



HMCPSI

HM Crown Prosecution
Service Inspectorate

CPS response to COVID-19: 16 March to 8 May 2020

**An inspection of the CPS during
the period prior to and during
the national lockdown**

June 2020

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HM Crown Prosecution Service Inspectorate inspects prosecution services, providing evidence to make the prosecution process better and more accountable.

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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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Chief Inspector's foreword

The COVID-19 pandemic global event is such that it has changed our lives beyond all recognition. This report is the first stage of looking at how the organisations we inspect have responded during the crisis.

In March 2020, when the government announced that the country was going into lockdown, the Crown Prosecution Service (CPS), like most other public services, had to continue to operate but within the restrictions imposed.

In this report, we look at the period of lockdown from 16 March to 8 May 2020, when our movement was extremely limited and guidance was to “stay at home, save lives, protect the NHS”. The decisions made during this period were, in some instances, a matter of life and death. Many key workers tragically lost their lives whilst serving us, the public. Sadly one member of the CPS family lost her life to COVID-19. This is a harsh reminder that decisions taken in the early days of the lockdown mattered.

No one could be sure, when asking staff to do their usual daily job, that they were not being exposed to an unacceptable level of risk. We have found that the actions taken by the CPS immediately before and during the national lockdown were effective and sound. Those working for the CPS felt that the organisation put their safety first. The CPS was able to do this because it has invested in and developed its digital capability. Casework systems and processes allow for work to be done remotely and this means that the majority of staff can work from home. Therefore, when the pandemic lockdown was announced, the CPS was able to move the majority of its workforce from offices to home overnight.

For those who had to go to court to deal with those cases in the criminal justice system that continued, there were some difficulties. The court estate was not built to enable some of the new requirements of social distancing; this meant that those attending courts were, as with other key workers, putting themselves in danger.

The CPS was clear in its message to staff. If any colleague felt uncomfortable or thought that they were put into an unsafe situation, they should withdraw. To our knowledge, there were no cases where the CPS advocate withdrew from proceedings.

Throughout the period of lockdown, the criminal justice system continued to operate. This has been a catalyst for innovation. In many cases, courts have become virtual, with advocates, suspects and, in some cases, victims and witnesses joining cases via webcams from laptops and other digital devices. The impact of the pandemic has changed our lives but, within the criminal justice system, the need to continue with some form of normality has produced some notable changes. There has been a ‘can do’ attitude. Some system and process

changes that have, for various reasons, been blocked or unable to happen in normal times have been developed, rolled out and used in short order. Virtual courts have become the norm nationally, despite many years of pilots and local attempts having fallen by the wayside as the commitment of partners waned. The number of police forces who have come onto a shared platform to upload and share digital material has doubled; an increase of 19 forces in 10 weeks of the lockdown. There are only four forces still to join the platform.

Whilst all of this is heartening, there are real challenges developing, which will require a redoubling of commitment to innovation. The backlog of cases in the system is increasing daily. Cases that do come to court are taking hours or days longer than they would under normal circumstances. The challenges of social distancing and protecting those in the court environment cannot be underestimated.

There are cross-criminal justice system groups who are carefully looking at how recovery plans can be developed, but a considerable challenge remains. A lack of investment in the court estate and a reduction in court funding over the period of austerity have come into stark focus during this pandemic.

The public are rightly concerned about how schools may be able to open to all pupils, and how the education of our children can get back to normal as quickly as possible. There are calls to requisition libraries, leisure centres, and village halls to allow for pupils to return. The need of the criminal justice system is going to be on a similar scale. Court sittings and courtroom capacity with social distancing requirements will not allow for reduction of the existing backlog. Some estimates show that the current scale of increase in the backlog would take 10 years to clear at pre-pandemic rates. Any major increase in the time taken to hear cases is likely to be highly detrimental to justice.

I said at the outset that this will be the first in a series of reports looking at the handling of the pandemic across the criminal justice system. This report highlights how well the CPS has reacted. All we can hope is that the fervour and innovation that has taken place during the initial response is maintained into and throughout the challenge of recovery.

1. Summary

Context

1.1. This report examines the immediate response of the Crown Prosecution Service (CPS) to the severe acute respiratory syndrome coronavirus 2 (the virus which causes COVID-19). The inspection has been limited to the period immediately prior to the lockdown announced by the Prime Minister on 23 March and the following eight weeks. The inspection covers the period from 16 March to 8 May 2020.

1.2. After it emerged in China in December 2019, coronavirus spread rapidly to other parts of the world. This included the United Kingdom, where the first cases were confirmed in January 2020.

1.3. On 30 January 2020, the World Health Organisation declared an international public health emergency. In common with most other countries, the United Kingdom entered a period of great uncertainty. Up to mid-March, there were some indications from the government and public health experts that a period of restriction and lockdown may become necessary to curtail the spread and impact of the virus. The week before the Prime Minister's official announcement on 23 March, restrictions on movement were starting. The CPS at the national and local levels began to communicate to its staff, in anticipation of a total lockdown, that those who could work from home and avoid travelling should do so.

Along with all other key workers who have played a key role, many staff in the CPS and wider criminal justice system continued to leave the safety of their homes to ensure that justice was delivered

1.4. Working from home has become the norm for some, but this has not been the case for all CPS staff. To ensure that the criminal justice system continues to operate, many CPS staff have had to appear in person in court to prosecute cases or to attend the office to ensure effective case progression, both in the week leading up to lockdown and since. We readily acknowledge that, along with all other essential workers who have played a key role, many staff in the CPS and wider criminal justice system continued to leave the safety of their homes to ensure that justice was delivered. Our thanks, gratitude and debt to those who have

put themselves at risk throughout this period of great uncertainty must be recorded; this includes those staff in the CPS who have attended court on a daily basis, and those who have gone into their offices to progress cases, deal with digital media, and support colleagues and thereby the criminal justice system.

Summary

1.5. The CPS was well placed to deal with the immediate crisis. This was not by accident, but was the result of its 2020 vision, which had evaluated and planned for improvement in a number of business fundamentals. The 2020 CPS vision, developed in 2016–17 to support its four year plan, set out a number of core priorities, including digital capability and supporting the success of its people. It was the actions that the CPS has taken since 2016 to lay firm foundations that allowed the service to react in such a way that the pandemic has had very limited impact on its business.

1.6. The level of planning for the crisis should not be underestimated. From the week before lockdown to the end of April, staff at all levels, but senior managers especially, were fully engaged internally and with partners to ensure that staff knew what was happening and that partnership challenges were addressed. Throughout the inspection, we heard from staff at the front line that managers at all levels were supportive, and did their best to give clear messages and keep staff updated. Communications were regular, effective and, for many, personalised.

1.7. The fast pace of change and decision making meant that in the early weeks, there was not complete clarity about how and when staff should attend court. Throughout this inspection, the relationship with the courts was the main cause of concern for staff and management.

1.8. The CPS was able to move its workforce from a mainly office-based service to home working overnight. This was no mean feat. The week before lockdown, the average number of staff working from home on any given day would be about 500. On 24 March, bar a few advocates who were in court and a few staff who were in the office to deal with urgent matters, the rest of the CPS – over 5,000 people – were working remotely at home.

1.9. The level of service provided throughout has been effective, with digital capability being core to the continuation of the business. This is a major achievement, which has been built on the firm foundations of the 2020 vision and the hard work of those in the digital directorate.

1.10. In November 2019, the CPS's senior management team carried out a full day's test of the organisation's business continuity plan. In line with good practice, the CPS regularly carries out mock disaster management events, and the 2019 event built on learning from a 2017 event. The scenario tested was very different to a pandemic: a terrorist attack on the service's headquarters with a simultaneous outage of all digital services due to external aggression. Still, it presented a good opportunity for the senior management, the gold and silver

command, to test their response and clearly understand their roles in such an event.

1.11. When real disaster struck in early 2020, the regular testing ensured that all those involved in gold and silver command knew with some certainty their roles and what to do. Whilst many organisations, both public and private, have well developed business continuity arrangements, they can often be left on the shelf. It is a testament to the CPS that regular testing of its plan had taken place, which stood it in good stead to react quickly and efficiently when lockdown came on 23 March.

1.12. Throughout the inspection, CPS staff told us that the key message they received was about their safety. They felt that this messaging had been consistent and that managers at all levels had been supportive. Whilst this was a clear message, some staff and senior managers were concerned that putting people into the court environment was too much of a risk.

1.13. We were told, and have seen risk assessments that show, that for the first few weeks of lockdown, many courts did not have the ability to allow for social distancing, and were not meeting the standards on hygiene set out by Public Health England; the toilets did not have soap, hand sanitiser or other anti-viral products, and appeared not to have been properly cleaned. The message of safety was clear and staff knew that if they felt that their safety was being compromised, they would be supported in raising their concerns. The competing priorities of staff safety and the commitment to ensure that priority cases were progressed was raised with us by all levels of management, nationally and locally.

Many staff said that the values of the CPS were clearly obvious throughout

1.14. The provision of support to staff has been impressive. Staff have welcomed changes to the special leave provisions and the flexibility to ensure that they could meet their caring responsibilities. The business has been able to operate effectively and staff at all levels felt that the support they received demonstrated an

organisation with a caring and considerate culture. Many staff said that the values of the CPS were obvious throughout and that the reaction to the crisis has been a clear demonstration of the commitment to staff well-being.

1.15. The timing of the roll-out of Microsoft Teams – which enables virtual meetings, sharing of screens and documents, and other online services – could not have been more opportune. At the outset of the crisis, many in the CPS had just been getting used to Teams after it had been rolled out with limited functionality in January/February. By late April, all laptop cameras were enabled.

