



HMCPSI

HM Crown Prosecution
Service Inspectorate

Serious youth crime

**A review of how the CPS handles
serious youth crime**

March 2020

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Who we are

HM Crown Prosecution Service Inspectorate 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

What this report is about

1.1. Youth work is a specialist area that differs significantly from other work in the criminal court. The main aim of those involved in youth justice is to prevent reoffending and to protect the welfare of any child coming into the system. This gives rise to a raft of youth-specific law, government and agency policy, guidance and procedures.

1.2. Whilst many of our Area and themed inspections have included youth casework, it is over six years since we last inspected the prosecution of youth crime as a specific topic. Much has changed in the meantime.

1.3. There are far fewer children and young people entering the youth justice system, but the cases that do are increasingly complex, serious and sensitive. There are many more cases involving youths being prosecuted for serious violence, weapons, major drug dealing and rape. Most of these serious cases, however, now remain in the youth courts rather than being transferred to the Crown Court. Crown Court teams deal with fewer cases, but the cases are more serious and often more difficult. Magistrates' court teams have many more cases, but they tend to be less complex. Youth cases, which can be both serious and complex, are often dealt with alongside the rest of the magistrates' court teams' work, which means there is much less time to give to each case.

1.4. CPS prosecutors dealing with young defendants need to be familiar with, and apply, the relevant law, procedure, policy and guidance in a way that delivers justice for the perpetrator of a crime, as well as for the victim and community. Their approach also needs to reflect the immaturity and vulnerabilities of many young people involved in crime. The CPS needs to train, support and equip its prosecutors to accomplish this and has recently developed a revised training course. It requires investment but, as we have reported before, resources have been tight for the CPS and police for some time. It is apparent that compliance with policy and casework are not yet at the standard that these cases demand. Once again, there needs to be more attention paid to improving the quality of disclosure of unused material.

1.5. In this inspection, we found a lack of focus on youth cases in some Areas that had affected the quality of youth casework. There were significant variations across Areas in how well youth charging decisions and casework were dealt with, especially in the application of youth policy or where the suspect's status as a youth was particularly relevant (such

as cared for children and youth diversion policy). In some CPS Areas, the work was not differentiated from adult magistrates' court casework, leading to some very serious allegations being reviewed, prepared and presented at court by prosecutors without the necessary training and experience. There was a risk that a police-charged case with an expected guilty plea could proceed to a first court appearance without a prosecutor's review. Weaker Areas also lacked robust quality assurance of their prosecutors' youth casework.

The CPS must ensure that training and policy continue to improve

1.6. We examined 20 files from each of the 14 CPS Areas. There are some aspects of casework quality that need urgent attention. Compliance with the Code of Crown Prosecutors in youth cases was excellent: 98.9% of cases met the Code standards.

However, in only 38.7% of cases were we able to rate the quality of charging advice as fully meeting the expected standard. In just over half of the cases examined (56.1%), case strategy and analysis were rated as satisfactory. Disclosure obligations were assessed as being dealt with fully in 51.7% of cases. Our findings also highlight that the prosecutor properly applied the youth policy and took account of guidance when making a charging decision in 38.1% of cases. While we recognise that 20 files are not statistically representative, the file results show significant variations across Areas. Where we found fully involved Area youth justice co-ordinators with clearly defined roles, the quality of casework was markedly better. It was also apparent that, in some larger metropolitan areas with more youth court cases, casework quality was better. This, however, was not universally the case, which may indicate that the impact of the Area youth justice co-ordinator and local focus had more of a bearing on quality.

1.7. In a small number of Areas where there was a clear focus on youth work, prosecutors and managers were committed to better casework, and we found evidence of strong leaders driving strategy, ongoing training, and a real appetite to improve performance. The CPS needs to ensure that this drive and enthusiasm is replicated nationally.

1.8. The process has already begun. The national training programme has recently been reviewed but has yet to be delivered. Those developing national youth policy have a clear interest and purpose, and the Chief Crown Prosecutor who leads nationally on youth crime is committed to raising the profile and quality of youth casework. There are youth offender specialists, but they often do not meet the CPS's own criteria for being a

specialist, because they are not prosecuting youth courts regularly. There is also a cadre of Area youth co-ordinators, but the expectations of them are not clear. Inspectors noted that the CPS had recently identified that the roles need to be better defined and had begun a review.

1.9. The CPS must ensure that training and policy development continue to improve, and that a more consistent approach, more robust focus and better casework are delivered in all Areas.

Recommendations, issues to address, good practice and strengths

Recommendations
Crown Prosecution Service Headquarters should review the criteria for becoming an approved youth offender specialist, especially in relation to the need to make regular court appearances, and how that can be achieved in the team structures usually employed by Crown Prosecution Service Areas. (paragraph 3.16)
Crown Prosecution Service Headquarters must ensure that specialist youth training is delivered to all those dealing with youth work, and that training, guidance and policy are always up-to-date, comprehensive and relevant. (paragraph 3.26)
Crown Prosecution Service Headquarters needs to ensure that there are minimum requirements for the role of Area youth justice co-ordinators and that these are clearly set out and implemented in Areas. (paragraph 4.7)
Each Crown Prosecution Service Area needs to ensure that their Area youth justice co-ordinator is qualified as a youth offender specialist and fully understands their duties in the role. (paragraph 4.7)
Crown Prosecution Service Headquarters should require Areas consistently to produce specific youth performance data and direct formal quality assurance (using the current individual quality assessment scheme) to drive improvement in youth casework. (paragraph 4.18)
Area and Crown Prosecution Service Direct managers should ensure that all prosecutors giving charging advice or conducting youth cases have refreshed their knowledge of policy and guidance. Areas should monitor compliance at and after charge. (paragraph 5.27)
Crown Prosecution Service Headquarters should ensure prosecutors have enough time to review and prepare youth cases for trial. (paragraph 5.43)

Crown Prosecution Service Areas should ensure that any advocate deployed to a youth court has had sufficient training and experience to deal with matters that are listed in or may be moved to that court, and time to prepare adequately. (paragraph 5.53)

Crown Prosecution Service Areas should have a clear strategy for prioritising youth work to ensure that it is dealt with promptly. This strategy should be kept up-to-date. (paragraph 5.61)

Issues to address

Crown Prosecution Service Headquarters should ensure that the youth policy and guidance includes, or links to, other policy and guidance that is relevant but may not have been specifically written for youth casework. (paragraph 3.8)

Crown Prosecution Service Headquarters should continue its work on standard operating practices to include a mandatory, full review of all youth cases before the first court hearing. The outcome should include a method of tasking on the case management system to allocate the reviews to lawyers. (paragraph 3.21)

Crown Prosecution Service Areas should ensure that prosecutors and managers take every opportunity presented in casework to provide good quality feedback to the police. (paragraph 5.13)

Good practice

Some Areas have developed and delivered local training to fill gaps in the national training provision. (paragraph 3.28)

One Area produces youth casework performance data and shares it with the police at performance meetings. (paragraph 4.15)

2. Context and methodology

Context

1.10. How the criminal justice system interacts with children and young people suspected of committing crime differs from adult cases in a number of key respects. Under the age of ten, children are deemed not to be capable of committing crimes. Between ten and 17, they can be prosecuted, but under a different regime and almost always in a different court. There is no longer a presumption that children aged ten to 13 cannot form the mental state required for many offences, but a child's relative immaturity and potential vulnerability are recognised by the law and criminal justice system. The youth justice agencies' principal aim is mandated¹ as preventing reoffending, and the court must² consider the welfare of any child or young person brought before it.

1.11. In 2011, we published the report³ of our inspection dealing with youth offender casework, and we followed this up in 2013⁴. Since then, while many of our Area and thematic inspections have included youth casework, we have not reported specifically on youth crime. In the intervening years, there have been significant changes for youths in the criminal justice system, including how many cases reach court, the types of offences and where cases are heard. These changes, especially when combined with the challenge of decreasing resources, bring increasing challenges to the CPS in how work is prioritised and dealt with.

The number of cases entering the system

1.12. Fewer children now reach the criminal courts. According to the latest data available from the Youth Justice Board (2017-18)⁵, "over the last ten years, the number of 10-17 year old first time entrants [to the criminal justice system]⁶ has fallen by 86%, compared to a 53% decrease in adult first time entrants". The CPS's data shows that in 2018-19, it received 27,505 youth cases for prosecution, a fall of 37% from the

¹ Section 37, Crime And Disorder Act 1998

² Section 44, Children And Young Persons Act 1933

³ *CPS youth offender casework*; HMCPSI; November 2011

www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-youth-offender-casework-thematic/

⁴ *CPS youth offender casework follow-up*; HMCPSI; October 2013

www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-youth-offender-casework-thematic-follow-up/

⁵ *Youth justice statistics: 2017 to 2018*; National Statistics; January 2019

www.gov.uk/government/statistics/youth-justice-statistics-2017-to-2018

⁶ First time entrants are children aged ten to 17 who receive their first youth caution or court conviction recorded on the police national computer.

