



**HM CPSI**

HM Crown Prosecution  
Service Inspectorate

# Area inspection programme

**CPS North West**

Baseline assessment

**October 2022**

If you ask us, we can provide this report in Braille, large print or in languages other than English.

For information or for more copies of this report, please contact us on 020 7210 1160, or go to our website: [justiceinspectorates.gov.uk/hmcpsi](http://justiceinspectorates.gov.uk/hmcpsi)

HMCPsi Publication No. CP001: 1304

## Who we are

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

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

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

# Contents

<b>1. Summary .....</b>	<b>6</b>
Added value and grip .....	10
Casework themes.....	12
<b>2. Context and background.....</b>	<b>24</b>
Background to the inspection.....	25
The current landscape and the Covid-19 pandemic.....	26
Impact on the Area .....	28
Performance data .....	32
<b>3. Framework and methodology .....</b>	<b>33</b>
Inspection framework .....	34
Methodology .....	34
<b>4. Key stages in a prosecution case .....</b>	<b>37</b>
Pre-charge decision-making .....	38
Post-charge decision-making and reviews .....	42
Preparation for the Plea and Trial Preparation Hearing .....	44
Disclosure of unused material.....	47
Victims and witnesses .....	50
Rape and serious sexual offences .....	52
<b>5. Added value and grip.....</b>	<b>53</b>
What are added value and grip? .....	54
Added value and grip scoring.....	57
<b>6. Casework quality: magistrates' court casework themes .....</b>	<b>65</b>
Introduction to magistrates' court casework .....	66
Pre-charge decision-making and review.....	68
Post-charge decision-making and reviews .....	75
Does the Area fully comply with its duty of disclosure? .....	80
Does the Area address victim and witness issues appropriately? .....	84
<b>7. Casework quality: Crown Court casework themes .....</b>	<b>87</b>
Introduction to Crown Court casework.....	88
Pre-charge decision-making and reviews.....	90
Post-charge decision-making and reviews .....	98
Preparation for the Plea and Trial Preparation Hearing in the Crown Court.....	106

Does the Area fully comply with its duty of disclosure? .....	109
Does the Area address victim and witness issues appropriately? .....	113
<b>8. Casework quality: rape and serious sexual offences casework theme ....</b>	<b>117</b>
Introduction to rape and serious sexual offences casework .....	118
Pre-charge decision-making and reviews.....	120
Post-charge decision-making and reviews .....	125
Preparation for the Plea and Trial Preparation Hearing in the Crown Court.....	132
Does the Area fully comply with its duty of disclosure?.....	135
Does the Area address victim and witness issues appropriately? .....	139
<b>9. Public confidence.....</b>	<b>143</b>
Correspondence with victims .....	144
Victims' Code and Witness Charter .....	148
Community engagement .....	150
<b>10. CPS people.....</b>	<b>152</b>
Recruitment and induction, staff moves and succession planning.....	153
Staff engagement .....	157
Learning and development.....	158
Quality assurance.....	160
<b>11. Digital capability .....</b>	<b>164</b>
Data analysis .....	165
Digital tools and skills .....	168
<b>12. Strategic partnerships .....</b>	<b>170</b>
Strategic partnerships with the police .....	171
Strategic partnerships with the criminal justice system .....	176
 <b>Annexes</b>	
<b>Inspection framework.....</b>	<b>179</b>
<b>File examination findings.....</b>	<b>188</b>
<b>Glossary.....</b>	<b>207</b>
<b>File examination question set .....</b>	<b>221</b>
<b>File sample composition .....</b>	<b>228</b>
<b>Scoring methodology.....</b>	<b>232</b>
<b>Casework themes .....</b>	<b>238</b>

# 1. Summary

**1.1.** HM Crown Prosecution Service Inspectorate (HMCPSI) last inspected all 14 Crown Prosecution Service (CPS) Areas between 2016 and 2019. Since then, we have carried out a number of thematic inspections across the CPS, including inspections of the CPS's response to Covid-19, the handling of serious youth crime, charging decisions, disclosure of unused material, dealing with correspondence on witness care, and the standard of communications with victims of crime.

**1.2.** A common theme from the 2016–19 Area inspection programme and from more recent thematic inspections is the need for the CPS to improve aspects of casework quality. We have therefore developed a new inspection framework which is based wholly on assessing casework quality, and which we will deploy across all 14 Areas over the next two years. Our findings from the 90 cases we examine for each Area will form a baseline against which the Area will be assessed again in a follow-up inspection in 24 months' time.

**1.3.** The CPS aspires to deliver high-quality casework that, taking into account the impact of others within the criminal justice system, provides justice for victims, witnesses and defendants, and represents an effective and efficient use of public funds. The function of the CPS is to present each case fairly and robustly at court, but the CPS's is not the only input. The involvement of criminal justice partners and the defence inevitably affects what happens in criminal proceedings and, in contested cases, the outcome is determined by juries or the judiciary. It follows that good quality casework can result in an acquittal, and a conviction may ensue even if the case decision making and handling has not been of the standard the CPS would wish.

## **Our findings from the 90 cases we examine for each Area will form a baseline**

**1.4.** This report sets out our findings for CPS North West. In summary, the Area is generally progressing and managing its casework well but needs to add more legal value in its analysis of cases and when considering its duty of disclosure.

**1.5.** This baseline assessment was carried out during the Covid-19 pandemic. The files we examined mostly involved work carried out by the Area after the pandemic struck, although some work we assessed was carried out before.

**1.6.** CPS North West covers a large geographical area and works with the three police force areas in the North West: Cumbria, Greater Manchester and Lancashire. It has four offices in Barrow-in-Furness, Carlisle, Manchester, and Preston and covers 15 magistrates' courts and eight Crown Court centres.

**1.7.** As with other CPS Areas, CPS North West has faced a very challenging two and a half years since the first national Covid-19 lockdown in March 2020. The pressures brought by the pandemic will undoubtedly have contributed to our overall findings, but it is of note that the hard work and dedication of the Area's management and staff have allowed the Area to cope well with these pressures.

**The region covered by CPS North West had higher infection rates and was under severe restrictions for longer than many other parts of the country**

**1.8.** Although the number of files the Area receives from the police has not increased significantly since the first national lockdown, the Area has had to cope with a large increase in its live caseload. Nine months after the first lockdown, the Area's magistrates' court caseload was 57% higher than just before the pandemic. After a year, its Crown Court caseload had grown by two thirds.

**1.9.** The magistrates' court live caseload has since gradually decreased but remains around 19.0% above the level immediately before the first lockdown. However, the Crown Court live caseload remains around two thirds higher than before the pandemic. These figures represent a slightly higher percentage increase in live caseloads for CPS North West than the national average.

**1.10.** This increase has occurred primarily because of court closures during the earlier stages of the pandemic, changes to operational procedures in the courts to ensure the safety of court users during the pandemic, and the inevitable impact of Covid-19 on the effectiveness of court hearings, including trials. The region covered by CPS North West had higher infection rates and was under severe restrictions for longer than many other parts of the country.

**1.11.** It is of note, and a testament to the Area and other criminal justice partners, that magistrates' court caseloads have declined since their peak increase at the end of 2020 and are 22% less than when the backlogs were at their peak.

**1.12.** During the post-pandemic period, there have also been significant changes to the Area's workforce. Some experienced staff have left and, like all CPS Areas, the local team has had to dedicate resources to inducting, training and supporting newly recruited legal and operational delivery staff, as well as to doing the same for existing staff members who have been promoted or changed roles. The training and support has often had to be carried out remotely, rather than face to face, and this has placed additional pressure on more experienced members of staff at a time when they were also handling an increase in live caseloads because of case backlogs and staff abstraction.



**1.13.** The Area has been energetic and dedicated in its work with criminal justice system partners and other stakeholders and has tried to drive forward improvements in performance with the police and the courts. For example, much effort has gone into working with the police across the three forces to improve the quality of case files, including disclosure material, submitted to the CPS at the pre-charge stage.

**1.14.** This work has also to be seen in the context of the revised sixth edition of the Director's Guidance on Charging (DG6) in early 2021, which introduced a requirement for officers to include disclosure schedules and copies of unused documents when requesting a charging decision. The teething problems associated with this, and the difficulties that the police have encountered in always meeting their obligations, have added another challenge for the CPS over and above those brought about by the pandemic.

**From the evidence we have seen, we know that the Area has already identified most of the aspects that require improvement**

**1.15.** The documents we have read, and our file examination findings, show that there is still some way to go before the service the police provide to the CPS reaches the required level. The Area's senior management team told us, however, that there are recent signs of improvement. We will be interested to see whether this is borne out by the data when we

return for our follow-up inspection.

**1.16.** There is a keen desire within the Area to drive improvement in its processes, its outcomes and the quality of its legal work. For example, well before our inspection, the Area introduced a process whereby it carried out its own 'mini-inspections' of its own magistrates' court, Crown Court and rape and serious sexual offences (RASSO) cases, based on our approach. It also devised a 'prompt' document for use by its prosecutors when reviewing cases, based on its own analysis of what a good review should contain.

**1.17.** From the evidence we have seen, we know that the Area has already identified most of the aspects that require improvement and taken steps to address these. Again, we will assess the effectiveness of this when we follow up this inspection.

**1.18.** Our findings lead us to conclude that CPS North West is committed to improving performance where needed. The Area also deserves great credit for maintaining a good grip of its volume casework over the past two and a half years, in the face of unprecedented challenges caused by the pandemic. Our findings also identify, however, that the Area needs to improve the overall quality

of legal thought and decision-making, which is inextricably linked with most of the aspects of casework we have identified as requiring significant improvement.

**1.19.** Any improvement will depend on several factors, including:

- casework backlogs continuing to decrease
- staff recruitment and movement stabilising
- more recent legal and operational delivery recruits, and less experienced managers, continuing to develop their skills and knowledge.

**1.20.** Our follow-up inspection will give us the opportunity to assess and report on the Area's progress.

## Added value and grip

**1.21.** We have focused our evaluation of casework quality on two key measures: added value and 'grip'. We define added value as the CPS making good, proactive prosecution decisions by applying its legal expertise to each case, and grip as the CPS proactively progressing its cases efficiently and effectively.

**1.22.** Table 1 shows our baseline assessment of CPS North West's added value and grip.

**Table 1: Baseline assessment of CPS North West**

CPS North west	Added value	Grip
Magistrates' courts casework	67.2%	68.0%
Crown Court casework	62.5%	83.8%
Rape and serious sexual offences casework	67.7%	78.1%

**1.23.** Overall, our file examination found that the Area is performing more strongly in aspects of casework where we assess compliance with a process or a task, such as the timeliness of initial disclosure or reviews, than those that relate to the quality of the legal work carried out.

**1.24.** The Area adds value by making good decisions on the charges that defendants should face and what their bail status should be after charge. We also saw Area prosecutors adding value in the handling and legal assessment of third-party material, through the legal quality of disclosure management documents in RASSO cases, and by seeking the right orders to protect victims, witnesses and the public at sentencing hearings.

**1.25.** However, there are some aspects where significant improvement is called for, most notably where the CPS expects to see a certain level of legal expertise being exercised and recorded. Across all casework types, the quality of case analyses and trial strategies was below the required standard, although we did see just over a third of cases with well-considered reviews.

**1.26.** In too few cases did we see a coherent and structured legal analysis that clearly set out how each of the essential elements of the proposed offence was to be proved, the strengths in the evidence, how weaknesses in the case were to be overcome, and how likely defences were to be countered. In a lot of the cases we assessed as not meeting the standard, we also found that there was no evidence that the prosecutor had taken into account one or more evidential or other factors that should have been properly considered and weighed before a decision was made.

**1.27.** This lack of a thinking approach was also reflected in our findings relating to the legal assessment of unused material across the casework types. While generally the process and associated task of initial or continuing disclosure was completed on time, or at least in time to give the defence plenty of time to prepare for trial, we found the approach taken by some prosecutors to this important duty to be superficial or confusing, suggesting that a great deal of development work remains to be done in this core aspect of prosecutors' work. More often than not, inspectors could see what a decision was, but could find no rationale to explain the reasoning behind it.

**1.28.** Good grip – which mainly assesses timeliness of decision-making and disclosure, preparation for the first hearing in the magistrates' courts or Crown Court, and the handling of correspondence – was apparent in many aspects of the files we examined, particularly in the Crown Court and RASSO casework.

**Across all casework types, the quality of case analyses and trial strategies was below the required standard**

**1.29.** Reviews were usually carried out at the right time, there was a high rate of timely compliance with Judges' orders at the Crown Court (including in RASSO cases), and cases were usually discontinued in a timely manner. Papers were usually served in time for the first magistrates' court hearing or Plea and Trial

Preparation Hearing (PTPH), and counsel was generally instructed in good time for that hearing. In non-RASSO casework, operational delivery staff were also proactive in chasing counsel for written advice when none had been received.

**1.30.** The Area is also strong in its handling of correspondence from witness care units, the courts and defence, as well as when reviewing new material

received from the police. Performance was also strong in respect of making sure conferences were held with counsel in RASSO cases.

**1.31.** To build even higher ratings for grip across casework, the Area needs to improve on some aspects. These include the timeliness of charging decisions and service of hard media, the timeliness of initial disclosure in the magistrates' courts, chasing counsel if no advice has been provided in RASSO cases, and making sure prosecutors address acceptable pleas in their police manual of guidance form 3s (MG3s) and instructions to counsel.

## Casework themes

**1.32.** We examined the cases in accordance with five casework themes to allow us to set out our findings in greater detail. The themes fed into the scores for added value and grip<sup>1</sup>. The themes were:

- pre-charge decisions and reviews
- post-charge reviews
- preparation for the PTPH (Crown Court and RASSO cases only)
- disclosure
- victims and witnesses.

**1.33.** Some of the aspects for improvement we have identified could be seen simply as a matter of record keeping. We do not share this view. A consistently high standard of recorded actions, case analysis, and disclosure and other casework decisions demonstrates and promotes legal rigour. It is also more likely to make sure that no relevant evidential or public interest factors are omitted when considering the case, that flaws in reasoning are identified before a decision is made, and that weaknesses or other issues in the case that need addressing are taken into account.

**1.34.** A good standard of reviews also reduces the need for later reworking by others and allows legal managers to understand how those they manage are arriving at their legal decisions, and thus identify development or training needs.

---

<sup>1</sup> See annex F for scoring methodology.

## Pre-charge decisions and reviews

**1.35.** Compliance with the Code for Crown Prosecutors requires charging lawyers to assess the material supplied by the police and to apply the two-stage test. The first stage is deciding whether there is sufficient evidence for a realistic prospect of conviction and the second is deciding whether a prosecution is required in the public interest. Only if both stages are met should the lawyer advise charging.

**1.36.** We describe as ‘wholly unreasonable’ any decision:

- that is not compliant with the Code for Crown Prosecutors
- which no reasonable prosecutor could have made:
  - in the circumstances in which it was made
  - at the time it was made or ought to have been made.

**1.37.** In our file sample, we found that 69 of the Area’s 77 charging decisions<sup>2</sup> (89.6%) complied with the Code for Crown Prosecutors at the pre-charge stage. Within the different teams, the Code compliance rates were:

- magistrates’ court cases: 92.0%
- Crown Court cases: 88.2%
- RASSO cases: 88.9%.

**1.38.** While getting the initial charging decision correct is essential, a clear analysis of the material and a thoughtful case strategy are also fundamental to the efficiency and effectiveness of the subsequent stages. These elements support the initial application of the Code for Crown Prosecutors and selection of charges as the case moves through the criminal justice system. A case strategy should ‘tell the story’, encompassing what the case is about, and should set out how to address potentially undermining material – such as material impugning the credibility of a victim or witness, or which supports likely lines of defence.

**1.39.** In our file examination, the overall scores for the theme of pre-charge analysis were 55.4% in magistrates’ court casework, 47.0% in Crown Court casework and 50.0% in RASSO casework. Those scores translate, according to our scoring mechanism, into all units not meeting the required standard for pre-charge review.

---

<sup>2</sup> At the pre-charge stage we assessed only the cases charged by Area prosecutors, and excluded those charged by the police and CPS Direct, the out of hours national service.

**1.40.** Clearly, the Area needs to improve the quality of its pre-charge reviews across the three casework types. The Area already recognises this, and has devised and introduced a review prompt document last year to assist its prosecutors in improving the quality of reviews.

**1.41.** Prosecutors need to analyse the evidence better, including the weight that a court is likely to attach to it, rather than simply describing it. All reviews should identify and discuss the strengths and weaknesses in the evidence, the essential elements to prove, and key matters such as issues raised or likely to be raised by the defence. Prosecutors should also focus on identifying disclosable unused material at the pre-charge stage and considering its potential impact on the prospects of conviction, or the public interest in prosecuting

**1.42.** Often, we also found that the charging prosecutor did not provide adequate instructions to the advocates who present the case at court for the first hearing, to enable them to progress the case efficiently. In many cases, there was a failure to consider fully the potential for applications, such as special measures, to support victims and witnesses at the pre-charge decision stage.

