4 All managers motivate staff, build effective teams, and challenge inappropriate behaviour.
 - 1.5 All managers understand and take responsibility for implementing senior management decisions.
 - 1.6 Regular and open dialogue occurs through team meetings, with feedback to senior managers of relevant information.
 - 1.7 Senior managers take time to make themselves available to staff at key points in the business calendar or during change processes.
- 2 Senior managers work effectively and are influential with criminal justice partners.**
- 2.1 Senior managers promote an open and constructive approach with criminal justice colleagues.
 - 2.2 The Area works effectively with Local Criminal Justice Boards (or similar where applicable).
- 3 The Area is committed to CPS values, equality and diversity policies and staff development to deliver improvement in staff engagement, effectiveness, well-being and morale.**
- 3.1 The Area has integrated equality into all relevant strategies and plans, including the Area training plan, and there is equality of access to training.
 - 3.2 The Area is implementing a plan to improve staff engagement levels which is delivering results.
 - 3.3 Sick absence reduction targets have been set and actions taken to meet them.
 - 3.4 Good performance is identified and rewarded, and poor performance tackled appropriately.

Part B: Continuously improving

Performance expectation

The Area continuously improves how it works, deploying resources to work effectively and using efficient processes.

Criteria

- 1 **The Area's key performance data is analysed effectively and used to inform resource allocation, to robustly identify the Area's strengths and weaknesses and to drive improvement.**
 - 1.1 There is regular and robust analysis of performance by the Area Management Team, which is based on reliable and timely performance data and other relevant information.
 - 1.2 Analysis of performance informs decision-making and resource allocation, leads to remedial action being taken where appropriate, and contributes to improving performance.
 - 1.3 There is effective benchmarking of performance across the Area, with other Areas, national performance and CPS levels of ambition, which informs decision-making and resource allocation.
 - 1.4 Performance information is disseminated in a readily understood format to staff.
 - 1.5 Area quality assurance and performance monitoring measures identify aspects for improvement and good practice, which are shared with staff and which drive improvements in service delivery.
 - 1.6 Teams are held to account for their performance.
 - 1.7 Senior managers assess performance robustly, using regular reality checks (such as dip samples, reviews of failed cases and court observations) to inform their understanding of front-end delivery levels.
 - 1.8 The APR process is applied robustly and openly and used to improve performance.

2 Resources are systematically managed and deployed effectively.

- 2.1 The Area's budget is systematically controlled through appropriate delegation, proper monitoring, and accurate knowledge of committed expenditure.
- 2.2 The Area's budgetary allocation and planning support strategic and operational delivery.
- 2.3 The Area has an effective and transparent system of allocating funds to budget holders. There are clear financial delegation limits, which are understood by staff.
- 2.4 Area managers are effective in negotiating financial matters with Headquarters and partners.
- 2.5 The Area has effective systems for assessing the most appropriate staffing structure and staffing levels across the Area, which are used to ensure that work is conducted by staff at the right level.
- 2.6 The balance between in-house prosecutors and agents' usage represents a good use of resources.

3 Joined-up working is effective and delivers improvements in outcomes for users.

- 3.1 There are effective arrangements for joint performance management with criminal justice partners, which include robust quality assurance processes.
- 3.2 Relevant performance information, areas for improvement and good practice are shared between criminal justice partners and used to identify strengths and weaknesses.
- 3.3 Joint improvement strategies are implemented, actions are followed up and improvement results.

Part C: High quality casework

Performance expectation

The Area delivers justice through excellent, timely legal decisions, casework preparation and presentation, leading to improved outcomes.