43,684 received four years earlier. Youth cases also accounted for a smaller proportion of all cases received in 2018-19, falling from 6.7% to 5.8% over the same period.

1.13. Youths involved in low level criminality, such as minor assaults, damage and disorder, or shop thefts, are likely to be dealt with through out-of-court disposals (OOCd). These include cautions, conditional cautions or community resolutions. The conditions attached to a caution can be intended to rehabilitate the child as well as punish them or have them make reparation to the victim and/or the community. A community resolution enables the police, in consultation with the victim, to resolve minor offences without a formal sanction. The resolution might include an apology and compensation for any damage, a warning and agreement to an acceptable behaviour contract, and/or signposting to substance misuse programmes or other support that the young person needs. Young people aged 16 or 17 can also be issued with a fixed penalty for disorder.

1.14. Data is not available to show how many children are diverted away from the criminal justice system between a crime being reported and an arrest being made. However, data for all cases in the criminal justice system⁷ shows that, while all other types of out-of-court disposals have declined over the last three years (June 2016 to June 2019), the proportion of community resolutions has increased.

Types of offences

1.15. In recent years, there has been public concern and media coverage of what is seen as an increase of serious offences committed by youths. Of particular concern are homicides, knife crime and other serious violence, sexual offences and serious drug offences. Youth Justice Board data for 2017-18 shows that the number and proportion (when compared to adults) of weapons offences committed by children increased in each of the previous four years⁸. In the same year, robbery and drug offences also increased compared to the year before, having previously been in decline.

1.16. In the case of drug offences, there is growing concern about county lines. The National Crime Agency has described this model of

⁷ *Criminal justice system statistics quarterly: June 2019*; National Statistics; November 2019
www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-june-2019

⁸ Ibid

drug dealing: “When drug gangs from big cities expand their operations to smaller towns, often using violence to drive out local dealers and exploiting children and vulnerable people to sell drugs. These dealers will use dedicated mobile phone lines, known as 'deal lines', to take orders from drug users. In most instances, the users or customers will live in a different area to where the dealers and networks are based, so drug runners are needed to transport the drugs and collect payment.” County lines dealers commonly target young and/or vulnerable people to move drugs and cash, and traffic children to areas a long way from their homes to take part in the network’s dealing enterprise. Often, children do not recognise they are the victim of grooming and exploitation.

Where cases are heard

1.17. Cases with child defendants are now almost always heard in youth courts, even complex or sensitive cases such as serious sexual offending, dealing in Class A drugs or cases with a number of defendants. In 2018-19, ‘either way’ offences (cases that could be heard in either the Crown Court or the magistrates’ or youth courts) went to the Crown Court in only 1.5% of youth cases, compared to 8.3% for adults.

1.18. In some CPS Areas, youth work that is not going to the Crown Court is dealt with by the same teams and using the same processes as magistrates’ court cases, and this can affect how well youth cases are progressed.

Resources

1.19. We have reported before, most recently in our thematic reports on the handling of rape cases (published December 2019) and the disclosure of unused material (published January 2020), on the impact that inadequate resources have had on the quality of casework. Youth casework is not immune to those pressures, but also suffers from not being treated in the same way in all Areas. In some Areas, youth casework is treated as a specialism, with separate allocated resources, and separated from other case types. In others, it forms just a part (and a small part) of the magistrates’ courts caseload.

1.20. The police and CPS have been provided with extra resources in this year’s comprehensive spending review that will result in an increase in police numbers and CPS prosecutors. This is to be welcomed and will relieve some of the pressures faced by those in the criminal justice system.

Methodology

The inspection question and framework

1.21. Our inspection question was: “Is the CPS effectively handling serious youth cases?” We set out three inspection objectives:

- To assess whether CPS handling of serious youth casework is efficient and effective, and whether there is a high standard of legal decision-making in serious youth cases.
- To determine whether CPS is following its youth policy in terms of decision-making and case-handling.
- To assess whether policy and guidance in relation to youth prosecutions is supporting the effective prosecution of youth crime.

1.22. The inspection framework (set out in full in annex A) was divided into two sections: policy, guidance, training and support; and casework. Performance expectations and criteria were set out for each section.

How we inspected

1.23. A CPS youth expert acted as our liaison, and worked with us as we developed the inspection. They also delivered the revised youth prosecutor training course to the legal inspectors on the team before the inspection began.

1.24. We read 280 files (20 youth court cases from each of the 14 CPS Areas) and used a set of 59 questions to assess the quality of the casework. The questions and results of the file reading are set out in annex B. We carried out two consistency exercises to ensure that inspectors were reaching sound judgements on the files and were clear about the guidance supporting the file examination question.

1.25. We chose files to examine that included allegations serious enough to be sent to the Crown Court had they been alleged against an adult. These included rape and other serious sexual offences, serious violence, and offences involving weapons. Of the 280 cases examined, 80 were complex or sensitive. County lines cases are not specifically flagged on the CPS case management system, but we were able to identify and include some with the help of Areas, who may locally identify county line cases. The cases in our sample were almost all dealt with in the youth court but, to achieve a balance of offence types, we also

included nine cases that had been committed for sentence to the Crown Court.

1.26. The police charged eight of the cases in the sample, Area-based lawyers made the charging decisions in 168, and the remaining 104 received charging advice from CPS Direct. Successful conclusions were reached in 171 cases, of which over half (93) were timely guilty pleas. The majority of the 109 unsuccessful outcomes were discontinuances (69 cases).

We chose files to examine that included allegations serious enough to be sent to the Crown Court had they been alleged against an adult

1.27. We conducted interviews at Area and national level, including with the Chief Crown Prosecutor who holds the national youth portfolio, the national legal training manager and policy lead, and local Area youth justice co-ordinators. We held focus groups of youth offender specialists, prosecutor review teams and youth court advocates.

1.28. We conducted observations of youth courts in all 14 Areas and interviewed District Judges who deal with youth cases.

1.29. We analysed data relating to youth cases and outcomes, and a small selection of documents supplied by Areas and CPS Headquarters. The documents included the outcomes of quality assurance work, information about relevant CPS team and other stakeholder meetings, any work targeting youth cases, and details of training delivered.

3. Policy, guidance and training

CPS policy and guidance

1.30. The CPS youth guidance draws prosecutors' attention to the key principles governing youth cases:

- The principal aim of the youth justice system is to prevent offending (section 37 Crime and Disorder Act 1998)
- The welfare of the youth is not paramount but should be considered by the court (section 44, Children and Young Persons Act 1933)
- The Code for Crown Prosecutors states that prosecutors must consider the interests of a youth, amongst other public interest factors, when deciding whether a prosecution is needed
- The Ministry of Justice's standards for children in the youth justice system, published in July 2019, define the minimum expectation for youth justice agencies at each stage of a child's journey through the justice system.

1.31. The CPS policy and guidance is comprehensive and readily accessible not only to prosecutors internally, but also to anyone else who is interested, via the public CPS website⁹. The purpose of the policy is to provide support and guidance to prosecutors. It sets out the key considerations when making a decision to prosecute youths and provides detailed guidance for certain types of offending. Because it is available to anyone, it also gives the public information about what they can expect of the CPS.

1.32. The guidance and policy cover, amongst other things, the roles and expectations of youth offender specialists (YOS) and Area youth justice co-ordinators (AYJC), the handling of youth files, and offending behaviour in children's homes and schools or by looked-after children. The factors that have an impact on the decision to prosecute, especially in terms of public interest, are well covered and include considerations about the offender, the offence and the victim.

1.33. The policy and guidance recognise specific sensitivities around decisions whether or not to prosecute youths for particular types of offending, such as sexual offences. The issues a prosecutor must consider are wider than would normally be considered in the case of an

⁹ *Youth offenders*; CPS; April 2019
www.cps.gov.uk/legal-guidance/youth-offenders

adult, and the guidance provides detailed and substantial support for those making charging decisions in these often difficult cases.

1.34. There is also detailed guidance on other matters unique to youth work, such as where cases will be heard, what happens to youths charged with adult offenders, and sentencing. There is also a wealth of guidance on matters applicable not just to youth casework, such as responsibilities to victims and witnesses, special measures and the use of intermediaries.

1.35. The policy and guidance set out above are not an exhaustive list of what is available, but we highlight them to show the focus within CPS Headquarters on offering support to prosecutors in Areas. Those involved have considered the issues that are likely to arise throughout the whole life of a case, from the decision to charge to sentencing. We saw evidence that the policy and guidance are reviewed regularly and reflect developments in law and practice.

1.36. The youth policy does not, but ought to, include (or link to) guidance provided elsewhere on the statutory defence open to suspects who may be victims of trafficking or modern slavery (section 45 of the Modern Slavery Act 2015). It is a defence that may be particularly relevant for youth suspects working in county lines set-ups, an increasingly prevalent mode of dealing drugs. The CPS delayed publishing guidance until this report was ready. The guidance on section 45 is helpful. It includes sections dealing with referral through the national mechanism for identifying victims of modern slavery, and prosecutors' duties where children may have committed a crime as a direct consequence of trafficking or exploitation.

