



**HMCPSI**

HM Crown Prosecution  
Service Inspectorate

# Area Assurance Inspection of CPS Cymru- Wales

Findings of file examination and limited court  
observations

**May 2019**

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## Who we are

HMCPPI inspects prosecution services, providing evidence to make the prosecution process better and more accountable.

We have a statutory duty to inspect the work of the Crown Prosecution Service and Serious Fraud Office. By special arrangement, we also share our expertise with other prosecution services in the UK and overseas.

We are independent of the organisations we inspect, and our methods of gathering evidence and reporting are open and transparent. We do not judge or enforce; we inform prosecution services' strategies and activities by presenting evidence of good practice and issues to address. Independent inspections like these help to maintain trust in the prosecution process.

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# 1. Summary

## Context

1.1. During 2016 to 2018, HMCPST undertook a rolling programme of Area Assurance Programme (AAP) inspections across all 14 Crown Prosecution Service (CPS) Areas. The inspections of CPS Cymru-Wales and CPS South West as part of this programme were pilots and, as such, did not feature all the elements of the finalised and agreed framework for the AAP inspections. Therefore, to ensure that there was a full and comparable set of outcomes, HMCPST decided to revisit these Areas to assess, on a limited basis, casework decision making and the service provided to victims and witnesses. This allows HMCPST to report on a comparative basis against all CPS Areas and sets a baseline for CPS Area performance and any other future activity.

1.2. This report presents the findings of HMCPST's casework analysis.

## Headlines

1.3. We have assessed and scored Area performance as set out below. Our assessment is limited to a casework file examination as set out in the AAP inspection framework under "High quality casework" and "Public confidence". The Area's performance, as assessed against the mandatory modules of the inspection framework, is set out in annex C.

### High quality casework

Criteria	Score
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. (Magistrates' courts)	Fair
Case preparation and progression is effective and timely. (Magistrates' courts)	Good
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. (Crown Court)	Good
Case preparation and progression is effective and timely. (Crown Court)	Good
<b>Overall score for High quality casework</b>	<b>Good</b>

## Public confidence

Criteria	Score
Communications with victims under all applicable initiatives, Codes or policies (including consulting victims on discontinuance or pleas, letters under the Victim Communication and Liaison scheme, communications with bereaved families, and the Victim's' Right to Review scheme) occur where required, and are timely and of a high standard.	Good
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.	Good

**1.4.** In the 12 months to December 2018, CPS Cymru-Wales finalised 29,414 magistrates' court cases and 4,234 Crown Court cases. The Area's overall magistrates' court caseload is declining, as is the Crown Court caseload; this is in line with national trends.

**1.5.** During the same period, the Area secured convictions (either after trial or by a guilty plea) against 86.8% of defendants in magistrates' court cases, which is better than the national average of 84.4%. Similarly, at 81.2%, performance in the Crown Court is better than the national average of 79.7%.

**1.6.** Whilst the Area's overall effective trial rate in magistrates' court cases is better than the national average, the percentage of ineffective and cracked trials attributed to prosecution reasons is worse than the national average, and places it as one of the lower performing Areas in this aspect.

**1.7.** The standard of decision making in cases is generally sound, both at the charging stage and the post-charge stage. The Area needs to improve the quality of its advice to the police and the recording of reviews on cases. In the magistrates' courts, the timeliness of file preparation needs to be addressed and improved.

**1.8.** The Area has a high rate of unsuccessful outcomes because of victim and witness issues in both the Crown Court and the magistrates' courts. The Area Business Plan has identified the need to improve the service provided to victims and witnesses as a high priority. Our findings also indicate that this is an aspect of performance that the Area needs to improve. A number of factors may impact on this, including the reduction in the number of court centres, the large geographical area and the rural nature of much of the Area. Even so, there were a number of cases in the file examination where the Area could have done more to keep victims engaged in the process.

**1.9.** The Speaking to Witnesses at Court scheme, ensuring that witnesses are kept informed of progress, is well embedded across the Area. Whilst the Area is alert to the provision of making special measure applications, there were many cases where timeliness and appropriateness of special measures applications could be improved. Cases that require a letter to be sent to a victim are correctly identified and overall, there is a good focus on victims and witnesses by the Area.

## Strengths

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Identifying when a letter had to be sent to the victim following a substantial alteration in the charge faced by the defendant. (3.2)

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The quality of the endorsements on hearing record sheets in accordance with the Speaking to Witnesses at Court initiative. (3.6)

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## Issues to address

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The Area needs to ensure that the timeliness of both allocation and completion of file preparation improves, to ensure that cases are prepared properly and decisions recorded appropriately. (2.18)

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The Area must ensure that, once a case is accepted at the triage stage, charging advice to the police is provided in accordance within the appropriate target timescale. (2.55)

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In every case where the defendant is charged under the threshold test, the prosecutor must indicate clearly at what subsequent stage the Full Code Test is applied. (2.57)

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When considering sensitive unused material schedules, prosecutors must ensure that: the items listed thereon meet the criteria for inclusion; where they do not, they request that the police submit correctly amended non-sensitive and sensitive unused material schedules; and the police are challenged when the evidence suggests there should be items on the sensitive unused material schedule. (2.69)

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The Area should ensure that: applications to adduce the bad character of the defendant are made in accordance with the requisite timescales; and there is a full audit trail of the decision making process. (2.83)

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## Methodology

**1.10.** CPS Cymru-Wales has offices in Cardiff, Swansea and Mold and is aligned with Gwent, South Wales, Dyfed-Powys and North Wales police forces. It covers 12 magistrates' courts and six Crown Court centres.

**1.11.** The report sets out our findings in respect of the “High quality casework” and “Public confidence” criteria within the inspection framework. Inspectors have rated each aspect assessed as either excellent/good/fair or poor, based on an agreed scoring matrix for AAP inspections. The inspection framework, including its more detailed sub-criteria, is set out in annex A.

**1.12.** Inspectors examined 60 magistrates’ court files and 60 Crown Court files that were mostly finalised in October 2018. At relevant points in the report, we refer to the key findings from this file examination. The full findings, together with a detailed breakdown of the file examination, can be found in annex B.

**1.13.** Because this was a limited inspection, the fieldwork was limited to one day of magistrates’ court observation in Cardiff Magistrates’ Court and one day of Crown Court observations in Cardiff Crown Court to assess the effectiveness of case progression. No documentation or formal interviews took place during this inspection.

**1.14.** A glossary of the terms used in the report is in annex C.

## **2. High quality casework**

**Performance Expectation**

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

Criteria	Score
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. (Magistrates' courts)	Fair
Case preparation and progression is effective and timely. (Magistrates' courts)	Good
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. (Crown Court)	Good
Case preparation and progression is effective and timely. (Crown Court)	Good
<b>Overall score for High quality casework</b>	<b>Good</b>

## Performance against the criteria

**2.1.** In accordance with the [Director's Guidance on Charging, fifth edition](#), cases may be charged by the police without reference to the CPS, or as directed by CPS Direct (CPSD) or Area based lawyers. In assessing Area performance in this aspect, including compliance with [the Code for Crown Prosecutors \(the Code\)](#)<sup>1</sup>, we only consider those cases where the charge was directed by an Area lawyer. However, in order to give a full picture, we comment on the quality of all charged cases, regardless of how they were initiated.

**2.2.** In our file sample, the Code was applied correctly at the charging stage in 88 out of 92 CPS charged cases (95.7%).

**2.3.** Forty-five of the 92 CPS charged cases were cases where the Area made the charging decision. In all but one of these (97.8%), the Code was applied correctly. Of the 28 cases charged by the police, the Code was correctly applied in 25 cases (89.3%). Of the 47 cases charged by CPSD, the Code was correctly applied in 44 cases (93.6%).

<sup>1</sup> All the cases examined during this inspection were finalised before the current Code was published in October 2018.