**1.43.** In 2021 the CPS delivered a national training programme around case review standards. It focused on the importance of a good case analysis and prosecution strategy to promote the effective conduct of the case through to a just outcome.

**Prosecutors need to analyse the evidence better, including the weight that a court is likely to attach to it**

**1.44.** Particularly in relation to the Crown Court and RASSO casework, a proportion of the pre-charge decisions we considered in our file examination will have pre-dated this training being fully rolled out, as well as the work the Area had done internally to improve legal quality (for example, conducting its own mini-inspections and devising a review prompt

document to steer prosecutors towards covering all necessary elements when reviewing cases under the Code).

**1.45.** We will be able to better assess the impact of the national training, as well as the Area's work to improve casework standards, in our follow-up inspection.

## Post-charge decisions and reviews

**1.46.** As with pre-charge reviews, the quality of ongoing reviews and strategy is of critical importance to the effective and efficient progress of cases through the criminal justice system.

**1.47.** In our file sample, we found that 87.8% of the Area's 90 post-charge decisions complied with the Code for Crown Prosecutors. Within the different teams, the Code compliance rates were:

- magistrates' court cases: 86.7%
- Crown Court cases: 85.0%
- RASSO cases: 95.0%.

**1.48.** While getting the post-charge decision correct is essential, a continued clear analysis of the evidence and a well thought-out case strategy are also fundamental to the efficiency and effectiveness of the subsequent stages. Cases often develop after charge and the evidence can change. This needs to be properly reflected in any post-charge reviews so that the case strategy is adapted to the circumstances. A careful post-sending review will also identify any deficiencies in the pre-charge thinking; for example, in relation to the application of the Code test, or in identifying further reasonable lines of enquiry that need to be carried out.

**1.49.** Across the three casework types, we found that just under 40.0% of the Area's initial post-charge reviews contained a proper case analysis and case strategy. We rated a third as not meeting the standard and the remainder as partially meeting the standard. Although more of these reviews fully met the standard compared to the pre-charge stage, our findings again show that there is room for improvement in the legal rigour required at this important stage of the proceedings. We found it significant that the flaws in the eight charging decisions that we found to be wholly unreasonable were not identified at the initial post-charge review stage, and each case was allowed to proceed.

**1.50.** Breaking these findings down, cases charged by the CPS that are identified as likely to attract not guilty pleas and be heard in the magistrates' courts require another review before the first hearing, unless certain criteria are met. These include that the charging prosecutor has dealt with unused material and completed an effective trial form containing all the necessary information for there to be an effective first hearing. We found that 40.0% of these further reviews before the first hearing were fully meeting the standard, 23.3% partially meeting it and 36.7% not meeting the standard.



**1.51.** For Crown Court cases, including RASSO, a review should be carried out after the case has been sent from the magistrates' courts and before the PTPH in the Crown Court. This review should address various aspects, including checking the pre-charge review and updating the analysis and strategy if necessary, considering or chasing further material received from the police, and responding to any correspondence received after charge. The CPS requires its prosecutors to carry out a review at this stage as it ensures the case is proactively managed and that the CPS is fully prepared for the PTPH.

**We found the quality of stage 1 reviews to be variable for both Crown Court and RASSO cases**

**1.52.** For non-RASSO Crown Court cases, we assessed 32.5% of pre-PTPH reviews carried out after the case was sent to the Crown Court as fully meeting the standard, 25.0% as partially meeting the standard and 42.5% as not meeting it.

**1.53.** For RASSO cases, performance was much stronger. We assessed 50.0% as fully meeting the standard, 40.0% as partially meeting it and 10.0% as not meeting it.

**1.54.** Post-charge reviews should also be carried out at other stages during the case. In Crown Court cases (including RASSO cases listed before the Crown Court), a review should be conducted when the prosecution is required to serve the full evidence upon which the prosecution is to be based (known as stage 1). This is also the deadline for service of initial disclosure (the unused material that, at that stage, is deemed capable of either undermining the prosecution case or assisting the case of the defendant). By this point, additional material should also have been submitted by the police to allow the prosecution to review it before it is served on the defence.

**1.55.** We found the quality of stage 1 reviews to be variable for both Crown Court and RASSO cases. We assessed 30.6% of stage 1 reviews in Crown Court cases as fully meeting the standard and 44.4% as not meeting it. For RASSO cases, we assessed 13.3% as fully meeting the standard, 33.3% as not meeting the standard and the rest as partially meeting the standard.

**1.56.** Common themes identified in file examination were that no stage 1 review was recorded to accompany the service of the case, or the review added insufficient legal value in cases where existing or fresh issues required exploring or further evidence or information needed to be analysed.



**1.57.** As cases progress, things can change that affect whether or how a prosecution should be brought. If additional information brings about a fundamental change, then a prosecutor should review the case again to:

- make sure that it still complies with the Code for Crown Prosecutors
- make sure that the charges remain appropriate
- determine whether the change raises additional lines of enquiry
- determine whether the case strategy should be altered.

**1.58.** An effective review at this stage can add real value.

**1.59.** A slightly higher percentage of Crown Court and RASSO significant development reviews were rated as fully meeting the standard than at the service stage – although we assessed more than half of the cases as not meeting the standard: a worse performance than for reviews at the service stage. The most common reason for a case not meeting the standard was that a significant event or events occurred without being subject to a review. We found several examples where a plea of guilty to a lesser offence or to only some of the offences charged had been accepted, without there being a clear rationale for the decision. Performance was better in the magistrates' courts, with around two out of three cases that required a significant event review found to be fully meeting the standard.

**1.60.** We must place our findings about the quality of reviews within the context of the increase in live caseloads that the Area has had to handle since March 2020. Inevitably this has meant that prosecutors have had less time to dedicate to each individual task. The Area has also had to move some resource across its teams and induct and train newly recruited prosecutors and managers, which has had a knock-on effect on more experienced staff.

**1.61.** Nevertheless, our finding is that the quality of post-charge reviews requires improvement across the casework types, although our assessment is that the overall standard of RASSO initial post-sending reviews is good.

**1.62.** Decisions about bail and custody were generally appropriate and timely, and were dealt with well in magistrates' court, Crown Court and RASSO cases, where 66.7%, 70.0% and 65.0% of cases were assessed as fully meeting the required standard. However, we did come across several cases where suitable conditions were only imposed on a defendant's bail when the case reached the Crown Court, a few weeks after the first hearing in the magistrates' courts.

## **Preparation of cases for the Plea and Trial Preparation Hearing in the Crown Court<sup>3</sup>**

**1.63.** There are key tasks that the prosecution should complete before the PTPH, including preparing the indictment, uploading the prosecution case papers to the Crown Court Digital Case System (DCS), engaging with the defence and properly instructing the advocate. Completing the PTPH form is a fundamental aspect of preparing for the hearing. Full and accurate information from the prosecution and defence allows the court to manage the case effectively and make the relevant orders required to progress the case to trial.

**1.64.** Preparation for the PTPH is done well by the Crown Court and RASSO units, with the completed PTPH form, key evidence, draft indictment and the duty of direct engagement log (DDE) usually uploaded to the DCS in good time. We assessed Area to be fully meeting the standard for this casework theme across both units.

**1.65.** We did identify three aspects of PTPH preparation where there is room for improvement.

**1.66.** First, in many cases there were no instructions on acceptable pleas provided to counsel or the crown advocate. It is important to do so not only to avoid an adjournment where pleas are offered at the hearing, but also to make sure that offers of unacceptable pleas can be rejected there and then, the issues identified and a trial date fixed. This is part of a wider issue that we identified, namely the lack of tailored instructions prepared when instructing counsel. Although our data on the quality of instructions to counsel does not contribute to the overall score for any casework theme, or to our overall assessment of added value or grip, we do think it important that the Area reintroduces the requirement to prepare bespoke instructions. This is an important sign that the CPS has confidence in its own judgement and controls its own prosecutions, as well as assisting counsel when crafting their advice.

**1.67.** Second, we found that in a quarter of RASSO cases, the Area instructed counsel less than seven days before the PTPH. Bearing in mind the evidential complexities involved in many RASSO cases, this is a risk to the effectiveness of the hearing and is an aspect of performance the Area will wish to look at.

**1.68.** Third, although the Area performed well in terms of making sure that the DDE logs that were created were uploaded to the DCS, we found that in over a quarter of Crown Court and RASSO cases, no attempt was made to engage with the defence. We should also point out, however, that even where there were

---

<sup>3</sup> This theme only relates to Crown Court cases and RASSO cases listed before the Crown Court.

attempts to engage with the defence before the PTPH, we found that these achieved very little owing to the lack of any meaningful response. We also recognise that the ability to engage effectively with the defence was significantly hampered by the pandemic, with many defence practitioners being furloughed or experiencing difficulties taking instructions from clients who were shielding, isolating, or in custody. Still, there is real value in being able to engage with the defence as this can often result in matters being resolved. The Area will want to consider how it can improve its defence engagement as we emerge from the pandemic.

## Disclosure of unused material

**1.69.** For justice to be served, it is vital that the police and CPS comply with their duties in relation to material that does not form part of the prosecution case ('unused material'). There are specific processes, rules and a wealth of guidance for disclosure, including for handling sensitive and third-party unused material. The police have duties to retain, record and reveal material to the CPS, which they must decide what unused material meets the test for disclosure to the defence. The test is whether the unused material is something "which might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused". If it meets the test, it is disclosable. The defence is told about all non-sensitive unused material and is given copies of or access to material that meets the test for disclosure. This is 'initial disclosure'.

**1.70.** In the magistrates' courts, the defence **may** serve a statement setting out the defendant's case. In the Crown Court, the defence **must** serve such a statement. This is reviewed by the CPS and police, and any additional non-sensitive unused material that meets the test must be disclosed as 'continuing disclosure'.

**1.71.** Sensitive material that meets the disclosure test can be subject to an application to the court to withhold it. If this application is granted, the prosecution need not disclose the material.

**1.72.** The Area's overall score for the disclosure casework theme is 63.9% for magistrates' court casework and 65.9% for Crown Court casework. Both of these findings translate, according to our scoring mechanism, into partially meeting the standard. The Area's score for RASSO casework is 71.8%, which translates to fully meeting the standard.

**1.73.** Table 2 summarises our findings about the standard of initial and continuing disclosure.

**Table 2: Compliance with disclosure duties**

Ratings	Cases
<b>Initial disclosure</b>	
Fully meeting the expected standard	27.5%
Partially meeting the expected standard	47.5%
Not meeting the expected standard	25.0%
<b>Continuing disclosure</b>	
Fully meeting the expected standard	46.8%
Partially meeting the expected standard	40.4%
Not meeting the expected standard	12.8%

**1.74.** As Table 2 shows, the Area needs to improve compliance with its disclosure duties, particularly when carrying out initial disclosure of unused material. We regard these findings as inextricably linked with the variable quality of case analyses across the units.

**1.75.** Performance of initial disclosure duties was weakest in the RASSO unit, where we assessed 16.7% of cases as fully meeting the standard (albeit with almost two thirds partially meeting the standard). Our assessment of magistrates' court cases was that just under a third of cases were fully meeting the standard, with around a quarter of cases not meeting the standard. In Crown Court casework, just under a third of cases were rated as fully meeting the standard, with a quarter not meeting the standard.

**1.76.** The main reasons for cases not being assessed as fully meeting the standard included failing to identify that obvious items of unused material were missing from the schedules, failing to disclose material which met the disclosure test, not identifying reasonable lines of enquiry, using the wrong endorsements and disclosing material which did not meet the disclosure test.

**1.77.** There were seven cases across the magistrates' court and Crown Court units where disclosable material was not disclosed at the initial disclosure stage.

**1.78.** When we identify such an error, we examine the case to establish whether a miscarriage of justice may have occurred. We did not find this to be the case for any of the seven cases identified – for example, because the case did not result in a conviction, or we were satisfied that the material was disclosed at a later stage of the proceedings. It is vital that Area makes sure all of its

prosecutors are rigorous when fulfilling their duty of disclosure by adopting a thinking approach based on the issues in the case.

**1.79.** Compliance with continuing disclosure obligations was more positive. In the Crown Court, 41.9% of relevant cases were assessed as fully meeting the standard and 38.7% as partially meeting the standard. In the RASSO unit, the handling of continuing disclosure was markedly better than at initial disclosure, with 56.3% of relevant cases assessed as fully meeting the standard and the remaining 43.8% as partially meeting it. No magistrates' court cases required continuing disclosure.

**1.80.** The Area was clearly not assisted by the police failing to comply fully with their disclosure obligations in too many cases, most commonly because items were not adequately described or unused material was omitted from the schedules. In 41.0% of Crown Court cases, 23.3% of magistrates' court cases and 15.0% of RASSO cases, we assessed the police as not meeting the standard for disclosure. We also assessed an appreciable number of cases as partially meeting the standard.

**1.81.** Where the police did not comply with their disclosure obligations, we assessed the Area's feedback to the police as fully meeting the expected standard in 61.1% of magistrates' court cases, 26.7% of Crown Court cases and 16.7% of RASSO cases.

**The Area was clearly not assisted by the police failing to comply fully with their disclosure obligations in too many cases**

**1.82.** We recognise that prosecutors are under pressure, but for the service to the Area to improve, there needs to be consistent identification of cases where the police have not properly complied with their disclosure obligations, with accurate feedback and/or escalation of issues at the operational as well as the strategic level.

**1.83.** Areas of good practice included the quality of disclosure management documents prepared by RASSO prosecutors, the handling of third-party material across the three casework types, and reviews of defence statements by prosecutors, along with the resulting guidance provided to the police about pursuing reasonable line of enquiry arising out of the statement.

## Victims and witnesses

**1.84.** The CPS's commitment to support victims and witnesses states that the "fundamental role of the Crown Prosecution Service (CPS) is to protect the public, support victims and witnesses and deliver justice. The CPS will enable, encourage and support the effective participation of victims and witnesses at all stages in the criminal justice process". It is a framework that provides prosecutors with easy access to all the key considerations that they should reflect in their dealings with victims and witnesses.

**1.85.** Early focus on relevant applications and ancillary matters to support victims and witnesses is important. The measures available can support victims and witnesses from the outset, providing certainty about the trial process and reducing the anxiety of the unknown in being called to give evidence.

**1.86.** The Area's performance is good in respect of several aspects of the service provided to victims and witnesses after charge.

**1.87.** We found that witnesses were warned properly and in a timely way in the vast majority of cases across all casework types, with correspondence from the witness care units usually being answered effectively. We consider this to be a positive finding, bearing in mind the impact of the pandemic, which has resulted in delays in cases being listed for trial, trials being adjourned administratively or on the day itself, and an increase in the number of cases where witnesses have to be notified of a change of trial location.

**1.88.** We also found good performance when it came to the CPS consulting with victims and witnesses where appropriate and speaking to them at court, to inform them of developments and address any concerns they might have. In the RASSO unit, 53.3% of cases were rated as fully meeting the standard, with the remaining 46.7% partially meeting it. In the Crown Court, we assessed 60.7% of cases as fully meeting the standard and 28.6% as partially meeting it. For magistrates' court cases, we assessed 77.3% as fully meeting the standard and 13.6% as partially meeting it.

**1.89.** In 85.7% of magistrates' court cases, 69.2% of Crown Court cases and 81.8% of RASSO cases, the Area was assessed as fully meeting the standard for seeking appropriate orders to protect victims, witnesses and the public.

**1.90.** There was generally a positive picture of steps taken to achieve best evidence by making appropriate applications for special measures after charge, where we assessed 65.0% of Crown Court cases as fully meeting the standard and 30.0% as partially meeting it. There is some room for improvement in magistrates' court cases, as over a quarter of cases were assessed as not meeting the standard, albeit on a much smaller number of cases.

**1.91.** There was mixed compliance with the prosecutor's obligations towards Victim Personal Statements (VPSs), which we assessed as fully meeting the standard in 46.4% and partially meeting the standard in 21.4% of magistrates' court cases; as fully meeting the standard in 40.0% and partially meeting the standard in 46.7% of Crown Court cases; and as fully meeting the standard in 52.6% and partially meeting the standard in 10.5% of RASSO cases.

**1.92.** Recurring issues were that we could not establish how a victim wished the VPS to be placed before the court and whether it had in fact been read to or by the court at the sentencing hearing.

**1.93.** Improvements are needed in letters to victims explaining decisions to drop or substantially alter a charge, both in terms of timeliness and quality.