1.37. There is useful guidance on the CPS internal website on county lines, which dates from June 2018, but which is also not linked or referenced in the youth guidance and policy. The section on county lines in the youth guidance is very brief in comparison.

Issue to address

Crown Prosecution Service Headquarters should ensure that the youth policy and guidance includes, or links to, other policy and guidance that is relevant but may not have been specifically written for youth casework.

1.38. Those responsible for policy told us they had close links with colleagues responsible for training and with the Chief Crown Prosecutor, who leads on youth work. These relationships should help in ensuring that youth policy and guidance remains up-to-date and continues to be effective in supporting prosecutors.

Compliance with policy and guidance

Casework findings

1.39. In our file sample of 280 cases, there was full compliance with youth policy and guidance, at the time of charging, in 38.1% of cases, partial compliance in 36.3% and none in 25.6%. Post-charge, compliance was worse. The cases that fell below the expected standard usually either failed to recognise that the suspect was a youth at all, or the prosecutor asserted that youth policy had been considered but included no analysis of the factors and issues that would inform the decision to prosecute a youth.

1.40. In Section 5, we discuss specific elements of policy compliance in the file examination, such as venue, remands, the modern slavery defence and engagement with youth offending teams.

Youth offender specialists

1.41. Key to the CPS policy for youth suspects is the approval by senior managers of youth offender specialists (YOS) to handle the cases. The CPS expects all its prosecutors to prosecute youth courts, deal with youths appearing with adults in the other courts and carry out an initial review before the first hearing to enable a youth offender to enter a guilty plea if offered. However, it reserves some work for YOS. They are expected to:

- review files involving youth offenders and take all major decisions in relation to those files
- make regular appearances in the youth courts
- together with the Area youth justice co-ordinator, take part in formulating and implementing training for other lawyers.

1.42. YOS must be approved by a senior manager. They must be a senior crown prosecutor with adequate experience and appropriate skills and have attended the youth offender training course. We discuss training in more detail from paragraph 3.22.

1.43. The term ‘major decisions’ is not defined, but the policy does refer to decisions to charge or divert being referred to YOS. We envisage it would also include post-charge reviews in contested cases and any decision to discontinue a case. ‘Adequate experience’ and ‘appropriate skills’ are also not defined.

1.44. Business models in the CPS tend to place prosecutors either in advocacy teams or office-based charging and review teams. We found that lawyers working in office-based teams did not appear in the youth court regularly or at all. This means that, whilst they were still considered to be and acted as YOS, they did not meet the advocacy expectation. The risk of de-skilling prosecutors who do not get regular advocacy experience is not unique to youth courts, but we found limited evidence that senior managers nationally or in Areas had considered how to address the issue for YOS.

1.45. There is, therefore, an unresolved conflict between the usual team structures and how Areas ensure that those handling youth cases meet the expectations of them, so that they have the necessary experience and skills.

Recommendation

Crown Prosecution Service Headquarters should review the criteria for becoming an approved youth offender specialist, especially in relation to the need to make regular court appearances, and how that can be achieved in the team structures usually employed by Crown Prosecution Service Areas.

Review before the first court hearing

1.46. All youth cases should receive a proper review to determine whether there is sufficient evidence for a realistic prospect of conviction, and whether a prosecution is in the public interest. In cases involving young people, the public interest factors can be very different to those for adults. For example, a prosecutor must consider whether a youth caution, youth conditional caution or other intervention is appropriate. They should make the decision only when they have sufficient information about the youth's home circumstances and background from sources such as the police, youth offending team and children's services.

1.47. A decision to prosecute a youth offender is open to judicial review if it can be demonstrated that the decision was made regardless of, or clearly contrary to, a settled policy of the Director of Public Prosecutions,

which would include proper identification, consideration and balancing of the matters relevant to the public interest.

1.48. In cases in which the CPS is asked to give pre-charge advice, this is the time to weigh these factors. For cases charged by the police where there is expected to be a not guilty plea, CPS standard operating practices ensure that all cases receive an initial review before the first court hearing. However, there is no such opportunity for cases that the police charge and where a guilty plea is expected. The cases require only a basic file (which does not have to include the statements) and are seen by a prosecutor for the first time on the day of court, where they can receive only cursory review. In the case of youths, this is clearly inadequate to meet policy and legal requirements.

1.49. In some Areas (North East and South West, for example), arrangements have been made to review anticipated guilty plea youth cases before they go into court. This meets CPS policy and also enables the Areas to identify cases that should not have been charged or that need further work. It also helps ensure that cases are dealt with promptly, which is another tenet of youth policy. However, not all Areas have made suitable provisions, and are therefore not complying with youth policy, which risks judicial criticism and missed opportunities to prevent reoffending.

1.50. Since we highlighted the issue during this inspection, the CPS has announced that it is introducing an amendment to its standard operating practices (SOP) to build in a review of all youth cases pre-court. We have already highlighted to the CPS the need to ensure that the case management system generates a task for the prosecutor so that they are made aware of the need for a review. This will support the effectiveness of the amended SOP.

Issue to address

Crown Prosecution Service Headquarters should continue its work on standard operating practices to include a mandatory, full review of all youth cases before the first court hearing. The outcome should include a method of tasking on the case management system to allocate the reviews to lawyers.

Training

National training

1.51. It is expected in the CPS that the major decisions on youth cases will be taken by the youth offender specialists (YOS) mentioned above. One of the requirements to be approved as a YOS is completion of the in-house youth offender training course (YOTC) which used to be a three-day course, but which has now been condensed into a single day.

1.52. It is right that there should be a training requirement before prosecutors can undertake this difficult and important aspect of CPS work. Youth casework differs substantially from that involving adults and features some complicated legal provisions, for example those relating to the venue in which a case should be heard, bail and custody, and sentencing. Decisions on diversion from the criminal courts and the public interest in prosecuting require consideration of more and different factors than for adults. Failure to properly understand and apply the law and policy can have a significant impact on both victims and defendants.

1.53. HMCPSI legal inspectors took the one-day YOTC before starting file examination, so we are well-placed to comment on its contents. We found it helpful and effective in giving a basic grounding of the issues prosecutors will deal with in youth work. As a one-day course, however, it was necessarily more superficial or high-level than when it lasted three days. It is a good starting point from which prosecutors can build their knowledge, but it does not cover in sufficient detail all the relevant law, practice and policy. It has also not kept pace with legal developments. Some CPS prosecutors who have taken the training told us it was insufficient preparation for undertaking youth court work. One described it as a “whistle stop tour” of the necessary law and policy.

1.54. Many of the prosecutors we spoke to were dealing with youth casework without having taken the YOTC, contrary to the national requirement. This was the case in smaller Areas with fewer youth cases, but also in larger metropolitan Areas with heavier caseloads. Some prosecutors had been through an induction programme that included elements relating to youth work, and others had received local training, but neither of these are adequate substitutes for the national required course. Those who had undertaken the YOTC had not always done so recently. In some cases, a number of years had elapsed since their training. Law and practice in this area of criminal justice evolve quickly, so there is a risk that some prosecutors’ knowledge is less relevant or out-of-date.

1.55. The CPS has a central legal training team (CLTT). We interviewed staff in the team, and they acknowledged that the focus on specialist youth training had slipped and that the YOTC is no longer fit for purpose. CLTT have been working with the lead Chief Crown Prosecutor and with Area youth justice co-ordinators (AYJCs) to update the training. The revised training was reviewed by a focus group of AYJCs, and their feedback was used to develop the resulting two-day training package. It was to be piloted then rolled out nationally in late October 2019.

Recommendation

Crown Prosecution Service Headquarters must ensure that specialist youth training is delivered to all those dealing with youth work, and that training, guidance and policy are always up-to-date, comprehensive and relevant.

1.56. Late in the inspection's evidence-gathering phase, a modern slavery training video was made available on the CPS's internal website.

Local training

1.57. In some Areas, we found little or no evidence of any training beyond the national YOTC. We did see good practice in some Areas, however, where they had devised and delivered local training to address changes in youth offending, notably modern slavery and trafficking, and county lines drug dealing.

Good practice

Some Areas have developed and delivered local training to fill gaps in the national training provision.

Modern slavery

1.58. A London North lawyer put together training on modern slavery, which they delivered to both London Areas. In West Midlands, the national training was updated locally when gaps were identified. In Yorkshire and Humberside, there is a helpful guide to assist prosecutors. The East Midlands youth justice co-ordinator wrote an engaging blog dealing with the relevant issues arising from modern slavery, which they based on the story of Oliver Twist.

1.59. Prosecutors we spoke to would welcome more training on modern slavery, especially on the defence in section 45 of the Modern Slavery Act 2015, which may be open to suspects who have been enslaved or exploited. The need for such training is reinforced by our finding from the

file examination that charging lawyers considered section 45 properly in fewer than half the cases where it might have applied (paragraph 5.8).

County lines

1.60. This type of offending features more often in some Areas than others, although it is becoming more widespread. In London, there was a much greater recognition of this type of offending, and a better understanding of the issues involved. It is perhaps to be expected, therefore, that there would be local training around this subject available to prosecutors.