**2.4.** As part of our file examination, inspectors rate the quality of charging decisions no matter who made them, Area or CPSD. We assessed 4.4% of charging decisions as excellent, as recorded on Manual of Guidance Form 3 (MG3), 40% as good, 37.8% as fair and 17.8% as poor. The quality of the Area's MG3s was better in cases that were destined for the Crown Court. Out of the 45 Area charged cases, the charging decision failed to refer to all relevant applications and ancillary matters in five cases (11.1%) and there were appropriate instructions to the court prosecutor in 26 cases (57.8%). The Area's MG3s were assessed as containing a proper case analysis and case strategy in 21 cases (46.7 %).

**2.5.** Post-charge, the Code was applied correctly in 115 out of 120 cases (95.8%).

## Reviews and decisions – magistrates’ courts Assessment: Fair

### Summary

Decision making by CPS Cymru-Wales is sound, and performance in accordance with the CPS’s key performance indicators places them as one of the top performing Areas in a number of measures. However, our file examination identifies issues with timeliness of decision making, and in too many cases reviews were late or missing. Where cases were dealt with in a timely manner, the quality of the case and the value added was greatly enhanced, but this was inconsistent.

**2.6.** In our file sample, the Code was applied correctly at the charging stage in 32 out of 33 (97%) CPS charged magistrates’ court cases. Area lawyers provided charging advice on 17 magistrates’ court cases and the Code was applied correctly in all cases (100%).

**2.7.** We assessed the overall quality of Area prosecutors’ charging decision MG3s as excellent in 11.8% of cases, good in 23.5%, fair in 58.8% and poor in 5.9%. The requirement for proper case analysis and case strategy was fully met in 7 out of the 17 cases (41.2%).

**2.8.** CPSD correctly applied the Code in 15 out of 16 cases (93.8%). In the one case where the Code had been incorrectly applied, the Area reviewing lawyer identified the failure and instructed the advocate to withdraw the case at the first hearing. However, the matter was allowed to continue for over a month before the case was stopped, during which time there were two hearings at court and the police were instructed to (and did) provide a full file to the CPS. This is inefficient and uses resources that are already stretched.

**2.9.** The police decision to charge was compliant with the Code in 25 out of 27 (92.6%) magistrates’ court cases. The Area correctly discontinued the two cases where the Code was not applied correctly. Four cases were also found to have been charged by the police in breach of the Director’s Guidance. In two of those cases, the prosecutor identified the breach of the Director’s Guidance and fed back appropriately to the police.

**2.10.** The Code was applied correctly post-charge in 58 out of 60 (96.7%) magistrates’ court cases.

**2.11.** In 19 of the 60 magistrates’ court cases in the files examined (31.7%), the police fully complied with the [National File Standard \(NFS\)](#) at the time of submission of the file to the CPS. The most prevalent non-compliance issue was that key witness statements were missing in 19.5% of the cases. Where there were statements, some were labelled as Manual of Guidance Form 11 (MG11) without reference to the name of the witness. This adversely affects the ability of

prosecutors to easily identify the evidence. Issues with police files also included that in 9.8% of cases, the police case summary was either missing or of such poor quality as to add no benefit.

**2.12.** In 73.9% of cases, the Area challenged the police about the standard of file quality. In each of those cases, the police accepted that the file was not of sufficient quality. The inspectors noted that 80% of file submissions were timely, but this was not helpful when the standard of what was provided was poor – and 68.3% of cases were deficient. These challenges affect the timeliness of the work that is required by the CPS before a first hearing.

## **The Code was applied correctly post-charge in 58 out of 60 magistrates' court cases**

**2.13.** Of the 59 magistrates' court cases requiring a review prior to the first hearing, 11 cases (18.6%) were not reviewed before that hearing<sup>2</sup>. Of the 48 cases that received a review, 31 (64.6%) were timely. Of the 59 cases, 38 (64.4%) had had a proper and proportionate initial review.

**2.14.** When cases are completed late, it reduces the time available to undertake remedial action that may be required before the first hearing. Some cases may have been reviewed late because the case was allocated late to the prosecutor. In our file sample, there were three cases that were fixed for trial without being allocated to an individual prosecutor.

**2.15.** Inspectors noted that the quality of the review was inconsistent. In one case identified by inspectors as an excellent review, the prosecutor had set out the review in terms of how they would prove the case: analysing the evidence; applying the facts of the case to the relevant law; dealing with actual and probable defences and how to rebut them; and identifying those witnesses who would be called to give live evidence, those whose statements could be read and those where relevant parts of the statement could be agreed with the defence. Poorer reviews merely recited the facts without any application of law or consideration of the evidence needed to prove the case.

**2.16.** In 53.6% of cases in our file sample, the prosecutor had prepared the file effectively to ensure progress at the first hearing according to Transforming Summary Justice (TSJ) principles.

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<sup>2</sup> One of the cases was brought in custody 20 days before the proposed first hearing and was dealt with by an agent- the CPS did not have an opportunity to review the case before the hearing

**2.17.** Based on the hearing record sheet (HRS), a form completed to summarise and capture actions from court hearings, some of the in-house advocates appearing at the first hearings had a good ‘grip’ on cases. It was obvious to inspectors that these advocates were proactive about dealing with cases to ensure that they were ready before the court hearings. In some cases where there had not been a pre-first hearing review – for instance, because the anticipated plea was guilty and so the case did not require a full written review – the advocates had completed reviews or amended charges, served disclosure and effectively prepared the case. Advocates were making applications for special measures at the first hearing without the necessary application forms, ensuring that victims and witnesses were afforded the protection of special measures without the need for application forms or further delay.

**2.18.** We observed 10 cases prosecuted in an anticipated not guilty plea court. Eight out of the 10 cases examined on-site had a pre-hearing review, which inspectors assessed as fair or poor. All eight cases were reviewed late. The remaining two cases had no review. None of the eight reviews were done in sufficient time for them to be effective for the first hearing, the majority being the day before the first hearing. During our court observation, as in our file examination, the advocate was proactive about ensuring that all the cases progressed at the first hearing.

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**Issue to address**

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The Area needs to ensure that the timeliness of both allocation and completion of file preparation improves, to ensure that cases are prepared properly and decisions recorded appropriately.

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**2.19.** Inspectors assessed the Area’s handling of disclosure of unused material in magistrates’ courts as follows:

	Excellent	Good	Fair	Poor
Magistrates’ courts (out of 42 cases)	2.4% (1 case)	21.4% (9 cases)	50% (21 cases)	26.2% (11 cases)

**2.20.** In our file sample of 42 relevant cases, the Area had fully complied with the duty of initial disclosure in 11 (26.2%), partially in 30 (71.4%) and not at all in one (2.4%). In our reality checks of live cases, none of the cases had disclosure dealt with before the first hearing.

**2.21.** The police complied fully with their disclosure obligations in 19 out of 60 cases (31.7%). The principal police failing was poor descriptions of material. Inspectors noted that there was an inconsistent understanding of what was expected on schedules. In one case, the police sent two schedules: one for items to disclose and one listing items not to be disclosed. One schedule merely had the words “nothing to disclose” rather than a schedule of the material. In that

case, the lawyer notified the police of the deficiency; however, the new schedule then listed items in groups rather than individually, and with poor descriptions.

**2.22.** In 10 cases where the schedule of unused material was rejected, only one was dealt with appropriately. In the other nine cases, the prosecutor did notify the police of the deficiency; however, the police either failed to supply a new schedule or produced a second schedule that was still deficient. In these cases, as the trial approached, disclosure was dealt with either using the original rejected schedule (where no new one had been provided) or on a new schedule, the quality of which was not much better. Some schedules were sent out to the defence unsigned and some only half annotated with the lawyer's reasoning.