**1.94.** Overall, we assessed 46.2% of the Area's letters as fully meeting the standard for being sent on time and another 53.8% as not meeting the standard, usually because no letter was sent when it should have been.

**1.95.** We assessed the quality of the letters as fully meeting the standard in 25.0% of cases, partially meeting it in 43.8% of cases and not meeting the standard in 31.3%.

**1.96.** When broken down, there were variations in performance between the units. For example, in respect of sending timely letters, we found the RASSO unit to be fully meeting the standard in two thirds of cases. We found the magistrates' court unit to be fully meeting the standard in 28.6% of cases and the Crown Court unit to be fully meeting it in 46.2% of cases.

**1.97.** We assessed the quality of 50.0% of RASSO letters sent to be fully meeting the standard, with the other half partially meeting it. We found the quality of 22.2% of Crown Court letters to be fully meeting the standard, with 44.4% partially meeting the standard and 33.3% not meeting it. We assessed none of the three magistrates' court letters we examined as fully meeting the standard for quality.

**1.98.** The timeliness and quality of letters to victims is something we know the Area is working on improving. We are also aware that the CPS nationally is currently redesigning its approach to supporting and communicating with victims.

## **2. Context and background**



## Background to the inspection

**2.1.** HMCPsi last inspected Crown Prosecution Service (CPS) Areas in the Area Assurance Programme between 2016 and 2019. At that stage, although good performance was identified in some respects (such as leadership and financial management), the assessments highlighted that the core elements of the CPS's business – legal decision-making and case management – needed more attention to achieve compliance with the CPS's quality standards and what the public ought reasonably to expect.

**2.2.** Since 2019, the thematic inspections we have carried out – notably those covering charging<sup>4</sup>, serious youth crime<sup>5</sup> and disclosure<sup>6</sup> – have reached similar findings, suggesting that more remains to be done to improve aspects of casework quality. We therefore decided to focus our geographical inspections of the CPS on casework quality. Other aspects of Areas' work, such as strategic partnerships and digital capability, will be addressed only to the extent that they have an impact on casework quality.

**2.3.** On 12 August 2019, the government announced that the CPS would be allocated £85 million of additional funding over a two-year period. To determine whether the additional resources have had a material impact on casework quality, we are inspecting all 14 Areas to provide a baseline – and will follow up in each Area at least once, no earlier than 24 months after their baseline inspection. This will enable us to report on the use made of the additional resources, as well as other improvements made through training and casework quality measures.

**2.4.** This report sets out the findings of the initial baseline inspection of CPS North West, assessing current performance against the inspection framework and deriving scores from our judgements of the added value and grip displayed by the Area in its casework. The scoring mechanism is set out in more detail in chapter 3 and annex F.

**2.5.** A complicating factor in establishing a baseline and assessing current performance is the very real and ongoing pressure on the CPS as a result of the global Covid-19 pandemic. We were mindful of potentially adding to the burden

---

<sup>4</sup> *Charging inspection 2020*; HMCPsi; September 2020.

[www.justiceinspectorates.gov.uk/hmcpsi/inspections/charging-inspection-2020/](http://www.justiceinspectorates.gov.uk/hmcpsi/inspections/charging-inspection-2020/)

<sup>5</sup> *Serious youth crime*; HMCPsi; March 2020.

[www.justiceinspectorates.gov.uk/hmcpsi/inspections/serious-youth-crime/](http://www.justiceinspectorates.gov.uk/hmcpsi/inspections/serious-youth-crime/)

<sup>6</sup> *Disclosure of unused material in the Crown Court – a follow-up*; HMCPsi; December 2020.

[www.justiceinspectorates.gov.uk/hmcpsi/inspections/disclosure-of-unused-material-in-the-crown-court-a-follow-up/](http://www.justiceinspectorates.gov.uk/hmcpsi/inspections/disclosure-of-unused-material-in-the-crown-court-a-follow-up/)

faced by the CPS, but it is the role of HMCPSI, as a criminal justice inspectorate, to report on the effectiveness and efficiency of the agencies it inspects. This inspection programme needs to reflect the pressures and burdens being faced by the CPS, but equally has to weigh compliance with the requirement for high-quality legal decision-making and case management. This is what the public deserves.

**2.6.** Our findings and scores will therefore be based on existing expectations and standards, but where the pressures of the pandemic have had a material impact, we will set out relevant and clear context to enable better understanding of the Area's performance.

## The current landscape and the Covid-19 pandemic

**2.7.** The global pandemic has had a significant impact on the CPS and the wider criminal justice system. Court closures during the first UK-wide lockdown from March to May 2020 resulted in significant backlogs in cases awaiting hearings and an increase in caseloads for all case types within the CPS. Since the initial lockdown, there have been more national and local lockdowns across the UK.

**2.8.** In June 2020, we published a report on the CPS's response to the first lockdown<sup>7</sup>. We reported how the CPS had been able, with a high degree of efficiency and success, to move most office-based activities to remote digital working. The report also highlighted that some police forces had taken the opportunity of the first UK lockdown and the consequent reduction in the level of crime to work on long-running cases and clear case backlogs. These cases came into the system as pre-charge receipts and increased both the number of cases in Areas and court backlogs.

**2.9.** From June 2020, prosecutors attended many magistrates' court hearings in person to prosecute cases, including trials, as well as using the cloud video platform (CVP), Her Majesty's Courts and Tribunals Service's video application, to facilitate remote hearings. There has been a drive to reduce the backlogs in the magistrates' courts, which has been successful but has brought with it added pressure for the CPS to deal with an increased number of cases, within a short period of time, with the same resources.

---

<sup>7</sup> *CPS response to COVID-19: 16 March to 8 May 2020*; HMCPSI; June 2020. [www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-reponse-to-covid-19-16-march-to-8-may-2020/](https://www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-reponse-to-covid-19-16-march-to-8-may-2020/)

**2.10.** In the Crown Court, at the early stage of the pandemic, most hearings were confined to administrative hearings using the CVP, with trials only starting to be listed in nine Crown Court centres. By September 2020, jury trials were being heard in 68 of the 81 Crown Court centres. Nightingale courts<sup>8</sup> were also set up as one of the measures to address the growing backlogs of Crown Court cases. In CPS North West, six Nightingale courts were set up at various times, and operated for lengthy periods. Despite these efforts, Crown Court backlogs still remain significantly larger than before the pandemic.

**2.11.** In March 2021, we published a report looking at the CPS's response to the continuing pandemic<sup>9</sup>, with a focus on how it was coping with increased caseloads and backlogs. All Areas saw an increase in their caseloads, although not all were equally affected; for charging, for example, one Area's caseload increased by 13.6% between April and June 2020, while another Area saw an increase of 30.3%.

**2.12.** Our findings need to be read in the context of the Covid-19 pandemic and the backlogs created by it, but also bearing in mind the other pressures on the Area, such as the impact of training and inducting new staff on existing resources and the impact of staff movements across the Area's casework units as resources were moved to meet demands.

**2.13.** The quality of police files also remained an issue during this time. In our sample of Area cases, across all casework types, we rated over half of files submitted by the police as not meeting the National File Standard and 70.8% of cases submitted as partially or not complying with the police's disclosure obligations. This meant that the Area had to devote significant administrative, operational and legal resources to address file deficiencies as part of its case preparation, at a time when it was under great pressure.

---

<sup>8</sup> Nightingale courts were set up in venues other than traditional court centres to provide temporary extra courtroom capacity to help deal with the impact of the pandemic.

<sup>9</sup> *CPS response to COVID-19: dealing with backlogs*; HMCPSI; March 2021.

[www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-response-to-covid-19-dealing-with-backlogs/](https://www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-response-to-covid-19-dealing-with-backlogs/)

## Impact on the Area

### Caseloads and backlogs

**2.14.** CPS North West was affected, as was the CPS nationally, by significant backlogs in the magistrates' courts and Crown Court as a result of the closure of courtrooms during the initial UK-wide lockdown. There were extra cases coming in as the police progressed existing investigations faster and submitted them to the CPS for charging advice, but cases were not being finalised as the courts heard at first no trials, then later, far fewer trials than pre-Covid. This created obvious pressures, particularly given the extra work of maintaining victim and witness engagement and trial readiness across longer waiting times.

**2.15.** Table 3 shows the Area's live caseload for each of the three months immediately following the first national lockdown, and then for the corresponding periods in 2021 and 2022.

**Table 3: Changes in live cases 2020–22**

Month	2020 #	2021 #	2022 #	Difference #	Difference %
<b>Magistrates' courts</b>					
April	6,759	6,699	5,409	-1,350	-20.0%
May	7,624	6,541	5,572	-2,052	-26.9%
June	8,570	6,362	5,823	-2,747	-32.1%
<b>Crown Court</b>					
April	3,329	6,125	5,824	+2,495	+74.9%
May	3,755	6,102	5,909	+2,154	+57.4%
June	4,221	6,176	5,987	+1,766	+41.8%

**2.16.** To place the scale of the increase into context, in February 2020 (before the pandemic) there were 4,052 monthly live cases in the magistrates' courts and 3,783 in the Crown Court.

**2.17.** From shortly before the pandemic, the Area began recruiting more legal and operational delivery staff. At the end of 2021, the number of staff in legal posts was around 16% higher than in April 2019. Since then, there has been more recruitment. The number of legal staff in March 2022 was 211.94, 22% higher than in April 2019.

**2.18.** The most recent national resourcing model (March 2022) calculated the Area's target legal resource over the next three years as 253.57 staff in post. Currently the figure is 222.34. As a result, more recruitment is planned.

**2.19.** These increases in legal staff, and corresponding increases in operational delivery staff, have to be seen in the context the Area has operated within since March 2020, when the first national lockdown occurred.

**2.20.** While the magistrates' court caseload is now reducing, the latest data shows that it still remains 19% above what it was immediately before the pandemic. The Crown Court live caseload remains much higher, 65% above what it was immediately before the pandemic.

**2.21.** Inevitably, the longer cases stay in the system before being concluded, the more tasks are generated – for example, because of the need to consider and respond to correspondence and further material from the defence, court, police or witness care units. The delays in listing cases for trial have also meant increased monitoring of custody time limits and preparation of detailed applications when an extension is required.

**2.22.** Although the number of legal and operational delivery staff in post has increased over the past three years, the Area has lost some experienced staff. During 2021–22, 24 members of staff left and 88 new starters were taken on across all grades. There were also existing staff who were new to a post, for example because they moved from the magistrates' court unit to the Crown Court unit, or because they were temporarily or permanently promoted.

**2.23.** The high level of change and recruitment meant that the Area needed to induct and train the large number of staff who were new to post. This inevitably placed additional pressure on existing staff and managers. However, the Area delivered effective induction training, with line managers and mentors supporting new staff to gain experience and develop in their roles.

**2.24.** In the year following the first national lockdown, many of the newly recruited legal resources were concentrated in the magistrates' court unit. At the time, the backlogs in that unit were reaching their peak. Some more experienced staff were also moved into the Crown Court unit. Meanwhile, there was a small reduction in the number of legal staff in the RASSO unit.

**2.25.** Between the start of 2021 and July 2022, the number of magistrates' court legal staff in post has decreased by around two, the number in the Crown Unit has increased by around two, and the number in the RASSO unit has increased by 12. This rebalancing has to be seen in the context of magistrates' court backlogs decreasing, Crown Court backlogs remaining high, and the increase in RASSO live caseloads to levels above the immediate pre-pandemic period.

### **Magistrates' courts**

**2.26.** As Table 3 shows, live caseloads in the magistrates' courts rose rapidly during the first few months after the initial national lockdown. This can be attributed primarily to the closure of courts and then their limited re-opening, which had a major impact on the number of cases, including trials, that could be listed for hearing.

**2.27.** During the period April and June 2021, the data shows the numbers stabilising. More recent data shows the backlogs decreasing, although they remain above pre-pandemic levels. The latest data we have seen shows that live magistrates' court caseloads remain 19% above the immediate pre-pandemic level.

**2.28.** The increase in live caseloads appears to have been caused primarily by the increased time that cases are staying in the system before being concluded. The data we have seen shows that the number of receipts into the magistrates' court unit for the period January to March 2022 was roughly the same as for the corresponding period immediately before the first lockdown (8,363 cases compared to 8,437).

### **Crown Court**

**2.29.** The data shows that Area's live Crown Court caseloads (which includes RASSO cases heard there) also rose during the year after the first lockdown. However, unlike in the magistrates' courts, there has not been a significant downward curve since the peak. The latest data we have seen shows that live Crown Court caseloads remain 65% higher than in the period just before the first lockdown.

**2.30.** As well as moving a limited number of experienced staff from the magistrates' court unit to the Crown Court unit to manage the backlogs, the Area also redeployed some crown advocates to carry out review work, as well as employing some members of the Bar on fixed term contracts. These initiatives have now ceased.

### **Rape and serious sexual offences**

**2.31.** The data shows a similar pattern for RASSO caseloads. For the period January to March 2021, a year after the first national lockdown, the live caseload was 37.0% higher than in the corresponding period a year earlier. By the end of March 2022, the RASSO live caseload remained 32.0% higher.

**2.32.** This pattern is reflected in the increase in the RASSO unit's legal resources over the past 12 months. The unit now has 12 more legal staff than at the beginning of 2021.

### **Custody time limits**

**2.33.** Where a defendant is refused bail while awaiting trial, they are subject to custody time limits (CTLs). This means the defendant can only be held in custody before the start of a trial for a stipulated number of days. The imposition of this time limit creates pressure on the prosecution to complete all necessary work within the time frame. This has been exacerbated by the other pressures of the pandemic.

**2.34.** As a temporary measure, CTLs were extended in September 2020, then reverted to normal in June 2021. CPS North West, in common with all CPS Areas, had to deal with an increase in the number of cases that required an application to extend the CTL.

**2.35.** The temporary extension has now ended, so all new cases carry the pre-existing time limits. The result is more work for the Area to manage time limits and apply to extend CTLs where appropriate. Many cases have required multiple CTL extension applications which further increases the pressure Crown Court prosecutors and operational delivery staff have been under.

### **Defence**

**2.36.** The ability of prosecutors and operational delivery staff to engage with the defence during the pandemic has been hampered by the decisions of many defence firms to furlough staff from early on in the first lockdown. Defence solicitors have faced many difficulties, including in seeing clients to take instructions, whether they were on bail or in custody.

**2.37.** We have been told that, realistically, defence solicitors have often only been in a position to take meaningful instructions from their clients on the day of the hearing itself. This has clearly affected the ability of prosecutors to engage effectively with the defence before the first magistrates' court hearing or before the Plea and Trial Preparation Hearing (PTPH) in the Crown Court.

**2.38.** Since the easing of restrictions, the Area has continued to try to engage with the defence. It acknowledges that there have been mixed results, but that work continues.

### **Police service to the Area**

**2.39.** Police file quality is a long-standing issue nationally, and one that we have reflected on frequently in previous reports. The advent of the pandemic has had a substantial impact.

**2.40.** The Director of Public Prosecutions issued new charging guidance (referred to as the Director's Guidance on Charging, sixth edition or DG6) in



December 2020, and it came into force on 1 January 2021. It reflected, among other changes, the revisions to the Attorney General's Guidelines on Disclosure 2020 and the related Code of Practice. National assurance of police file quality data was suspended during the pandemic, and compliance with DG6 was not formally required until 1 April 2021, after a three-month introductory period. The new monitoring process for police file quality under DG6, called DG6 Assurance, was introduced nationally on 21 July 2021.

**2.41.** We identified significant issues with police file quality across all three police forces serving the Area, in respect of cases submitted to the CPS both before and after DG6 was brought in.

**2.42.** The Area uses the new national file quality monitoring on the CPS case management system to identify police file quality issues, which are then fed back through joint operational performance meetings with the police. We were told that the Area is optimistic that the recently established Joint Operational Improvement Meetings, which replaced the existing prosecution team performance management structure, will be effective at driving real improvement in the quality of files submitted by the police.

## Performance data

**2.43.** The CPS has a suite of performance measures that each CPS Area is measured against. Some of these are designated as high weighted measures.

**2.44.** While we have considered the performance data available, our assessment of the quality of CPS North West's casework is predicated upon our file examination. This focused on the effectiveness of the Area's actions against the CPS's own standards around the quality of legal decision-making and case management, which is solely within the control of the CPS. It is from this alone that the inspection scores have been awarded.

**2.45.** While outcomes, often reported as performance measures, are of course important, this inspection programme focuses on how the CPS can increase the value it adds and improve its grip on casework. We identify where there are issues to address in the drive to deliver further improvement, and we also highlight good practice and strengths we have found in the quality of service that the CPS delivers within the criminal justice system.