1.16. All staff we spoke to highlighted what a game changer Teams, and especially webcams, had been. The ability to meet and interact on a face to face basis has improved the ability to engage in work, but was also a major aid to communication. Some staff felt that Teams had been a significant factor in maintaining good mental health, because being able to engage with their colleagues had taken away the feeling of isolation. Virtual team meetings, coffee mornings, chats and quizzes all replicated the office chat, but also allowed managers to communicate and support their staff.

1.17. Teams has played a key part in driving the levels of engagement that we found during this inspection. It is no surprise that in the Civil Service COVID survey, 91% of CPS respondents felt confident that their senior leaders had handled the impact of COVID-19 well.

1.18. On many levels, the CPS has been able to continue to operate its business effectively and efficiently during the initial period of the pandemic. In reacting to the crisis, there have been a number of significant beneficial changes which, in the normal course of events, would have taken years of planning to negotiate and bring into effect.

1.19. The majority of police forces are now routinely uploading digital evidence rather than sending discs to the CPS. This has increased security in terms of reduced risk of data loss and has also freed up administrative resources. Virtual court hearings have become the norm for many cases. Attempts at introducing virtual hearings have been made in various guises in different CPS Areas for more than ten years, but the need to react swiftly and make it happen has removed the blockages which have previously held up progress.

1.20. However, some of the changes that had to be made in response to the crisis will have major impacts that need to be considered carefully as the criminal justice system moves into recovery mode.

1.21. The service provided to victims and witnesses within the criminal justice system is crucial. If things go wrong, they have a lasting impact and can cause great distress. Too often, as we have reported in previous inspections, the service is found wanting. This is not always the fault of the CPS and, quite often, the lack of a cohesive approach across the criminal justice system culminates in a poor experience for victims.

1.22. By its nature, this inspection has not examined casework or the service provided to victims. However, the coronavirus crisis and the backlogs that are building up will bring the challenges faced by victims and witnesses with the criminal justice system into stark relief. Any future planning needs to ensure that recovery takes full account of all court users, including victims and witnesses.

2. Framework and methodology

Inspection framework

1.23. The framework for this inspection consisted of an overarching inspection question and six sub-sections of questions. The inspection question was: “How effective was the Crown Prosecution Service’s immediate response to the COVID-19 pandemic? (An inspection of action and activity by the CPS between 16 March and 8 May 2020)”.

1.24. The six sub-sections of questions can be found in annex A. Of those, the inspection focused in detail on four:

- digital capability
- communication: national and local
- health and well-being
- resource use.

1.25. Whilst the inspection also examined the CPS’s management of the pandemic against its business continuity plans and how the CPS worked and managed its relationships with stakeholders, these will not feature in any great depth. We decided to limit the inspection to focus on the CPS’s response and not to test how any engagement by the CPS landed with, or was affected by, other criminal justice partners and stakeholders.

1.26. This inspection is a first stage or immediate report. It sets out our findings about how the CPS managed and reacted to the pandemic in the immediate aftermath of the crisis. We plan to undertake a more extensive inspection, likely in 2021, which will examine the recovery phase in greater detail and also look more closely at stakeholder relationships and their impacts, both at the initial stages and as recovery plans are developed. This further inspection will test how others in the criminal justice system felt that the CPS’s response affected and worked for them. This will require more detailed inspection activity to engage stakeholders.

Methodology

1.27. The inspection has been conducted at speed to allow for the publication of the report as close to the period of lockdown as possible. This will ensure that issues covered in the report are fresh in readers’ minds. We have followed our usual inspection methods but truncated the timescales of some aspects. The core aspects of evidence gathering and judgement testing have taken place as always.

1.28. In line with our inspection methodology, we requested and examined documents before starting our on-site activity. (It should be noted that, because of COVID-19, we too have had to adapt our methodology. 'On-site' now means a virtual visit, with all interviews taking place over Microsoft Teams.) The majority of the documents had already been gathered by the CPS to support the Director of Public Prosecutions (DPP)'s appearance at the Justice Select Committee hearing on 21 May, and these were shared with us. During the course of the inspection, we requested additional documents and analysed them to support our interviews and focus group discussions.

1.29. To speed up the inspection, we also held a number of initial fact-finding conversations with the CPS's Director of Human Resources and Director of Communications in the week of 25 May. In these conversations, we discussed some of the actions taken by the CPS to support communication, staff health and well-being.

1.30. During the weeks of 1 and 8 June, the inspection team used Teams to interview key senior officials and hold focus groups and one to one interviews with staff from three Areas: CPS West Midlands, CPS North West and CPS Wessex. We also spoke with representatives from the First Division Association and the Public and Commercial Services Union, who represent staff who work for the CPS. We also spoke with the Bar Council after other interviews indicated they could assist the inspection.

1.31. We set out data related to the inspection framework in annex B. Given the focus of the inspection, the data is limited to the period from 16 March to 8 May and, while it accurately reflects the position for the period covered, it does not set out the actual position in full. The context of the data used in the report is set out in the accompanying text.

3. Business continuity planning

1.32. All organisations should have effective systems and processes in place to ensure that they can continue to deliver core aspects of business despite significant and major disruption. This is sensible and for most it is essential. To do this, organisations usually develop a range of measures, which often include risk registers and business continuity plans. Such plans help organisations determine what they would do if such a catastrophic event happened.

1.33. In line with good governance, the CPS has in place a series of business continuity plans and command structures¹ at both the national and the local level. In past inspection activity, HMCPSI has reviewed the quality and standard of Area risk registers and business continuity plans. Generally we have found that these plans were comprehensive and well developed, but in some instances could have been more regularly updated.

1.34. If plans and preparedness were ever going to be tested to destruction, it would be as a result of the coronavirus pandemic. In November 2019, the CPS Executive Group and other core members of silver command attended an event to test the business continuity plan. The senior team decamped to a CPS office which is where they would operate from in the event of a real crisis, and reacted to a dual crisis: a cyber-attack on the CPS digital systems and a simultaneous terrorist attack on CPS Headquarters' building in London.

1.35. The test allowed the senior team to react in real time to developing events. Those conducting the test removed senior players at key points to simulate emerging risks and to weigh the response of those involved. Senior officials who had participated all said that the test, which had been conducted under observed conditions, had been really helpful in that it allowed for them to have a clear understanding of their specific roles. This understanding was invaluable when the real pandemic took place, because they knew what to do and what was expected of them.

1.36. The CPS holds test events involving the Executive Group approximately every 18 months. The 2019 event built in learning from a test in 2017. The regular testing of the CPS's business continuity plan has proved to be highly beneficial for the CPS's immediate action in response to the current crisis.

1.37. The 2019 test resulted in some changes being made. During the test it was clear that some of the decision making routes were not clear and that the silver command structures needed to be more empowered to make decisions without recourse to others. Too many decisions were being taken into one senior

¹ A gold–silver–bronze command structure is a command hierarchy used for major operations and designed for responding to sudden major incidents. These categories designate different responsibilities of decision making, usually between strategic, tactical and operational command levels.

role and this was stifling the ability to react quickly and effectively. This change in approach, as part of the learning from the event, proved to be invaluable when lockdown was announced.

The CPS's internal response

1.38. In the week of 16 March, a week ahead of lockdown, there were daily conversations at Executive Group level to start planning how the CPS would need to react. At this point, the gold command was activated (the Director of Public Prosecutions, Chief Executive, and Director of Communications). The focus was on maintaining a presence in offices and ensuring that case flow (legal decision making) continued effectively given the course of events nationally.

1.39. At this stage, the full forms of the business continuity plans were not activated, but clear and regular messages were communicated to all staff, including the key message that those who could work from home should work from home. As part of this messaging, staff were encouraged to take their laptops home and staff who had reasons to self-isolate were encouraged not to come into the office. In interviews, staff said that whilst the messages coming from the government were not that clear and seemed very ambiguous in the week of 16 March, the message from local management (and from the centre, including the blogs of the DPP and Chief Executive) were very clear.

Clear and regular messages were communicated to all staff, including the key message that those who could work from home should work from home

1.40. However, staff who needed to service cases in court, advocates and supporting paralegal staff felt that things were not as clear in the week of 16 March, because the courts continued to sit and cases were being heard in conditions that were "scary". We discuss this in more detail from paragraph 5.5.

1.41. When the Prime Minister announced the restriction of movement on the evening of 23 March, the CPS formally implemented its business continuity plan. At this stage, the focus changed to putting the health, well-being and safety of staff at the heart of all decisions. Maintaining casework and court coverage was considered within the limits of the primary focus on staff safety.

1.42. As part of the planning, a very early decision was made to merge the CPS's gold and silver commands. This reflected the fast moving pace of the crisis and the need for decisions and communication to be immediate as well as

effective. This decision was sensible and allowed the CPS to react in a speedy but measured, planned and effective manner.

1.43. To make sure all aspects of the business were considered during planning, the meetings were structured around the five pillars set out in the CPS 2025 vision and plan.

- Our people
- Digital capability
- Casework quality
- Strategic partnerships
- Public confidence

1.44. This approach promoted clarity of thinking and allowed effective actions to be planned and set for each of the core elements needed to ensure business continuity. The safety and well-being of the workforce remained front and centre in contingency planning.

1.45. In the following chapters, we discuss some of the actions taken as priorities within the five pillars.

1.46. At an Area level, there are local business continuity plans in place. These are developed with clear routes into the national plan to make sure that local processes and practices link effectively. These plans are regularly tested through desk-top exercises. In line with the local business continuity plans, local silver and bronze commands were activated.