**2.23.** The service of disclosure on the defence was assessed as timely in 17 out of 41 cases (41.5%). Where applicable, the prosecutor complied with the duty of continuing disclosure fully in four out of 22 (18.2%) cases, complied partially in 17 (77.3%) and failed to deal with disclosure in one case (4.5%).

**2.24.** Our file examination showed that, where completion of a disclosure record sheet (DRS) or an audit trail of disclosure was required, prosecutors had fully recorded their decisions by way of an audit trail in 17 out of 42 cases (40.5%), partially in 19 cases (45.2%) and not at all in six cases (14.3%). We saw an inconsistent approach as to where the audit trail was recorded and the amount of detail it contained.

**2.25.** In those cases where the file had not been reviewed before the first hearing, or had been reviewed late and in close proximity to the trial, the quality of the work undertaken in terms of disclosure suffered. Inspectors noted three files where the lawyer had, in their case review, identified the pressure of work for as the reason they had not completed all actions.

**2.26.** We identified no cases that led to a miscarriage of justice because of the way disclosure was handled.

## Case preparation and progression – magistrates’ courts Assessment: Good

### Summary

CPS Cymru-Wales’s outcomes show that it is a strong performing Area. However, the timeliness of completion of preparation for first hearings and trials remains an issue. Unsuccessful outcomes attributable to witness issues and ineffective trials attributable to prosecution reasons remain too high.

**2.27.** Although CPS Cymru-Wales has embedded Transforming Summary Justice (TSJ) and there are brigaded courts, the not guilty anticipated plea (NGAP) court inspectors observed had a mixture of NGAP and guilty anticipated plea (GAP) cases for first hearing, as well as a number of other types of cases listed.

**2.28.** Of the 55 relevant cases in our file sample, 36 were effective at the first hearing (65.5%). The main reason for ineffective first hearings was the defence, as in 12 out of the 19 ineffective hearings (63.2%). The Area was responsible for 2 of the 19. Of the 10 NGAP cases observed, two were ineffective. The CPS was not responsible for either.

**2.29.** Of the 60 cases examined, there were six (10%) where the anticipated plea was incorrectly identified. Misidentification was made by the police in four cases. Even where the anticipated plea was correctly identified, this did not always reflect the plea entered. Out of 18 cases where a guilty plea was entered, seven had been correctly identified and prepared as NGAP cases.

**2.30.** Another consequence of late reviews and preparation of cases is the failure to serve fully prepared initial details of the prosecution case (IDPC) within the accepted time limits. In line with CPS Standard Operating Practice, all cases in our sample received a GAP package of initial details which was sent to the defence, if known. These GAP packages are prepared by operational delivery staff and have no legal input. In some of the cases in the file sample, the details sent initially by the operational delivery staff were the only provision of IDPC. Because of late reviews, there were cases in which key evidence was missing from the IDPC. In our court observations, none of the NGAP IDPC packages were sent to the court or defence in a timely fashion. We noted, as part of our court observations and file examination, that prosecutors at court were regularly serving outstanding evidence or disclosure on the defence on the morning of the first hearing. This adds a burden to those prosecutors at court. Other court users we spoke to indicated that there were issues with the timeliness of IDPC.

**2.31.** HRSs, which should contain all necessary details about a court appearance, were completed fully in 33 out of 56 cases (58.9%) and partially in 22 (39.3%). In one case, the HRS contained no information. Inspectors noted

from the file examination that the extensive use of the prosecutor app by the advocates ensured that HRSs were uploaded to the case management system (CMS) in a timely manner. HRSs which were not timely were from agents undertaking trial courts, who do not have access to the prosecutor app.

**2.32.** In the 12 months to December 2018, 86.8% of magistrates' court cases resulted in a successful outcome, which was better than the national average of 84.4% and the CPS level of ambition (85%). The domestic abuse conviction rate in the magistrates' courts shows an improving trend in the last two years: in the 12 months to December 2018, it was 78.9% – better than the national average of 76.8%.

### **Cases are being dropped early, which is an indicator of effective case progression and sound decision making**

**2.33.** In the 12 months to December 2018, the effective trial rate in the magistrates' courts was 46.8%. The national average is 45.6% and the CPS level of ambition is 55%. The Area has continually been one of the best performing Areas. For the past four years, it has achieved better than average effective trial rates. The rate of cracked and ineffective trials in the magistrates' courts because of the prosecution

was 24.1%. The national average is 22.3%, while the CPS level of ambition is 20% or less.

**2.34.** The rate of unsuccessful outcomes because of victim issues in the magistrates' courts was 30.7% in 12 months to December 2018. The CPS level of ambition is 27.5% or lower.

**2.35.** In the 12 months to December 2018, 18.5% of cases were dropped on or after the third hearing. This is significantly better than the CPS national average of 26.5%. CPS Cymru-Wales has consistently performed well above average since 2013. Its performance indicates that cases are being dropped early, which is an indicator of effective case progression and sound decision making. Early decisions to appropriately stop a case have a beneficial influence on the allocation of resources, ensuring that time can be devoted to cases that require it. However, in our file sample, where a decision was made to discontinue a case, it was timely in only five out of 12 cases (41.7%).

**2.36.** The average number of hearings in contested cases in the 12 months to December 2018 was 2.48, which is better than the national average of 2.77. The average number of hearings for guilty plea cases was 1.48, which is better than the national average of 1.66. In each of these performance measures, CPS Cymru-Wales is the top performing CPS Area.

**2.37.** There have been no custody time limit failures in magistrates' court cases in the Area for five years. This inspection did not examine the Area's office based system for monitoring custody time limits (CTLs) and the case management system has limited scope for assessing all relevant information on CTLs. However, inspectors noted from their file examination that the recording and calculating of CTLs was accurately dealt with.

**2.38.** In our file examination, where cases were not fully prepared before the first hearing, the subsequent preparation required before trial was late in most cases. The Area struggled to maintain a grip on cases that were set down for trial. In the 35 cases where magistrates issued directions, including to serve evidence or disclosure, the Area fully complied on time in eight (22.9%), partially in 23 (65.7%) and not at all in four (11.4%).

**2.39.** Taking all these factors into account, our file examination showed that the Area maintained a grip on cases set down for trial in 24 out of 52 cases (46.2%).

## Reviews and decisions – Crown Court Assessment: Good

### Summary

The Area has effective processes for monitoring the provision of charging advice, but the timeliness of charging advice is an issue. Charging decisions would be improved by more consideration at that stage of trial strategy. Overall, the disclosure of unused material is handled well, but some aspects relating to sensitive material require greater care and attention.

**2.40.** In our file sample, the Code was applied correctly at the charging stage in 27 out of 28 CPS charged Crown Court cases (96.4%). There was one police charged case, and the Code was not applied correctly at that stage.

**2.41.** In the remaining 31 cases, the charging decision was taken by CPSD lawyers. They applied the Code correctly in 29 of the cases (93.5%).

**2.42.** Inspectors assessed none of the Area charging decisions as excellent, 50% as good, 25% as fair and 25% as poor. More Area charging decisions were assessed as good than CPSD decisions (41.9%).

**2.43.** The Code was applied correctly post-charge in 57 out of 60 cases (95.0%).

**2.44.** The Area has an effective triage process to ensure cases submitted by the police for charging advice meet the required quality standard. When a case is rejected at this stage, there are checks in place to monitor whether the outstanding material has been received. This process works well, although we did note a couple of cases where the police were chased for material that had already been submitted. Whilst the process works well, there is a significant issue related to timeliness, both of the completion of police actions and of the provision of Area charging advice.

### The Area is particularly alert to when a VPS is not submitted

**2.45.** There was evidence of robust quality assurance processes to monitor police compliance with the NFS. The police agreed with the CPS's assessment in each of the cases subject to formal monitoring. We found that only 16 of the 43 relevant cases (37.2%) submitted

by the police fully met the NFS initially. In 13 cases (30.2%), the NFS was not met. Performance across the four police forces varied considerably, with 57.1% of Dyfed-Powys cases fully meeting the required standard, 36.4% of South Wales cases, 35.7% of North Wales cases and 27.3% of Gwent cases.