Criteria

Magistrates' courts casework

- 1 **Reviews and decisions (including charging decisions, the use of applications, and acceptance of plea) are proportionate; properly recorded; comply with the Code for Crown Prosecutors and any relevant policy and guidance; include consultation with the police; and contribute to successful outcomes and victim and witness satisfaction.**
 - 1.1 The Area checks that all files received from the police comply with National File Standard and the principles of Transforming Summary Justice (TSJ). Unresolved issues are escalated when appropriate.
 - 1.2 The Area feeds back effectively to the police where they do not comply with the Code for Crown Prosecutors or the Director's Guidance on Charging (5th edition).
 - 1.3 The Area ensures that there is a timely and proportionate review in all cases requiring one, which is appropriately recorded.
 - 1.4 Reviews and decisions comply with the Code and any relevant policy or guidance; include a prosecution case theory or trial strategy to maximise the prospects of a successful outcome; and identify when ancillary orders or additional information may be requested at sentencing.
 - 1.5 Reviews and decisions are robustly quality assured.
 - 1.6 The Area complies with its duties of disclosure in relation to unused material.
 - 1.7 Disclosure is robustly quality assured, aspects for improvement are identified, and performance improves as a result.
- 2 **Case preparation and progression is effective and timely.**
 - 2.1 Area systems support the effective progression of cases, including compliance with the Criminal Procedure Rules and SOPs.
 - 2.2 The Area ensures that cases progress at the first magistrates' court hearing in accordance with TSJ principles.

- 2.3 The Area ensures that the number of effective trials and successful outcomes are increasing through effective case preparation and progression.
- 2.4 The Area has an effective system for the management and monitoring of custody time limits.
- 2.5 CMS task lists and reports are used robustly to manage, monitor and improve case progression.

Crown Court casework

- 3 **Reviews and decisions (including charging decisions, the use of applications, and acceptance of plea) are proportionate; properly recorded; comply with the Code for Crown Prosecutors and any relevant policy and guidance; include consultation with the police; and contribute to successful outcomes and victim and witness satisfaction.**
 - 3.1 The Area checks that all files received from the police comply with National File Standards and the principles of BCM. Unresolved issues are escalated when appropriate.
 - 3.2 The Area feeds back effectively to the police where they do not comply with the Code for Crown Prosecutors or the Director's Guidance on Charging.
 - 3.3 The Area ensures that there is a timely and proportionate review in all cases requiring one, which is appropriately recorded.
 - 3.4 Reviews and decisions comply with the Code and any relevant policy or guidance; include a prosecution case theory or trial strategy to maximise the prospects of a successful outcome; and identify when ancillary orders or additional information may be requested at sentencing.
 - 3.5 Reviews and decisions are robustly quality assured.
 - 3.6 The Area complies with its duties of disclosure in relation to unused material.
 - 3.7 Disclosure is robustly quality assured, aspects for improvement are identified, and performance improves as a result.
- 4 **Case preparation and progression is effective and timely.**
 - 4.1 Area systems support the effective progression of cases, including compliance with the Criminal Procedure Rules and SOPs.
 - 4.2 The Area ensures that cases progress in the Crown Court in accordance with BCM principles.

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- 4.3 The Area ensures that the number of effective trials and successful outcomes are increasing through effective case preparation and progression.
 - 4.4 The Area has an effective system for the management and monitoring of custody time limits.
 - 4.5 CMS task lists and reports are used robustly to manage, monitor and improve case progression.

Part D: Public confidence

Performance expectation

The service to victims and witnesses is central to the work of the Area. It ensures that decisions are appropriately explained and its interaction with victims and witnesses takes account of their needs, is open and direct, and shows empathy. The Area works with, and learns from, local communities to build confidence in the criminal justice system.

- 1 **Communications with victims under all applicable initiatives, the Victims' Code or policies (including consulting victims on discontinuance or pleas, letters under the Victim Communication and Liaison scheme, communications with bereaved families, and the Victims' Right to Review) occur where required, and are timely and of a high standard.**
 - 1.1 The needs of victims and witnesses are fully considered and there is timely and appropriate liaison and support throughout the prosecution process.
 - 1.2 The Area ensures compliance with the requirement to consult victims in appropriate cases, including discontinuance and acceptance of pleas.
 - 1.3 The Area ensures that communications with victims and bereaved families are sent where required and are of a high standard, with reference to sources of support or additional rights (including the Victims' Right to Review) where appropriate.
 - 1.4 Area training plans give appropriate priority to training on victim and witness issues and relevant policies and guidance.