### **3. Framework and methodology**

## Inspection framework

**3.1.** The Area inspection programme framework has been designed to focus on the Crown Prosecution Service's (CPS's) delivery of quality casework, which is its core function and one of the five strands of the CPS 2025 strategy<sup>10</sup>. To do this, we are examining 90 cases from each Area, which will form the basis of our findings, judgements, and scoring. The inspection will include an assessment of the other four strands of CPS 2025 (people, digital capability, strategic partnerships, and public confidence) only in so far as they have an impact on, support, and promote casework quality.

**3.2.** The inspection framework is set out in full in annex A.

## Methodology

### File examination

**3.3.** The primary evidence for our findings and judgements comes from the examination of 90 cases from CPS North West. We looked at 30 magistrates' court cases, 40 Crown Court cases, and 20 cases involving rape and serious sexual offences (RASSO). We recognise that a sample of 90 files is not statistically significant in relation to the Area's caseload, but long experience shows us that it is sufficient to identify what is working well, and what the themes or issues are when the need for improvement is indicated.

**3.4.** The file sample composition is set out in annex E. We selected the cases according to these criteria to ensure the same balance of successful and unsuccessful outcomes, and of sensitive and non-sensitive case types, for each Area. We chose live cases for 10% of the file sample to enable us to examine cases that were affected by pandemic pressures, particularly pressures in listing practices. Most of the remaining 90% were finalised between October and December 2021. Within the criteria, cases were chosen at random.

**3.5.** Each case was examined by an experienced legal inspector against a set of 60 questions, with guidance to ensure a common understanding of how to apply the questions to the cases. The work was assessed as fully meeting the expected standard, partially meeting the standard or not meeting the standard.

**3.6.** HMCSI house style is to round figures to a single decimal point, so where percentages are cited, they may not total 100%.

---

<sup>10</sup> CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.  
[www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf](http://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)

## Other inspection activity

**3.7.** We asked CPS North West to send us a range of documents across all aspects of the framework, which we reviewed with a focus on the evidence that shed light on the Area's delivery of high-quality casework.

**3.8.** We also attended virtually the Area's casework quality committee meeting on 20 April 2022 to better understand how the Area views its casework quality and the improvement work going on in the Area.

**3.9.** After examining the files, we produced a summary of our preliminary findings, mainly from the files, but supplemented by evidence from the documents and attendance at the casework quality committee. We sent this assessment document to the Area in advance of a meeting to discuss its contents with senior managers. At the meeting, the Area was able to put the findings in context, explain more about the pandemic and other pressures it was dealing with, and supply more evidence where necessary.

## Quality assurance

**3.10.** This programme of inspections has been developed in consultation with the CPS, including three Chief Crown Prosecutors who provided helpful feedback on the framework, methodology and context.

**3.11.** In line with our methodology<sup>11</sup>, we held consistency exercises for our inspectors on the question set and guidance, and we invited staff from a number of Areas including CPS North West. Our file examination assessments were then subject to internal quality assurance, which included data checks and dip-sampling. Dip samples were then checked to ensure consistency of approach.

**3.12.** As set out in detail in our methodology, we follow a robust quality assurance process for cases where we reach a provisional conclusion that a decision to charge, proceed to trial, accept pleas, or discontinue was not in compliance with the Code for Crown Prosecutors. The process involves two stages of internal review and between one and three stages of consultation with the CPS on our provisional finding. The number of consultation stages depends on whether the Area agrees with our provisional finding and, where we cannot agree, how many stages the Area wishes to invoke. Ultimately, the decision is ours.

**3.13.** The Area assessment document, containing our preliminary findings, was reviewed by the Deputy Chief Inspector (Inspections). They held a 'check

---

<sup>11</sup> *Inspection handbook*, HMCPsi; January 2021.  
[www.justiceinspectorates.gov.uk/hmcp/psi/wp-content/uploads/sites/3/2021/02/HMCPsi-Inspection-handbook.docx](https://www.justiceinspectorates.gov.uk/hmcp/psi/wp-content/uploads/sites/3/2021/02/HMCPsi-Inspection-handbook.docx)

and challenge' session with the inspection team before our meeting with the Area's senior managers to discuss the findings.

## Scoring

**3.14.** Historically, HMCPSI has awarded a single score to a CPS Area at the conclusion of an Area inspection: excellent, good, fair, or poor. While this provided an overall score, which was easily accessible to those reading the report, it did not always reflect the variety of findings we found in each Area, and across the Areas.

**3.15.** In this inspection, with the focus on casework quality, we have assessed whether the Area has added value to the prosecution through good, proactive prosecution decision-making and whether the Area has gripped case management. These two aspects of the Area's casework handling are scored as percentages for each of the three types of casework examined within this inspection: magistrates' court casework, Crown Court casework and RASSO casework. The scores are derived solely from our file examination.

**3.16.** We assessed how well CPS North West met the standards against 60 questions<sup>12</sup> covering themes from pre-charge to case conclusion. Inspectors applied ratings to each question for each case – fully meeting the standard, partially meeting the standard or not meeting the standard. Inspectors applied the CPS's own casework standards.

**3.17.** In reaching our assessments around added value and grip, we examined Area cases against a set of questions that we brigaded into casework themes. These are examined in detail within the report to provide a fair and transparent assessment of the Area's work across the three types of volume casework assessed. Each theme received a score – recorded as a percentage and calculated in the same way as for added value and grip – which then translated into an assessment of how well the Area met the standard for that specific theme<sup>13</sup>.

**3.18.** By presenting our findings in this way, the CPS, the public and the Attorney General (as the superintending officer for the CPS) will have clarity around the Area's performance.

---

<sup>12</sup> See annex D for the full question set.

<sup>13</sup> See annex F for the scoring methodology and annex G for which questions contributed to each of the casework themes.

## **4. Key stages in a prosecution case**

## Pre-charge decision-making

**4.1.** While it is the police who investigate criminal allegations, in most cases it is the Crown Prosecution Service (CPS) who decides whether a suspect should be charged and with what. The CPS then conducts the case through to the end. Within the CPS, charging decisions are made either by one of the 14 geographical Areas or by the out-of-hours service, CPS Direct. In less serious cases, and provided the case fits certain criteria, the police can make the decision to charge. In all cases, the police should decide not to charge (or to take 'no further action') where the evidence does not pass the threshold for referral to the CPS.

**4.2.** Once the case is with the CPS, its prosecutors review the evidence and other material sent by the police, and make their decisions based on the Code for Crown Prosecutors ('the Code')<sup>14</sup>. This is a public document, issued by the Director of Public Prosecutions, which sets out the general principles that prosecutors should follow when they make decisions on cases.

### Complying with the Code

**4.3.** To comply with the Code, prosecutors must assess the material supplied by the police and apply a two-stage test. The first stage is deciding whether there is sufficient evidence for a realistic prospect of conviction. The second stage is deciding whether a prosecution is required in the public interest.

**4.4.** The first ('evidential') stage is an objective test that the prosecutor must consider. It means that a bench of magistrates, a District Judge or a jury, properly directed in accordance with the law, will be more likely than not to convict the defendant of the charge alleged. This is a different test to the one the criminal courts must apply – whether that is a bench of magistrates, a District Judge, or a jury – which is that they should only convict if they are sure of a defendant's guilt.

**4.5.** Prosecutors must be fair and objective, considering each case on its merits. It is the duty of the prosecutor to make sure that the right person is prosecuted for the right offence and to bring offenders to justice wherever possible. Prosecutors must make sure that the law is properly applied, that relevant evidence is put before the court and that the obligations of disclosure are met.

---

<sup>14</sup> *The Code for Crown Prosecutors*; CPS; October 2018.  
[www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors)

**4.6.** The second ('public interest') stage will only be considered if the prosecutor concludes that the evidential test has been met. If there is insufficient evidence for a realistic prospect of conviction, then regardless of the seriousness of the offence or the impact on an alleged victim or the public, the prosecutor cannot go on to consider the public interest.

**4.7.** Where there is sufficient evidence for a realistic prospect of conviction, a prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In reaching this decision, prosecutors must bear in mind paragraphs 4.14(a) to 4.14(g) of the Code for Crown Prosecutors.

**4.8.** As part of our methodology, we assess Code compliance. If we conclude that the Code decision was incorrect, and that no reasonable prosecutor could have made that decision in the circumstances in which it was made and at the time it was made (or ought to have been made), we describe this as a 'wholly unreasonable decision'.

## Selecting the most appropriate charges

**4.9.** The facts and circumstances of each case are different and there are often a number of charges that can be considered and selected by the prosecutor. Prosecutors should select charges which:

- reflect the seriousness and extent of the offending
- give the court adequate powers to sentence and impose appropriate post-conviction orders
- allow a confiscation order to be made in appropriate cases, where a defendant has benefited from criminal conduct
- enable the case to be presented in a clear and simple way.

**4.10.** This means that prosecutors may not always choose or continue with the most serious charge, where there is a choice and the interests of justice are met by selecting the lesser charge.

**4.11.** Prosecutors should not select more charges than are necessary to encourage the defendant to plead to some of the charges, nor should a prosecutor charge a more serious offence with a view to encouraging a defendant to plead to a less serious one.

**4.12.** Charging standards set by the CPS also help prosecutors select charges in some types of offending. One example is the charging standard for offences against the person. This standard helps to ensure a consistent approach in

cases where the circumstances of an assault would fit either a charge of common assault by beating – an offence that can be tried only in the magistrates' courts – or an assault occasioning actual bodily harm: an offence that can be tried either in the magistrates' courts or the Crown Court, and which attracts a greater maximum sentence.

### **Quality of the pre-charge decision review, including analysis and case strategy**

**4.13.** Getting the initial charging decision correct is essential. But it is also fundamental to set out a clear analysis of the material and a clear strategy. It helps to ensure the efficiency and effectiveness of the subsequent stages, supporting the initial application of the Code and the selection of charges as the case moves through the criminal justice system.

**4.14.** Without clear contemporaneous records of how prosecutors have made their legal decisions, it is not possible to know whether they have taken into account all relevant factors and demonstrated sound reasoning to reach their conclusions – including anticipating issues that may cause difficulties or delays at a later date, and taking action or devising strategies to overcome them. In our view, the CPS must have a proper understanding of how all its prosecutors arrive at their decisions in order to achieve its 2025 strategy aim of high-quality casework.

**4.15.** The prosecutor's review, which should be recorded on a police manual of guidance form 3 (or 3A for any subsequent reviews after the first review), should set out a clear and cogent analysis of the material, identifying how the evidential test is met and setting out a clear case strategy. A case strategy should encompass what the case is about, or 'tell the story'; and set out how potentially undermining material, such as material with an impact on the credibility of a victim or witness, can be addressed.

**4.16.** A prosecutor's review that meets the standard will fulfil the following criteria.

- It sets out a clear trial strategy demonstrating how each of the essential legal elements of the offence are to be proved (or cannot be proved). In particular, where there are two suspects or more, the prosecutor has considered the case of each one separately and applied the Code individually to all charges, including where joint enterprise was alleged.
- It identifies reasonable lines of enquiry. These can be very different from case to case but often include the need for scientific evidence or examination of communications, for example. The review also identifies those lines of enquiry that may point away from a prosecution. There is a proportionate



action plan identifying those reasonable lines of enquiry and setting a realistic target date for completion.

- It addresses issues or defences that could reasonably arise, and the prosecutor has articulated how they could be countered.
- It addresses relevant issues of admissibility, including hearsay, identification or the significance of hard media.
- The prosecutor has considered the credibility and/or reliability of key witnesses, including previous convictions and past reports to the police. Where a video-recorded interview has taken place, it has been properly assessed.
- It follows relevant CPS policies, for example, the domestic abuse policy.
- The prosecutor has rationally assessed the strengths and weaknesses of the case and any impact they might have, identifying a strategy for how to address any weaknesses. The review considers any ancillary applications that may strengthen the case, such as bad character evidence of the defendant.
- It considers victim and witness issues.

**4.17.** Another important function of a pre-charge decision review is to provide instructions to a court prosecutor, who may have many cases to deal with in a court list and little time to review cases before the hearing. Inadequate instructions can limit the progress that can be made at the first hearing or require the advocate to duplicate the review and make fresh decisions about aspects of the case, including whether there should be any change in bail status or acceptability of pleas. Clear instructions improve effectiveness and efficiency, and reduce the risk of something being overlooked at court.

**4.18.** Instructions will vary depending on the relevant factors in each individual case, but may include:

- the approach to be taken to bail and/or custody for all suspects, including threshold test conditions, objections to bail, any appropriate conditions of bail and whether or not an appeal against bail being granted was necessary
- which applications and/or ancillary orders were to be made at first hearing or notice given to the court and defence
- advice on representations to the court as to venue, including sentencing guidelines where appropriate

- what possible pleas may be acceptable and the rationale for the approach to be taken
- details of any material that either assists the defence case as it is known at that stage, or undermines the prosecution case, and needs to be disclosed to the defence at the first hearing under the prosecution's common law duties
- what should be included in the initial details of the prosecution case. This is the bundle of material that is served on the defendant or their legal representative before the first hearing in the magistrates' courts<sup>15</sup>.

## Post-charge decision-making and reviews

### Police file quality – the National File Standard

**4.19.** The National File Standard<sup>16</sup> is a document setting out the material and information that the police must send to the CPS at different stages of criminal cases and for different case types. It lists what is required when a case is submitted for a pre-charge decision, for an anticipated guilty plea case in the magistrates' courts, and for a more complex matter listed before the Crown Court. It seeks to achieve consistency and proportionality across all CPS Areas and police forces throughout England and Wales.

**4.20.** The CPS case management system allows the CPS to report whether a police file submission complied with the National File Standard. This national file quality data is collated and considered at local prosecution team performance meetings, which are held between CPS local legal managers and their police counterparts with the aim of improving police file quality. It was suspended nationally during the initial period of the Covid-19 pandemic, although some Areas carried on monitoring the police's compliance with the expected standards. Compliance checking restarted nationally on 21 July 2021 with the introduction of the Director's Guidance on Charging, sixth edition (DG6) Assurance.

---

<sup>15</sup> The contents of the initial details of the prosecution case are regulated by [Part 8 of the Criminal Procedure Rules \(CrimPR\)](#) and the [Criminal Practice Directions \(CPD\) 2015 Division 1, at Part 3A](#).

<sup>16</sup> The latest version of the National File Standard is contained in [the Director's Guidance on Charging, sixth edition \(DG6\)](#). Many of the files we examined pre-date the sixth edition coming into force on 1 January 2021, when [an earlier version of the National File Standard](#) applied.

## Post-charge reviews

**4.21.** The quality of ongoing reviews and strategy is of critical importance to the effective and efficient progress of cases through the criminal justice system. Making a decision in compliance with the Code without supporting analysis of the case material and a clear strategy – addressing matters such as undermining material, special measures and applications – diminishes the value added by the CPS and results in a reactive approach to the case. This can lead to key issues being missed, cracked and/or ineffective trials, duplication of effort, wasted resources and delays in decision-making and case progression that can have an impact on victims, witnesses, and defendants, especially where they are in custody.

**4.22.** In reaching our assessment we considered a number of factors related to the quality of these reviews:

- whether the post-charge review included a proper case analysis and case strategy
- whether any pleas accepted (other than to all offences) were appropriate, with a clear basis of plea
- whether there were quality reviews dealing with any significant developments (that is, those representing a major change in the case strategy). This includes applying the Code for Crown Prosecutors to decide whether there remained a realistic prospect of conviction and whether it remained in the public interest to prosecute, but also how any new evidence or weaknesses would be addressed
- whether decisions about bail and/or custody were timely and appropriate
- whether appropriate applications – for example, bad character – were used effectively to strengthen the prosecution case.

### Significant events

**4.23.** As cases progress, things can change which have a material impact on the prosecution case or which represent a major change in the case strategy.

**4.24.** If this happens, the Area should carry out a quality review dealing with the significant development, applying the Code for Crown Prosecutors to decide whether there remains a realistic prospect of conviction and whether it remains in the public interest to prosecute. The review should also address how any new evidence or other material will be dealt with, and how the case strategy should be adapted. We call this a significant event review.

### Stage 1 reviews

**4.25.** In contested Crown Court cases, there are key stages following on from the first hearing in the Crown Court. The first of these is service of the bulk of prosecution materials, which should be accompanied by a review of the case and updates on any developments since the last review. This is called a stage 1 review.