1.47. In the Areas, arrangements replicated the national approach. In the week before lockdown, governance arrangements ensured that managers and staff in the Area understood how to deal with the pandemic and how they would communicate with staff. Areas' silver commands were made up of the Chief Crown Prosecutor, Deputy Chief Crown Prosecutors and Area Business Manager. Bronze command structures included legal managers and operational business managers. Initially, daily meetings of local silver and bronze commands took place but as things became clearer, meetings in Areas decreased to three times a week. The approach allowed for local management to communicate consistently with staff but also provided an avenue for staff concerns to be escalated to silver command.

Participation in the criminal justice system's response

1.48. In line with best practice, there are cross-criminal justice system (CJS) plans, with groups at gold and silver command levels. The first Criminal Justice System Strategic Command (CJSSC) meeting took place on 18 March. The CPS was represented at CJSSC meetings by the Chief Executive.

1.49. Cross-CJS gold and silver structures were a means of making sure that partners knew what was happening in individual organisations – but also allowed partnership demands to be understood and set out clearly in a system which has significant interdependencies. Cross-CJS silver commands were tasked by gold commands to develop solutions to issues as they developed.

1.50. The view of CPS representatives who participated in cross-CJS command groups was that they generally worked well. Many challenges were addressed immediately, and solutions were found. National communication across individual organisational structures generally worked to smooth some of the tensions and challenges that naturally exist when organisational priorities compete with partnership need. The view expressed was that the police at the national level (the National Police Chiefs' Council) were exceptionally responsive.

1.51. Some of the obvious and difficult tensions at the outset, which in some instances continued to play out as the immediate aftermath of the crisis settled, related to the constitutional set-up of the courts. We provide more details of this in later chapters, including some examples of how this affected the CPS's ability to respond. The independence of the judiciary meant that what was being agreed at cross-CJS groups later needed to be reconsidered in light of messages set out by the judiciary locally and nationally.

1.52. In some of the cross-CJS silver groups, we were told, the CPS took a leading role and brought real drive and momentum to the criminal justice system's response. As set out in chapter 2, we have not spoken with stakeholders as part of this inspection, and intend to examine the partnership arrangements and joint reaction to the coronavirus pandemic in much more detail in another inspection. However, the influence of the CPS was clear in some of the revised cross-CJS protocols and policies we have seen. Policies and guidance were developed for matters as varied as charging arrangements with the police, the handling of custody time limit extension applications with the court, and conducting police interviews, including how these could be presented in evidence.

4. Digital capability

Immediate reaction to the lockdown

1.53. When the Prime Minister announced the restriction of movement on 23 March, the CPS had already begun preparing and was able to respond immediately. The digital capability demanded by such a swift and major change was already in place as a result of significant planning; it was the culmination of the strategy which had underpinned the CPS 2020 vision, and which the CPS had started to develop in 2016. Additionally, fully digital casework processes have been in place in the CPS for a number of years. This eased the transition to full-time remote working.

1.54. The CPS had started work to move its infrastructure to a cloud based solution in 2016. Between 2002 and 2016, the CPS had outsourced its IT contract to one provider. This brought many advantages, but also carried risks. The 2020 strategy needed more agile digital services and products, so in 2016, when the one provider contract was due for renewal, the CPS decided to break it up into separate contracts. This approach allowed the CPS to set out contract terms that brought more flexibility and enabled business solutions to be developed more quickly.

1.55. The overnight move from an average of 500 people working from home to more than 5,000 staff doing so was the result of strategic decisions and planning the CPS had undertaken from 2016 onwards.

1.56. The CPS had also learned from other threats to business continuity. One such experience was the travel disruption that accompanied the period in 2018 described by some newspapers as the 'Beast from the East'. The disruption was caused by the heavy snowfall that accompanied the severe weather, and at the time the CPS had the capacity to enable 2,000 to 2,200 staff to work remotely. The limitation was the number of licences needed for people to be able to access CPS systems securely and remotely from their laptops. Before the arrival of the severe weather, typical daily usage was about 1,100, so the CPS had double the capacity it usually required. However, when the severe weather arrived, there were more than 3,000 people working remotely. For a short period, this had an impact on business delivery.

1.57. Changes made by the CPS since then have significantly increased its digital hardware capacity. The migration of the infrastructure onto a cloud-based hosting platform has increased capacity, which in turn presented the opportunity to upgrade equipment. This made the organisation's digital set-up more flexible and capable of scaling up in capacity.

1.58. On the evening of 23 March, the CPS did not have licences for all 6,500 users, but the improvements to its digital capability meant that the service could immediately be increased, allowing for the supply to stay ahead of demand.

Not one member of staff we interviewed highlighted concerns about not being able to work because of not having access to the right IT kit

1.59. Staff and managers in focus groups commented regularly that the IT support provided by the CPS during this period was tremendous. Even though there were some minor interruptions in service in the early weeks of the whole CPS working from home, the view was that these were no worse than the interruptions sometimes experienced in the office. Not one member of staff we interviewed

highlighted concerns about not being able to work because of not having access to the right IT kit. Staff who had never worked from home and did not have a remote access token were supplied with them promptly. In chapter 6, we discuss other support and equipment that the CPS has provided to allow staff to effectively work from home.

1.60. By the time the pandemic struck, remote usage was typically 1,800 people, with a significant number of those being advocates working at court. Overnight, the CPS was able to cater for more than 5,000 home users. This increase was managed without any interruption in service.

Development of the CPS's IT capability

1.61. The CPS rolled out Microsoft Teams for all of its users between January and February 2020. The plan for the roll-out was initially to provide users with the ability to set up teams, hold meetings and conferences by audio, and make calls. It also brought with it the capability to share and manage documents in a secure environment. The initial roll-out plan included a phased approach to enabling laptop cameras, which was due to take place in the latter part of 2020. The delay in enabling cameras was because their use requires significant additional bandwidth, and time was needed to prepare the digital infrastructure to support this increase.

1.62. The CPS immediately recognised that restrictions to movement and the need for courts to continue to operate meant that turning on their laptops' cameras was vital. The steps that needed to be taken to achieve this were two-fold: an increase in bandwidth and a prioritisation of key users. Within days, the CPS turned on the cameras for about 40 users, but this required a manual intervention, which given the social distancing requirements, was not a feasible

solution for all staff. Even so, within two weeks the CPS had extended this to 200 users, but with a maximum capacity limit of 250.

1.63. Silver command set a priority for the CPS digital business team to develop an automated process to turn the cameras on and to increase bandwidth to allow for all cameras being enabled. Solutions to both were developed rapidly. Initially cameras were enabled for 1,100 court advocates. During the week of 29 April, all cameras were enabled. The CPS takes pride, rightly, in the fact that it was able to move so quickly to develop a digital solution.

1.64. In every interview we conducted, we were told that the roll-out of Microsoft Teams had been hugely significant, a “game changer”. In chapters 5 and 6, we discuss the positive impact that enabling cameras had on communication and well-being.

1.65. The CPS made the strategic decision to open the Teams meetings function to guests from outside the CPS. Staff on the front line explained how case conferences are now much more effective, because meetings can still be held face to face but without anyone having to travel. Many staff felt that some of the changes that have come about since enabling cameras need to become business as usual. One crown advocate set out some of the clear benefits of virtual court hearings in cases such as mentions, where all parties could take part and then get straight back to work without losing time travelling to and from the venue. Remote virtual courts and remote case progression have been longstanding aims of the HM Courts and Tribunals Service (HMCTS) Crime Programme, and were the stated intentions of the direction of travel for the criminal justice system before the pandemic. Many we spoke to confirmed that since their cameras had been enabled, the benefits of these longstanding aims were being realised.

1.66. The CPS had embarked on a major recruitment drive before lockdown. To progress that, it was necessary for the CPS to provide new recruits with IT kit. Before the pandemic, engineers would supply, deliver and build laptops at the desk of the person receiving the equipment. With restrictions on movement and social distancing, this was no longer possible. The digital business team therefore created a process for delivering laptops remotely, which ensured that recruitment could continue.

1.67. Teams has also allowed new starters to be trained more effectively. As well as face to face discussions, Teams has enabled new staff and the trainer or manager to share screens, take over screens and demonstrate aspects of work virtually, and this has been invaluable.

IT developments with partners

1.68. As with other aspects of its business, the CPS has needed to work with partners to develop IT solutions that meet the challenges of lockdown. We were told that an early principle the CPS adopted was that any solution the court required would be supported. As a consequence, the CPS opened its systems and also allowed advocates to use their personal devices before laptop cameras were enabled by CPS IT. Once laptop cameras were enabled, all staff who needed to were able to join video hearings, using whichever technology the court chose. In focus groups, we heard from crown advocates, paralegal assistants and prosecutors who had attended virtual hearings by various means from Skype to Zoom and over the phone; this had allowed the work to continue.

1.69. The CPS is part of the cross-criminal justice system technology silver group, which leads the work for the criminal justice system to ensure the best use of video hearings by all agencies. As part of the plans being developed by this group, the proposed long-term solution for all video enabled hearings is the Ministry of Justice's cloud video platform (CVP). A number of staff told us that they had trialled the CVP and found that it worked well, although it could not be used in hearings where the defendant was on a link from prison. Some staff also said that the way the CPS had moved to support CVP felt chaotic and rushed, but recognised that with the speed of change this may have been understandable.

An early principle the CPS adopted was that any solution the court required would be supported

1.70. Initially the priority for delivering CVP as a national solution has been to enable virtual overnight remand hearings in the magistrates' courts, and Crown Court hearings for defendants in custody who have yet to be sentenced.

1.71. As of the end of the period covered by this report, CVP was live in 34 magistrates' courts and 12 Crown Court centres. More than 2,000 hearings across the magistrates' courts and the Crown Court have been heard using CVP. In locations where CVP has not been rolled out, the CPS is supporting interim solutions to enable prosecutors to appear remotely. We were told that during the period of this report, no court hearing had failed as a result of an issue with CPS technology.