**2.46.** The absence of the Victim Personal Statement (VPS) was the primary substantive issue in a third of cases that did not fully meet the required standard.

A third were missing key witness statements and the remaining third did not meet the standard for a variety of reasons, such as missing CCTV.

**2.47.** The Area is particularly alert to when a VPS is not submitted, and these are requested regularly when not on file.

**2.48.** We examined eight live files as part of our Better Case Management process checks. The police file complied with the NFS in three of these (37.5%). In each of the eight cases, the police file was rejected initially when submitted for a charging decision. One of the issues appeared to be the submission of blank statements. We noted this occurring in some of the finalised files examined.

**2.49.** There was only one police charged case in the Crown Court finalised file sample. This was a case where the police were permitted to charge under the provisions of the Director's' Guidance without referring first to the CPS. However, the Code was not applied correctly, and the evidential deficiencies were not identified by the CPS until the trial.

**2.50.** As stated, there was one CPS Cymru-Wales charged case where the Code was not applied correctly at that stage. The prosecutor overlooked the fact that the defendant could, and should, have been charged with sexual relations with an adult relative as well as the non-consensual sexual assault charges which were directed. The missing charges were not added until the Judge drew the prosecution's attention to their omission at the pre-trial preparation hearing.

**2.51.** Overall, we assessed half of the Area charging decisions as good. However, in 50% of the cases examined, there was not a fully adequate case analysis and case strategy. These cases were assessed as fair or poor. In particular, the case strategy element needed strengthening and prosecutors were not thinking sufficiently about how the case was going to be presented to the jury. More thought at this stage also needed to be given to what applications needed to be made – for example, applications to adduce bad character – and whether there were lines of enquiry the police needed to follow with regard to potential unused material.

**2.52.** Based on the cases in our file sample, we found that there could be substantial delays in the provision of charging advice, with the Area's target times not being met. The normal target times, once the case had been accepted at the triage stage, were 28 calendar days for rape and serious sexual offences (RASSO) cases and five calendar days for other categories.

**2.53.** One example is a case involving indecent images of children. The case did not come under the RASSO criteria, so the target was five calendar days. It took five weeks for the first charging advice to be provided. The police had not

followed up a number of lines of enquiry; these were correctly set out in an action plan. The police responded in 15 days, but the Area incorrectly sent a chaser a month later asking for the material. There was then another five week delay by the CPS before the final charging advice was provided.

**2.54.** In another case, involving an offence of interfering with the course of public justice (a false allegation of rape), it took the CPS overall nearly 12 months to make a charging decision. Whilst the Director's Legal Adviser was considering whether to authorise the charge for seven months of this time, there was a delay of two months before this while the Area awaited the authorisation of a Deputy Chief Crown Prosecutor.

**2.55.** In too many cases, these delays were compounded by the police taking too long to deal with the actions raised in pre-charge action plans. The overall delay increases the anxiety of both suspects and victims, and can diminish their recollection of events when matters come to trial.

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**Issue to address**

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The Area must ensure that, once a case is accepted at the triage stage, charging advice to the police is provided in accordance within the appropriate target timescale.

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**Post-charge reviews**

**2.56.** Once a case was charged, we found that proportionate and timely reviews took place as required in almost all cases. There were processes in place to ensure post-sending reviews were carried out, and prosecutors would be reminded of this requirement. These reviews were prioritised in custody cases.

**2.57.** Overall, where required, there was a proper and proportionate initial review in 52 of the 60 cases (86.7%), all of which were timely. Whilst cases where the charge was directed under the threshold test would receive an appropriate further review, these did not always specify that the Full Code Test (FCT) was being applied. We could tell by the detail of the review that the FCT was being applied, but for some reason the files indicated that it was not.

**2.58.** In our examination of eight live files, we assessed four of the post-sending reviews as good and four as fair. However, only two of the reviews were timely.

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**Issue to address**

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In every case where the defendant is charged under the threshold test, the prosecutor must indicate clearly at what subsequent stage the Full Code Test is applied.

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**2.59.** The acceptance of pleas, or the prosecution's acceptance of the defence's basis of plea, was correct in each relevant case.

**2.60.** HRSs were completed fully in 49 of the 60 cases (81.7%). Almost all were uploaded promptly onto the CMS. The main omission was in relation to bad character applications, and occasionally it was unclear what had happened in respect of late applications for special measures. There was one case where what was written on the HRS did not accurately reflect aspects of the decision making process. The issue had not yet been resolved fully.

### **The disclosure of unused material**

**2.61.** Ensuring that the disclosure of unused material is dealt with correctly is one of the CPS's highest national priorities. The quality of the Area's handling of a number of aspects of the disclosure regime is encouraging. Our findings show, however, that too often the Area starts off on the back foot because of issues with the quality of the schedules provided by the police.

**2.62.** The police complied fully with their disclosure obligations in 23 of the 60 Crown Court cases (38.3%). Again, performance varied considerably across the police forces, with Dyfed-Powys fully meeting the requirements in 64.3% of cases, but Gwent in 20%. The primary failing, affecting 45.9% of cases, was the poor description of items on the non-sensitive unused material schedule (MG6C). Other aspects that fell short were failing to send in a schedule, often by not providing a further disclosure officer's certificate after service of the MG6E (37.8% of cases), and listing items incorrectly (10.8% of cases).

**2.63.** Most prosecutors were alert to schedules with poor descriptions and were consistent in sending them back to the police to be re-done. However, where the police did not respond promptly, we noted some cases where prosecutors went through all the unused material to ensure that there was nothing that undermined the prosecution case or assisted the defence.

**It was rare to see prosecutors giving the police guidance on what lines of enquiry should be followed in light of Defence Statements**

day of trial.

**2.64.** The late service of Defence Statements (which were often subject to applications to extend the timescale set down by the court) and the late response by the police meant that in some contested cases, disclosure issues were still being addressed on the day set down for trial. In two examples, the police provided the prosecutor with further material or information which was clearly disclosable at court, on the

**2.65.** In one of the cases, because of the background to the incident, the prosecutor should have enquired much earlier about whether there were previous incidents involving the victim, the defendants and the witnesses. However, somewhat fortuitously, on the day of trial the prosecutor became aware that the victim of an alleged assault was also a defendant in another incident of violence. In that case, he was alleged to have assaulted someone in licensed premises shortly before going to other licensed premises where he was allegedly assaulted. The case was then correctly discontinued.

**2.66.** At the continuing disclosure stage, Defence Statements (DS) were sent promptly to the police, but it was rare to see prosecutors giving the police guidance on what lines of enquiry should be followed in light of what these statements revealed. In one example, the defendant gave an alibi and the details of an alibi witness. The prosecutor wrote to the defence saying there was nothing further to disclose before any response had been received from the police in respect of the potential alibi.

**2.67.** Overall, we found that initial disclosure was dealt with fully in 43 of the 54 relevant cases (79.6%), and continuing disclosure in 36 of the 45 relevant cases (80%). Overall, timescales were met in 38 of the 52 relevant cases (73.1%).

**2.68.** One aspect of the Area's handling of unused material that does need to be addressed is in relation to the listing of items on the schedule of sensitive unused material (MG6D). In a number of cases, there were items listed on the MG6D by the police that did not meet the criteria for inclusion. In one example, an item listed had, in fact, been rightly disclosed to the defence in the magistrates' court before the case was sent to the Crown Court.

**2.69.** Where this occurred, we did not often see prosecutors asking the police to resubmit the schedule with the items removed (and put on the MG6C where they belonged). Overall, sensitive material was dealt with correctly in 16 of the 25 relevant cases (64%).