- 2 The views and interests of the victim, witnesses and public are reflected and protected by the appropriate use of remand or bail conditions, Victim Personal Statements and ancillary orders at sentencing.**
 - 2.1 The Area ensures that victim and witness issues are considered at the pre-charge stage and clear instructions are provided to advocates for all hearings.
 - 2.2 The Area ensures that applications to refuse bail, seek bail conditions or appeal the grant of bail are appropriate and proportionate and are effective in protecting the victim and the public.
 - 2.3 The Area ensures that the opportunity to make a Victim Personal Statement has been provided in applicable cases and that prosecutors take the necessary steps to present it to the court in the way that the victim chooses, as far as possible.
 - 2.4 Area processes ensure that the right ancillary orders are sought at sentencing or other disposal to protect the victim, witnesses or public.

- 3 The Area is responsive to community groups, victims and witnesses, complainants, other stakeholders and the public and uses their feedback robustly to identify strengths and weaknesses and to improve service delivery.**
 - 3.1 Senior managers are committed to engaging with, and securing the confidence of, victims and witnesses, other stakeholders and the public.
 - 3.2 The needs of victims and witnesses are identified, addressed and incorporated into the core business of the Area.
 - 3.3 The Area prioritises engagement with stakeholders or community groups at the greatest risk of exclusion and discrimination.
 - 3.4 Complaints, Victims' Right to Review communications, and other feedback from stakeholders, community groups and the public are used to identify aspects for improvement.
 - 3.5 Actions identified from feedback are implemented effectively and followed up robustly.
 - 3.6 The Area can demonstrate improvement in service delivery, engagement or community confidence as a result of actions taken on feedback received.
 - 3.7 The Area engages effectively with witness care units, victim and witness support agencies, and other criminal justice partners to deliver improvements in victim and witness care at court.

Part E: Efficiency and value for money

Performance expectation

The Area ensures it delivers the maximum benefit for users and stakeholders with the resources available. It has the right people doing the right things at the right time for the right cost, and delivering the right outcome. It is focussed on ensuring that successful outcomes and quality service delivery are achieved through proper governance, casework quality, the effective use of resources, and efficient and effective processes that avoid unnecessary, duplicated or additional work.

- 1.1 Area managers actively promote the concept of value for money throughout the Area.
- 1.2 Effective and efficient case progression is avoiding duplication and minimising waste by ensuring that only appropriate cases are brought to court in an expedient manner.
- 1.3 High quality casework is maximising the likelihood of a successful result.
- 1.4 Partnership working is delivering positive results in outcomes for users.
- 1.5 The Area, through effective management, makes best uses of its resources to optimise their effectiveness and delivers successful outcomes.



Annex C: Area Assurance Programme casework findings

Charging and review decisions

Code compliance

There were 1,290 cases in our file sample, of which 681 were charged by CPS Direct (CPSD), 162 by CPS Areas and 447 by the police. CPSD decisions to charge were compliant with the Code for Crown Prosecutors (the Code) in 94.7% of cases (645 out of 681) and those by CPS Areas in 94.4% (153 of 162).

The police complied with the Code in 93.7% of cases (419 of 447), and with the Director's Guidance on Charging²⁵ in 84.3%. There were 70 cases which the police charged but which should have been referred to the CPS for a charging decision. These included 18 sensitive cases; comprised of eight domestic abuse allegations, three sexual offences other than rape, one child abuse case and six hate crimes. In some of these 70 cases, there was no record on the file of feedback to police about the failure to refer the charging decision to the CPS.

Rate of compliance with the Code for Crown Prosecutors	Magistrates' courts cases	Crown Court cases	All cases
CPS Direct charging decisions	93.3%	95.4%	94.7%
Area charging decisions	84.6%	96.3%	94.4%
Police charges	94.2%	90.6%	93.7%
Area post-charge reviews	94.0%	96.6%	95.3%

Fifteen police forces and five CPS Areas recorded 100% on Code compliance on their charging decisions; the worst force reached only 66.7%, and the worst CPS Area 83.3%.