1.72. Since July 2018, the CPS has been working with police forces to share multimedia evidence on a digital platform. Digital uploading of evidence brings a full end to end solution. In February 2020, before lockdown, about half of the 43 police forces were using a digital platform to share evidence such as CCTV, 999 calls, body worn video and video-recorded victim interviews. The other forces

were still sending hard copy discs to be uploaded onto the digital platform by CPS administrative staff. For the past few years, work with some forces had not progressed for a variety of reasons.

1.73. However, the urgent need to find alternative ways to share information within the current restrictions and social distancing resulted in a much more collaborative relationship. There are now 39 police forces who can upload digitally and this has significantly reduced the transmission of digital material on disc, which promotes greater data security as well as making the digital material easier to review.

1.74. Staff in Areas said that lockdown has been a catalyst for change. The need to think differently, and to be able to continue to deliver casework within the restrictions imposed, has meant that partners are willing to focus attention and there has been a real 'can do' attitude. A number remarked that what they have been trying to achieve for one or two years has moved on in weeks under the impetus the pandemic has provided.

5. Communication

Internal communication

1.75. In chapter 3, we discuss the CPS Executive Group's strategic approach to the introduction of coronavirus restrictions. A key part of the planning related to internal and external communication. Using the five pillars of the CPS 2025 vision and plan, internal communication was a central feature of the gold and silver command meetings. Within a few days of lockdown on 23 March, the communications strategy had developed and settled into a clear structure to support internal communication. The strategy included:

- a daily leadership bulletin email to Areas
- a daily call at 8.45am between the Director of Communications and the silver group
- later in the day, after the cross-criminal justice system (CJS) gold group meeting, an internal gold and silver command meeting
- a 5pm senior leadership call, including all Area Chief Crown Prosecutors (CCPs), Divisional Heads and Area Business Managers (ABMs), which followed the daily leadership bulletin email and allowed questions to be asked
- the creation and regular updating of frequently asked questions (FAQs), which have been made available to all staff.

1.76. In the early days of lockdown, the gold and silver commands held business continuity planning meetings very frequently – in some cases hourly, given the fast pace of change. It became apparent that the gold and silver commands should be merged, and this enabled messages to be shared consistently, and actions allocated and tracked.

1.77. The rapid changes led to local arrangements developing which did not always accord with the national position. By the middle of the first week of lockdown, a 5pm senior leadership call, including Area and Division senior managers, had been introduced to address mixed messaging. This call continued throughout the period covered by this report, although its frequency decreased to three times weekly once the situation began to settle.

1.78. The 5pm call was used to disseminate information from the gold and silver command meetings and the cross-CJS command meetings. These meetings were also critical to get information and intelligence from the front line to those at CPS Headquarters who were responsible for developing partnership and CPS plans. Discussions from these meetings also formed the basis of much

that was included in daily COVID bulletins, which were posted on the CPS intranet for all staff and sent to every member of staff by email (CPS Gateway).

1.79. Some senior Area managers reported that – whilst the daily meetings were helpful – at the outset of the lockdown, corporate decisions and discussions with partners did not reflect some of the issues and problems that were being faced at the local level. The main tension locally was how to ensure that staff were safe whilst maintaining a physical presence at court. At the front line, the corporate message about the safety and well-being of staff was being undermined by a small number of staff having to go into local courts that did not meet the required standards. Some Area senior managers we spoke with thought that, at this initial stage, the CPS should have taken a much firmer line and the national approach was too focused on collaboration and compromise.

1.80. In the early days of the crisis, there were a series of difficult decisions to be made. There was inevitable tension between the needs to maintain casework and court coverage and to ensure the safety of staff until such time as courts and offices could be made safe. Most of the staff we spoke with were fully aware that the paramount concern at a corporate level was their safety and well-being. In interviews, those who had attended court, both during the initial stages and more recently, were clear that they would be supported if they felt the need to leave because their safety was being compromised. We set out some of the issues of health and well-being in more detail in chapter 6.

1.81. Given the extraordinary nature of the pandemic and the speed at which issues developed, it was inevitable that there would be times in the early weeks when not all the answers were available. The CPS determined that, in some cases, messages which were not fully formed still needed to be communicated. These often came out of the daily 5pm calls, with CCPs and ABMs being asked to ensure that these messages were also circulated in their Areas through the local silver and bronze commands.

There was a strong view that communication throughout the initial period had been superb

1.82. Communications between CPS Headquarters and the Areas were also facilitated by twice weekly calls between the Director of Communications and Area communications managers. These started within the first week of the lockdown and were used to capture issues at the local level and communicate national messages consistently. This worked well. Staff at all levels felt that local

managers did an excellent job of providing clarity and delivering unambiguous messages in a world where things were very unclear and scary.

1.83. There was a conscious decision, as part of the internal communications strategy, to make sure the national message was clearly echoed by local leaders. It was essential that staff saw the Director of Public Prosecutions (DPP) and Chief Executive as authentic. The plan was for the DPP and Chief Executive to set the tone with regular blogs, videos and posts on the CPS intranet. This approach was emphasised at daily senior leadership calls with discussion of a 'local lead from a national picture'.

1.84. Many staff had seen some of the national communications (the DPP and Chief Executive blogs were regularly mentioned), but the overriding view was that what was being said and produced locally mattered and was more interesting and relevant. There was recognition that the CPS's position on staff safety was consistent in everything that was being communicated at all levels, from the DPP through to the conversations with local managers.

1.85. We have concluded that the communication approach taken by the CPS worked for a number of reasons:

- a joined up approach at a senior level (gold, silver and Area calls) with clear communication informing decisions
- regular contact with Areas, which allowed senior leaders to take and react to feedback
- good and appropriate timing and modes of communications.

1.86. Messages at all levels were largely consistent, and focused on the simple safety priority, so communications reached staff clearly and unambiguously and all staff knew what was happening.

Rolling out Teams and enabling laptop cameras had been a game changer

1.87. The communication strategy was underpinned by the effective development and use of Microsoft Teams. All staff and managers said that rolling out Teams and enabling laptop cameras had significantly enhanced their ability

to work effectively during the pandemic. Everyone thought that without Teams, the whole approach to communication would have been much more difficult. Face to face conversations were easy, staff working at home could be contacted freely and easily, and communicating with colleagues became more straightforward and simple. The sentiment expressed in a focus group of managers summed up the constant refrain: "Microsoft Teams came at an ideal time. The enablement of cameras has been really positive. It really helps to keep in touch and Teams has helped tremendously."

1.88. Our findings are borne out by the Civil Service COVID-19 Pulse survey, conducted during May, which reported that 91% of CPS respondents felt confident that their senior leaders had handled the impact of COVID-19 well.

1.89. In most cases, staff felt that there was clarity of purpose, even though the way they operated had changed so rapidly. Staff who had usually worked in the office and who were now at home continued, in most cases, to do the same work as they had done in the office. Many expressed gratitude for the fact that the culture of the CPS had, over the past number of years, encouraged and allowed home working and that the IT kit and digital processes meant that the business could react immediately. Many of those we spoke with appreciated the level of clarity in an uncertain world.

1.90. In some cases, inevitably, roles had to change. As courts reduced their sittings and only priority cases were progressed, most advocates and paralegal staff were no longer needed in court. Advocates were redeployed to other tasks such as review and pre-charging advice.

Advocates were redeployed to other tasks such as review and pre-charging advice

1.91. Many in the magistrates' court teams were already used to a mixed diet of advocacy and review, so were able to switch into a different task without the need for training or support. In interviews, however, some crown advocates, who spend their days in the Crown Court as prosecution counsel, were critical of the way that they were moved into other roles

as court sittings stopped. There were criticisms that management told rather than consulted them, and that some had been asked to do work for which they were not trained, such as using the case management system.

1.92. It is trite to say that staff should always be supported and trained to undertake the work requested of them, but we also note that in a crisis such as this, some moves may have been necessary, even though they were unsettling. We suggest that a lesson to be learned is that managers need to consider how those in specialist roles can also retain competence in other aspects of business, in case there is another situation calling for urgent redeployment in the future.

1.93. Paralegal staff were generally redeployed to administrative tasks, although some continued to support the priority Crown Court cases virtually. They felt that managers had explained to them what they needed to do and thought that communication about the change, and what may happen in the future, had been effective.

Supporting changes to legal decision making and casework handling

1.94. As responses to the pandemic developed, a number of legislative and legal changes needed to be communicated to legal staff. The CPS has standard systems and processes to do this and, as we have reported in previous inspections, they work well. The difference in this period of lockdown was the frequency and extent of significant change. Weekly legal COVID bulletins were produced centrally and these set out clearly the legal guidance and highlighted change.

1.95. To support the changes, the central legal training team also produced a series of training packages and courses that could be delivered virtually. These were very well received by the legal staff and managers we spoke to in our focus groups. More than once, interviewees told us that they were very impressed with how polished the courses were, and that it was a real testament to those involved that they had been able to pull together such high quality content so quickly.

1.96. Legal changes were also highlighted at daily team meetings. In all the Areas we visited, CCPs had been highlighting legal changes and discussing casework issues with legal staff and managers. In some Areas, work had taken place to pull together all the legal changes and changes to protocols into a simple yet comprehensive aide memoire to share with all lawyers. Whilst the frequency of change did cause some to feel 'bombarded' with information, they recognised that in the circumstances, there was little that the CPS could have done to manage this better.

1.97. In response to the new legislation, Areas developed local quality assurance processes to check the legal decisions made on COVID offences. We heard that where the charge was to be altered or dropped, there were management checks in place, and changes were discussed before they were implemented. Areas were also feeding back to the police on cases where the wrong charges were used.