**2.70.** In our examination of eight live cases, there were three where the primary allegation was of possession with intent to supply a controlled drug. One case appeared to be a random stop, but the other two were intelligence led. In these two, the police had submitted the MG6D with no indication of any sensitive material. This was not challenged by the reviewing lawyer.

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**Issue to address**

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When considering sensitive unused material schedules, prosecutors must ensure that: the items listed thereon meet the criteria for inclusion; where they do not, they request that the police submit correctly amended non-sensitive and sensitive unused material schedules; and the police are challenged when the evidence suggests there should be items on the sensitive unused material schedule.

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**2.71.** There were 12 cases where there was third party material that needed to be considered for disclosure purposes. This was dealt with correctly in 11 cases (91.7%).

**2.72.** We saw some very good examples of disclosure record sheets (DRS), which set out the correct chronology of all disclosure decisions and the rationale for those decisions, but only 26 of the 54 DRSs we examined (48.1%) fully met the required standard. Deficiencies included: not listing all disclosure decisions; not providing any rationale for disclosure decisions; and including non-disclosure decisions, for examples ones that related to other aspects of case progression.

**2.73.** Again, we saw very good examples of where DRSs had been updated to show disclosure decisions that had taken place during the trial. In other cases, by comparing the entries on the hearing record sheet and the DRS, it was apparent that the latter had not been updated.

**2.74.** Overall, we assessed the Area's handling of disclosure as excellent in 3.7% of cases, good in 53.7%, fair in 29.6% and poor in 13%.

**2.75.** There were no cases in our file sample where there was a complete failure to disclose assisting or undermining material.

## Case preparation and progression – Crown Court Assessment: Good

### Summary

Cases are prepared well for the first hearing in the Crown Court, but the timeliness of applications to adduce the defendant's bad character must improve. The Area has more successful outcomes than the national average, but less for offences specifically involving an allegation of rape. The proportion of unsuccessful outcomes attributable to witness issues is too high, but the Area is hampered by a number of factors. Cases where the defendant is in custody are monitored effectively.

**2.76.** The majority of cases are prepared effectively for the first hearing in the magistrates' courts and the Plea and Trial Preparation Hearing (PTPH) in the Crown Court. The Better Case Management form was uploaded onto the Digital Case System after the magistrates' court hearing in seven of the eight cases examined. The one omission appeared to be due to IT issues. The issues were identified fully and correctly on the face of four of the forms.

**2.77.** At the charging stage, the MG3s, preparation for effective trial forms (in cases where summary trial was appropriate) and PTPH forms contained fully appropriate instructions for the prosecutor at court in 39 of the 59 relevant Crown Court cases (66.1%).<sup>3</sup>

**2.78.** After the charging stage, cases continued to be prepared effectively for the first hearing in 53 of the 60 cases (88.3%). The first hearing was then actually effective in resolving outstanding issues in 44 of the 60 cases (73.3%). Generally, the draft indictment and PTPH form were uploaded to the Digital Case System in accordance with the Better Case Management timescales. There was timely submission of the relevant papers in each of the eight live cases examined, and evidence of defence engagement in five (62.5%).

**2.79.** In the 16 cases where the first hearing was ineffective, the cause was attributed to the defence in nine, the CPS in five, and the police and the courts in one each. In respect of the effectiveness of the trial, the Area's performance for the 12 months to December 2018 is one of the best in the country. Overall, 56.2% of trials were effective, compared with 50.7% nationally. The Area's performance is better than the CPS level of ambition. There were only two ineffective trials in our file sample, and both were attributable to disclosure issues.

**2.80.** In the same 12 month period, where a trial was ineffective, it was attributed to a prosecution reason in 12% of cases, slightly worse than the national average of 11.5% and the CPS's national level of ambition of 11% or

<sup>3</sup> One case was charged by the police.

less. Of the ineffective trials attributable to the prosecution, 28.8% were specifically identified as being because of witness issues, which is significantly worse than the national average (21.5%). Whilst we have not analysed the file sample specifically to determine the reasons for this, we have noted some factors which may have had an impact, including the rural nature of the Area and the lack of public transport (in many cases taxis had to be booked to get witnesses to the court centre on time). We also noted that trial dates were changed and court venues moved at short notice, which cannot have helped.

**2.81.** A number of trials were vacated before the date set down for the contested hearing. These were for a variety of reasons: for example, a lack of a trial judge, defence experts' reports not being available, or witness difficulties.

**2.82.** Vacating trials reduces the number of hearings, as does ensuring everything is settled at the PTPH. The majority of cases went straight from the PTPH to the trial hearing. Those that did not tended to have peripheral issues: for example, breaches of conditional bail by the defendant. In the 12 months to December 2018, there were on average 4.01 hearings in contested cases, which was significantly better than the national average of 5.06 and the CPS level of ambition of 5.0 or less.

**2.83.** One aspect that appeared problematic in a number of cases was whether there was to be an application to adduce the defendant's bad character. Often, this had not been determined by the time of the PTPH, and then was not dealt with expeditiously thereafter. It was the most common reason for the prosecution applying to extend the timescale set down in the Judge's order. Often, trial counsel was being chased at the last minute to draft applications.

**2.84.** It was also difficult to follow the decision making process, particularly whether the application was actually made, and if so, whether it was granted.

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**Issue to address**

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The Area should ensure that: applications to adduce the bad character of the defendant are made in accordance with the requisite timescales; and there is a full audit trail of the decision making process.

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**2.85.** There were very few cases in our file sample where the prosecution had to apply to extend the time limit for the service of the prosecution case. More problematic was the direction for the service of initial disclosure, but this was attributable more to the police not providing adequate schedules on time. Extensions were often granted for the defence to submit proposed edits to the Achieving Best Evidence interview or the defendant's interview. The impact of this, when close to the trial date, was to reduce the time the prosecution had to consider the defence's proposals, leading to a flurry of last minute activity.

**2.86.** Overall, we found there was timely compliance with the initial timescale set down in the Judge's order in 45.1% of cases. As stated above, bad character applications were problematic, as were some applications for special measures in cases where the victim was not entitled.

**2.87.** Correspondence, whether from the defence, the police (including the witness care units) or the courts, was generally considered promptly. However, we noted cases where the police had provided key information which was overlooked: for example, that a witness no longer wanted to support the prosecution. In other cases, prosecutors repeated requests for information that had clearly already been supplied.

## **The Area has not had a custody time limit failure for many years**

**2.88.** It is difficult for a hard pressed prosecutor to easily distinguish between new and old material. This problem is compounded when the same document is uploaded more than once. One police force (Dyfed-Powys) had addressed this by numbering key documents, primarily the MG6 and the MG20. This made it significantly easier to see which one was likely to contain the most up to date information.

**2.89.** In the 12 months to December 2018, CPS Cymru-Wales had a Crown Court conviction rate of 81.2%, which was better than the national average (79.7%) but slightly worse than the CPS level of ambition (81.5%). For the same period, the Area's conviction rate for offences of rape was 56.2%, compared with the national average of 61.5%. The Area's rate was also worse than the national CPS level of ambition (60%).

**2.90.** We have not examined the Area's office based systems for the monitoring of custody time limits (CTLs) and in finalised files the CMS does not contain all information on CTLs. However, subject to that, we found that CTLs were well monitored, endorsed on the hearing record sheet and subject to regular reviews. There was only one case in our sample where an application to extend the CTLs had to be made. This was because of a delay in obtaining the necessary reports to show whether the defendant was fit to plead. We noted other cases where precautionary applications were prepared to cover the possibility of the trial not proceeding.

**2.91.** The Area has not had a CTL failure for many years.

**2.92.** In 12 of the 12 cases discontinued, the Code had been applied correctly. The decision to discontinue was timely in ten of the cases (83.3%).