There were 59 cases where Area decisions post-charge did not comply with the Code. Of these, 43 (72.9%) were cases where the CPS or police had already failed to comply with the Code at charging and the Area had not rectified the error. The remaining 16 cases failed for the first time post-charge; half (eight) were flawed decisions to discontinue, including four allegations of domestic assault.

²⁵ *Director's Guidance on Charging (5th edition)*; CPS; May 2013.
www.cps.gov.uk/legal-guidance/charging-directors-guidance-2013-fifth-edition-may-2013-revised-arrangements

In total, 89 cases featured a breach of the Code at one or more stages. Weak evidential analysis accounted for 48 (53.9%) and failure in identification evidence for 15 (16.9%), with insufficient evidence to prove the actus reus accounting for 12 (13.5%) and mens rea a further eight (9.0%).²⁶ All the flawed identification cases were charged by CPSD or the police.

Acquisitive offences accounted for over a third of the 89 cases (34.8%) with a Code test failure, including seven of the 15 cases with flawed identification. In four out of the seven allegations of sexual offences, there was insufficient evidence to establish the actus reus.

Most of the cases featuring a breach of the Code were not sensitive; however there were 20 cases that were sensitive including 12 that featured allegations of rape, child abuse or other violence towards women and girls.

The quality of charging advice

The file examination highlighted a need to improve the quality of the charging decision, as recorded on the MG3 form. Case analysis and strategy fully met the standard expected in only 39.0% of cases and action plans were fully satisfactory in 44.5%. Instructions for the court prosecutor and dealing with applications and ancillary matters were rated higher (52.6% and 55.1% fully met respectively). Area advices were rated worse than those delivered by CPSD for all aspects apart from case analysis and strategy. Area advices were particularly weak on instructions for the court prosecutor and dealing with applications and ancillary matters. Cases that ended in unsuccessful outcomes had much weaker case analysis and strategy compared to successful outcomes, especially in the magistrates' courts.

Overall, inspectors scored 1.2% of MG3s as excellent (ten cases in total, the majority of which were rape or child abuse cases finalised in the Crown Court), 39.8% as good, 40.6% fair and 18.4% poor. Advices were rated as better quality in sensitive cases and those resulting in successful outcomes.

²⁶ The actus reus is the conduct element of an offence, such as an act or omission, that the defendant must have been proved to have done. The mens rea is the mental element of an offence, such as the intention to do something or being reckless as to whether something happens. Usually, to be guilty of a criminal offence, the law requires both elements; a guilty act and a guilty mind. In theft, for example, the law requires *the appropriation of property belonging to another* (actus reus) *dishonestly and with the intention permanently to deprive* (mens rea) *the other of it*.

Initial reviews

Nearly a quarter of applicable cases (23.0% or 272 cases) had no initial review when required. There was little difference between magistrates and Crown Court cases. It is not uncommon for court prosecutors to have to prepare their cases the night before court or on the hearing date because they are doing back to back courts, so cases which have not been reviewed add unnecessarily to this work. When an initial review had been carried out, we found that this was timely in 64.9% of cases.

Decisions on plea

Decisions to take pleas or a basis of plea were correct in nearly four out of five applicable cases (79.3%), but there is considerable scope to improve the recording of bases of plea, with only 20.0% properly recorded and signed by the prosecution and defence.

Police file quality

As discussed earlier quality of the police file can have a significant impact on the way the case is prepared by the prosecution and progressed at the first hearing and beyond. In 40.4% of the cases in our file sample there was full compliance with the National File Standard (NFS) with a further 48.7% partially meeting the NFS requirements. There were significant geographical variations in our file sample between the police force areas, from only 17.9% full compliance in the worst police force to 65.4% in the best.