External communication

1.98. Very early on, the CPS made a proactive and conscious decision to focus its external communications on the coronavirus crisis; any business as usual press or communication would cease.

1.99. The decision to focus exclusively on COVID related stories and matters played out initially in proactive engagement in the press about cases and results where the successes related to key workers. To support the external

communications strategy, the DPP and local CCPs offered to undertake national and local media interviews. There were also a large number of official press releases about appropriate cases, to make sure messages about the support the CPS was offering key workers on COVID related cases were reaching the public.

1.100. We were told that this was welcomed by partners, and we have seen many examples of local and national stories that were successful in showing the support that the CPS was giving to key workers through effectively prosecuting COVID related cases.

Adopting this approach to external communications was successful

1.101. Adopting this approach to external communications was successful. There are numerous examples of the CPS's approach being referenced in tweets and other social media at senior levels in government and criminal justice system partners. This approach

was helpful in show-casing the good work of the CPS at both the local and national level, but also showed how the action taken by the CPS and what it does fits into the wider criminal justice system and makes a difference.

1.102. The CPS also decided to be transparent about sharing all the revised legal guidance developed to support the pandemic. This approach allowed the CPS to communicate in an open and effective way. This too demonstrated the core role the CPS was playing in the criminal justice system during the crisis.

6. Health and well-being

1.103. Before the coronavirus pandemic, the CPS was in a strong position to support staff well-being. In 2019, a Well-being Matters Strategy was launched as part of the CPS 2020 vision; this put well-being and mental health at the core of the CPS People strategy. Since then, the CPS has provided a programme of activity that includes aspects to support physical health and mental well-being.

1.104. The CPS was also already embracing smarter working principles, the culture supported home working and, as set out in chapter 4, staff had the IT kit needed to work from home. The consensus from our interviews and focus groups was that, as an organisation, the CPS was already “more than halfway around the track and therefore well placed to cope” when lockdown struck.

Staff safety: a key message

1.105. The Director of Public Prosecutions and Chief Executive were clear throughout the lockdown that supporting health and well-being had to be the priority in their approach. The CPS would not be putting any staff in danger or at any risk. Whilst there was a commitment to delivering essential work, staff safety came first. The CPS also negotiated and secured key worker status for its employees, having not been included in the initial government announcement.

This message was especially helpful for those advocates and staff who continued to go to court

1.106. That message reached staff unambiguously. In all focus groups and interviews, staff told us there had been clarity of message: their safety was paramount. If they did not feel safe they should withdraw and speak with their manager, and they would be supported.

1.107. This message was especially helpful for those advocates and staff who continued to go to court. In the week post-lockdown, concerns were expressed by CPS court users about the levels of adherence to Public Health England guidance. Staff and the trade unions made representations that court attendance needed to be considered, because there were concerns about the levels of staff safety.

1.108. There was no possibility of not attending court, because the CPS had committed to undertake priority hearings and continue with necessary casework. However, there was recognition that staff concerns about safety were well founded. The CPS worked with the trade unions to develop a set of attendance standards which developed into a risk assessment process. This process allowed the CPS to report back to the cross-criminal justice system gold group

and influence change across the court estate in terms of cleanliness and social distancing requirements.

1.109. The view from the CPS was that it led from the front, working with the staff and the trade unions to deliver criminal justice. The approach allowed risks to be identified and addressed; critical services were then delivered in a safe, well managed and properly assessed environment. The trade unions supported this view; we were told that the approach was one where “there were no sides – both the CPS and trade unions had the same interests at heart”.

Policy and guidance

1.110. Unsurprisingly, many of the issues that arose during the pandemic were not entirely covered by pre-existing policy and guidance. The CPS acted very quickly to address this. In the run-up to Easter, the human resources (HR) team reviewed all guidance and policy to ensure that they supported the needs of staff through the pandemic, were in line with Civil Service HR practice, and replicated the Public Health England guidance and general good employment practices.

There were no sides – both the CPS and trade unions had the same interests at heart

1.111. A number of changes were made to key policies. Special leave provisions and flexible working were quickly adapted to allow staff to manage the competing demands of home schooling and caring responsibilities.

During interviews, numerous participants told us how they had changed their working hours to help them accommodate changes because of home schooling or looking after elderly relatives. Not once did we hear that this had been difficult to do; managers were very clear that policies supported such accommodations and, in many cases, it was the proactivity of managers that had driven the change.

1.112. The CPS also reviewed its death in service policy. The process for support was clarified and counselling and support measures included in the policy in the event of any staff member dying were strengthened. Sadly, the policy was tested with the death of one colleague. We were told that the policy worked well. The family (one of whom also worked for the CPS) reported that they had been well supported and were grateful for the compassionate approach adopted under difficult circumstances.

1.113. All CPS staff have an individual learning account (ILA) which consists of a £350 allowance to spend on training, and there is guidance on what it can be used for. In the past we have reported that this is a good idea, although uptake has been patchy. As part of the CPS’s central response to the pandemic, the

scheme was extended. Previously, it had not been possible to use the ILA to purchase or access well-being products and services, but this was revised to cover services that support positive mental health and resilience. A list of available resources was issued to staff. This now includes apps, books, virtual classes and podcasts.

1.114. To make sure staff were aware of all the policy changes and could access policy quickly and simply, a number of the COVID bulletins set out links, and HR business partners worked with local management teams and managers to help direct staff and managers to products and services. The changes made to policy and practice were welcomed by staff we spoke with, as was the simplicity of access. We heard the same time and again, captured by this from one interviewee: “The CPS has been superb. I have never seen a response from CPS like this; I have felt affection and interaction like never before. They have reacted quickly and changed policy to support us all.”

Support

1.115. The CPS created various resources and offered them to all staff to support them during the lockdown. These included:

- a well-being hub with products and services and links to various support resources
- webinars on managing remotely, well-being and kindness, all of which were oversubscribed
- work packages to support the needs of those working from home, including the provision of monitors, chairs, laptop risers, keyboards and mice.

1.116. Locally, numerous support mechanisms were developed and communicated. Much of this work replicated and added to the national offer.

1.117. During interviews, staff and managers were generally more aware of the local resources. Many had accessed well-being hub services. Managers had signposted the offer and products to staff in team meetings, blogs and regular calls. Some staff we spoke to were aware of the extension of the ILA scheme to cover health and well-being matters, but we only spoke to a couple of staff who had used their ILA this way. In most Areas, there has been a plethora of ways to help staff with their health and well-being, such as videos, quizzes, encouraging staff to step away from the laptop, and virtual coffee mornings.

1.118. There was an early realisation of the need to provide equipment to staff working from home. In some Areas, in the week before lockdown, facility and estate managers started having equipment sent to staff at home. In all the Areas

we visited, staff gave us examples of monitors, chairs and other equipment that had been provided. In many cases, equipment continued to be sent from local offices to staff homes even after lockdown, with staff who attended the office to cover emergency tasks arranging delivery via local couriers.

1.119. National equipment packages have also been offered. CPS Headquarters worked to set up support packages that could be supplied to all staff. They devised three standard packages that staff could choose from as required:

- pack A: laptop stand, keyboard and mouse, so laptops could be used at home
- pack B: as above plus a screen, for those involved in video hearings)
- pack C: a basic adjustable chair that could be added to pack A or B or ordered on its own.

1.120. The availability of the equipment packages, on which the CPS spent approximately £140,000, was communicated in COVID bulletins. Whilst there were some supply issues, over 250 had been delivered by the end of April. In interviews, staff were not always aware of the national offer but most had been asked by local colleagues whether they needed any additional support to work effectively from home.

1.121. The CPS has financially supported staff who have had to attend the office and court during lockdown. Reasonable expenses have been paid to ensure that travelling staff have not been subject to additional risk. This has included paying for staff to travel and park in their private vehicles to avoid public transport. Relevant equipment including gloves, wipes and sanitiser has been provided in CPS offices and in CPS rooms at courts.

7. Resource use

Abstraction and productivity

1.122. One of the real risks that organisations face when reacting to disasters is loss of productivity and the consequent interruption to service delivery. As set out in the previous chapters, effective business continuity planning and a long term strategy of investment in digital capability meant that at the point of lockdown, the CPS was well placed to be able to continue to deliver its business. This level of planning and forward thinking, building on foundations laid in 2016, is impressive and deserves recognition.

1.123. The government issued planning assumptions before the lockdown that included worst case scenarios for sickness and absence. These predicted major impacts on productivity and service provision. Some planning assumptions indicated that levels of abstraction could be up to 50% for protracted periods. Figure 5 in annex B shows the levels of abstraction experienced by the CPS between 17 March and 6 May.

1.124. From the outset of lockdown, Areas provided daily returns and data was produced for senior management. The returns asked managers for accurate information about the health of their staff, allowing the CPS to check on well-being and to understand, in detail, any risk to productivity and work flow. The data collected included all reasons for absence, including annual leave as well as special leave and sickness.

1.125. The CPS set a 20% abstraction threshold to allow it to monitor absence rates. As Figure 5 in annex B shows, the only period that this level was exceeded was over the Easter holiday break and the two bank holiday weekends. At all other times, the CPS remained within usual operational tolerance. The accurate management information allowed the CPS to track and fully understand absence levels, and address the impact on its business.

1.126. As we explain in chapter 5, court closures and the significant reduction in court sittings resulted in the release of some staff to undertake different tasks and work. This increased the amount of legal and administrative resources available for casework. In daily calls with Area Chief Crown Prosecutors and Area Business Managers, the senior team emphasised that additional resources would be crucial to the CPS being well placed when it returned to business as usual. Priorities were set on clearing backlogs of pre-charge cases, with the initial focus on cases where the charging request was more than 28 days old. Priority was also set for review of all cases that could not proceed to trial because there were no courts sitting. Lawyers were told to review and prepare these cases to make sure they were trial ready for when courts re-opened.