**2.93.** Taking all these factors into account, we found that 33 of the 60 cases (55%) were fully gripped. However, we found that there was no grip in five of the cases (8.3%).

### **3. Public confidence**

### Performance Expectation

The service provided to victims and witnesses is central to the work of the Area. It ensures that decisions are appropriately explained and that 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.

Criteria	Score
Communications with victims under all applicable initiatives, Codes or policies (including consulting victims on discontinuance or pleas, letters under the Victim Communication and Liaison scheme, communications with bereaved families, and the Victim's' Right to Review scheme) occur where required, and are timely and of a high standard.	Good
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.	Good

## Performance against the criteria

### Communications with victims Assessment: Good

#### Summary

The Area is good at identifying when a letter needs to be sent to a victim. Staff at court are also good at speaking with witnesses and keeping them informed of progress.

**3.1.** The Area identified when a letter needed to be sent to a victim in most of the relevant cases in our file sample. We found that a letter was required under the [Victim Communication and Liaison \(VCL\) scheme](#) in 27 cases, and one was sent in 24 (88.9%). Where sent, the letter was timely in 20 of the 24 cases (83.3%). Performance was better in the Crown Court, with 86.7% of letters sent being in a timely way, compared with 77.8% for magistrates' court cases. In the Crown Court, the one letter not sent when required was in a case when the victim was spoken to at court, but the HRS did not state whether they still wanted a letter, which is their right. In other cases where the same scenario arose, the victim's wishes were endorsed clearly on the HRS. In the two magistrates' court cases, the prosecutor had misunderstood the requirement to send a letter to a victim who no longer supported the prosecution.

**3.2.** The Area was very good at identifying when a letter needed to be sent to the victim following a substantial alteration in the charge faced by the defendant.

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**Strength**

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Identifying when a letter had to be sent to the victim following a substantial alteration in the charge faced by the defendant.

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**3.3.** Inspectors assessed the quality of letters sent to victims as fully meeting the requirements in 15 of the 24 cases (62.5%) where one was sent. There was a very significant difference in quality between the letters sent in Crown Court cases and those sent in magistrates' court cases. In Crown Court cases, the letter met the required standard in 80% of cases, compared with 33.3% in magistrates' court cases. A common aspect of letters that did not fully meet the standard was not explaining fully and accurately the reason why the case had to be discontinued.

**3.4.** There were two cases in our file sample which required communication with bereaved families. In both, the families were kept fully informed of what was happening. One of the cases involved sensitive issues arising out of a fatal road traffic incident.

**3.5.** In one case (of sexual assault), the victim exercised their right to have the charging decision reviewed. The review upheld the original decision, but explained clearly to the victim the factors that had to be taken into account.

**3.6.** Relevant HRSs contained detailed qualitative accounts of conversations with witnesses in accordance with the Speaking to Witnesses at Court initiative. This included where pleas were discussed or when decisions were taken to discontinue the case on the day of trial (where the victim attended).

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**Strength**

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The quality of the endorsements on Hearing Record Sheets in accordance with the Speaking to Witnesses at Court initiative.

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## The views and interests of victims and witnesses Assessment: Good

### Summary

Prosecutors are alert to the needs of victims and witnesses through appropriate applications to remand defendants in custody, and by applying for special measures to ensure that victims and witnesses give the best possible evidence. However, the timeliness of special measures applications needs to improve.

**3.7.** All the necessary steps were taken to engage the victim in the court process in 48 of the 59 relevant cases (81.4%). Again, there was a significant difference in performance between the Crown Court and magistrates' courts. In the Crown Court, 39 out of 42 cases (92.9%) fully met expectations compared with nine out of 17 (52.9%) in the magistrates' courts. Securing victim and witness engagement in the Crown Court can be challenging: for example, we noted cases where the trial date and location had been changed with less than 24 hours' notice.

### At the charging stage, prosecutors were alert to the need to protect victims

**3.8.** In one case, the prosecutor had rightly queried with the police whether the victim should have the benefit of an intermediary. The police then made more enquiries and an intermediary was appointed to ensure the victim gave the best possible evidence.

**3.9.** In the 12 months to December 2018, 30.4% of ineffective trials were attributable to witness issues, compared with 27.6% nationally. The Area's performance was worse than the CPS level of ambition (27.5%).

**3.10.** At the charging stage, prosecutors were alert to the need to protect victims, either through appropriate applications to remand the defendant in custody or by securing necessary bail conditions.

**3.11.** Prosecutors did not always act promptly when informed that a victim or witness required special measures, either by the police or through a witness care unit (WCU). Overall, special measures were applied for appropriately in 36 out of 38 relevant cases (94.7%), and in a timely way in 27 of the 36 (75%). There was very little difference in performance between the Crown Court and the magistrates' courts. Prosecutors in the magistrates' courts were proactive about making oral applications for special measures and, in the Crown Court, about liaising with the WCUs about whether victims and witnesses wanted court visits.

**3.12.** Prosecutors need to be alert to what the victim wants by way of special measures. In one case, the victim had said from the outset that she wanted to be in court and give her evidence behind screens. However, because this was a case of sexual assault, the standard live link special measure was granted. It was only on the day of trial that the issue was resolved.

**3.13.** Area staff are alive to the requirement for a VPS and would remind the police promptly if one was not included in the initial file submission. Prosecutors were alert to whether the victim wanted to read out their VPS to the court at the sentencing hearing.

**3.14.** The police were usually prompt in sending the CPS the wording of any proposed restraining order. Where none was forthcoming, prosecutors were alert to reminding the police. Applications for restraining orders were put forward in all the relevant cases. In a neighbour dispute case involving a non-conviction restraining order, prosecuting counsel spent a considerable amount of time ensuring that the wording of the order met the needs of the victim.

# **Annex A**

## **Inspection framework**

# Area Assurance Programme inspection framework: CPS Cymru-Wales

## Introduction

The framework is split into two sections: “High quality casework” and “Public confidence”. 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 considers other key initiatives such as Standard Operating Practice, Transforming Summary Justice and Better Case Management.

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 for the work undertaken in CPS Cymru-Wales will be on the core elements of casework only.

## High quality casework

### Performance Expectation

The Area delivers justice through excellent, timely legal decision making, 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.
  - a. The Area checks that all files received from the police comply with the National File Standard and the principles of Transforming Summary Justice. Unresolved issues are escalated when appropriate.

- b. 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.
  - c. The Area ensures that there is a timely and proportionate review in all cases requiring one, and that it is appropriately recorded.
  - d. Reviews and decisions comply with the Code for Crown Prosecutors 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.
  - e. The Area complies with its duties of disclosure in relation to unused material.
2. Case preparation and progression is effective and timely.
- a. Area systems support the effective progression of cases, including compliance with Criminal Procedure Rules and Standard Operating Practice.
  - b. The Area ensures that cases progress at the first magistrates' court hearing in accordance with Transforming Summary Justice principles.
  - c. The Area ensures that the number of effective trials and successful outcomes are increasing through effective case preparation and progression.
  - d. The Area has an effective system for the management and monitoring of custody time limits.

### **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.
- a. The Area checks that all files received from the police comply with the National File Standard and the principles of Better Case Management. Unresolved issues are escalated when appropriate.

- b. 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.
  - c. The Area ensures that there is a timely and proportionate review in all cases requiring one, and that it is appropriately recorded.
  - d. Reviews and decisions comply with the Code for Crown Prosecutors 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.
  - e. The Area complies with its duties of disclosure in relation to unused material.
4. Case preparation and progression is effective and timely.
- a. Area systems support the effective progression of cases, including compliance with Criminal Procedure Rules and Standard Operating Practice.
  - b. The Area ensures that cases progress in the Crown Court in accordance with Better Case Management principles.
  - c. The Area ensures that the number of effective trials and successful outcomes are increasing through effective case preparation and progression.
  - d. The Area has an effective system for the management and monitoring of custody time limits.