1.61. In Areas that see less of this type of offending, when prosecutors do come across a case, they can be hampered by a lack of training. We were told that training on county lines would be welcomed.

Links to national guidance

1.62. The CPS has provided useful guidance on modern slavery and county lines, but neither are contained or linked to in the youth guidance, which may help to explain why prosecutors feel there is a gap in their understanding. We have identified this as an issue to address (paragraph 3.8).

4. Strategy and leadership

Area

Area youth justice co-ordinators

1.63. CPS policy provides for, but does not require, the appointment of Area youth justice co-ordinators (AYJCs). The policy states that the Area's most senior legal manager(s) should decide whether to appoint one, and what functions the AYJC will carry out, but they may include:

- Acting as a service ambassador, providing advice to the Chief Crown Prosecutor (CCP) or Deputy Chief Crown Prosecutor (DCCP) on youth matters and liaising at a strategic level on behalf of the CCP or DCCP with other agencies
- Being a focal point for advice on good practice within the Area
- Being the point of contact for CPS Headquarters
- Having responsibility for monitoring achievements against national and locally agreed targets in the magistrates' and youth courts and the Crown Court
- Co-ordinating the formulation and implementation of training for other lawyers in the Area.

1.64. The role is an important one, providing advice across all levels, sharing good practice and acting as a reference point for colleagues in this specialised and sensitive area. Anyone appointed as an AYJC should, according to the policy, be an experienced youth offender specialist (YOS) and be able to carry out the functions of a YOS. If the AYJC is a YOS who does not meet the advocacy requirement (as discussed in paragraph 3.15), their experience will not be as well-rounded as it ought to be.

1.65. We found there was a great deal of difference nationally in who was appointed as the AYJC. The grade of lawyer appointed varied from Senior Crown Prosecutor (SCP) through to Deputy Chief Crown Prosecutor. There is no reason why an SCP should not be an effective co-ordinator, but concerns were expressed to us that staff in less senior grades might not feel comfortable speaking up or may not have the opportunity to influence area strategy at a higher level.

1.66. There was significant disparity in the knowledge and experience amongst AYJCs, with some new in post who had not yet had the

opportunity to develop their skills. Some AYJCs were also not as actively involved to the same extent as colleagues in, for example, East and West Midlands, and both London Areas. To be fully effective, the role should involve the AYJC in monitoring youth performance against key indicators, but this was not the case in many Areas.

1.67. In London, where both AYJCs are SDCPs, the incumbents are fully involved in promoting and improving youth work. In London North, the AYJC also leads case management panels for youth work. The London AYJCs are seen as approachable and supportive by their colleagues. In some other Areas, however, prosecutors were unaware of what the role entailed or who held the position. Unsurprisingly, where the AYJC was effective, prosecutors had a clear understanding of the role and recognised its value to them.

1.68. In both Midlands Areas, the AYJCs are involved in training, proactive in supporting colleagues and are a focal point for advice and good practice. This level of commitment is not in place nationally. In East Midlands, the AYJC carries a caseload and attends youth court on a weekly basis. They also wrote a blog about modern slavery based on the story of Oliver Twist, which was well received and was a creative way to get staff interested.

1.69. The various issues we identified have led to inconsistency in the implementation and effectiveness of the AYJCs, which reduces significantly the support that the post should lend to CPS youth policy aims.

Recommendations

Crown Prosecution Service Headquarters needs to ensure that there are minimum requirements for the role of Area youth justice co-ordinators and that these are clearly set out and implemented in Areas.

Each Crown Prosecution Service Area needs to ensure that their Area youth justice co-ordinator is qualified as a youth offender specialist and fully understands their duties in the role.

Area strategy and leadership

1.70. We found a lack of consistency in strategy and leadership across Areas. There are Areas that clearly prioritise youth work, with clear direction from senior managers, youth-focused training, allocation of work to prosecutors with the right experience and skills, and case management plans for appropriate youth cases. However, few Areas had this level of focus. Both London Areas had a strong performance ethos, with good leadership and close co-operation with and by the AYJCs. There was also significant work done in a pan-London group on casework involving youths. This specific focus on youth casework raised the profile and understanding of policy across the Areas. Training and good practice were shared. Unsurprisingly, in Areas with strong leadership and an effective AYJC, there was greater involvement and commitment from managers and lawyers, who were focused and enthusiastic.

1.71. Most Areas, however, showed little or no strategy or leadership for youth work. The number of youth cases made no difference to the degree of commitment, and we saw variations in Areas with both a heavy and a light caseload. In the weaker Areas, youth work was not seen as a specialism, in the sense that there were no measures, processes or assurance in place that distinguished it from adult magistrates' court work.

National

1.72. A Chief Crown Prosecutor (CCP) is appointed to lead on youth work, a role which is intended to raise the internal and external profile of youth work. The current incumbent took on the role in June 2019, shortly before the fieldwork for this inspection began.

1.73. It was apparent that the CCP lead had been working with colleagues in policy and training teams, and we were told this has led to a more joined-up approach, and the development of the new central legal team training course. It was too early to see the full extent of the CCP's work. The CCP lead was frank in saying that strategic and operational focus in recent years had been on issues such as rape and serious sexual offences, and the disclosure of unused material, rather than on youth casework.

1.74. One of the functions of the lead CCP is to regularly bring together the Area youth justice co-ordinators to discuss matters that have arisen and developments in law and practice. This is a good opportunity to share experiences across the CPS, and to learn from each other how to improve national and Area performance. Between the appointment of the

new lead CCP and when we concluded our evidence-gathering in late August 2019, there had been one meeting of the AYJCs, with further meetings and telephone conferences planned.

1.75. Some AYJCs we spoke to were aware of the CCP lead's function and were involved in working with them, but others were less clear about the role and their part in the process. This is hampering the effectiveness of the lead CCP's role in spreading good practice. The lead CCP shared the view of some of our other interviewees about the need to ensure consistency across the Areas in terms of who was appointed as an AYJC, what the role involved, and how to ensure that they were and remained fully involved. We have made two recommendations (paragraph 4.7) relating to AYJCs.

Performance data

1.76. There is no performance reporting requirement for youth work nationally, nor is one required for Areas or for the CCP lead or AYJC roles. The data produced by the CPS for their two standard performance dashboards does not include any information specific to youth cases, although the data could be extracted from the casework and management information systems.

1.77. There is inconsistency in the extent to which Areas produce and analyse performance data for youth casework. In one Area, youth performance data was taken to performance meetings with the police. This is good practice, but is not replicated or required nationally, and as a result, was rare.

Good practice

One Area produces youth casework performance data and shares it with the police at performance meetings.

Quality assurance

1.78. CPS Headquarters also does not require quality assurance work at national or Area level for youth cases specifically, and the CCP lead does not have this as a specific responsibility. We found little evidence of it being carried out in Areas.

1.79. Two Areas (East and West Midlands) have used the national CPS quality assurance process (individual quality assessment – IQA) to look at youth casework, but other Areas have not, nor have they used any other assurance processes. We were told that there was insufficient volume of work in each youth court session to carry out advocacy IQAs, but this would not prevent a less formal assessment of case progression and presentation in youth courts.

1.80. In view of the casework examination findings (which we discuss in section 5), it is apparent that more sustained quality assurance work is needed. Applied robustly, it would also help in ensuring a consistent approach in applying law and policy, and in identifying training needs.

Recommendation

Crown Prosecution Service Headquarters should require Areas consistently to produce specific youth performance data and direct formal quality assurance (using the current individual quality assessment scheme) to drive improvement in youth casework.

5. Casework

Introduction

1.81. In this section, we discuss key findings from our examination of 280 youth cases, 20 from each of the 14 geographical Areas. The results of the file examination are set out in annex B, and are available on our website, with the raw data.

Vulnerable suspects

1.82. Youths who come into contact with the criminal justice system very often have dealings with social services, youth offending services and/or other agencies before their first encounter with a court. The youth offending services (YOS) or other agencies are often aware of a defendant's complex needs and vulnerabilities. They can advise prosecutors on whether prosecution or diversion is most appropriate to prevent reoffending, or put forward suggestions for bail conditions that would support the defendant and also protect victims, witnesses and the public. The CPS is required to seek the YO's views when it comes to deciding whether a youth should be prosecuted.

1.83. We were told of positive relationships between the CPS and YOS. However, there is room to improve how well these relationships translate into good liaison on individual cases. In our file sample, we found that third parties were asked for the views about prosecution in under half of cases (45.7%) and third parties provided their views in 57.9% of applicable cases.

1.84. We considered to what extent the prosecutor had considered the suspect's specific vulnerabilities, such as lack of maturity, mental health or personal circumstances. We found that the vulnerability of the defendant was considered in public interest decisions in fewer than half (44.4%) the relevant cases. The prosecutor considered whether the offence might be gang-related (which carries with it the likelihood of young people being pressured into offending) in just over a quarter of cases (27.4%).