1.127. Figure 1 in annex B demonstrates that the backlogs of pre-charge requests more than 28 days old halved during the period. There will always be a number of cases that cannot be dealt with in less than 28 days, because of the complexity of the case and the level of legal input required, and the CPS estimates that about 500 cases will usually be in this category at any given time. On 8 May, just over 800 charging cases had been outstanding for more than 28 days – down from more than 1,800 at the end of March.

1.128. The CPS is to be commended for the efficient redirection of resources during a period of uncertainty, whilst continuing to deliver its day to day business of preparing and managing cases. During Area interviews, we were told that this period has been a chance to get ahead. Magistrates' court teams have been able to clear tasks that are usually not cleared because of a lack of resources. In all the Areas we visited, we were told that the task numbers are lowest they have ever been, with Areas indicating that all magistrates' courts escalated tasks are cleared. The average number of escalated tasks has decreased from 2,000 to 800 and lawyer tasks have come down to fewer than 300 from an average of well over 1,000.

1.129. The picture is less clear in Crown Court teams. The closure of courts to all but priority cases has resulted in additional case progression tasks that have needed significant legal resources. These include applying to extend custody time limits, preparing cases to adjourn hearings, and complying with other case progression tasks. They have meant that the work in Crown Court teams has not diminished at the same rate as in magistrates' court teams. This is a concern given the scale of recovery that will be required as the system begins to return to normality; we discuss backlogs further from paragraph 7.12.

1.130. To help direct resources to where they are needed, national and local performance dashboards have been amended. Within a week of lockdown, it became obvious to the CPS that the usual performance data produced would not be effective for determining local performance. High weighted measures, which are based on case finalisations and outcomes and require cases to be dealt with as normal, would not be available, because cases had stopped progressing to completion. To address this, the CPS national performance management unit developed a suite of performance measures which allowed for daily reporting. This enabled senior managers, nationally and locally, to understand what was happening to workloads and cases.

1.131. As well as a range of measures on tasks, requests received for charging decisions and outstanding case numbers, data was also produced to estimate the scale of the trial backlog in the magistrates' courts and Crown Court. The data and performance dashboards were shared with the police and the courts

service to support joint planning in cross-criminal justice system (CJS) silver command discussions.

1.132. In line with its current recruitment need, the CPS continues to interview and offer posts using digital methods. This has ensured that resource needs have been addressed and that the lockdown has not affected its recruitment planning.

The criminal justice system backlog

1.133. The CPS has made the best possible use of the time and resources freed up as a consequence of the pandemic's effect on the criminal justice system's ability to sit courts. It has invested the spare capacity created to address CPS charging backlogs and to get on top of case progression and preparation, so that when cases are listed, they are effective.

1.134. Figures 3 and 4 in annex B set out the increase in case numbers in the ten week period covered by this report. Cases are still coming into the system. What was a reduced level of reported crime at the outset of lockdown has more recently returned to more normal levels. For example, on 8 May the weekly total of prosecution receipts was 12% down on pre-lockdown averages, but by the week ending 15 May the level was 0.5% less than the average.

1.135. Figures 3 and 4 in annex B show that there is a rapidly increasing difference between case receipts and cases being finalised. In the magistrates' courts, live case numbers have increased by 35,000, and this has continued to increase every week following the period covered by this report. The backlog in the Crown Court has increased by more than 1,700 cases in ten weeks.

1.136. It is estimated that trial backlogs in the magistrates' courts have increased by 32% between the beginning of March and early May, from 12,100 to 16,000. In the Crown Court, where cases are much more complex, the estimated increase is 43% (from 17,400 to 24,900). The increase is exponential; the percentage increase by the end of May, some three weeks later, was 41% in the magistrates' courts and 53% in the Crown Court.

1.137. The initial system-wide recovery phase is being overseen by the Criminal Justice System Strategic Command (CJSSC). A number of cross-CJS silver working groups have been charged with looking at the impact of recovery and developing plans to address the backlog. As the growing rate of trial backlogs shows, the challenge of recovery cannot be underestimated. Without some innovative thinking and solutions, the challenge of addressing the backlog is likely to be much more complex than dealing with the immediate crisis.

8. Stakeholder partnerships

1.138. As highlighted in chapter 3, the cross-criminal justice system (CJS) response at the national level has included significant commitment from the CPS. The Chief Executive sits on the Criminal Justice System Strategic Command (CJSSC), also known as CJS gold command, and other senior CPS staff are members of the silver command groups reporting to CJSSC. Since the first week of lockdown, there has been a great deal of cooperation and willingness to change approaches and systems to react to the crisis. We were told by CPS representatives that in some instances, the current arrangements are much more effective than some of the joint CJS groups that have been in place for some time. The CPS is keen to harness the desire to deliver at pace, and bring it into future thinking and arrangements.

Working with the police

1.139. Nationally, the CPS has worked effectively with the police to develop revised charging arrangements and to increase uploads of digital material. We were told that relationships with the national police leads were good and effective. The constructive relationship was demonstrated at the joint National Police Chiefs' Council–CPS media briefing in early May. This briefing showed a level of transparency and openness to accept that when things went wrong, the joint relationship was effective in tackling the problem.

1.140. At the Area level, Chief Crown Prosecutors (CCPs) told us that police–CPS discussions had been positive and actions had been taken as a result. Many of the discussions with the police and local changes have happened either at extraordinary Local Criminal Justice Board (LCJB) meetings or local sub-groups of the LCJB formed to tackle the crisis.

1.141. Locally, liaison with the police has also been good at the operational level, which helped CPS managers understand the impact of the lockdown on police priorities. Business as usual had continued in Areas, with the usual liaison and prosecution team performance meetings continuing virtually. In the Areas we visited, feedback to the police had also been instigated to ensure correct charging of cases using the new COVID regulations and Act.

1.142. In one Area we visited, there was some evidence that, like the CPS, the police had taken the opportunity to reallocate resources that had been freed up to catch up with outstanding matters. At the national level, the CPS told us that other forces have also taken the opportunity to catch up with outstanding matters. In one Area we visited, there had been an increase in the level of work received by the Area for pre-charge advice. In another Area, we were told about a large increase in the number of warrants executed. This had the impact of bringing more cases in the system as defendants were arrested and brought into

court in custody. Whilst the police were using their resources effectively, this shows that there are consequences across the whole criminal justice system when individual parts of the system react to their own needs and resourcing pressures. Proactive action by the police will lead to an inevitable increase in cases and this will add to the developing backlog discussed in chapter 7.

Working with the courts service and judiciary

1.143. As we have discussed elsewhere in this report, the CPS committed to providing necessary services for casework and to covering courts in person for priority cases. Many advocates said that in the week before lockdown, not all court users were working in environments they considered safe. Some of this is understandable, in that until the announcement of lockdown on 23 March, much of what we all did continued to some degree at a level of the normality that existed in the pre-coronavirus world.

1.144. Leading up to lockdown, we were told, the CPS had started to engage with HM Courts and Tribunals Service (HMCTS) at a national level to consider how the impact of restrictions might be managed. Decisions about the operation and management of the courts are rightly for the judiciary, supported by HMCTS. As cross-CJS working group structures developed, better communication allowed for a more effective response to tensions arising out of differing organisational positions.

1.145. In meetings with CCPs, it was clear that local negotiations with the courts over some major issues had taken significant management time and effort at the outset of lockdown for all those involved. One CCP said that for the first four weeks, meetings with HMCTS senior staff three times a day had been the norm. Most of the issues being discussed related directly to the health and well-being of court users.

1.146. CPS staff were attending court, as were HMCTS staff and the judiciary, in environments and circumstances where social distancing was difficult to achieve. Advocates who were regularly attending court quoted many examples that they felt put them at risk. Examples included:

- advocates being asked to determine the boundaries for bail by being handed a map and felt tip and asked to come to an agreement by drawing the boundary together on the map
- prosecution and defence counsel having to speak into the same conference phone next to each other, without any regard for distancing.

1.147. As discussed in chapter 1, there were also concerns about the standard of cleanliness and the availability of soap and hand sanitiser in some court buildings.

1.148. There is no question that priority cases and cases with vulnerable victims needed to continue during lockdown, and the criminal justice system needed to operate, but there were clear risks that needed to be addressed. There was such a volume of local concerns, including representations from the trade unions, that the matter was raised at the cross-CJS gold command meeting. The CPS commissioned a health and safety assessment of all court buildings where its advocates were attending to inform a gold group meeting in early April, which showed that a number of concerns were still being raised in early April.

1.149. We have been told that HMCTS has since changed the contract for court cleaning and there has been a dramatic and welcome improvement in standards.

1.150. Whilst the pandemic has seriously challenged the criminal justice system, the problems it created should not overshadow the innovative and 'can do' attitude that has been at the fore of the CPS's relationship with the judiciary and HMCTS locally and nationally. The tensions set out in this chapter may have been caused by the necessarily complex relationship that exists between an independent judiciary, HMCTS, and other court users all acting to try to keep the justice system operating in the face of an unprecedented challenge. The court and judiciary have made numerous change to ensure that court users have been able to operate virtually. Crown advocates gave numerous examples of Judges who were still in the court building with HMCTS, thus making it possible for others to attend virtually. Work at the cross-CJS silver command groups on how cases could be made safe for juries, victims and witnesses produced some effective proposals to maintain safety within the current guidance.

Working with the Bar

1.151. The CPS was proactive in its dealings with the independent Bar. Within the first week of the lockdown, fee payment schedules had been revised. Representatives of the Bar told us that the CPS had acted very fast, the proposal and changes it made were extremely welcome, and the proactive approach underlined the improved relationship that had been developing for the last 18 months.