## Preparation for the Plea and Trial Preparation Hearing

**4.26.** In contested Crown Court cases, a number of orders to manage the case will be made at the first hearing in the Crown Court. This is called the Plea and Trial Preparation Hearing (PTPH). In most such cases, the court will be able to set four dates for the parties to complete the four key stages in pre-trial preparation – although where the case requires it, other dates can be set. The four stages are:

- Stage 1 – for the service of the bulk of prosecution materials. This date will ordinarily be 50 days (custody cases) or 70 days (bail cases) after sending the case from the magistrates' courts to the Crown Court. This is in line with the timetable for the service of the prosecution case provided in the Crime and Disorder Act (Service of Prosecution Evidence) Regulations 2005. The court does not have the power to abridge this time (without consent) but does have the power to extend it.
- Stage 2 – for the service of the defence's response, including the defence statement and standard witness table. This date will ordinarily be 28 days after stage 1, reflecting the time provided for the service of a defence statement.
- Stage 3 – for the prosecution's response to the defence statement and other defence items. This date will ordinarily be 14 or 28 days after stage 2, depending on the anticipated date of trial.
- Stage 4 – for the defence to provide final materials or make applications that will commonly arise out of prosecution disclosure.

**4.27.** Following a plea of not guilty and the stage dates being set, the prosecution will ask the police to supply any additional material required to prove the case to the criminal standard of proof, so that the jury is sure of the defendant's guilt. This may require more information than the key evidence served on the defence for the PTPH.

**4.28.** At the point that material is supplied, the prosecutor should review the case again in accordance with the Code, analysing all the material, confirming the case strategy, and compiling the structured bundle of evidence the prosecution will rely on at trial. If it has not already been done, the prosecutor will also complete initial disclosure at this stage. This means serving any material that satisfies section three of the Criminal Procedure and Investigations Act 1996 – in that it may be considered capable of undermining the prosecution case or assisting the defendant’s case – together with the schedules of all non-sensitive unused material. This is a central point in the preparation of the prosecution.

**4.29.** In assessing the Area’s preparations for the PTPH, we considered the key tasks the prosecution is required to complete, including:

- filling in the PTPH form for use by the Judge presiding at the hearing
- carrying out direct engagement with the defence
- drafting the indictment
- making sure the relevant material is uploaded to the Crown Court Digital Case System before the hearing
- making sure an advocate is instructed before the hearing, so they have time to prepare.

**4.30.** Instructions to the advocate should include the acceptability of pleas, the prosecution’s view on custody or bail, any applications that could be made in court (such as special measures), any issues about receipt of evidence such as hard media or scientific material, information on any linked cases or defendants, and details of any contact with the defence.

**4.31.** If the instructed advocate is not employed by the CPS, they should read the instructions promptly and advise or confer with the Area within five days of receiving them. This does not need to be a formal advice; a note in a hearing record sheet or email, or a discussion with the Area lawyer, will suffice. There is no similar provision for those holding the equivalent role in-house, called crown advocates, although the requirement to prepare fully for the PTPH is no different.

## The indictment

**4.32.** The indictment is the document that contains the charge(s) (known as counts) to be faced by the defendant at trial in the Crown Court. It is the responsibility of the prosecutor to prepare the draft indictment.

**4.33.** It is important that the indictment is legally correct and accurately worded, and that the number and nature of the counts are appropriate. The draft indictment and key evidence must be served in a timely manner before the PTPH to allow for an effective hearing.

## Direct engagement

**4.34.** The principles of better case management<sup>17</sup> apply in the Crown Court. One of these principles is the duty of direct engagement. Rule 3.3 of the Criminal Procedure Rules requires parties to engage with each other about the issues in the case from the earliest opportunity and throughout the proceedings. The parties are required to establish whether the defendant is likely to plead guilty or not guilty; what is agreed and what is likely to be disputed; what information, or other material, is required by one party or another and why; and what is to be done by whom and when. The parties are required to report on that communication to the court at the first hearing.

**4.35.** Although the duty is placed on all parties, in practice the prosecution tends to take the lead in contacting the defence and providing the information to the court. The CPS case management system includes a duty of direct engagement log; this should be completed by the prosecutor and then uploaded to the Crown Court Digital Case System, where it can be viewed by the Judge and the defence. Good conversations with the defence at an early stage can lead to resolution of the case without the need to list and prepare for trial, which is positive for resources and provides certainty for victims, witnesses and defendants.

---

<sup>17</sup> Better Case Management; Courts and Tribunals Judiciary; September 2015.  
[www.judiciary.uk/publications/better-case-management/](http://www.judiciary.uk/publications/better-case-management/)

## Disclosure of unused material

**4.36.** It is a crucial element of the prosecution's role to make sure that unused material is properly considered, applying the tests set out in section 3 of the Criminal Procedure and Investigations Act (CPIA) 1996. This stipulates that any material that might reasonably be considered capable of undermining the case for the prosecution, or of assisting the case for the defendant, is disclosed to the defence. This underpins and ensures the fairness of the trial process.

### Police duties

**4.37.** The police are required to accurately record all material, retain it, and reveal it to the prosecutor. In magistrates' court cases, the police use a streamlined disclosure certificate to disclose any unused material to the CPS. In Crown Court cases, the police schedule relevant non-sensitive unused material on a police manual of guidance form 6C (MG6C) and any sensitive material on a police manual of guidance form 6D (MG6D). These are sent to the prosecutor who, in turn, applies the test in section 3 of the CPIA 1996; any material that meets the test must be disclosed to the defence.

**4.38.** The police disclosure officer, who in many cases will be the investigating officer, is required to review the material and provide a clear and adequate description of all documents on the schedules so that the prosecutor understands what the documents are and their significance.

**4.39.** The police are also required to supply a manual of guidance form 6E (MG6E), in which the disclosure officer should identify any material that they think is capable of meeting the test in section 3 of the CPIA 1996 and why. They must also supply copies of those items to the prosecutor. If there is no disclosable material in magistrates' court cases, the officer need not supply an MG6E.

**4.40.** Where the police do not comply with their disclosure obligations, it will result in the prosecutor requesting re-work on inadequate schedules, additional relevant information or for further enquiries to be made. This often results in delays to the case while the matter is addressed.

### Feedback on the police's compliance with their disclosure duties

**4.41.** Despite the pressures on CPS Areas, feedback to the police by the CPS about disclosure failings remains central to the effectiveness of joint working and joint national disclosure improvement plans.

## Initial disclosure

**4.42.** The prosecutor should assure themselves that all material that should be listed is included on the right schedules and is adequately described. The prosecutor makes an initial assessment and confirms the position to the defence, either by sending any documents that meet the test or confirming that no material meets the test. In either case, they must supply the MG6C so that the defence has sight of the list of non-sensitive documents.

**4.43.** There is a provision in the template disclosure letter to add any disclosable items not listed on the MG6C by the police. The MG6C and letter must be served by stage 1 of pre-trial preparation. This is called 'initial disclosure'.

## Continuing disclosure

**4.44.** In the Crown Court, the defence is required to respond to initial disclosure by serving a defence statement that sets out the details of the defence case. This is stage 2 of pre-trial preparation. If the defence fails to serve a defence statement in a Crown Court case, an inference may be drawn from that failure at trial.

**4.45.** In magistrates' court cases, the defence may serve a defence statement, but it does not have to, and no inference may be drawn from deciding not to do so.

**4.46.** Upon receiving the defence statement, the prosecutor should review it and send it to the disclosure officer in a timely manner. The prosecutor should draw the disclosure officer's attention to any key issues raised in the defence statement, and any actions that should be taken. The prosecutor should give advice to the disclosure officer about the sort of material to look for, particularly in relation to legal issues raised by the defence.

**4.47.** The police should then carry out another review of the unused material and advise the prosecutor (on another MG6E) of any previously undisclosed material that now meets the disclosure test in light of the defence statement. At that point, the prosecutor must reconsider the unused material and either disclose any further material that satisfies the disclosure test or confirm that no other material falls to be disclosed. This 'continuing disclosure' is stage 3 of pre-trial preparation.



**4.48.** Any other material that is provided after that date must also be considered by the prosecutor and either served as evidence or dealt with as unused material. If it falls to be disclosed, it should be served on the defence. If it does not, it should be added to the MG6C schedule, which should be re-served so that the defence is aware of the existence of the additional material.

## **Sensitive material**

**4.49.** All sensitive material must be scheduled on a separate schedule which the prosecutor must consider, applying the same tests. If the prosecutor concludes that there is sensitive material that meets the tests, they should disclose this in a way that does not compromise the public interest in issue; abandon the case; or make an application to the court to withhold the material on the grounds of public interest immunity.

## **Recording decisions**

### **Disclosure records**

**4.50.** In all cases, prosecutors must complete a disclosure record on the CPS case management system (CMS). This provides an audit trail for the receipt and service of the streamlined disclosure certificate; any sensitive unused material schedules; and the disclosure decisions and actions made, including reasons for disclosing or withholding unused material to or from the defence. disclosure documents added to CMS and actions taken through Modern CMS (the newer version of CMS) are logged automatically on the disclosure record, so the main input expected from the prosecutor is to note any actions or rationales for disclosure decisions that have not been logged automatically.

### **Disclosure management documents**

**4.51.** In all rape and serious sexual offences (RASSO) cases, a disclosure management document (DMD) is required. Since 1 January 2021, a DMD is also obligatory in Crown Court cases. A DMD sets out the prosecution's approach to disclosure (for example, which search terms have been used on digital material and why) and identifies what reasonable lines of enquiry have been pursued. This invites the defence to identify any additional lines of enquiry that they consider to be reasonable, and which have not yet been pursued by the first hearing in the Crown Court. The DMD is also expected to help the Judge to robustly manage disclosure in the case.

## Victims and witnesses

**4.52.** We assessed a range of aspects of victim and witness issues at both pre-charge and post-charge stages, including:

- consideration of relevant and ancillary matters at charging to support victims and witnesses
- timely and accurate witness warning
- consideration of special measures
- addressing witness issues
- consultation with victims and witnesses
- Victim Personal Statements (where a victim makes a statement explaining the impact of the offending behaviour on them)
- Victim Communication and Liaison scheme letters explaining the reasons for deciding to drop or substantially alter a charge.

### Before charge

**4.53.** We examined whether appropriate consideration was given before charge to the relevant issues in cases involving victims and witnesses. These issues include considering special measures to support vulnerable or intimidated victims and witnesses to give their best evidence; appointing an intermediary to facilitate communication with a victim or witness; whether the victim wanted to make a Victim Personal Statement about the impact the offence has had on them; and considering orders such as restraining orders (which prevent the defendant from doing things, usually contacting the victim) and compensation orders.

### After charge

**4.54.** At the post-charge stage, we assessed a number of aspects of casework including witness warning, handling of witness care unit correspondence, consultation with victims and witnesses (including speaking to witnesses at court), Victim Personal Statements, orders on sentence or acquittal, and Victim Communication and Liaison scheme letters.

### **Communication with witness care units**

**4.55.** Witness care units are separate from the CPS. They manage the care of victims and witnesses throughout the post-charge phase of a case, including updating victims and witnesses on the progress of the case. Where required, they obtain information to help make a special measures application to support the victim or witness to give their best evidence. They also arrange pre-trial witness visits to court to reduce anxiety about the surroundings or offer practical support to get the victim or witness to attend court, such as making travel arrangements.

**4.56.** As witness care officers are in regular contact with victims and witnesses, where issues arise that may impact on the victim or witness's ability to attend court as required, the witness care unit will send information to the CPS. It is important that this information is dealt with in a timely manner, with effective actions put in place to minimise any impact on the effectiveness of the trial. Such information could be, for example, that witnesses are no longer able to attend court on the date that the trial is listed.

### **Consulting victims and speaking to witnesses at court**

**4.57.** Victims should be consulted where the CPS is considering accepting pleas to less serious charges, or a basis of plea, or discontinuing the case altogether. Victims should also be asked their views on restraining orders or other orders on sentencing that have an impact on them.

**4.58.** Victims and witnesses are entitled to be given information when they attend court for a trial. This is referred to as the speaking to witnesses at court (STWAC) initiative<sup>18</sup> and is intended to explain what they can expect to happen, to better prepare them for the trial and to reduce their apprehension, so that they can give their best evidence.

### **Victim Personal Statements**

**4.59.** Victims are entitled, if they wish, to provide a Victim Personal Statement (VPS). The VPS sets out the impact that the offence has had on them, and helps inform the court's decision on sentencing. The police should tell the CPS, and the CPS should give effect to the victim's preferences for how the VPS is presented to the court. For example, the victim may prefer to read the statement in court, the prosecution advocate may be asked to read it for them, or the Judge or magistrates may be given it to read.

---

<sup>18</sup> *Speaking to witnesses at court*, CPS; March 2018.  
[www.cps.gov.uk/legal-guidance/speaking-witnesses-court](http://www.cps.gov.uk/legal-guidance/speaking-witnesses-court)

### **Victim Communication and Liaison scheme letters**

**4.60.** Victim Communication and Liaison scheme (VCL) letters should be sent to victims whenever a charge relating to them is either dropped or substantially altered. Where the victim is deemed to be vulnerable or intimidated, is a victim of serious crime (which includes domestic abuse), or has been targeted repeatedly over a period of time, the letter should be sent within one working day. The timescale in all other cases is five working days.

**4.61.** The letter should include a clear and understandable explanation of the decision. In applicable cases, it should also include a referral to the Victims' Right to Review scheme (which allows a victim to ask the prosecution to reconsider a decision to drop or substantially alter a case) and offer a meeting.

## **Rape and serious sexual offences**

**4.62.** Most rape and serious sexual offence (RASSO) allegations proceed in the same way as Crown Court cases, and are usually heard there. The information we have set out in relation to Crown Court cases applies equally to most RASSO cases. There are, however, the following differences.

### **Venue**

**4.63.** A small number of RASSO cases may be heard in the lower courts, usually in the youth court (for a defendant aged 10 to 17). Some of the questions in our file examination, especially those related to preparation for Crown Court hearings, will not be applicable in youth court cases.

### **Selection of charges**

**4.64.** In RASSO cases, the selection of charges can be complicated, with different offences being relevant depending on the date of the incident(s) or the age of the victim. Non-recent allegations can require particular care if they span the transitional provisions in, and the changes to, offences brought about by the Sexual Offences Act 2003.

### **The trial advocate's duties**

**4.65.** The CPS and National Police Chiefs' Council have agreed protocols which set an expectation for there to be a conference with the trial advocate in rape and penetrative assault cases. This conference is attended by the CPS, the officer in the case and any expert witnesses.

## **5. Added value and grip**

## What are added value and grip?

**5.1.** The Crown Prosecution Service (CPS) is one of a number of key organisations within the criminal justice system. Others include the police, who take reports of and investigate alleged criminal offences; the magistrates' courts and the Crown Court, which hear cases and deal with pleas, trials, and sentence; and the defence, who represent defendants.

**5.2.** In many cases, the CPS provides advice to the police at the pre-charge stage – based on the material gathered during the course of the police investigation – and makes the decision whether or not to prosecute. If the decision is to prosecute, the CPS then reviews the case and prepares it for court, whether that is for a plea, trial, other hearing, or sentence.

**5.3.** All parties are required to work together effectively. This requirement is contained in the Criminal Procedure Rules (CPR) 2020, which set out the framework within which cases should be progressed post-charge in the criminal courts. The overriding objective of the CPR 2020 is that criminal cases are dealt with justly, which includes being dealt with efficiently and expeditiously.

**5.4.** The CPS sets its own standards for the delivery of high-quality casework to ensure effective and efficient prosecution. These are the standards that we applied to assess the quality of casework within the Area.

**5.5.** We broke down casework quality into two key measures: whether the Area added value with its casework decisions and whether the Area had a grip on its casework. We supported these with five casework themes:

- charging advice and decision-making
- post-charge reviews
- preparation for the Plea and Trial Preparation Hearing (PTPH) in the Crown Court
- disclosure of unused material
- victims and witnesses.

## Added value

**5.6.** We defined added value as the difference made by prosecutors throughout the life of a case, through good and proactive prosecution decision-making in accordance with the legal framework, at both pre- and post-charge and throughout the case. We drew on the relevant questions in our file examination that most show added value, including:<sup>19</sup>

- the decision to charge and with what offence
- decisions about admissibility and credibility of evidence
- choosing, and clearly and correctly drafting, the right counts to be faced by defendants on indictment in cases to be heard at the Crown Court
- good quality reviews containing, at all stages, a cogent and clear analysis of the case – which includes whether the prosecutor has, in each case:
  - analysed the material
  - identified additional lines of enquiry, including those that might point away from a prosecution, and asked the police to investigate further
  - considered any defence raised, identified ways to strengthen the case and also addressed how any weaknesses might be overcome
  - set out a clear strategy for trial in contested cases, by which we mean how the case will be presented at trial
- appropriate handling and decision-making around unused material throughout the case
- effective consideration and decision-making around victim and prosecution witness issues, including seeking appropriate orders to protect the victim, witnesses and the public
- robust and fair decisions about custody and bail
- sound use of applications to strengthen the prosecution case, such as evidence of bad character of the defendant or hearsay evidence.<sup>20</sup>

---

<sup>19</sup> See annex G for which questions contributed to each of the casework themes.