In the sample as a whole there was a small difference in the police file quality in cases which resulted in successful outcomes (42.7% fully met) compared to unsuccessful outcomes (37.2% fully met). The difference was more marked in Crown Court cases (47.0% in successful cases and 31.6% in unsuccessful). File submissions were better in sensitive cases (45.9% fully met) than in non-sensitive cases (38.3%). The police file was weakest when the police charged and strongest when Areas delivered charging decisions, which may indicate that Areas are better at setting out in their MG3 what needs to be included in the file submission.

The main failings in police file standards were 'overbuild'²⁷ (31.1% of those cases that did not fully meet the requirements), lack of a Victim Personal Statement (19.2%) and missing or poor quality key statements (14.8%).

27 An overbuilt file has more documents than required for the NFS, for example police supplying statements unnecessarily in cases where there was a guilty anticipated plea.

In just over a third of cases in our file sample (39.3%), the prosecutor identified and raised lack of compliance with the police. There was a significant difference between the best performing Area (62.5%) and the worst (22.6%). Most of the cases in our sample dated from before mandatory feedback was incorporated into CMS as part of the initial review of a case.

Police file submissions were timely in 81.5% of relevant cases. The police delivered files on time more often in magistrates' courts cases, in sensitive allegations and where the defendant was a youth.

Likely plea

The police correctly identified the anticipated plea from the defendant in 80.5% of applicable cases and the CPS were only slightly better in this respect with 84.4% of MG3s correct on likely plea. That leaves between 15.6% and 19.5% of cases where the file was built to the wrong standard. Where the police or CPS incorrectly anticipate a guilty plea, fewer details are provided in the case file and initial details of the prosecution case which impacts adversely on the defence, prosecution and court's ability to prepare the case to the required standard for a not guilty plea. Conversely, incorrectly anticipating a not guilty plea may involve the police in more work on file building than is necessary, wasting scarce resources.

Case progression

Prosecutors prepared 72.7% of cases for the first hearing effectively, with little difference between magistrates' courts and Crown Court files, and the first hearing was effective over three-quarters (78.4%) of the time. Of the 252 cases where the first hearing was not effective, the defence was responsible for 106 (42.1%); often this was because the defendant had failed to attend. The second largest cause was the CPS (71 cases or 28.2%) followed by the police (60 cases or 23.8%). The court (13 cases, 5.2%) and Probation Service (two cases, 0.8%) accounted for the remainder.

After the first hearing, cases did not progress as efficiently. There was partial or no grip in the majority (61.5%) and court orders and directions were complied with in a timely manner in under half (49.1%) of the applicable cases. Over a quarter (27.4%) of decisions to discontinue were not taken and put into effect in a timely manner. Grip and compliance with directions were slightly better in Crown Court cases and those that were sensitive, but this was reversed for timely discontinuances.

Disclosure

The police fully complied with their disclosure obligations in relation to unused material in 56.9% of cases. There was partial compliance in a further 36.7%. Successful cases and those which concluded in the magistrates' courts showed higher compliance rates.

Poor descriptions of items on the unused material schedules was the main cause of marking down nearly half the cases (41.9%) that did not fully meet the standard expected. Not supplying the right schedule accounted for a further 15.3% of applicable cases and listing items wrongly 9.2%. The final third (33.6%) were marked down for other reasons, which included sending the wrong schedules, not dealing properly with witnesses' previous convictions, or not signing the required declaration regarding unused material in the summary of evidence (MG5). We saw limited evidence of prosecutors identifying police lack of compliance in reviews or other notes on files, or of them feeding that back to the police.

Prosecutors' compliance on initial disclosure was not much better than that of the police, with 58.4% fully meeting the requirements. We found that disclosure record sheets were properly completed with actions and decisions fully noted in 32.3% of cases. Continuing disclosure was better handled, with 64.8% of applicable cases fully meeting the expected standard. Of the 429 cases that failed at the initial and/or continuing stages, eight (across five Areas) featured a failure throughout the life of the proceedings to disclose material that undermined the prosecution case or assisted the defence. We did not find any miscarriage of justice as a result of these eight complete failures.