It was difficult to fault the speed or good intentions of the CPS

1.152. The CPS organised remote meetings to discuss proposals with the Bar Council, and its proposals were considered to be realistic. A commitment was made to clear any outstanding fees as an immediate priority. A structure of interim payments was then rolled out to make payments where some work had been completed but the case had stopped because of the lockdown. The CPS had agreed a statement of principles with the Bar by 30 March, which shows the impressive speed of action. “It was difficult to fault the speed or good intentions of the CPS,” was the view of a senior member of the Bar.

9. Impact of the crisis on victims and witnesses

Mitigating the impact on victims and witnesses

1.153. The CPS plays an essential part in delivering justice and, as a result, has a core role in supporting victims and witnesses. To do this well, the CPS needs to enable, encourage and support the effective participation of victims and witnesses at all stages in the criminal justice process. The coronavirus pandemic has had a significant and very practical impact on how the CPS achieves this, and how victims and witnesses are supported by the criminal justice system (CJS). The CPS has taken a number of measures to try to maintain support for victims and witnesses.

1.154. Under the Victim Communication and Liaison (VCL) scheme, the CPS communicates with victims when making a decision not to prosecute, to discontinue, or to substantially alter a charge, by sending a letter explaining the reasons for doing so. Before the pandemic, the process was for letters to be printed out and posted to victims. This has been the practice since the scheme was implemented.

1.155. With the advent of lockdown, staff could not access the office or print letters, so letters are now sent by email. If no email address is available, the new process is to telephone victims and ask if they are content to receive an email communication. If they prefer, the prosecutor will call the victim and explain their decision. In the case of very vulnerable and intimidated victims, the guidance encourages a sensible decision to be made on how to contact victims, and the suggestion is that the message is delivered via the police. This change to the process demonstrates a pragmatic approach, and also ensures that during lockdown, victims have received the same level of service under the VCL scheme as normal.

1.156. In the first week of lockdown, HM Courts and Tribunals Service (HMCTS) announced that it would continue to cover urgent work in the magistrates' courts. To promote consistency in operation, whilst minimising the risk to its staff and other court users, but recognising that listing is a judicial function, the CPS proposed the following priority list of cases that might continue:

- overnight custody cases
- cases with custody time limits that needed to be extended
- breaches of court bail
- interim custody appearances and bail applications.

1.157. These are cases which usually involve the most dangerous offenders and where the victims are particularly vulnerable. The approach adopted ensured that cases with the most vulnerable victims were dealt with appropriately by the criminal justice system.

1.158. The CPS also secured agreement from the police and other partners to implement a new interim charging protocol. The protocol set out three types of cases and the priority to be given to them:

- immediate priority – custody and all COVID-19 related cases
- high priority – non-custody bail cases
- other cases – released under investigation or no arrest required.

1.159. This approach again afforded priority to cases which are likely to involve vulnerable victims, and ensured that they were dealt with as early as practicable in the circumstances. The protocol also gave priority to crimes of particular concern during this period, including the reported rise in attacks on emergency workers and increase in domestic violence.

This approach again affords priority to cases which are likely to involve vulnerable victims

1.160. The CPS, Senior Presiding Judge and HMCTS agreed a temporary protocol for the efficient and expeditious handling of custody time limit cases in the magistrates' courts and Crown Court. Again, this approach was aimed at expediting cases where defendants pose the greatest danger to victims and the public.

1.161. As set out in chapter 4, the CPS has also worked with HMCTS and the judiciary to introduce more virtual court hearings. HMCTS has agreed to facilitate this where possible by use of its cloud video platform (CVP), where it has staff available and trained to host a CVP in the virtual courtroom. The criminal justice system needs to develop supporting mechanisms so victims and witnesses can give their evidence remotely. The CPS agrees that this is a priority and is urging the cross-CJS silver command groups to take it forward. This development would bring real benefits for victims and witnesses and should be expedited as much as is possible.

Supporting victims and witnesses in the recovery

1.162. Whilst the CPS has tried to support the needs of vulnerable victims, the pandemic has brought into sharp focus a number of issues which the criminal justice system has faced for years. There have always been complaints about delays in the system, whether in the investigative stage or in the court process, and these inevitably affect victims and witnesses. As we said in chapter 7, the pandemic has caused a significant build-up of cases which will need to be progressed through the criminal justice system.

1.163. There have often been complaints about the physical confines of some courts; some were built decades ago and are not fit for the modern age. The requirement for social distancing and the increased use of video hearings have tested court buildings and facilities in ways that no one would have ever considered likely. There is a real danger that the consequences of the pandemic will result in practical problems for victims and witnesses participating in court hearings, a reduction in the engagement of victims and witnesses and, as a result, an increase in cases that are ineffective because of victims withdrawing their support as time passes and the challenges of giving evidence become apparent.

1.164. As set out in other parts of this report, the pandemic has resulted in close co-operation between the criminal justice agencies. A number of innovative solutions have been found and there has been a real desire to overcome some of the challenges that the restrictions and changes in practice have required. This joint proactive and positive attitude will be needed more than ever when the criminal justice system starts to implement a recovery plan.

The system will need to develop recovery plans that consider the safety of all court users, including victims and witnesses

1.165. The system will need to develop recovery plans that consider the safety of all court users, including victims and witnesses, whilst also clearing the growing backlogs. In the push to find new solutions to some of those problems and to advance video technology further, it is vital that thought be given to the treatment of victims and witnesses. Whilst some

of those issues may be primarily for HMCTS, there are also a number of cross-CJS working groups, some with specific responsibility for victims and witnesses, which are tasked with providing long term solutions. The CPS is an active participant in these groups and it is important that the CPS uses its influence to effectively discharge its responsibility towards victims and witnesses.

1.166. There are no easy solutions to the current crisis. This report has focused on the CPS's response in the immediate pre- and post-lockdown period. Cases continued to take place during lockdown and when restrictions were in place. We were told about victims having to travel to court on public transport in some cases, and about vulnerable victims having unacceptable experiences in court as a result of the physical limitations of the courtroom. We know that trials have recently restarted, and that they are taking much longer to progress and complete as a result of social distancing and safety requirements.

These challenges should not be underestimated

1.167. The challenges that were in place during lockdown are now becoming more apparent as some cases restart. The current limitations point to real challenges ahead. The

criminal justice system must ensure that any plans to deal with recovery take full account of the needs of victims and witnesses, but it must be recognised that the challenges ahead are going to require some radical solutions if the system is to recover. These challenges should not be underestimated.

Annex A

Inspection framework

Inspection question

How effective was the Crown Prosecution Service's immediate response to the COVID-19 pandemic?

(An inspection of action and activity by the CPS between 16 March and 8 May 2020)

Sub-sections

The following were the lines of enquiry that featured as the core question set for the inspection.

Digital capability

- The service was effectively supported to deliver its work in line with need through an effective IT platform.
- The service was able to react with partners across the criminal justice system (CJS) to deliver business effectively digitally.
- There were clear routes for decisions with CJS partners to support the IT infrastructure that was needed to be able to conduct day to day business in an effective manner.
- All staff had access the right kit and appropriate access rights to allow for business to operate in line with the business continuity plan and to process work in an efficient way.
- Where staff were redeployed from their normal duties, a proportionate level of training and support was available to them given the circumstances.
- The CPS reacted to the changing nature of the crisis to ensure that all opportunities to improve efficiency were taken.
- Any conflicts with partners relating to infrastructure or IT needs were resolved and allowed for delivery of the core business in line with expectations and standards.

Communication: national and local

- There was a clear internal communications strategy in place which supported the immediate changes needed.
- Communications to staff were clear and unambiguous.
- All staff understood what they needed to do and what they were expected to do to support the delivery of the business.
- There was a clear external communications strategy in place which supported the immediate changes needed.
- The CPS's communication strategy took account of the immediacy of messaging and also used the most appropriate methods to ensure that messages were seen quickly by those who needed to react.
- The CPS's communications strategy included plans that developed and flexed as necessary as the nature of the crisis/lockdown changed.
- Messages to support decision making and legislative change were clear and any issues were addressed in line with need (or external communications strategy).
- Legal changes were efficiently and quickly communicated with clear guidance and policy to support any change.
- Changes to public interest guidance to take account of the effect of the coronavirus crisis were clear and efficiently and quickly communicated.
- Interim protocols for the effective handling of custody time limit cases and CPS charging were quickly communicated to all staff and successfully implemented by Areas.
- Quality assurance processes to support any legal and public interest guidance changes and new protocols were quickly communicated to all staff and successfully implemented.

Human resources – health and well-being

- The CPS supported staff with clear human resources advice and guidance, which was in line with government advice.
- The CPS provided effective support for all staff throughout the initial stages of the pandemic and as things developed and changed.
- Communication to all staff about the support and help was clear and unambiguous.
- National and local support mechanisms were accessible to all staff.
- CPS staff were supported and, where it was necessary for them to travel or attend court/offices, there was clear advice about how to stay healthy.
- Any issues with partners about staff having to attend locations outside the CPS's control were clearly understood and escalation routes (nationally and locally) were in place to ensure that any matters were quickly resolved.
- Staff affected by the pandemic were supported by policies and there was consistent and fair application of policy across the CPS.
- Staff felt supported in their health and well-being throughout this period at a national level by the CPS.
- Staff felt supported in their health and well-being throughout this period by their local managers in the CPS.