1.85. In sensitive cases, the suspect's background and circumstances were considered more often: third parties' views were sought in 77.6% of instances and input was provided in 73.3%. However, there is still room for prosecutors to improve the thought they give to the complex issues and vulnerabilities of young people and how they affect casework decisions.

County lines and modern slavery

1.86. For suspects who may be victims of trafficking, there is a statutory defence available under section 45 of the Modern Slavery Act 2015. For youths, this is most likely to arise in the context of county lines enterprises (which we explained in paragraph 2.7), where children are taken long distances from their homes to work in drug supply.

1.87. There is a mechanism for someone who may have been trafficked to be referred to the designated authority. Where a referral is made, the designated authority will make an initial finding on whether there are reasonable grounds to believe the suspect is a victim (a 'reasonable grounds finding'). After this, they make a conclusive decision. The aim is for the initial (or reasonable grounds) finding to be completed within five working days of the referral, which should not significantly delay charging decisions in bail cases or later review.

1.88. We discuss above the inconsistency in understanding the policy and providing training on county lines and modern slavery (from paragraphs 3.7 and 3.29). We identify an issue to address in paragraph 3.8. We also found that Areas were not consistent in their approach when the designated authority made a positive initial or conclusive finding that a youth had been trafficked. The finding is an important step but does not determine the CPS decision to prosecute or discontinue later on. CPS guidance makes clear that, even if factors indicating trafficking are present, the likelihood of the defence succeeding, and the public interest in pursuing a case (if the evidential test is passed) must be carefully assessed. Some prosecutors we spoke to were unclear about the referral process and its application to the statutory defence or its impact on public interest assessments. This was confirmed by our file examination, where the possibility of the statutory defence applying was weighed properly in fewer than half (49.2%) of relevant cases.

1.89. This inconsistent approach was highlighted by two cases that did not comply with the Code for Crown Prosecutors (discussed further from paragraphs 5.15 and 5.28). In both cases, a youth was arrested in circumstances that suggested they may have been trafficked. In one, the youth was charged when there was already a reasonable grounds finding. In the other, the case was discontinued before a referral to the designated authority had been made. In neither case had the section 45 defence, the evidence of trafficking and the relevant public interest factors, been properly explored or a reasoned decision recorded.

Police service

At charge

1.90. The eight police charges were all in accordance with the Code for Crown Prosecutors, although one (a drugs allegation) was not submitted to the CPS for charging advice, in breach of the Director's Guidance on Charging.

1.91. In half the relevant cases, the police supplied the CPS with relevant third-party material, such as information relating to the youth's background, involvement with social services or other agencies that could impact on the public interest, medical records or forensic material.

Post-charge

1.92. The police file submission post-charge complied with national file standards in 52.8% of relevant cases and did not in the other 47.2%. The most common failing was not including the right schedule of unused material, properly completed, for disclosure to be considered by the prosecutor. Other failings included not supplying a victim personal statement or other key statements from witnesses, or sending a poor summary of the evidence. Sensitive cases were deficient more often than non-sensitive cases (52.6% compared to 44.9%). In a separate question, we assessed police specifically on their obligations regarding the disclosure of unused material, and found that there was full compliance in 56% of cases, partial in 35.1% and none in 8.9%.

1.93. The CPS noted failings in the file submitted and fed them back to the police in 56.3% of instances, identified the failing but did not feed back in 4.2% and did neither in the remaining 39.5%. Specifically in relation to disclosure, CPS feedback was again not as frequent as it should have been, with over half the relevant cases (55.3%) showing no identification of flaws or feeding back to the police by the Area. Feedback on the file and disclosure obligations was less frequent in sensitive cases, especially rape and other sexual offences. The lack of consistent and accurate feedback limits police officers' and supervisors' opportunities to rectify errors and to learn what they could do better next time.

Issue to address

Crown Prosecution Service Areas should ensure that prosecutors and managers take every opportunity presented in casework to provide good quality feedback to the police.

1.94. The police file submission was sent on time in 78.2% of all cases, and more often in sensitive cases (88.3%).

Charging decisions

Compliance with the Code for Crown Prosecutors

1.95. Area-based lawyers made the charging decision in 168 cases. In all but one, these complied with the Code, giving a compliance rate of 99.4%. CPS Direct complied with the Code in 102 out of the 104 cases they charged (98.1%). Overall, the CPS met the Code in 98.9% of cases, which is excellent. One of the cases with a wholly unreasonable decision was religiously aggravated, but the other two were not were sensitive or complex, aside from featuring a young suspect.

1.96. The three cases that were charged when they ought not to have been were a robbery, a serious assault and possession with intent to supply a controlled drug. In the first, there was no evidence to show that the youth participated in any way, and in the second the victim was not traced pre-charge by the police, nor was there other evidence to show he had sustained any injury. In the third case, the charging lawyer failed to take account of a possible defence under the Modern Slavery Act 2015 for the potentially-trafficked youth, or reflect that in their consideration of the public interest in charging a child of good character.

1.97. The drugs allegation was discontinued, albeit rather belatedly. The assault charge led to a guilty plea when, post-charge, the police realised the victim had reported the incident and obtained medical evidence. The robbery (which was religiously aggravated) proceeded to trial for the youth and a properly charged adult, but no evidence was offered on the day when a witness failed to attend.

The standard of charging advice

1.98. The rationale for charging, the trial strategy and decisions on bail, witnesses, court applications, disclosure of unused material and other matters are recorded by the charging lawyer on an MG3 form. We assessed the overall quality of the MG3 as fully met in 38.7% cases and partially met in a further 49.4%. In the remaining 11.8% (32 cases), the MG3 was assessed as not meeting the required standard. Rape and serious sexual offences and child abuse allegations received more careful consideration, with 4.9% and 0% respectively recorded as not met.

1.99. The MG3s completed by Area-based lawyers were slightly better than those by CPS Direct lawyers (39.9% compared to 36.9%). This is a slight difference, but represents a reversal of the position we usually find for the standard of charging advice. Sensitive cases were assessed as fully meeting the required standard in 46.3% of cases, compared to 35.6% fully met in non-sensitive. The reasons for poorer ratings were often a combination of factors, including weaker case strategies, insufficient consideration of which court ought to deal with the case, whether the prosecution should seek a remand to local authority accommodation or custody, and non-compliance with CPS youth policy and guidance.

The remand provisions for youths are very different to those for adults, and the law is not straightforward

1.100. The case strategy and analysis was of a satisfactory standard in just over half the cases we examined (56.1%) and we rated it as partially meeting the standards expected in a further 36.5%. Weaker cases often failed to reflect that the defendant was a youth. When this occurred, it also led to the lawyer not properly

reflecting policy and guidance. Youth policy and guidance was applied fully in 37.8% of cases, partially in 35.9%, and not at all 26.3%. Other weaknesses in analysis that also reflected on policy compliance included not taking proper account of where the defendant was a looked-after child or could be a victim of trafficking. There were a number of cases where lawyers said they had considered youth policy and guidance, but did not then evidence this by addressing any of the relevant policy concerns in relation to venue, bail or specific public interest factors.

1.101. Children are usually tried in the youth court because it is a specialist tribunal designed to meet their specific needs. Despite this, we found that in just over one in eight cases (12.9%), the charging lawyer did not address the question of venue sufficiently or at all. The appropriate venue was properly evaluated in 59.8% of cases, and partially so in the remaining 27.3%. In weaker cases, we noted incorrect decisions, lack of proper consideration of the sentencing guidelines, and no record of the decision-making process. It was common to see a brief assertion that a case was “suitable for youth court” without an explanation of how that decision was reached.

1.102. The arguments for and against seeking a remand to custody for a child or young person, or requesting bail conditions were properly set out in 43.2% of MG3s, and there was partial consideration in another 9.4%.

This left 47.4% of MG3s that failed to address remand and bail. In some of these cases, the youth was remanded under investigation prior to charge, but the MG3 ought still to have considered whether bail conditions were appropriate post-charge and offered guidance to the court advocate in how to assist the court on bail and remand, especially when there was a serious sexual or violent offence involved.

Any matter involving a child should be prioritised

1.103. The remand provisions for youths are very different to those for adults, and the law is not straightforward, but there is a helpful flowchart. Had charging lawyers

referred to this more often, it would have helped them in their decision-making. We were told that youths were being brought to court in custody when the court prosecutor considered that the statutory requirements for a remand into custody were not met. Whilst the decision on how the youth reaches court is a matter for the police, the charging lawyer needs to ensure that they include proper guidance to help the officer in this difficult aspect.

1.104. The disclosure of unused material was dealt with fully in the MG3 in 51.7% of instances, and partially in another 17.6%. MG3s were better at addressing relevant applications and ancillary matters, and instructions to court prosecutors, with 62.5% and 60.1% respectively meeting the expected standard. We also saw good quality action plans in 77.8% of cases.

1.105. Cases were dealt with promptly at charging nearly two-thirds of the time (62.4%). Given that any matter involving a child should be prioritised, however, this finding leaves considerable scope for improvement.