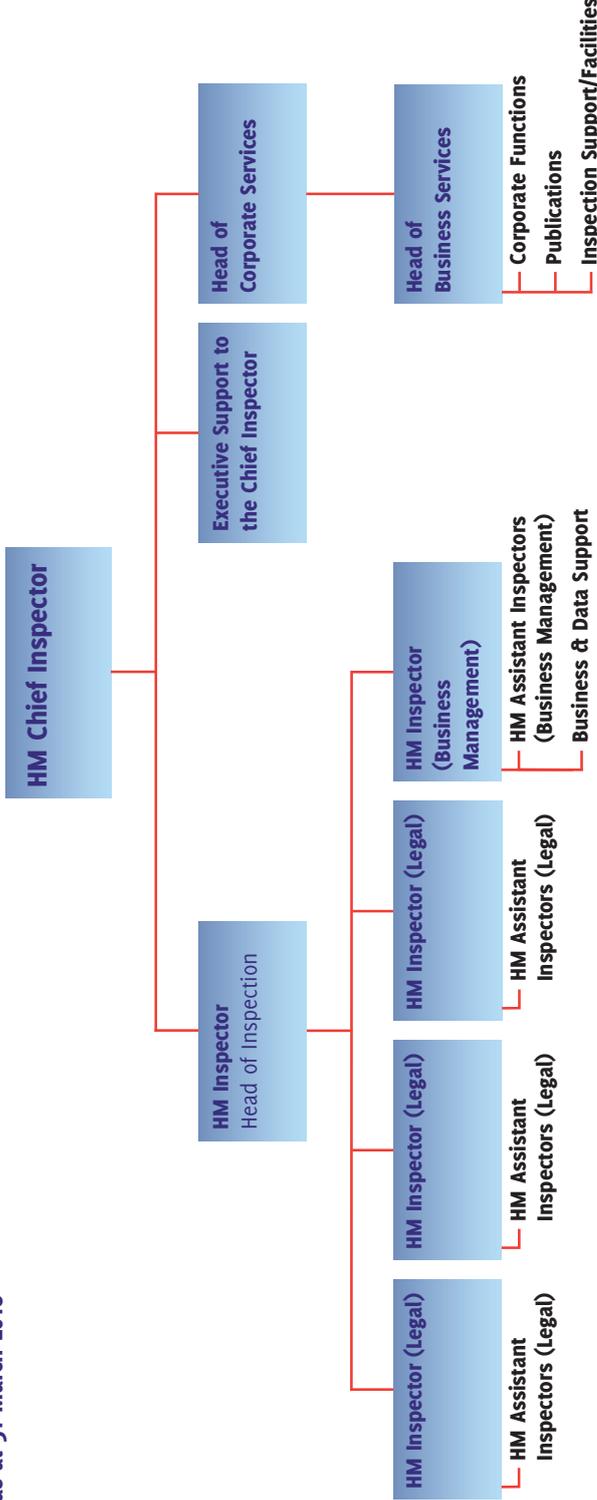
Annex D: Budget expenditure for 2017-18

	2015-16		2016-17		2017-18	
	Cost £000	% of total costs	Cost £000	% of total costs	Cost £000	% of total costs
Staff	2,237	80.0%	2,123	82.3%	1,999	81.6%
Recruitment and training	30	1.1%	5	0.2%	6	0.2%
Accommodation	233	8.3%	235	9.1%	199	8.1%
Travel and subsistence	124	4.4%	108	4.2%	102	4.2%
Consultancy	26	0.9%	12	0.5%	0	0
Suppliers and other services	128	4.6%	80	3.1%	142	5.8%
Income – recovery of direct costs	0	0	0	0	-14	-0.6%
Non-cash costs (depreciation and NAO audit fee)	20	0.7%	17	0.7%	17	0.7%
TOTAL	2,798	100%	2,580	100%	2,451	100%



Annex E: Organisation chart as at 31 March 2018

HMCPSI Organisation Structure
as at 31 March 2018





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