****

**INSPECTION OF CUSTODY TIME LIMITS**

 **SCOPING PAPER**

1. **Introduction**

In March 2020 a series of restrictions came into force in the United Kingdom in order to tackle the threat from the COVID 19 virus. The pandemic imposed unprecedented challenges on the Criminal Justice System (CJS).

Prior to the pandemic the numbers of outstanding cases in both the Crown Courts and the Magistrates Courts was high. The impact of the pandemic only served to increase the numbers. In order to comply with social distancing restrictions and protect the safety of court users the Crown Court in England and Wales was not able to hear as many jury trials as it normally would, indeed jury trials were suspended for a two month period.

These outstanding cases included those were defendants were held in custody on remand whilst awaiting trial. The unavoidable delays have in turn resulted in increased applications by the Crown Prosecution Service to extend the custody time limits which limit the amount of time that an uncovicted defendant can be deprived of their liberty.

The Prosecution of Offences (Custody Time Limits) Regulations 1987 set maximum periods in custody on remand in respect of those defendants awaiting a summary trial in the Magistrates Courts or trial on indictment in the Crown Court. CTL’s safeguard defendants by preventing them from being held on remand in prison for an excessive amount of time prior to their trial.

 The way in which the CPS handles custody time limits (CTLs) had to adapt during 2020/21 due to the reduced court capacity and the need to adjust to the pandemic. In response to HMCPSIs consultation with stakeholders, the Director of Public Prosecutions indicated that an inspection of CTL handling would be welcomed in our 2021/22 inspection programme and the Attorney General also expressed an interest in how the backlog of cases in the courts created during the pandemic may have impacted on the handling of CTL cases.

During 2020/21 a number of changes were made in relation to CTLs, including the custody time limit regulations being amended to extend the length of time a defendant could be kept in custody from 112 days to 168 days and from 182 days to 238 days. The systems in place in the CPS to monitor the CTLs also had to be adapted as only a limited number of staff remained office-based and the process of secondary monitoring had to be reconsidered. More recently secondary monitoring has been replaced by a secondary digital system.

**B. Inspection Question**

Did the CPS adapt its processes and systems to manage CTLs and ensure that defendants have not been held in custody beyond the custody time limit expiry date?

1. **Aims**

The aims of the inspection are:

* The accuracy of the CTL expiry date calculation and the effectiveness of the monitoring system will be assessed against national requirements and guidance and the more recent updated instructions.
* The inspection will assess the quality of decision making in relation to the decision to apply to remand the defendant or to ask the court to consider bail. We will examine the initial bail/remand decision and decisions in respect of bail/custody status made throughout the course of the case. We will assess the quality of applications to extend custody time limits, where applicable.
* The effectiveness of the guidance issued during the pandemic and support available to CPS staff in relation to CTL cases will be explored along with any learning that may have emerged from this.
1. **Methodology**

**File examination:**

* A total of ten files will be examined for each Area. The sample will include Crown Court and magistrates courts files, where possible we will include examples of RASSO and Youth files. The sample will be drawn from live cases that have or have had at least one defendant in custody. Cases where an extension has been applied for will be part of the selection criteria. The file examination will be completed before the on-site work commences.

* Files will be examined against a questionnaire. The file questionnaire will be completed jointly by legal inspectors and business management inspectors. It will examine the accuracy of the CTL calculation, the effectiveness of the monitoring and the quality of any extension application.

 **Examination of CTL failures**

* The reports on CTL failures reported to CPS HQ from January 2020 to June 20201 will be examined to assess the impact of the Covid crisis on the management of CTL cases.

 **Document request from CPS Areas:**

* Access to the Digital CTL diary.
* Access to the CTL Assurance Application.
* Copies of any manual diary entries.
* Copies of weekly assurance reports – one report per month for the previous six months.
* Copy of any local escalation policies.
* Copies of any local policies in relation to contingent CTL applications.
* Details of any regular meetings held with the Area and Court in regard to monitoring and prioritising CTL cases.
* Any local policies/documents provided to court/counsel in relation to CTL cases during COVID.

 **The virtual on-site phase:**

* Four CPS Areas have been selected to take part in the on-site phase. The Areas agreed with the CPS are East Midlands, London South, North East and Wessex.
* The on-site work will involve interviews with a limited number of representatives in Areas including operational delivery staff involved in the monitoring of CTLs and legal managers involved in the assurance process in CTL cases and in discussions with HMCTS to ensure appropriate priority listing for cases involving a CTL.
* We will wish to speak with the following Area staff:
* Operational delivery staff responsible for updating cases after court. We will want to speak to staff from the Crown Court unit and the magistrates unit, no more than two or three members of staff from each unit.
* Operational delivery managers responsible for overseeing the CTL monitoring system. Two managers from each of the Crown Court and magistrates court units will be sufficient.
* District Crown Prosecutors involved in the CTL assurance system. Two DCP’s from each of the Crown Court and magistrates’ courts units.
* The Area CTL champion.
* The interviews and focus groups will take place during the week commencing 16th August and each CPS Area will be allocated a two day period to allow interviewing during this week.
* We will speak with CPS HQ staff responsible for policy, guidance anWd digital systems nationally.

 **Guidance and Support:**

* A review of the recent guidance on CTL monitoring systems and amended operational and legal guidance will be carried out to assess whether it provides clear directions and adequate support for Area staff.
* The effectiveness of communications will be considered regarding changes to handling CTL cases will be considered including any follow up by CPS HQ to ensure that changes had been successfully implemented. The provision of any support to Areas in implementing changes will be evaluated
* The effectiveness of action taken by CPS Areas to implement changes will be assessed including the communication of information and any training to ensure staff were fully informed of new arrangements.
* The ease of access to the latest information regarding changes to CTLs will be examined.

 **Report**

The Report will be published.