1.106. We discuss from paragraph 3.12 the importance of the youth offender specialist (YOS) role. In the file sample, we were able to identify the charging lawyer as a YOS in 25.7% of cases, and in a further 21.7% were able to say that they were not. In the remaining 52.6%, we could not say whether they were or not, because the Area did not supply us with the requested list of their YOS, nor did the charging lawyer say in the MG3 that they were one. For CPS Direct cases, we were able to tell that the lawyer was a YOS in only 9.6% of cases. The lack of consistent use of YOS to deliver charging advice may go some way to explaining the poor handling of matters that are unique to, or very different in, youth cases.

1.107. Youth policy and guidance were applied more often in sensitive cases than non-sensitive, which is likely to be driven by the higher

number of YOS we found giving advice in sensitive cases. Case analysis and strategy were also much stronger in sensitive cases, particularly in rape and serious sexual offences (RASSO). RASSO cases scored better across a number of the assessments we made of charging decisions, but not for remands, applications and ancillary matters, or venue. In the case of remand or bail considerations, all sensitive cases fared worse than those that were not sensitive.

Recommendations

Area and Crown Prosecution Service Direct managers should ensure that all prosecutors giving charging advice or conducting youth cases have refreshed their knowledge of policy and guidance. Areas should monitor compliance at and after charge.

Post-charge decision-making

Code compliance

1.108. Three cases post-charge featured a decision that did not meet the Code for Crown Prosecutors, giving a compliance rate of 98.8% (253 out of 256).

1.109. One of the three wholly unreasonable decisions was a flawed charge that was not corrected later (the religiously aggravated robbery discussed from paragraph 5.15). The second was a very premature decision to discontinue a drugs allegation before all the relevant information was available about whether the defendant was a trafficking victim, and the third was a decision to proceed to trial with a theft charge after the victim withdrew their cooperation and the case was not viable with the only other witness. The prosecution offered no evidence when the witness did not attend the trial. Neither the second nor the third were sensitive or complex for any reason other than the age of the defendant.

Allocation to youth specialists

1.110. Youth offender specialists should make all major decisions on youth cases, but we were told by some Areas that they did not have enough prosecutors who had undertaken the required training. This was borne out by our file examination findings, where we could see that the file was allocated post-charge to a YOS in 40.7% of instances, but not in 32.4%. In the remaining cases, we could not be sure whether the allocated lawyer was or was not a YOS. However, having sufficient YOS did not guarantee that files were allocated to them. Both London Areas have sufficient specialists. In London South, 90% of cases were allocated

to one of them, but in London North, 53.3% were not. Allocation was prompt in over two-thirds of cases (69.3%). However, it was clear that in London South, with the highest rate of allocation of cases to a YOS, that the quality of casework was significantly better than most other Areas.

1.111. Post-charge reviews were conducted by a YOS 30.9% of the time, but not in 30.1%. In the remaining cases, we were unable to ascertain if the reviewer was a specialist. Sensitive cases were more likely to be allocated to and reviewed by a youth offender specialist.

Preparation for the first hearing

1.112. Magistrates' court cases are dealt with according to standard operating practices in the CPS and at court, which include clear expectations for the police file, the initial review, preparation for the first hearing, and organising cases into separate courts for anticipated guilty and not guilty pleas. These were introduced under the Transforming Summary Justice (TSJ) initiative but are now standard practice in the magistrates' courts. Youth cases are not organised into separate courts, but CPS Headquarters is clear that the TSJ expectations for initial review and preparation do apply.

1.113. We found that 53% of cases were prepared effectively to enable the first hearing to progress, with partial preparation in a further 26.3% and none at all in 20.7%. The first hearing was effective 44% of the time. Of the 154 hearings that were not, it was due to the CPS most often (47 instances), although the defendant's failure to attend or another defence reason accounted for almost as many (38) and the police for 32 instances.

1.114. A successful outcome came about much more often when the CPS properly prepared for the first hearing. First hearings were less effective in sensitive cases, although this was more likely to be for defence-related reasons than because of the CPS, despite poorer preparation in sensitive cases.

1.115. We identified weaknesses in the handling of unused material as a significant contributor to lack of proper preparation and less effective first hearings. Where a not guilty plea is expected, preparation for the first hearing should include disclosure of unused material by serving the schedule (usually a streamlined disclosure certificate) on the defence with other required items, such as a summary of the evidence and key statements. As we discussed in paragraph 5.12, the most common failing in police file submission related to unused material, and the CPS charging

advice dealt with unused material fully in just over half the cases. It was therefore unsurprising that we commonly saw cases where the unused material was not considered and disclosure not served on the defence before the first hearing. This then requires additional work after the hearing, which demands more from the limited resources of the police, CPS and defence teams.

Reviews after charge

1.116. Cases received a proper and proportionate initial or post-sending review in 35% of cases. We rated the review as partially meeting the standard expected in 31.9% of cases, and not meeting it in 11.8%. In the remaining 21.3% of cases, there was no review recorded. Sensitive cases featured a fully satisfactory review more often than non-sensitive, but also more often a complete lack of review.

1.117. We discussed from paragraph 5.21 the importance of proper consideration of remand or bail conditions and venue for young people, and the weaknesses we found in pre-charge reviews. Post-charge, factors relating to venue were weighed more effectively, with 61.9% of reviews doing so fully, but remand considerations were addressed less often (22.5% fully met).

1.118. CPS policy and guidance was complied with fully post-charge in 35.4% of cases, and partially in another 29.3%, leaving 35.4% that we assessed as not met. Compliance post-charge was slightly worse than at the charging stage, but better in sensitive cases, especially rape and other serious sexual offences.

Disclosure of unused material

1.119. Post-charge, the CPS complied fully with the requirements for initial disclosure in 58.2% of applicable cases, partially in 27.5% and not at all in 14.3%. Compliance with the duties for continuing disclosure was rated as fully met 70.4% of the time, partially met in 19.7% and not met in 9.9%.

1.120. Of the 79 cases that fell below the expected standard at initial disclosure, 20 were cases with no initial disclosure carried out, nine had erroneous decisions about whether items should be disclosed, and eight failed to identify reasonable lines of enquiry. Other failings included not tackling poor police schedules, not endorsing the schedule, or using endorsements that did not comply with the disclosure manual. At continuing disclosure, where 21 cases were marked as partially or not

met, there were no instances of making the wrong decision on whether an item should be disclosed, but the other issues were similar.

1.121. Sensitive material was dealt with properly 73.5% of the time and there was very little difference in this respect between sensitive and other cases. The former were handled less well for initial disclosure than non-sensitive, but better for continuing disclosure.

1.122. Disclosure was timely in 59.9% of cases. There was a full audit trail of disclosure actions on one disclosure record sheet (DRS) in under a third of cases (28.2%). In nearly two-thirds (62.6%), there was no DRS or a note that one was not required.

Case progression

Before the trial

1.123. The CPS business model does not distinguish youth cases that remain in the youth court from adult magistrates' court cases, so there is no extra time built in for preparation. This is despite many of them being the type of cases that would normally be heard in the Crown Court. In some Areas, prosecutors told us they would be given more time if they asked, but this was not true everywhere. Some would not ask because they knew it would not be granted. This is likely to negatively affect the quality of case review and progression.

Recommendation

Crown Prosecution Service Headquarters should ensure prosecutors have enough time to review and prepare youth cases for trial.

1.124. The best evidence was secured when the right witnesses were asked to attend the trial. Special measures, intermediaries and witness summonses were applied for correctly 86.6% of the time. The timeliness and effectiveness of the prosecution response to incoming correspondence and other material was assessed as fully or partially met in 87.7% of instances, and hearing record sheets were accurate and uploaded in a timely manner to the case management system in 80.4% of cases.

1.125. Where the suspect and victim are both under 13, CPS policy requires referral to a senior legal manager. We saw evidence that this had taken place in 84.6% of applicable cases.

1.126. Less effective aspects of case progression were the use of appropriate applications, such as bad character or hearsay, to strengthen the prosecution case (which we assessed as fully met in 69.6% of relevant cases), and requests to the police for additional material, which were timely and escalated where necessary in 67.5% of cases.

1.127. Compliance with court directions was full and timely in 42.1% of cases, and full but late in a further 37.2%. The prosecution response to directions was timely but incomplete in 3.3%, and was both late and incomplete in the remaining 17.4%.

1.128. These weaker aspects and flaws in reviews and disclosure contributed to our finding that the prosecution's judgement and grip was fair in 32.1% of cases and poor in 14.6%. The majority of cases, however, were rated as good (50.7%) or excellent (2.5%). CPS added value was slightly weaker, with inspectors rating it as excellent in 2.1% of cases, good in 45%, fair in 37.5% and poor in 15.4%. Grip and added value were stronger in sensitive cases, and the cases with stronger grip and added value more often led to a conviction.

At court

In house advocates

1.129. CPS policy does not require that every youth court is prosecuted by a youth offender specialist (YOS) but does say that, whenever possible, youth remand courts should be prosecuted by a YOS "who will be able to review all the files that are appearing in that court". We found that, because of the different models for dealing with youth work and lack of sufficient qualified YOS, some courts were prosecuted by staff who lacked experience and/or had not undergone the required training. There is a risk, then, that the prosecutor would not be able to progress the case without taking time to seek help, something that is exacerbated in cases with a weaker charging advice or initial review.