<sup>20</sup> A statement not made in oral evidence that is evidence of any matter stated s114(1) Criminal Justice Act 2003.

## Grip

**5.7.** When we assessed grip, we considered the effectiveness and efficiency of case progression or management of cases by the Area. We looked at whether the Area made sure that cases have been effectively progressed at each relevant stage, whether required processes had been adhered to, and whether any timescales or deadlines had been met.

**5.8.** We assessed grip by identifying the questions in our file examination that had significant impact in terms of case management. The questions that contributed to our overall score and findings for grip included:<sup>21</sup>

- timeliness of reviews, including timeliness of any decisions to discontinue cases
- effective preparation for first hearing, including sharing hard media
- compliance with court orders
- conferences, where mandatory, in rape and penetrative sexual offence cases
- appropriate and timely handling of correspondence from the court and defence
- timely and effective handling of additional police material, including requests for editing or additional material, and escalation of unanswered requests for outstanding material where required
- timely and effective handling of witness care unit correspondence
- clear audit trails of all aspects of casework on the CPS case management system.

---

<sup>21</sup> See annex G for which questions contributed to each of the casework themes.



## Added value and grip scoring

**5.9.** The scores for added value and grip are set out as percentages. They were obtained by taking the questions that feed into the aspect (see paragraphs 5.6 and 5.8 and annex G) and allocating:

- two points for each case marked as fully meeting the expected standard
- one point for each case marked as partially meeting the standard
- no points for cases marked as not meeting the standard.

**5.10.** We then expressed the total points awarded as a percentage of the maximum possible points. “Not applicable” answers were excluded. There is a worked example in annex F. Applying this mechanism, we have scored CPS North West as follows.

**Table 4: Added value and grip scoring**

CPS North West	Added value	Grip
Magistrates’ court casework	67.2%	68.0%
Crown Court casework	62.5%	83.8%
Rape and serious sexual offences casework	67.7%	78.1%

**5.11.** These findings should be seen in the context of the significant added pressures caused by the pandemic. Since the first national lockdown, the Area has seen significant increases in live caseloads, with fewer cases being finalised in the courts.

**5.12.** The Area has worked effectively with criminal justice system partners to reduce the backlogs, but they remain around 19% higher in the magistrates’ court and around 65% higher in the Crown Court than immediately before the pandemic. This increased live caseload has meant a significant increase in work for all staff. The increase in work occasioned by the increase in the number of live cases subject to custody time limits (CTLs) and the temporary changes to the CTL regulations – for example, the need to prepare more applications to extend CTLs – has only added to those pressures.

**5.13.** The pressure that Area has been under has been exacerbated by the need to recruit, induct and train new legal and operational staff, as well as to support existing staff who have changed roles, including some who have become new managers. During this period, the Area has also lost some experienced members of staff. This has all required careful planning by management at a time when staff have been required to work from home, with all the associated challenges that has brought.

## **Magistrates' court casework added value and grip**

**5.14.** The Area's score for added value in magistrates' court casework is 67.2%.

**5.15.** In most magistrates' court cases, the Area correctly applied the Code for Crown Prosecutors when making decisions to charge and reviewing cases after charge.

**5.16.** However, our file examination highlights that the Area needs to improve the quality of its legal analysis at the pre-charge and post-charge review stages, and improve its compliance with disclosure obligations. Many legal reviews lacked a clear case analysis and strategy that adequately demonstrated that the prosecutor had properly considered and weighed the available evidence and unused material, had understood the strengths and weaknesses of the case, had been proactive in pursuing reasonable lines of enquiry, and had devised a strategy to address likely defences. In a number of cases, we were not confident that the prosecutor had developed a case theory as to the basis on which the case was to be prosecuted. We also found room for improvement in the consideration of special measures for witnesses before charge, and the handling of potential bad character evidence before and after charge.

**5.17.** The degree of added legal value when considering unused material was also variable at the pre-charge and post-charge stages in magistrates' court cases. The Area fully complied with its duty of initial disclosure in less than a third of magistrates' court cases where a not guilty plea was entered after charge.

**5.18.** The Area added significant value in magistrates' court cases when seeking orders on sentence to protect victims, witnesses and the public, as well as when consulting with victims and witnesses during the course of proceedings and at court. However, there is significant room for improvement in the timeliness and standard of its written communication with victims when a prosecution has been ended by the CPS. Generally speaking, the Area also made appropriate and timely decisions about bail and custody after charge, although charging prosecutors must make the prosecution position on bail clear in their manual of guidance form 3s (MG3s). This was rarely done in the files we examined.

**5.19.** The Area's score for grip of its magistrates' court casework is 68.0%.

**5.20.** The Area generally has a reasonable grip of its magistrates' court cases, with some aspects requiring improvement.

**5.21.** Decisions to discontinue were made and put into effect in a timely manner in seven of the eight applicable cases (87.5%). Charging decisions and other reviews were generally timely or, if not, were not subject to such delay as to have a significant impact on the effectiveness of case progression.

## **There is a need to improve the service of hard media before the not guilty anticipated plea hearing**

**5.22.** Of the 25 cases that contained an initial review before the first magistrates' court hearing, we assessed 15 (60.0%) as fully meeting the standard for timeliness, with another nine cases (36.0%) assessed as partially meeting the standard, meaning that we did not find that the timing of these nine reviews

had any material impact on the effectiveness of the first hearing.

**5.23.** We assessed one case as not meeting the standard. This was an aggravated vehicle taking case that had been charged by CPS Direct applying the threshold test. The prosecutor who dealt with the matter in court as an overnight case the following day recorded an action for the case to be reviewed. The initial review did not take place until the day before trial, two and a half months later.

**5.24.** There is a need to improve the service of hard media before the not guilty anticipated plea (NGAP) hearing. Failure to do so may contribute to avoidable listings for trial and/or late guilty pleas. We found seven out of 20 cases (35.0%) to be fully meeting the standard for sharing hard media with all parties via Egress before the NGAP hearing. Another two cases were assessed as partially meeting the standard, with the remaining 11 (55.0%) not meeting the standard, as no media was served before the hearing.

**5.25.** Out of 12 applicable cases, eight (66.7%) were assessed as not meeting the standard in regard to timely compliance with court directions. One case (8.3%) was assessed as fully meeting the standard and three cases (25.0%) as partially meeting the standard. The main reason for our finding is non-compliance with the deadline for serving initial disclosure.

**5.26.** New material received from the police was dealt with fully, promptly and effectively in most cases. Of the 22 applicable cases, we assessed 19 (86.4%) as fully meeting the standard in this regard. One case (4.5%) was found to be partially meeting the standard and two cases (9.1%) were assessed as not meeting the standard. Again, this is a strength.

**5.27.** Correspondence from the court or defence was generally dealt with appropriately and sufficiently promptly, with timely and effective actions being

taken in response. We found 13 out of 23 cases (56.5%) to be fully meeting the standard, with five cases (21.7%) partially meeting it and five cases (21.7%) not meeting the standard.

**5.28.** There was a clear audit trail on the CPS case management system (CMS) in 19 out of 30 cases (63.3%). The remaining eleven cases (36.7%) were rated as partially meeting the standard.

## **Crown Court casework added value and grip**

**5.29.** The Area's score for added value in Crown Court casework is 62.5%.

**5.30.** In Crown Court cases, there is room for improvement in the application of the Code for Crown Prosecutors when making decisions to charge and in review decisions after charge. We found four instances of charging decisions (11.8%) that did not comply with the evidential stage of the full Code test set out in the Code for Crown Prosecutors. None of these were identified by the Area as wholly unreasonable decisions at the first post-charge review stage and they were allowed to proceed past that point. There were also two decisions to accept a plea of guilty to lesser offences that we found not to be compliant with the public interest stage of the full Code test. The pleas that were accepted failed to reflect the seriousness of the prosecution case and to provide the Judge with adequate sentencing powers.

**5.31.** As in the magistrates' courts, we found much room for the Area to improve in the quality of its prosecutors' legal analyses, both before and after charge, as well as compliance with its disclosure obligations. Many legal reviews lacked a clear case analysis and strategy that adequately demonstrated that the prosecutor had properly considered and weighed the available evidence and unused material, had understood the strengths and weaknesses of the case, had been proactive in pursuing reasonable lines of enquiry, and had devised a case theory and a strategy to address likely defences. This weakness was apparent at every review stage, including when a significant event occurred that required careful consideration.

**5.32.** We found room for improvement in consideration of special measures for victims and witnesses, and potential bad character evidence, before charge.

**5.33.** The Area was better at achieving best evidence by making appropriate applications for special measures post-charge, making decisions about custody and bail, and drafting indictments.

**5.34.** We found clear evidence to suggest that a number of prosecutors require development in respect of their understanding of the law and guidance around the handling of unused material, particularly at the pre-charge and initial

disclosure stages. However, performance was better when it came to complying with the duty of disclosure following the receipt of a defence case statement, and significantly better when it came to handling third-party material.

**5.35.** This is consistent with our finding that there needs to be a more thinking approach to legal reviews generally and an appreciation that lawyers should add legal value and not just process cases. Improving the legal quality of reviews and handling of unused material at the pre-charge and initial disclosure stages would lead to a higher assessment of how much value Area is adding to its Crown Court cases.

**5.36.** There was evidence of the Area adding value in Crown Court cases when seeking orders on sentence to protect victims, witnesses and the public, although there is room for improvement in the timeliness and quality of its communication with victims.

**5.37.** The Area's score for grip of Crown Court casework is 83.8%.

**5.38.** The Area has demonstrated real grip in many aspects of its Crown Court cases.

**5.39.** Decisions to discontinue were made and put into effect in a timely manner in 11 of the 15 applicable cases (73.3%) and post-sending reviews were timely (we rated 97.5% of these as fully meeting the standard).

**5.40.** We assessed compliance with court directions or Judges' orders as fully meeting the standard for timeliness in 28 of the 36 applicable cases (77.8%), partially meeting the standard in four cases (11.1%) and not meeting the standard in four cases (11.1%).

**5.41.** There is some scope to improve the sharing of hard media before the PTPH. We assessed six of the 23 relevant cases (26.1%) as not meeting the expected standard. One case (4.3%) was assessed as partially meeting the standard and 16 cases (69.6%) as fully meeting it. Having said that, the Area generally prepared cases well for the PTPH, although there is a need to improve the quality of instructions to counsel to conduct that hearing.

**5.42.** Correspondence was generally well handled, with timely and effective actions being taken in response to material received from all parties. Where new material was received from the police after charge, we assessed the response to it as fully meeting the expected standard in 30 out of the 37 applicable cases (81.1%), as partially meeting the standard in five cases (13.5%) and as not meeting it in two cases (5.4%). The response to correspondence from the defence and the court was assessed as fully meeting the expected standard in

31 of the 36 relevant cases (86.1%), as partially meeting it in four cases (11.1%) and as not meeting it in one case (2.8%).

**5.43.** Requests to the police for additional material or editing of items were rated as timely, with effective escalation where necessary, in 32 of the applicable 39 cases (82.1%), with five cases (12.8%) assessed as partially meeting the expected standard and two cases (5.1%) as not meeting it.

**5.44.** There were 21 cases where counsel's advice was not delivered at all or on time. In 16 of these cases (76.2%) the advice was chased. In the remaining five cases (23.8%) it was not chased, and no advice was received.

**5.45.** The use of the CPS case management system (CMS) provided a clear audit trail of key events, decisions and action, and there was correct labelling of documents and appropriate use of notes in 20 of the 40 Crown Court cases (50.0%). We assessed CMS usage as partially meeting the standard in 19 cases (47.5%) and not meeting it in the remaining one case (2.5%). The issues we noted in weaker cases included duplication of entries on CMS, lack of detail on hearing record sheets and a lack of record to demonstrate why prosecutors had made important decisions.

## **Rape and serious sexual offences casework added value and grip**

**5.46.** The Area's score for added value in RASSO casework is 67.7%.

**5.47.** The Area was good at applying the Code for Crown Prosecutors when making decisions to charge and in its review decisions after charge in RASSO cases. Although we identified two non-Code compliant Area charging decisions, one of these was made by a non-RASSO prosecutor and the weakness in the case was identified at an early post-charge stage by a RASSO specialist, who discontinued the case. The other non-Code compliant decision was a legal error in relation to two of the seven selected charges, although the case as a whole was evidentially sound.

**5.48.** RASSO prosecutors were also good at selecting the most appropriate charges, although we did find some errors in the drafting of multi-incident counts. The picture though is generally positive, given the challenges of selecting the correct charges in such cases, especially in respect of historical allegations or those involving children.

**5.49.** Our file examination found that the quality of pre-charge and post-charge reviews was generally higher in RASSO cases than for magistrates' court and Crown Court casework, but there remains some scope for improvement, particularly in respect of stage 1 and significant event reviews.

**5.50.** Some review decisions lacked a clear case analysis and strategy that adequately demonstrated that the prosecutor had properly considered and weighed the available evidence, understood the strengths and weaknesses of the case, devised a trial strategy, and formulated a clear case theory as to how the case was to be prosecuted.

**5.51.** The Area also performed well post-charge at achieving best evidence by making applications for special measures and by preparing notices to adduce bad character to strengthen the prosecution case. We rated 88.2% of cases as fully or partially meeting the standard for making appropriate applications for special measures, and 85.8% of cases as fully or partially meeting the standard for making appropriate applications to strengthen the prosecution case.

**5.52.** The picture is also largely positive in respect of the preparation and development of disclosure management documents, compliance with the duty of continuous disclosure, providing the police with direction on receipt of defence statements, and dealing with sensitive and third-party unused material.

**5.53.** However, compliance with the duty of initial disclosure requires significant improvement, with three out of 18 cases (16.7%) assessed as fully meeting the standard, and 11 cases (61.1%) partially meeting it. The remaining four cases were assessed as not meeting the standard.

**5.54.** The Area is adding substantial value in RASSO cases by seeking orders on sentence to protect victims, witnesses and the public. We rated nine of the eleven cases (81.8%) as fully meeting the standard and one case (9.1%) as partially meeting the standard.

**5.55.** The Area's score for grip of RASSO casework is 78.1%.

**5.56.** As in Crown Court cases, the Area showed a good grip on its RASSO casework.

**5.57.** There is a mixed picture of the timeliness of key decisions. Post-sending reviews were assessed as fully meeting the expected standard for time taken in 19 out of 20 cases (95.0%). However, charging decisions were assessed as fully meeting timeliness expectations in five of the 18 Area-charged cases (27.8%), with eight cases (44.4%) partially meeting the standard. Of the six discontinued decisions, four (66.7%) were timely and the other two (33.3%) were rated as partially meeting the standard for timeliness.

**5.58.** Our assessment of timeliness in charging was taken from the last request (by the police) for charging advice. We saw that there were sometimes delays at earlier stages in cases with more than one consultation, and in the



initial police submission of the case for charging advice. We noted that triages conducted by the Area at charging were usually timely.

**5.59.** We assessed compliance with court directions or Judges' orders as fully meeting the standard in ten of the 17 applicable cases (58.8%), partially meeting the standard in five cases (29.4%) and not meeting the standard in two cases (11.8%).

**5.60.** In respect of sharing of hard media before the PTPH, we assessed nine of the 14 applicable cases (64.3%) as fully meeting the expected standard, one case (7.1%) as partially meeting it and four cases (28.6%) as not meeting the standard.

**5.61.** Correspondence was well handled, with timely and effective actions being taken in response to material received from all parties. Where new material was received from the police after charge, we assessed the response to it as fully meeting the expected standard in 16 out of the 19 applicable cases (84.2%) and as partially meeting the standard in the remaining three cases (15.8%). The response to correspondence from the defence and the court was assessed as fully meeting the expected standard in 16 of the 20 relevant cases (80.0%) and as partially meeting it in the remaining four cases (20.0%).

**5.62.** Requests to the police for additional material or editing of items were rated as timely, with effective escalation if required, in 17 of the 19 applicable cases (89.5%). The remaining two cases (10.5%) were assessed as partially meeting the expected standard.

**5.63.** There were six cases where a conference with trial counsel was mandated, and one was held promptly in five cases (83.3%). In the other case (16.7%), no conference was held, resulting in an assessment of not meeting the standard.

**5.64.** In six cases, counsel's advice was not delivered on time; in five instances (83.3%) the advice was not chased, leading to an assessment of not meeting the expectation in this respect. We assessed the other case (16.7%) as partially meeting the expectation that the advice would be chased.