## Public confidence

### Performance Expectation

The service provided to victims and witnesses is central to the work of the Area. It ensures that decisions are appropriately explained and that its interaction with victims and witnesses takes account of their needs, is open and direct, and shows empathy.

### Criteria

1. Communications with victims under all applicable initiatives, Codes or policies (including consulting victims on discontinuance or pleas, letters under the Victim Communication and Liaison scheme, communications

with bereaved families, and the Victim's' Right to Review scheme) occur where required, and are timely and of a high standard.

- a. The needs of victims and witnesses are fully considered and there is timely and appropriate liaison and support throughout the prosecution process.
  - b. The Area ensures compliance with the requirement to consult victims in appropriate cases, including discontinuance and acceptance of pleas.
  - c. 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 Victim's' Right to Review scheme) where appropriate.
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.
- a. 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.
  - b. 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.
  - c. 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.
  - d. Area processes ensure that the right ancillary orders are sought at sentencing or other disposal to protect the victim, witnesses or public.

# **Annex B**

## **File examination findings**

Question	Answers	All cases
<b>Pre-charge decisions police and CPS</b>		
The police decision to charge was compliant with the Code test	Yes	89.3%
	No	10.7%
The police decision to charge was compliant with the Director's Guidance on Charging	Yes	85.7%
	No	14.3%
The police MG3 correctly identified whether a guilty or not guilty plea was anticipated	Yes	85.7%
	No	14.3%
The CPS decision to charge was compliant with the Code test	Yes	95.7%
	No	4.3%
The MG3 included proper case analysis and case strategy	Fully met	41.9%
	Partially met	43.0%
	Not met	15.1%
The MG3 made reference to all relevant applications and ancillary matters	Fully met	48.9%
	Partially met	37.0%
	Not met	14.1%
There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET or PTPH created with the MG3	Fully met	55.3%
	Partially met	40.4%
	Not met	4.3%
The CPS MG3 correctly identified whether a guilty or not guilty plea was anticipated	Yes	95.7%
	No	4.3%
The action plan met a satisfactory standard	Fully met	49.5%
	Partially met	44.0%
	Not met	6.6%
For CPS charged cases, rate the overall quality of the MG3, including action plan	Excellent	2.2%
	Good	43.5%
	Fair	34.8%
	Poor	19.6%
<b>File quality</b>		
The police file submission complied with the National File Standard for the type of case	Fully met	34.0%
	Partially met	51.5%
	Not met	14.6%
The main failing in the police file was in relation to:	VPS	14.7%
	MG5	5.9%
	D precons	1.5%
	MG11s	25.0%
	Overbuild	1.5%
	Other	51.5%
Police file submission was timely	Yes	81.5%
	No	18.5%

Question	Answers	All cases
<b>On-going review CPS</b>		
All review decisions after charge applied the Code correctly	Yes	95.8%
	No	4.2%
The case received a proper and proportionate initial case review where appropriate	Yes	75.6%
	No	14.3%
	Not done	10.1%
The initial case review was carried out in a timely manner	Yes	84.1%
	No	15.9%
The prosecutor prepared the case effectively in accordance with TSJ/BCM to ensure progress in court at the initial hearing(s)	Yes	77.3%
	No	22.7%
The prosecutor identified and raised with the police any lack of compliance with TSJ/BCM	Yes	76.0%
	No	24.0%
<b>CPS action effective and adds value</b>		
The first hearing was effective, complied with TSJ/BCM expectations (where appropriate) and resolved all outstanding issues	Yes	69.6%
	No	30.4%
Any issues with the effectiveness of the TSJ/BCM hearing were primarily occasioned by whom?	Police	14.3%
	CPS	20.0%
	Court	5.7%
	Defence	60.0%
The lawyer or team exercised sound judgement and grip on the case	Fully met	50.9%
	Partially met	43.8%
	Not met	5.4%
There was timely compliance with court directions or Judges' orders	Fully met	36.0%
	Partially met	52.3%
	Not met	11.6%
Any decision to discontinue was made and put into effect in a timely manner	Yes	62.5%
	No	37.5%
The decision to accept pleas or a basis of plea was sound	Yes	85.7%
	No	14.3%
Any basis of plea was in writing and signed by the prosecution and defence	Yes	37.5%
	No	37.5%
	Not known	25.0%
<b>Police disclosure</b>		
The police complied with their disclosure obligations	Fully met	35.0%
	Partially met	50.0%
	Not met	15.0%

Question	Answers	All cases
The main failing in the police disclosure was in relation to:	Listing items wrongly	11.5%
	Poor description	38.5%
	Lack of schedule	21.8%
	Wrong schedules	1.3%
	Witness precons	1.3%
	Other	25.6%
<b>CPS disclosure</b>		
The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure)	Fully met	56.3%
	Partially met	41.7%
	Not met	2.1%
The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure)	Fully met	59.7%
	Partially met	32.8%
	Not met	7.5%
The failure to comply with the duty of disclosure was a complete failure to disclose undermining or assisting material (late disclosure is not a complete failure)	Yes	0.0%
	No	100.0%
The prosecution complied with its duty of disclosure in a timely manner	Yes	59.1%
	No	40.9%
Sensitive unused material was dealt with appropriately	Fully met	64.0%
	Partially met	24.0%
	Not met	12.0%
Third party material was dealt with appropriately	Fully met	77.8%
	Partially met	11.1%
	Not met	11.1%
The DRS was properly completed with actions and decisions taken on disclosure	Fully met	44.8%
	Partially met	39.6%
	Not met	15.6%
Rate the overall quality of handling of unused material by CPS	Excellent	3.1%
	Good	39.6%
	Fair	38.5%
	Poor	18.8%

Question	Answers	All cases
<b>Recording outcomes</b>		
Hearing record sheets were completed accurately, contained sufficient instructions to progress the case and were uploaded to CMS in a timely manner	Fully met Partially met Not met	70.7% 26.7% 2.6%
Where appropriate, the prosecutor took all necessary steps to secure victim engagement in the court process	Fully met Partially met Not met	81.4% 13.6% 5.1%
<b>Victim and witness care</b>		
The prosecutor took account of the rights, interests and needs of victims and witnesses, including consulting with them where appropriate	Fully met Partially met Not met	83.3% 15.4% 1.3%
There was a timely VCL when required	Yes No Not done	74.1% 14.8% 11.1%
The VCL was of a high standard	Fully met Partially met	62.5% 37.5%
Rate the overall quality of the service from the police	Excellent Good Fair Poor	1.7% 30.8% 49.2% 18.3%
Rate the overall value added by CPS	Excellent Good Fair Poor	0.9% 51.8% 35.7% 11.6%
Were the appropriate special measures applied for?	Yes No	94.7% 5.3%
Was the application timely?	Yes No	75.0% 25.0%

# Annex C

## Glossary

### **Agent**

Agents are lawyers who are not employed by the CPS but who are booked to prosecute cases in court on its behalf, usually on a daily basis. They are not empowered to take decisions under the Code for Crown Prosecutors and have to take instructions from CPS lawyers in this regard.

### **Area Assurance Programme (AAP)**

A rolling programme of inspections of CPS Areas.

### **Barrister/Counsel**

Members of the Independent Bar who are instructed by the CPS to prosecute cases at court.

### **Better Case Management (BCM)**

The single national process for case management of Crown Court matters, led by Her Majesty's Courts and Tribunals Service and involving the CPS and police. The aim is to deal with cases more efficiently.

### **Case management system (CMS)**

IT system for case management used by the CPS. Through links with police systems, CMS receives electronic case material.

### **Casework Quality Standards**

These standards set out the benchmarks of quality that CPS seeks to deliver in prosecuting crime for the public. They cover treatment of victims and witnesses, legal decision making, casework preparation and advocacy.