1.130. Stakeholders reported to us, however, that their experience of advocates in the youth court was positive. In our observations, we too found that most prosecutors prepared well and were robust and competent advocates. Prosecutors at court told us that they felt supported and knew who to go to for advice if they needed it. This was usually their manager, an experienced colleague or their Area's youth justice co-ordinator.

1.131. In some Areas, the case preparation and advocacy teams liaise closely to ensure that advocates are allocated trials according to their

skills and experience, especially for more serious or complex matters. This carries obvious benefits for the case and for the advocates' development. Not all Areas have adopted this approach, however, resulting in some advocates being given complex and sensitive cases late in the day with little time to prepare.

External advocates

1.132. We saw instances where the Area had involved counsel early in more difficult youth matters, particularly rape and other serious sexual offences. Whilst counsel could not attend the first hearing in some circumstances, generally stakeholders reported that such cases were well-handled. Early involvement led to good case management and engagement, with prosecution and defence counsel able to focus on narrowing down the matters in dispute.

1.133. We noted that agents were being used in youth courts, contrary to the CPS policy position and, in some Areas, without formal mechanisms to assess their skills and experience. We were told that agents were used only in straightforward youth matters. In practice, however, if a trial in the agent's list does not go ahead, other work, for which they may not be equipped or prepared, may be moved into their court.

Recommendation

Crown Prosecution Service Areas should ensure that any advocate deployed to a youth court has had sufficient training and experience to deal with matters that are listed in or may be moved to that court, and time to prepare adequately.

Victims and witnesses

1.134. Prosecutors consulted victims and witnesses where necessary and engaged with witnesses at court 78.9% of the time. In a further 11.4% of cases, there was partial consultation or engagement. In 9.8% of cases, there was none.

1.135. We assessed how well the needs and interests of the public were protected through custody and bail decisions, and the proper monitoring of custody time limits. We found that Areas fully met expectations in 71.9% of cases, and partially met them in a further 19.4%. There were also very few cases (9.5%) where the CPS did not seek appropriate orders at sentencing to protect the victim, witnesses or the public.

1.136. A victim communication letter was required in 75 cases. In 39 (52%), the letter was sent on time, in 18 (24%) it was sent late, and no

letter was sent in the remaining 18 (24%). Of the 57 letters we assessed, 30 (52.6%) were of a high standard. Where they were not, the most common issues were lack of clarity (ten cases) or insufficient information (seven cases) in the explanation about why the case was not proceeding. We found lack of empathy in four letters.

Timeliness in the prosecution process

1.137. The interests of young people charged with crimes, and the victims and witnesses in those cases, are not well served if cases are unjustifiably delayed. The CPS policy emphasises this: “All cases involving youth offenders must be dealt with expeditiously and avoid delay, which has at its core the principle that there is little point in conducting a trial for a young offender long after the alleged commission of an offence when the offender will have difficulty in relating the sentence to the offence. To maximise the impact on the youth offender, the case must be dealt with as soon as possible”.

1.138. In our file sample, we found that over a third of cases (37.3%) were not dealt with promptly. We identified delays in our file sample between the date of the offence and charge, some as long as a year, and were told of similar instances by stakeholders. One District Judge (DJ) provided an example where the delay was such that he directed the relevant CPS manager to give a written explanation. Several of his colleague DJs feared that witnesses’ recollections of events would fade, and victims and witnesses would become disengaged, or that their ability to sentence youths properly and effectively was hampered by delay.

1.139. Often, the pre-charge delay was not a result of CPS actions or inactions, but because complex allegations were being investigated. However, many of the lengthy delays in cases reaching the CPS did not appear warranted by the nature of the case. Delays were also exacerbated by defendants being sent a postal notice to appear at the court for the first hearing months after the charging decision.

1.140. District Judges were more complimentary of the speed shown by the CPS after the case had been charged, particularly in rape and sexual offence cases in some Areas. However, our file sample showed there were delays in post-charge reviews, decisions to discontinue being put into effect, and compliance with court directions after charge.

1.141. The need for urgency is also important because any case with a youth in custody (including local authority custody) will have a custody time limit, usually 56 days for the very many cases that remain in the

youth court. Some of these cases involve forensic and digital evidence that takes time to produce and analyse, especially given the current delays our inspections have found in the work of forensic providers and police digital or technical teams. There were no custody time limit failures in our file sample. Nevertheless, it is clear that there is room to improve the priority given to youth work.

Recommendation

Crown Prosecution Service Areas should have a clear strategy for prioritising youth work to ensure that it is dealt with promptly. This strategy should be kept up-to-date.

Annex A

Inspection framework

Introduction

This inspection focused on serious youth crime and, in particular, rape and serious sexual offences, knife crime and drug offences including offences arising from county lines operations.

The framework is split into two sections. The first looks at youth policy, guidance and the training provided to those dealing with youth prosecutions. Consideration is given to whether these measures effectively support youth practitioners on the frontline, and whether those practitioners are suitably equipped with the skills to prosecute offences in this specialist area.

The second section focuses on serious casework in the youth courts from the pre-charge stage through to conclusion. Inspectors assess the quality of decision-making throughout the life of a case and whether cases are effectively and efficiently progressed. Of significant importance is whether the CPS is adhering to its own policy on prosecuting youth cases.

Sub-criteria have been identified for each section to use as a guide to help assess performance.

Overall, inspectors are assessing whether the CPS deals effectively and efficiently with serious youth offending, whilst offering the right level of support to prosecutors.

Section 1: Policy, guidance, training and support

Performance expectation

CPS has in place an effective policy in respect of the handling of youth prosecutions. The Guidance and training available offer support to those carrying out this specialist work.

Criteria

1. Policy
 - a. CPS has in place a clear and effective policy in respect of prosecuting youth crime.
 - b. The policy is comprehensive and kept up to date.

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- c. The policy is easily accessible to those involved in the prosecution of youth crime.

2. Training

- a. CPS provides comprehensive training to those dealing with youth crime
- b. The training is of sufficient quality to equip prosecutors with the skills and knowledge needed to prosecute youth cases
- c. The training is kept up to date.

3. Support

- a. CPS ensures that prosecutors dealing with youth cases are supported in accessing training.
- b. CPS ensures that its people have the skills they need to carry handle youth offences.

Section 2: Casework

Performance expectation

CPS deals effectively and efficiently serious youth offences through high quality decision making and case handling.

Criteria

1. Pre-charge decisions are proportionate; properly recorded; comply with the Code for Crown Prosecutors and youth policy and guidance.
 - a. CPS checks that all pre-charge advice referrals are in accordance with DG5.
 - b. Cases, where practicable, are dealt with by Youth Offender Specialists.

Reviews and decisions comply with the Code and youth 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. Decisions on remand status and venue are properly considered and recorded.

2. Subsequent reviews and decision making are proportionate; properly recorded; comply with the Code for Crown Prosecutors and youth policy and guidance.
 - a. Casework decisions are made in accordance with youth policy.
 - b. Case reviews are carried out by prosecutors with the appropriate skills and recorded properly.
 - c. Decision making during the currency of proceedings is of a high quality.
3. Case preparation and progression is effective and timely.
 - a. CPS systems support the effective progression of cases, including compliance with youth policy, Criminal Procedure Rules and standard operating practices (SOPs).
 - b. Youth cases are dealt with as expeditiously as is practicable.
4. Court hearings are conducted by sufficiently skilled and prepared prosecutors.
 - a. Youth remand cases are dealt with by robust prosecutors who have sufficient skill and information to address the court on matters fully and accurately, and confidently make representations in accordance with the law and youth policy.
 - b. Hearings dealing with venue are dealt with by robust prosecutors who have sufficient skill and information to address the court on matters fully and accurately, and confidently make representations in accordance with the law and youth policy.
 - c. Those dealing with youths bring to the courts attention any relevant matters arising from the age of the defendant.
5. CPS has in place measures in place to improve performance.
 - a. CPS has effective processes for quality assurance of decision making.
 - b. There are mechanisms for identifying and addressing problems.
 - c. Good practice is disseminated across the CPS.