**5.65.** The use of CMS provided a clear audit trail of key events, decisions and action, and there was correct labelling of documents and appropriate use of notes in just under a third of the 20 RASSO cases (six cases or 30%). We assessed CMS usage as partially meeting the standard in 13 cases (65.0%) and not meeting it in one case (5%). The issues we noted in weaker cases were duplicate entries that made navigating cases difficult, and inadequate recording of reviews and bail proceedings.



## **6. Casework quality: magistrates' court casework themes**

## Introduction to magistrates' court casework

**Does the Area deliver excellence in magistrates' courts prosecutions by ensuring the right person is prosecuted for the right offences, cases are progressed in a timely manner and cases are dealt with effectively?**

**6.1.** We examined 30 magistrates' court cases for casework quality. We assessed added value and grip and analysed the cases with regard to the four relevant casework themes. We used the same scoring mechanism as for added value and grip (set out more fully in chapter 5 and annex F).

**6.2.** Our findings should be seen in light of the context we set out in chapter 2 concerning the impact on the Area of Covid-19, including the resulting increase in live magistrates' court caseloads, as well as the recruitment of new staff, who have required significant support from more experienced staff.

**6.3.** We have scored CPS North West for its magistrates' court casework as follows.

**Table 5: Scoring for magistrates' court casework**

Question	Rating	%
<b>Pre-charge decision-making and review</b>		
The Area complies with the Code for Crown Prosecutors <sup>22</sup> at pre-charge decision stage	Fully meeting the standard	92.0%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	89.1%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standards	55.4%
<b>Quality of post-charge reviews and decision-making</b>		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	86.7%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy, including custody and/or bail	Partially meeting the standard	65.1%
<b>Disclosure</b>		
The Area fully complies with its duty of disclosure throughout its magistrates' court casework	Partially meeting the standard	63.9%
<b>Victims and witnesses</b>		
The Area addresses victim and witness issues appropriately throughout its magistrates' court casework	Partially meeting the standard	68.8%

**6.4.** There were aspects of magistrates' court casework that were done well, including the quality of action plans to police, decision making on bail, and some aspects of victim and witness care, including seeking appropriate orders at sentence.

**6.5.** There were other aspects that required more focus, including the quality of legal reviews before and after charge, compliance with disclosure obligations, and some aspects of victim and witness care; which included the quality and timeliness of Victim Communication and Liaison scheme (VCL) letters, the handling of Victim Personal Statements (VPS) and applications for special measures after charge.

<sup>22</sup> Code for Crown Prosecutors, 8th edition; CPS; October 2018.  
[www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors)

## Pre-charge decision-making and review

**6.6.** In order to assess the Area's decision-making at the pre-charge stage, we have split the inspection assessment into three sub-themes. These reflect the different aspects that contribute to effective decision-making at the pre-charge stage:

- compliance with the Code for Crown Prosecutors
- selection of the most suitable charges
- the quality of the analysis and case strategy set out in the prosecutor's review.

### Complying with the Code for Crown Prosecutors in pre-charge decisions

**6.7.** We discuss the process by which cases are charged, and compliance with the Code for Crown Prosecutors, in chapter 4 (paragraphs 4.1 to 4.8).

**6.8.** A decision that is not compliant with the Code for Crown Prosecutors is said to be a wholly unreasonable decision: that is to say, it is a decision which no reasonable prosecutor could have made in the circumstances in which it was made, and at the time it was made or ought to have been made.

**6.9.** We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with 92.0% of the Area's pre-charge magistrates' court decisions being compliant with the Code for Crown Prosecutors.

**Table 6: Pre-charge Code compliance in magistrates' court cases**

Rating	Number of cases	Percentage
Fully meeting the required standard	23	92.0%
Not meeting the required standard	2	8.0%

**6.10.** While we examined 30 cases in total, we are assessing the Area's performance, and so five pre-charge cases were marked as not applicable as they were charged by CPS Direct or the police.

**6.11.** The two cases where we concluded there had been a wholly unreasonable decision at charge concerned the following:

- a decision to charge a suspect with possession of an offensive weapon (a crowbar) in a public place where there was no evidence that he had taken the item into a public place, having taken it from his van, which was parked

on the driveway, following an argument. There was also no evidence to prove that he had been carrying it in his van as a weapon, rather than as one of his work tools, before he picked it up with aggressive intent

- a decision to charge a suspect with taking a motor vehicle without consent when the suspect had been found asleep at 5 o'clock in the morning in a car on wasteland. There was no admissible evidence to prove that the car was the same one that had been taken from its owner's address at some point over the previous four months. There was also insufficient evidence that the suspect had driven the car at any point, as opposed to simply being allowed to sleep in it by his girlfriend after they had fallen out, as he claimed at the scene.

## Selecting the most appropriate charges

**6.12.** We discuss the criteria and guidance that help prosecutors decide the most appropriate charges in chapter 4 (paragraphs 4.9 to 4.12).

**6.13.** We rated the Area as **fully meeting the standard** for selecting the most appropriate charges at the pre-charge stage, with a score of 90.9%.

**6.14.** We found that prosecutors were selecting the most appropriate charges in most Area-charged cases, thus adequately reflecting the alleged criminality and giving the court sufficient sentencing powers in the event of a conviction. We assessed 19 cases (86.4%) as fully meeting the standard, two cases (9.1%) as partially meeting it and one case (4.5%) as not meeting the standard.

**6.15.** In the case that we found not to be meeting the standard, the suspect was charged with one offence of assault, when there had been two distinct assaults on the same victim during the evening.

**6.16.** We rated one case as partially meeting the standard because the witness intimidation charge had been drafted on the basis that the complainant had given evidence in previous proceedings, when it was unclear whether she had in fact done so. The prosecution rectified this after charge by applying to amend the charge to include the words, "or assisted in the investigation of an offence". The other case that we rated as partially meeting the standard involved a decision to charge affray arising out of disorder in a supermarket when, in our assessment, a charge of threatening behaviour would have been more appropriate.

**6.17.** Of the 19 cases that were rated as fully meeting the standard, one example of good analysis of the potential charges in a case involved two suspects who went to an address armed with a cosh in order to confront and threaten others with whom they were in dispute. The prosecutor correctly

concluded that the 'reasonable bystander' test was not met on the evidence and that therefore the charge of affray suggested by police was not appropriate. The prosecutor decided instead to charge threatening behaviour and possession of an offensive weapon.

## **Quality of the pre-charge decision review, including analysis and case strategy**

**6.18.** Our assessment is that the Area is **not meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in magistrates' court cases is 55.4%.

**6.19.** We discuss the standards expected of a pre-charge review, and what should be included in instructions to the court prosecutor, in chapter 4 (paragraphs 4.13 to 4.18).

**6.20.** Pre-charge decisions were timely in eight out of the 25 cases (32.0%), there was minimal delay with no impact on progressing the case in 12 cases (48.0%), and in the remaining five cases (20.0%) there was significant delay. We did note that the Area is rigorous in applying the standard five-day deadline for most of its magistrates' court charging decisions, rather than using the 28-day deadline for cases of greater complexity. Eighty percent of the Area's charging decisions were either made within the five days or within a timescale that did not result in a significant delay.

### **Case analysis and strategy**

**6.21.** There is considerable room for improvement in the quality of case analysis and strategy in the Area's pre-charge reviews. We assessed nine of the applicable 25 cases (36.0%) as fully meeting the standard, five (20.0%) as partially meeting the standard and 11 (44.0%) as not meeting the standard.

**6.22.** In the weaker cases, we generally found that the case analysis did not demonstrate a 'thinking approach' to the evidence and unused material. In particular, we found a lack of consideration of the weight to be attached to key pieces of evidence, limited assessment of the strengths and weaknesses in a case and the further lines of enquiry that should have been pursued, and a lack of clarity on how each essential legal element of an offence was to be proved at trial.

### Case study

A case of common assault involved an allegation that when the suspect took his car to a garage to get it fine-tuned, he became aggressive and made threats to the complainant, who worked there, and pushed him in the stomach.

When interviewed, the suspect denied that he had been threatening and said that he himself had called the police when the complainant refused to give him his keys back.

In deciding to charge, the prosecutor's review did not address and devise a trial strategy in respect of several potentially undermining factors.

These factors included: that the CCTV from the garage had been wiped over before it could be seized (we expected to see consideration of the argument the prosecution would employ were the defence advocate to argue that their client could not get a fair trial); the fact that the defendant had also called the police; the comment from a garage worker that the incident had been blown out of proportion; that two out of three of the complainant's work colleagues (including the same garage worker) refused to make statements, despite witnessing the incident; and the fact that the complainant had a previous conviction for threatening behaviour three years before.

In the event, the complainant failed to attend court on the trial date.

**6.23.** Conversely, we saw some good examples of case analysis, including:

- a case involving an assault occasioning bodily harm, where self-defence was an obvious issue as the complainant had clearly gone to the suspect's address looking for a confrontation. There was also unused material suggesting the complainant had tried to persuade a friend to assault the suspect. The charging prosecutor analysed the strengths and weaknesses and demonstrated a grasp of the evidence, providing a clear rationale based on CCTV footage for why there was a realistic prospect of conviction and how self-defence could be rebutted
- a sexual assault where the suspect had touched the complainant, the sister of his partner, by stroking her between the legs over clothing. The prosecutor closely analysed each relevant statement and the suspect's denials and identified the strengths and weaknesses in the evidence, including the impact of unused material on the prospects of conviction, thereby demonstrating that he was weighing and not simply counting the pieces of evidence that supported the case and those that would be helpful to the defence. The prosecutor also clearly analysed the legal elements of sexual assault and applied these to the evidence. He also identified further actions

for the police, while demonstrating why these should not delay the decision to charge. In the event, the defendant pleaded guilty on the day of trial.

**6.24.** In some cases, unused material was dealt with well at the pre-charge stage, but in other cases there was inadequate consideration of the material. For cases charged before the introduction of the sixth edition of the Director's Guidance on Charging (DG6), we assessed whether the prosecutor turned their mind to unused material and considered the impact of anything that may reasonably have been capable of undermining the prosecution case or assisting the defence when assessing the prospects of conviction, and when devising the trial strategy. For DG6 cases we also considered whether the prosecutor had considered the schedules and recorded their decisions as required by the CPS's standard operating procedure for cases charged as anticipated not guilty pleas in the magistrates' courts.

**6.25.** Of the 25 applicable cases, we assessed ten cases (40.0%) as fully meeting the standard for the handling of unused material before charge, 12 cases (48.0%) as partially meeting the standard and three cases (12.0%) as not meeting the standard.

**6.26.** Examples of well-handled disclosure issues before charge included a case where rebuttable presumption material was correctly dealt with, and another case where the prosecutor correctly determined that a previous complaint made by the suspect against the complainant was disclosable.

**6.27.** For those cases that were assessed as not fully meeting the standard, recurring issues were not identifying further reasonable lines of enquiry, not considering the impact of undermining material on the prospect of conviction when deciding to charge, and not making it clear that the defence should be informed of the names of potential witnesses who had not made statements to police.

**6.28.** In one assault case, the prosecutor recorded in the pre-charge review that the complainant had a caution from 2013 for possession of an offensive weapon and fraud, and the eyewitness had a caution from 2015 for common assault, but that although these did not undermine the witnesses' credibility, this information would have to be disclosed. It was therefore unclear to us on what basis the prosecutor had concluded that the convictions should be disclosed.



### **Instructions to the court prosecutor**

**6.29.** Guidance to court advocates within pre-charge reviews was often brief and did not address all the necessary issues. In particular, acceptable pleas were often not addressed, meaning that there may be missed opportunities to resolve cases in a timely manner and without the need for a trial or, just as importantly, to ensure that no inappropriate pleas or bases are accepted.

**6.30.** We rated four out of 25 cases (16.0%) as fully meeting the required standard, 18 cases as partially meeting it (72.0%) and the remaining three cases (12.0%) as not meeting the standard. As well as pleas, we noted that the bail position was rarely considered, which can cause extra work later on, when the advocate at the first appearance has to try to work out the defendant's pre-charge status and what conditions, if any, should be applied for. There were also several instances where no direction was given on the content of the initial details of the prosecution case. While the venue was usually addressed for either way matters, it was sometimes simply an assertion, rather than couched in terms of an argument based on sentencing guidelines.

### **Reasonable lines of enquiry and action plans**

**6.31.** Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan, which is a specific section of the police manual of guidance form 3. This allows for actions to the police to be prioritised and timescales set to make sure that all appropriate avenues of investigation have been completed, including those that may point away from a prosecution.

**6.32.** Action plans were generally proportionate and met a satisfactory standard. Of the 22 cases where an action plan was required, 14 cases (56.0%) were assessed as fully meeting the standard, eight cases (32.0%) as partially meeting standard and three cases (12.0%) as not meeting the standard.

**6.33.** In some of the weaker cases, the prosecutor omitted actions for further necessary work or queries, or there was no action plan where one was required. This tended to occur when the case analysis and strategy were inadequate, so that reasonable lines of enquiry were missed or further information was not sought from the police to support applications such as special measures, bad character or information to support an application for a restraining order.

### **Applications and ancillary matters**

**6.34.** Where more information is needed from the police to support applications – such as more details of the defendant's bad character or why a victim or witness needs special measures – a timely request at charging can prevent delays in making the application. Having a special measures order made as soon as possible provides reassurance to the victim or witness.

**6.35.** Applications and ancillary matters to support victims and witnesses were fully considered in nine out of 24 applicable cases (37.5%). We assessed eight cases (33.3%) as partially meeting the expected standard and seven cases (29.2%) as not meeting the standard.

**6.36.** In those cases not meeting the standard, applications and ancillary matters (VPSs, special measures, compensation and restraining orders) were not addressed at all by the charging prosecutor when one or more of these was clearly relevant to the case. We found cases to be partially meeting the standard because not all relevant matters to support victims and witnesses were addressed or because, while they were identified as being relevant, no action was taken to progress the matter, such as asking the police to provide an MG2 special measures form or to ascertain the complainant's views on whether they wished the prosecutor to apply for a restraining order in the event of a conviction.

**6.37.** We assessed the consideration of other applications and ancillary matters (primarily hearsay and bad character applications) before charge as fully meeting the expected standard in five of the 16 applicable cases (31.3%). Two cases (12.5%) were assessed as partially meeting the standard and nine cases (56.3%) as not meeting the standard.

**6.38.** In some cases, we found that bad character evidence was not considered at all, despite there being previous convictions or cautions that were potentially relevant. For example, in an allegation of stalking where the suspect had given a prepared statement denying the allegation involving his on-off partner, the prosecutor did not explore bad character even though the suspect had previous convictions for assault and for stalking and harassment of previous partners.

**6.39.** In some of the cases rated as partially or not meeting the standard, we also noted that, while the need for applications was identified, no clear argument for relevance and admissibility was made or no further information was requested from the police to enable the application to be drafted and made.

## Post-charge decision-making and reviews

### Complying with the Code for Crown Prosecutors in post-charge decisions

**6.40.** Our assessment is that the Area is **fully meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for Code compliance in magistrates' court cases is 86.7%. These cases included those that were originally charged by either the police or CPS Direct.

**Table 7: Post-charge Code compliance in magistrates' court cases**

Rating	Number of cases	Percentage
Fully meeting the required standard	26	86.7%
Not meeting the required standard	4	13.3%

**6.41.** As Table 7 shows, there were four cases that were wholly unreasonable decisions after charge. Two were the same cases that were recorded as wholly unreasonable decisions at charge (see paragraph 6.11). Each was allowed to proceed past the first post-charge review. Two of the four cases proceeded to trial, both resulting in acquittals, one of which was a finding of no case to answer after the prosecution case.

**6.42.** Two cases involved post-charge decisions that did not comply with the Code for Crown Prosecutors. The first case was an alleged assault on a doctor in a hospital. The defence served an expert's report a few days before the trial date to support the defendant's claim of automatism; in effect that he had been suffering from a fit and had involuntarily hit out. The report was inadequate, as it did not comply with several of the criteria laid down in the Criminal Procedure Rules for an expert's report to be admissible, and it was of little or no probative value. These issues were not identified, and the prosecutor erroneously concluded that there was no longer a realistic prospect of conviction based on the report and discontinued the case.

**6.43.** The second case involved two offences charged by the police. The defendant had breached a civil injunction prohibiting anti-social behaviour. The police correctly charged an offence under the Public Order Act 1986, but incorrectly charged breach of the civil injunction. This is not an offence triable in the criminal courts and is only punishable as a contempt by the County Court. In the first post-charge Code review, the prosecutor allowed the charge to continue with the caveat that an adjournment should be sought if the court raised any issue. This was an incorrect stance to adopt when applying the Code, as the prosecutor effectively abrogated responsibility for the legal decision-making in the case. The instruction to the court prosecutor should have been to withdraw

the charge as entered in error, rather than leaving it to the court to raise any concerns. In the event, the first hearing was adjourned administratively, and the correct decision was made before the next hearing.