Resource use

- The CPS has accurate management information which allowed for the impact on the business to be fully understood.
- The CPS has started to develop plans to address any backlogs and assess demand management as there is a transition to recovery and business as usual.
- Management information was used to plan and support the business to operate effectively and react to any immediate problems caused by absence.
- Clear expectations for productivity were set out for those working from home and management controls ensured that staff delivered efficiently and in line with expectations.
- Where there was evidence of productivity issues, performance issues were addressed.

- Local and national measures were used effectively to monitor and drive efficient use of resources.

Business continuity planning

- The CPS's business continuity plan was effective in setting out how the service would react to a major disaster.
- The business continuity plan was enacted effectively, with lines of communication being clear and staff understanding their roles and responsibilities.
- Communication across the CPS was effective and all staff received clear and unambiguous instructions when the business continuity plan was first invoked.
- A clear route for decision making was established, in line with the business continuity plan.
- There were effective relationships with key decision makers in government to ensure that the CPS could influence policy as the nature of the crisis changed.

Stakeholder partnerships

- Communication with the police, both at the national and local level, ensured that the CPS continued to operate effectively and efficiently.
- Communication with the court service and judiciary, both at the national and local level, ensured that the CPS continued to operate effectively and efficiently.
- Communication with agents and the Bar ensured that the CPS continued to operate effectively and efficiently.
- Partners undertaking work on behalf of the CPS were supported with similar expectations and measures as the service's own staff.

Whilst business continuity planning and stakeholder partnerships were examined as part of this inspection, they will feature in greater depth in future inspection activity, planned for 2021.

Annex B

Data

CPS response to COVID-19: 16 March to 8 May 2020

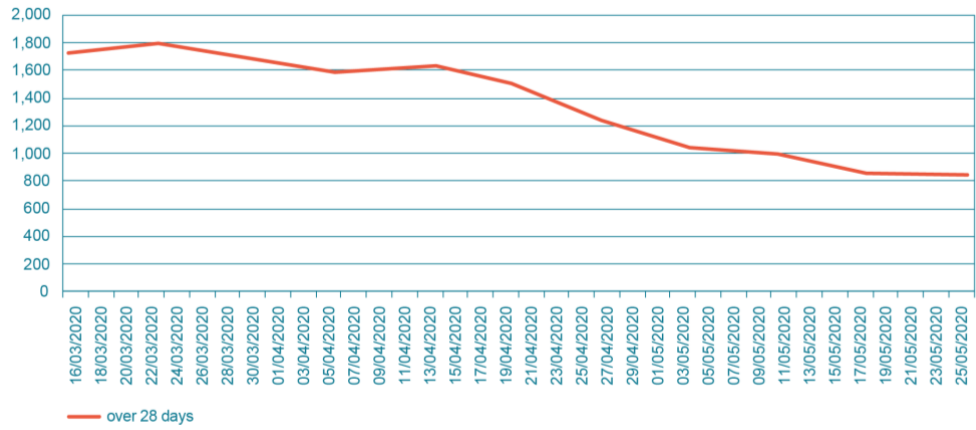


Figure 1: Pre-charge decision cases outstanding – more than 28 days old

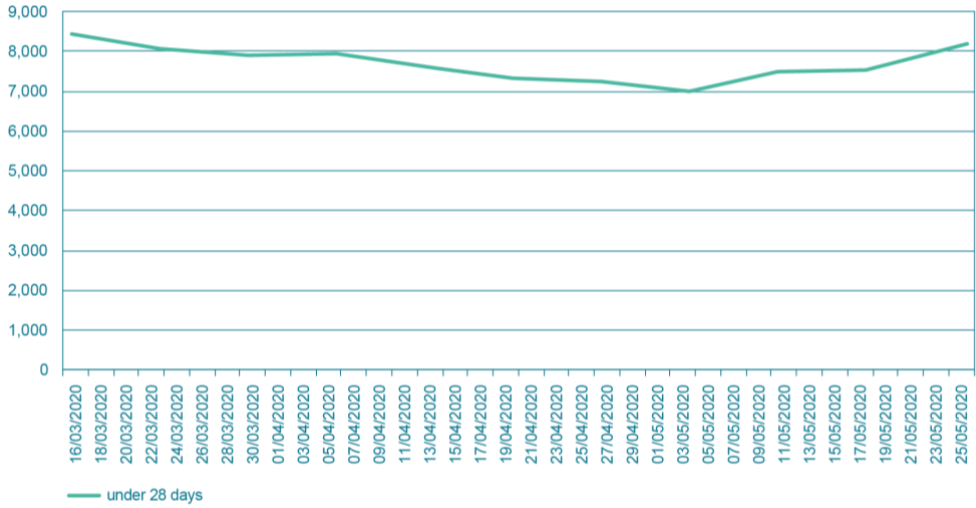


Figure 2: Pre-charge decision cases outstanding – less than 28 days old

CPS response to COVID-19: 16 March to 8 May 2020

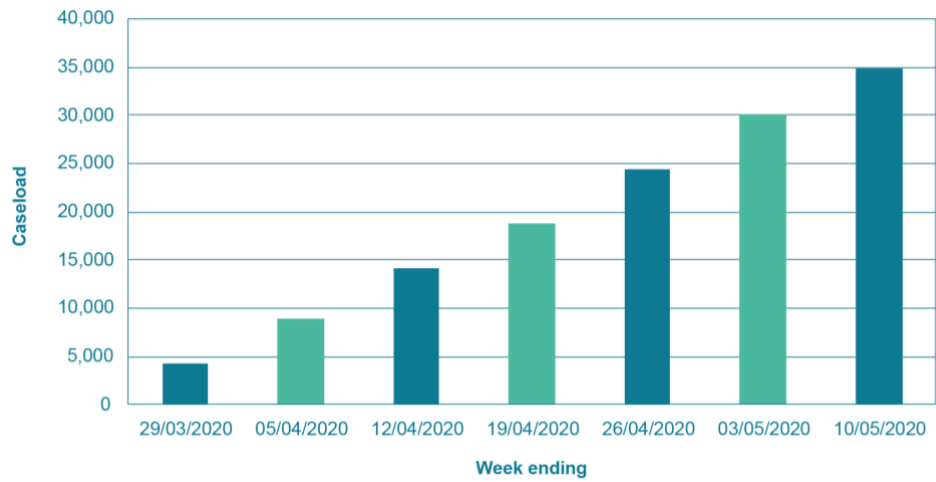


Figure 3: Additional outstanding cases – magistrates' courts

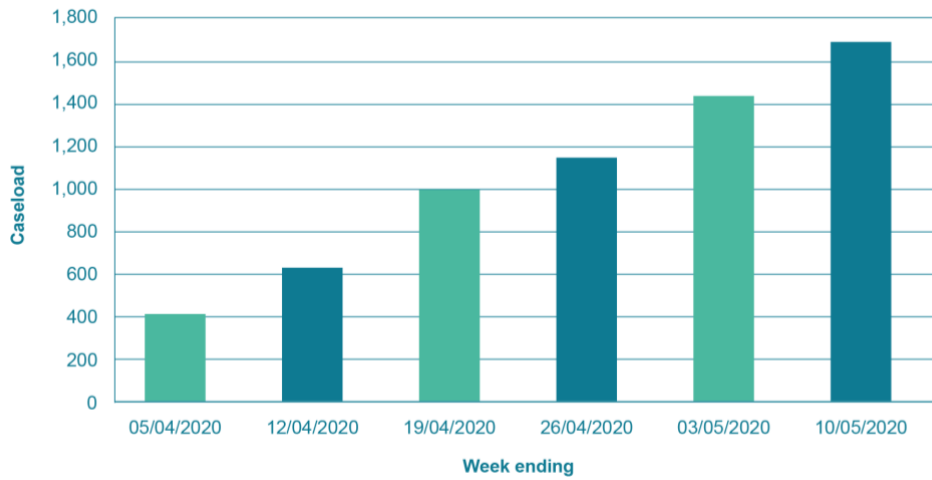


Figure 4: Additional outstanding cases – Crown Court

CPS response to COVID-19: 16 March to 8 May 2020

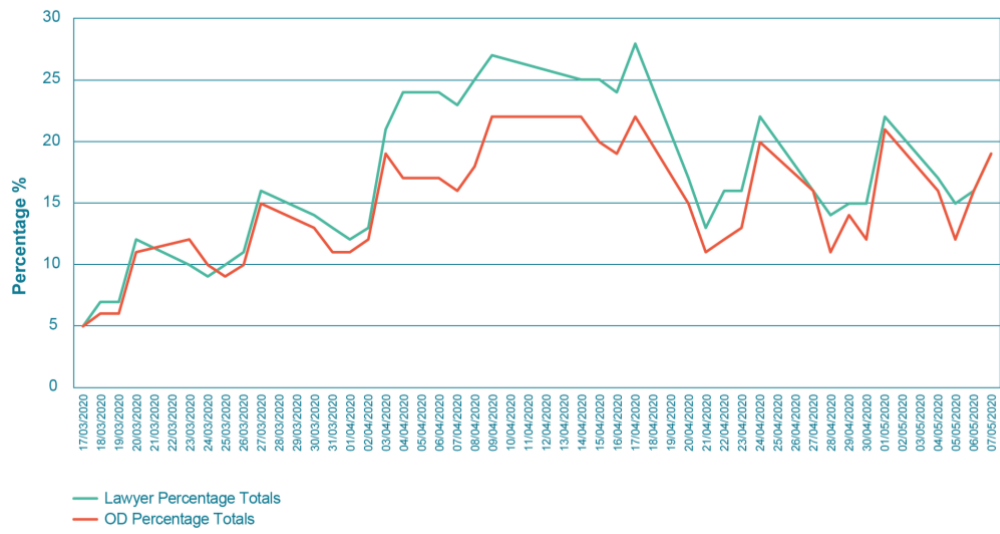


Figure 5: Abstraction

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