Annex B

File examination data

Findings from file examination

No.	Question	Answers	All cases
1	The police decision to charge was compliant with the Code test	Yes No NA Total	100% 0.0% 100%
2	The police decision to charge was compliant with DG5	Yes No NA Total	87.5% 12.5% 100%
3	The police file contains all relevant third party material	Yes No NA Total	50.0% 50.0% 100%
4	The CPS decision to charge was compliant with the Code test	Yes No NA Total	98.9% 1.1% 100%
5	The charging lawyer is a YOS	Yes No NK NA Total	25.7% 21.7% 52.6% 100%
6	The CPS MG3 included proper case analysis and case strategy	Fully met Partially met Not met NA Total	56.1% 36.5% 7.4% 100%
7	The CPS MG3 dealt appropriately with unused material	Fully met Partially met Not met NA Total	51.7% 17.6% 30.7% 100%
8	The CPS MG3 made reference to all relevant applications and ancillary matters	Yes No NA Total	62.5% 37.5% 100%

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No.	Question	Answers	All cases
9	The CPS lawyer properly applied youth policy and guidance when making the charging decision	Fully met Partially met Not met NA Total	38.1% 36.3% 25.6% 100%
10	The charging lawyer properly considered venue	Fully met Partially met Not met NA Total	59.8% 27.3% 12.9% 100%
11	The charging lawyer properly considered the remand position	Fully met Partially met Not met NA Total	43.2% 9.4% 47.4% 100%
12	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET or PTPH created with the MG3	Yes No NA Total	60.1% 39.9% 100%
13	The action plan met a satisfactory standard	Yes No NA Total	77.8% 22.2% 100%
14	The case was dealt with expeditiously	Yes No Not known NA Total	62.4% 37.3% 0.4% 100%
15	For CPS charged cases, rate the overall quality of the MG3 including action plan	Fully met Partially met Not met NA Total	38.7% 49.4% 11.8% 100%

No.	Question	Answers	All cases
16	The police file submission complied with the National File Standard for the type of case	Yes No, poor MG5 No, missing D precons No, missing MG11s No, missing unused schedules No, missing VPS No, overbuilt No, other NA Total	52.8% 0.8% 0.8% 4.4% 19.4% 8.7% 1.2% 11.9% 100%
17	The police file submission was timely	Yes No NA Total	78.2% 21.8% 100%
18	The CPS identified and fed back to the police (either on the NFQ assessment in the initial review or by other means) on any failings in the police file submission	Yes, identified and fed back No, identified but not fed back No, not identified and not fed back NA Total	56.3% 4.2% 39.5% 100%
19	Was file allocation prompt?	Yes No NA Total	69.3% 30.7% 100%
20	Was the file allocated to a YOS?	Yes No Not known NA Total	40.7% 32.4% 26.9% 100%
21	All review decisions after charge applied the Code correctly	Yes No NA Total	98.8% 1.2% 100%
22	Reviews were carried out by a YOS	Yes No Not known NA Total	39.0% 30.1% 30.9% 100%

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No.	Question	Answers	All cases
23	The case received a proper and proportionate initial or post-sending review	FM PM NM Not done NA Total	35.0% 31.9% 11.8% 21.3% 100%
24	The review properly considered venue	Fully met Partially met Not met NA Total	61.9% 23.8% 14.4% 100%
25	The review properly considered the remand position	Fully met Partially met Not met NA Total	22.5% 6.9% 70.5% 100%
26	The initial or post-sending review was carried out in a timely manner	Yes No NA Total	56.0% 44.0% 100%
27	Any decision to discontinue was made and put into effect in a timely manner	Fully met Partially met Not met NA Total	61.5% 9.0% 29.5% 100%
28	The prosecutor prepared the case effectively to ensure progress at court at the initial hearing	Fully met Partially met Not met NA Total	53.0% 26.3% 20.7% 100%
29	The first hearing was effective, progressed the case as far as possible and resolved all outstanding issues for any future hearings	Yes No, CPS reason No, police reason No, court reason No, defendant DNA No, defence reason No, other NA Total	44.0% 17.1% 11.6% 9.8% 3.6% 10.2% 3.6% 100%

No.	Question	Answers	All cases
30	There was timely compliance with court directions or Judges' Orders	Yes, compliance was full and timely No, compliance was full but not timely No, compliance was timely but not full No, compliance was neither timely nor full NA Total	42.1% 37.2% 3.3% 17.4% 100%
31	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case	Fully met Partially met Not met NA Total	69.6% 8.9% 21.4% 100%
32	Steps were taken to secure best evidence by correct warning of witnesses, and the appropriate use of special measures, intermediaries, and witness summonses	Fully met Partially met Not met NA Total	86.6% 9.4% 4.0% 100%
33	Correspondence from the court, defence, police and WCU were reviewed appropriately and sufficiently promptly with timely and effective actions undertaken in response	Fully met Partially met Not met NA Total	52.8% 34.9% 12.3% 100%
34	Requests to the police for additional material were timely and escalated where appropriate	Yes No NA Total	67.5% 32.5% 100%
35	Hearing record sheets were completed accurately, contained sufficient instructions to progress the case, and were uploaded to CMS in a timely fashion	Yes No NA Total	80.4% 19.6% 100%

No.	Question	Answers	All cases
36	The police complied with their disclosure obligations	Fully met Partially met Not met NA Total	56.0% 35.1% 8.9% 100%
37	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure)	Fully met Partially met Not met NA Total	58.2% 27.5% 14.3% 100%
38	If PM or NM, the most significant failing was	Did not carry out initial disclosure at all Did not endorse any decisions on the MG6C Made the wrong decision about disclosability Set out the wrong test for disclosure (e.g. courtesy disclosure) Used the wrong endorsements (D, CND etc.) Failed to endorse or sign a blank MG6D Did not endorse any decisions on a non-blank MG6D Did not identify reasonable lines of enquiry Other NA Total	25.3% 5.1% 11.4% 2.5% 6.3% 2.5% 5.1% 10.1% 31.6% 100%
39	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure)	Fully met Partially met Not met NA Total	70.4% 19.7% 9.9% 100%

No.	Question	Answers	All cases
40	If PM or NM, the most significant failing was	Did not carry out continuing disclosure at all	33.3%
		Did not endorse any decisions on newly revealed items	9.5%
		Made the wrong decision about disclosability	0.0%
		Set out the wrong test for disclosure (e.g. courtesy disclosure)	0.0%
		Used the wrong endorsements (D, CND etc.)	0.0%
		Did not identify reasonable lines of enquiry	4.8%
		Other	52.4%
		NA	
	Total	100%	
41	The prosecution complied with its duty of disclosure in a timely manner	Yes	59.9%
		No	40.1%
		NA	
		Total	100%
42	Sensitive unused material was dealt with appropriately	Yes	73.5%
		No	26.5%
		NA	
		Total	100%

No.	Question	Answers	All cases
43	The DRS was properly completed with actions and decisions taken on disclosure	Yes, one DRS fully completed throughout the life of the case	28.2%
		No, more than one DRS but no other issues	1.2%
		No, some decisions and/or actions are missing from the DRS	6.1%
		No, DRS only completed for initial disclosure	0.6%
		No, there is no DRS and no explanation why not	62.6%
		No, Other	1.2%
		NA	
	Total	100%	
44	The CPS fed back to the police where there were failings in the police service regarding disclosure	Fully met	29.8%
		Partially met	14.9%
		Not met	55.3%
		NA	
		Total	100%
45	The prosecutor consulted victims and witnesses where appropriate (includes STWAC)	Fully met	78.9%
		Partially met	11.4%
		Not met	9.8%
		NA	
		Total	100%
46	The needs and interests of the public were protected through custody and bail decisions, and proper monitoring of CTLs	Fully met	71.9%
		Partially met	19.4%
		Not met	8.7%
		NA	
		Total	100%
47	The prosecution sought appropriate orders on sentencing to protect the victim, witnesses and the public	Fully met	82.4%
		Partially met	8.1%
		Not met	9.5%
		NA	
		Total	100%

No.	Question	Answers	All cases
48	There was a timely VCL when required	Yes No, not done No, not done on time NA Total	52.0% 24.0% 24.0% 100%
49	The VCL was of a high standard	Yes No, inaccurate No, lack of empathy No, lack of clarity in explanation No, insufficient information No, used jargon No, spelling or grammar errors No, Other NA Total	52.6% 3.5% 7.0% 17.5% 12.3% 3.5% 0.0% 3.5% 100%
50	Referral to the Area CCP or DCCP was evidenced on CMS	Yes No NA Total	84.6% 15.4% 100%
51	The CPS sought the views of any relevant third parties in respect of prosecution	Yes No NA Total	45.7% 54.3% 100%
52	The relevant third parties provided a view on whether the youth should have been prosecuted	Yes No NA Total	57.9% 42.1% 100%
53	Post-charge, the lawyer fully considered and applied youth policy in respect of prosecuting youths	Fully met Partially met Not met NA Total	35.4% 29.3% 35.4% 100%
54	The lawyer considered the vulnerability of the defendant in respect of PI, i.e. are they a victim?	Yes No NA Total	44.4% 55.6% 100%

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No.	Question	Answers	All cases
55	The lawyer considered whether a defence under s.45 MSA might be available	Yes No NA Total	49.2% 50.8% 100%
56	The lawyer considered whether the offence is gang related	Yes No NA Total	27.4% 72.6% 100%
57	The lawyer or team exercised sound judgement and grip throughout the case	Excellent Good Fair Poor NA Total	2.5% 50.7% 32.1% 14.6% 100%
58	Rate the overall value added by CPS	Excellent Good Fair Poor NA Total	2.1% 45.0% 37.5% 15.4% 100%
59	The file examination has been made possible by a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes	Fully met Partially met Not met NA Total	72.9% 23.2% 3.9% 100%

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