### **Charging decision**

The process by which the police and the CPS decide whether there is sufficient evidence for a suspect to be prosecuted. The process is governed by the Director's Guidance on Charging, which came into effect in May 2013.

### **Code for Crown Prosecutors (the Code)**

This public document sets out the framework for prosecution decision making. It provides the authority for crown prosecutors to decide how cases are dealt with and what needs to be considered. Cases should only proceed if there is sufficient evidence to provide a realistic prospect of conviction and if the prosecution is required in the public interest.

### **Contested case**

A case where the defendant elects to plead not guilty, or declines to enter a plea, thereby requiring the case to go to trial.

### **Court Orders/Directions**

An order or direction made by the court at a case progression hearing, requiring the prosecution to comply with a timetable of preparatory work for a trial. These orders are often made under the Criminal Procedure Rules.

### **CPS Direct (CPSD)**

The CPS Area which takes the majority of CPS decisions as to charge. Lawyers are available on a single national telephone number at all times so that advice can be obtained at any time.

### **Cracked trial**

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

### **Crown advocate (CA)**

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

### **Custody time limits (CTLs)**

The statutory time limit for keeping a defendant in custody awaiting trial. May be extended by the court in certain circumstances.

### **Digital Case System (DCS)**

A digital system of storing and serving a digital case rather than using paper. Used for Crown Court cases.

### **Director of Public Prosecutions (DPP)**

A Senior Civil Servant who is the head of the CPS.

### **Disclosure**

The prosecution has a duty to disclose to the defence material gathered during the investigation of a criminal offence, which is not intended to be used as evidence against the defendant, but which may undermine the prosecution case or assist the defence case. There are various regimes and the type of case determines which one applies.

### **Discontinuance**

The formal dropping of a case by the CPS through written notice (under section 23 of the Prosecution of Offences Act 1985).

### **Effective trial**

A trial that goes ahead as a contested hearing on the date that it is listed.

### **Either way offence**

Offences of middle-range seriousness which can be heard either in the magistrates' courts or Crown Court. The defendant retains a right to choose jury trial at Crown Court, but otherwise the venue for trial is determined by the magistrates.

### **Guilty anticipated plea (GAP)**

Where the defendant is expected to admit the offence at court, based on an assessment of the available evidence.

### **Hate crime**

An offence aggravated by hostility based on race, disability, gender identity or sexual orientation.

### **Hearing record sheet (HRS)**

A CPS electronic record of events at court. If completed correctly, it acts as a continual log of court proceedings and court orders.

### **Ineffective trial**

A trial that does not go ahead on the trial date because of action or inaction by one or more of the prosecution, the defence or the court, requiring a further listing for trial.

### **Initial details of the prosecution case (IDPC)**

The material the prosecution is obliged to serve on the court and the defendant before the first hearing. The documents to be included vary depending on the type of case and anticipated plea, but always include the charge sheet and the police report (MG5).

### **National File Standard (NFS)**

A document detailing what must be included in the police file for particular types of cases. The latest version was published in May 2015.

### **Not guilty anticipated plea (NGAP)**

Where the defendant is expected to deny the offence at court, based on an assessment of the available evidence.

### **Offer no evidence (ONE)**

Where the prosecution offer no evidence in relation to an offence for which the defendant has been arraigned. This results in a finding of not guilty.

### **Plea and Trial Preparation Hearing (PTPH)**

A first hearing before the Crown Court, at which cases should be effectively managed and listed for trial. A PTPH form should be completed as far as possible before the PTPH and completed at that hearing. This is part of the Better Case Management initiative.

### **Pre-charge decision (PCD)**

The process by which the police and CPS decide whether there is sufficient evidence for a suspect to be prosecuted. The process is governed by the Director's Guidance on Charging.

### **Rape and serious sexual offences (RASSO)**

Includes rape, sexual assault, sexual activity offences, abuse of children through prostitution or pornography, and trafficking for sexual exploitation.

### **Review (initial, continuing, summary trial, full file, and so on)**

The process whereby an Area lawyer determines that a case received from the police satisfies, and continues to satisfy, the legal test for prosecution in the Code for Crown Prosecutors. One of the most important functions of the CPS.

### **Sensitive material**

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

### **Special measures applications**

The Youth Justice and Criminal Evidence Act 1999 provides for a range of special measures to enable vulnerable or intimidated witnesses in a criminal trial to give their best evidence. Measures include giving evidence through a live TV link, screens around the witness box and intermediaries. A special measures application is made to the court within set time limits and can be made by the prosecution or defence.

### **Standard Operating Practice (SOP)**

National processes that apply consistency to business practices. They provide a set procedure for all Areas to adhere to. Examples of SOPs are the Transforming Summary Justice SOP, the Better Case Management SOP and the custody time limits SOP.

### **Streamlined disclosure**

A process introduced as part of the Transforming Summary Justice programme. The main principle is that an unused material report is to be available for the defence at the first hearing in magistrates' court cases.

In guilty anticipated plea cases, a standardised form of written confirmation is to be provided to the defence, which confirms that the prosecution understand their common law duties.

In not guilty anticipated plea cases, there is to be early provision of unused material. An unused material report, called the Streamlined Disclosure Certificate (SDC), replaces the MG6 series and is served as soon as a not guilty plea is entered.

### **Transforming Summary Justice (TSJ)**

An initiative led by Her Majesty's Courts and Tribunals Service and involving both the CPS and the police, designed to deliver justice in summary cases in the most efficient way by reducing the number of court hearings and the volume of case papers.

### **Unsuccessful outcome**

Cases which result in an acquittal or are discontinued.

### **Unused material**

Material collected by the police during an investigation but which is not being used as evidence in any prosecution. The prosecutor must consider whether or not to disclose it to the defendant (see Disclosure).

### **Victim Communication and Liaison scheme (VCL)**

A CPS scheme under which victims are informed of decisions to discontinue or alter substantially any charges. The CPS must notify the victim of a decision to discontinue or substantially alter a charge within one working day for vulnerable or intimidated victims and within five working days for all other victims. In some case categories, the victim will be offered a meeting to explain these decisions. Formerly known as Direct Communication with Victims (DCV).

### **Victim Liaison Unit (VLU)**

A dedicated team of CPS staff in every Area, responsible for: all direct communication with victims; administering the Victims' Right to Review scheme; complaints; and overseeing the service to bereaved families.

### **Victim Personal Statement (VPS)**

Gives victims a voice in the criminal justice process by helping others to understand how a crime has affected the victim. If a defendant is found guilty, the court will take the VPS into account, along with all the other evidence, when deciding on an appropriate sentence.

### **Victims' Code**

A statutory code of practice for the treatment of victims of crime, with which all criminal justice agencies must comply. Its aim is to improve victims' contact with the criminal justice agencies by providing them with the support and information they need. It was published in October 2013 and updated in 2015.

### **Victims' Right to Review scheme (VRR)**

Under this scheme, victims can seek a review of CPS decisions: not to charge; to discontinue (or withdraw in the magistrates' courts) all charges, thereby ending all proceedings; to offer no evidence in all proceedings; and to leave all charges in the proceedings to 'lie on file' (this is the term used in circumstances where the CPS makes a decision not to proceed and requests that the charges be allowed to 'lie on the file' marked "not to be proceeded with without the leave of this Court or the Court of Appeal").

### **Vulnerable and intimidated witness**

Witnesses who may be vulnerable or intimidated for the purposes of special measures assistance include all child witnesses (under 18) and any witness whose quality of evidence is likely to be diminished because they: are suffering from a mental disorder (as defined by the Mental Health Act 1983); have a significant impairment of intelligence and social functioning; have a physical disability; or are suffering from a physical disorder. Complainants to sexual offences are automatically defined as an intimidated witness unless they wish to opt out.

### **Witness care unit**

A unit responsible for managing the care of victims and prosecution witnesses from a 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.

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