## Quality of post-charge reviews, analysis, and case strategy

**6.44.** Our assessment is that the Area is **partially meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in magistrates' court cases is 65.1%.

**6.45.** We discuss the standards expected of a post-charge review in chapter 4 (paragraphs 4.21 and 4.22).

### Comparison of pre- and post-charge case strategy and analysis

**6.46.** As Table 8 shows, the overall quality of legal analysis and trial strategy we assessed was better at the initial post-sending review than at the pre-charge stage. However, as the table highlights, inspectors still rated over a third of cases as not meeting the required standard at the post-charge review stage.

**Table 8: Standard of magistrates' court case analysis and strategy, before and after charge**

Question	Magistrates' court cases
<b>Pre-charge case analysis and strategy</b>	
Fully meeting the required standard	36.0%
Partially meeting the required standard	20.0%
Not meeting the required standard	44.0%
<b>Post-charge analysis and strategy</b>	
Fully meeting the required standard	40.0%
Partially meeting the required standard	23.3%
Not meeting the required standard	36.7%

### **Case analysis and strategy**

**6.47.** When considering the overall theme of case analysis and strategy in magistrates' court casework, we found a slight improvement in the quality of post-charge reviews compared to the pre-charge stage: 65.1% compared to 55.4%. These are the overall rating figures generated by the scoring model as set out in annex F. As the figures indicate, there remains room for improvement.

**6.48.** Of the 30 cases in the magistrates' courts sample, 12 cases (40.0%) had an initial post-sending review we assessed as fully meeting the expected standard. Seven cases (23.3%) had a review we assessed as partially meeting the standard and we assessed the reviews in 11 cases (36.7%) as not meeting the standard.

**6.49.** For those cases that we assessed as not meeting the standard, the common theme was that little or no legal value was added by the reviewer. This is supported by our finding that the obvious flaws in the two wholly unreasonable charging decisions were not picked up at the first post-charge review stage and that two other cases at that stage, both of which had been correctly charged, involved decisions that did not comply with the Code. We saw examples of first reviews where deficiencies in the pre-charge advice were not addressed, fresh material or information was not adequately considered, and/or outstanding actions were not chased up.

**6.50.** One example was a case of witness intimidation which relied almost exclusively on the complainant's credibility. The post-charge review did not consider a telephone call from the defendant's mother made two weeks before the first hearing, in which she suggested a motive for the complainant to lie; this related to an ongoing dispute over child custody. While the prosecution was entitled to treat such information with great caution, it nevertheless had a duty to consider it, ask the police to carry out any necessary enquiries, and formulate a strategy to deal with the likelihood of this claim being advanced by the defendant at trial. This information was also not addressed in the pre-trial review, four months later. In the event, the defendant was acquitted after trial.

**6.51.** By contrast, we saw some good examples of initial reviews.

### Case study

This case involved a defendant charged with harassing her former partner and the latter's new partner.

The prosecutor reviewing the case after charge adopted a thinking approach to the case and sought to add value.

The review contained a clear rationale for how each element of the offences charged (breach of restraining order and a public order offence) could be proved and why it was in the public interest to prosecute.

The prosecutor cross-referenced the pre-charge review, rather than simply cutting and pasting sections of it, identified the items from the pre-charge action plan that had not yet been provided, and escalated the request using the Area escalation process.

The review also identified the previous convictions that were relevant to support a bad character notice at the first hearing, contained the strategy to be employed in the event that the complainants withdrew support, and contained the reasons behind disclosure decisions.

The review also covered special measures and the terms of the restraining order to be applied for in the event of a conviction.

The prosecutor's proactive and thinking approach resulted in the case being fully prepared for the trial date, which was less than two months after the first hearing owing to the defendant being remanded in custody. The trial was effective, the complainants gave evidence from behind screens and the defendant was convicted. The defendant was sentenced to a term of imprisonment and a restraining order was imposed in the terms drafted by the prosecutor.

**6.52.** There is room to improve the effective use of appropriate applications to strengthen the prosecution case. Of the eight applicable cases in our magistrates' courts sample, we rated two cases (25.0%) as fully meeting the expected standard. Three cases (37.5%) were assessed as partially meeting the standard and the remaining three cases (37.5%) were assessed as not meeting the standard because no application was made.

**6.53.** Making timely and appropriate decisions about bail and custody is a strength for the Area. We assessed 20 out of 30 magistrates' court cases (66.7%) as fully meeting the expected standard, with another nine cases (30.0%) partially meeting it. One case did not meet the standard.

### Significant events

**6.54.** As cases progress, things can change which materially impact on the prosecution case. We discuss the expectations around reviews that should follow these significant events in paragraphs 4.23 to 4.25.

**6.55.** In our magistrates' courts sample, there were 14 cases that required a significant event review. We assessed nine cases (64.3%) as fully meeting the standard, one case (7.1%) as partially meeting the standard and four cases (28.6%) as not meeting the standard.

**6.56.** A good quality example we saw was a case where two brothers were alleged to have threatened a neighbour with a weapon outside his house as part of a long running dispute. On the day of trial, the defence produced new unseen video footage which undermined the complainant's evidence. The agent in court consulted fully with a prosecutor before offering no evidence on the basis that there was now insufficient evidence for a realistic prospect of conviction. The review recorded by the trial advocate was clear and detailed and contained a clear rationale for why the case no longer met the test for prosecution.

**6.57.** One case we assessed as not meeting the required standard involved an allegation of sexual assault. The defence produced a basis of plea to the prosecutor in court at the first magistrates' court hearing. The prosecutor anticipated that the basis was likely not to be accepted but recorded an action for a decision to be made. This was not done and was only picked up at the pre-trial review stage – four months later and two days before the trial – when a detailed review of the case took place and the basis was rejected.

**6.58.** There were four cases in our magistrates' courts sample where pleas or a basis of plea were offered by the defence and accepted by the prosecution. The same sexual assault allegation was one of the cases we found to be partially meeting the standard. On the day of trial, the defence pleaded guilty on a basis and the defendant was sentenced. It was unclear from the trial advocate's note whether the prosecution had expressly accepted the basis or, if not, whether the court had decided of its own volition that sentencing on the defendant's version of events would not make a material difference to sentence.

**6.59.** It is imperative that prosecutors make it clear to the court (and on the hearing record sheet) what the prosecution position is on any basis of plea being put forward, so that there is clarity about the facts on which the defendant is to be sentenced, and so that the court can be invited to conduct a Newton hearing if necessary. It is also important to make a clear record to make sure that, if the principles set out in the Attorney General's guidance on the acceptance of pleas have not been correctly followed, appropriate feedback is given to the prosecutor concerned.

### Feedback on police file quality

**6.60.** We discuss the agreed National File Standard (NFS) for police file submissions, and the CPS's role in feeding back to the police on compliance with it, in paragraphs 4.19 and 4.20. One of the measures introduced across the CPS nationally to ease pressure resulting from the pandemic was to suspend the requirement to use the national file quality (NFQ) feedback mechanism on the CPS case management system (CMS).

**6.61.** Within our file examination, 16 (53.3%) of the cases submitted by the police to the CPS did not meet the requirements set out in the NFS. We found that the Area used the NFQ tool within CMS to feed back the deficiencies partially in seven cases (41.2%), with ten cases (58.8%) not meeting the standard.

**6.62.** Some of the files we examined will have been reviewed after the suspension of the NFQ requirement, and this will partly account for why there is not a higher rate of feedback in our file sample. However, now that the requirement has been reinstated, a lack of feedback will result in the police being unaware of deficiencies. This will not help improve the service they provide to the Area.

## Does the Area fully comply with its duty of disclosure?

**6.63.** Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for disclosure in magistrates' court cases is 63.9%.

**6.64.** The duties of the police and CPS in relation to the disclosure of unused material are set out in chapter 4, paragraphs 4.37 to 4.52. We assessed the Area's performance across a range of different aspects pertaining to unused material, including compliance with the duty of initial disclosure, correct endorsement of the schedules, timeliness, recording of the decisions on the disclosure record in CMS, and feeding back to the police where necessary.



## Police service on disclosure

**6.65.** There is room for improvement in the standard of the service the Area receives from the police on disclosure. Of the 30 relevant cases, the police complied with their disclosure obligations fully in 11 cases (36.7%). We assessed police compliance as partially meeting the required standard in another 12 cases (40.0%) and as not meeting it in the remaining seven cases (23.3%).

**6.66.** Of the cases we rated as partially meeting or not meeting the standard, we assessed 11 (61.1%) as fully meeting the standard for feedback to the police and three (16.7%) as partially meeting the standard. Four (22.2%) had no feedback to the police regarding deficiencies.

**6.67.** Feedback to the police is an important part of driving improvement, and should occur despite the pressures on CPS Areas, so that the Area receives a better service in future.

## Initial disclosure

**6.68.** We assessed initial disclosure in the magistrates' courts as fully meeting the required standard in eight out of 26 applicable cases (30.8%), partially meeting the standard in 11 cases (42.3%) and not meeting it in seven cases (26.9%).

**6.69.** Those cases found to be fully meeting the standard revealed an inquisitive and thinking approach to disclosure by prosecutors. For example, in one case, the CPS concluded that there was insufficient evidence to prosecute a suspect for committing three burglaries. It did, however, prosecute another suspect for handling goods stolen in one of the burglaries. On the disclosure record, the prosecutor recorded his rationale for concluding that none of the items on the unused material schedule were disclosable. It was clear from the entry that the prosecutor had considered the specific offence charged and the likely issue in the case, namely knowledge or belief that the goods were stolen. Having done so, the record demonstrated why the prosecutor had come to this conclusion, despite some items clearly being capable of undermining the case against the suspect, who had not been charged.

**6.70.** There were a variety of reasons why we assessed cases as partially or not meeting the standard, including failures to identify obvious further lines of enquiry or that items were missing from the schedules, lack of explanation about why decisions had been made to disclose or not to disclose, and lack of awareness about the need to address what to do with the names of potential witnesses named in the evidence or unused material who had not made a statement.

**6.71.** We also found frequent misuse of the endorsement 'CND' (clearly not disclosable) when no meaningful disclosure assessment could have been made from the description of the item on the unused schedule. We also found that witnesses' previous convictions were sometimes disclosed without any rationale for why they met the test for disclosure in the circumstances of the case. These issues combined suggest that some prosecutors require development in applying the law and guidance on disclosure. We should say here that for many of the cases we examined, disclosure was carried out one or even two years ago, and we are aware that the Area has done a lot of work with its prosecutors more recently to improve this aspect of casework performance. We will be interested to see the results of this training and development when we carry out our follow-up inspection.

**6.72.** Inspectors found three cases where disclosable unused material was not identified by the prosecutor carrying out initial disclosure. Our process for reporting on potential miscarriages of justice identified by inspectors during file examination was not triggered in any of the cases where we found that unused material had incorrectly been withheld.

**6.73.** In one case involving a burglary of an unoccupied pub, the pre-charge prosecutor correctly highlighted that the scientific analysis of the scene and property recovered, revealing no link to the suspects, should be disclosed. The prosecutor subsequently carrying out disclosure assessed the forensic science items as CND and also misapplied the disclosure test, recording the following: "In light of the overwhelming evidence none of the items identified undermine the prosecution case or assist the defence."

**6.74.** Performance in relation to the timeliness of initial disclosure was variable. Initial disclosure was dealt with in a timely manner in 13 out of 26 cases (50.0%). In another four cases (15.4%), the delay in disclosure had no significant impact on the case. In nine cases (34.6%), disclosure was significantly late.

**6.75.** For example, in one case a trial date in April 2021 was fixed in November 2020, but initial disclosure was not carried out until 23 January 2021. In another case, involving a public order offence, a trial date in June 2021 was fixed in early February 2021. The hearing record sheet completed by the court advocate recorded an action to comply with initial disclosure by 2 March. This was not carried out until a week before the trial in June.

## **Sensitive material**

**6.76.** There were three magistrates' court cases in our sample where there was sensitive unused material. We assessed one case (33.3%) as fully meeting the required standard, one case as partially meeting the standard and one case as not meeting it.

**6.77.** The case that did not meet the standard involved an allegation of witness intimidation made by a woman who had previously given evidence against the suspect in other proceedings. A month before the trial, the police submitted a sensitive material schedule containing a single item: a safeguarding referral form that provided details of the incident and the complainant's responses to various questions surrounding risk. There was no evidence that this item had been considered by the prosecutor and the schedule was not endorsed or signed.

## **Other disclosure matters**

**6.78.** There were two cases in the file sample that contained third-party material. In both cases we found the prosecution to be fully meeting the standard when handling this material, including obtaining the required consents when considering relevance and disclosure.

**6.79.** There were no cases in the magistrates' courts sample that called for continuing disclosure and therefore this has not been assessed.

## **Disclosure records**

**6.80.** Completion of disclosure records was assessed as fully meeting the standard in 16 out of 29 cases (55.2%), with the record being fully completed throughout the life of the case and decisions on the handling of unused material clearly documented. Twelve cases were assessed as partially meeting the standard (41.4%) and one case (3.4%) as not meeting the standard. The main reasons for assessing cases as partially meeting the standard were the record not recording all key events, and failures to record the reasoning behind a disclosure decision.

## Does the Area address victim and witness issues appropriately?

**6.81.** Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for addressing victim and witness issues appropriately in magistrates' court cases is 68.2%.

**6.82.** The duties owed by the CPS to victims and witnesses are set out in chapter 4, paragraphs 4.53 to 4.62. We assessed a range of aspects related to victims and witnesses, including measures to support them to give their best evidence, witness care at court, and communicating and consulting with victims.

**6.83.** The Area is performing strongly in relation to the correct and timely warning of witnesses, consultation with victims and witnesses during a case and at court, and applying for appropriate orders at sentencing to protect the victim, witnesses and the public.

**6.84.** There is room for improvement in the consideration of victim and witness issues at charge, the quality and timeliness of VCL letters, the handling of VPSs, applications for special measures after charge and responding to witness queries from the witness care units.

### Before charge

**6.85.** At charge, the prosecutor should actively consider relevant applications and ancillary matters to support victims and witnesses.

**6.86.** Before charge, out of 24 applicable cases, nine (37.5%) were assessed as fully meeting the standard in regard to relevant applications and ancillary matters to support victims and witnesses. Eight cases (33.3%) were found to be partially meeting the standard and seven cases (29.2%) not meeting the standard. Of those found to be partially meeting the standard, either special measures or ancillary orders (for example restraining orders) were referred to, but no actions were set for the police to obtain or provide details of whether orders were required and their terms, or not all relevant applications and ancillary matters were addressed.

## After charge

### Witness warning

**6.87.** The Area works well to secure the best evidence possible from witnesses by warning them correctly and promptly in most cases, with 22 of the 25 applicable cases (88.0%) assessed as fully meeting the required standard.

### Communications with witness care units

**6.88.** Correspondence from the witness case unit regarding witness issues was dealt with in an effective and timely manner in five of the ten applicable cases (50.0%). We assessed three cases as partially meeting the standard (30.0%) and two cases as not meeting the standard (20%).

### Special measures applications

**6.89.** After charge, applications for special measures were deployed effectively to enable witnesses to give their best evidence in seven out of 11 cases (63.6%). We found one case (9.1%) to be partially meeting the standard and three cases (27.3%) to be not meeting the standard.

**6.90.** In one case, an aggravated vehicle taking, a witness indicated six weeks before the trial that she wished to give evidence from behind a screen, but no application was prepared before the trial date. Although the CPS was informed by the witness care unit that the officer had been asked to speak to the witness and provide supporting documents, it failed to escalate the issue when none was forthcoming. The defendant ultimately entered a guilty plea at trial, but the witness was left without a resolution to her request for several weeks.

**6.91.** By contrast, in a case involving a complainant who had been threatened and intimidated by her neighbour, the CPS was proactive in making sure that an oral application for special measures was made at the first hearing in the magistrates' courts. The CPS witness warning request, which was sent to the witness care unit following the first hearing, included a request that the witness be informed that she would be able to give her evidence without the defendant being able to see her.

### Consulting victims and speaking to witnesses at court

**6.92.** The Area is good at demonstrating its compliance with the speaking to witnesses at court (STWAC) initiative, and its general duty under the Code to consult with victims where it is considering ending the case or accepting lesser pleas, with 17 of the 22 relevant cases (77.3%) assessed as fully meeting the expected standard.

**6.93.** The STWAC initiative is primarily aimed at lay or civilian witnesses, but the guidance allows prosecutors the discretion to apply it to other witnesses if

they feel that it is appropriate to do so. We found three cases to be partially meeting the standard (13.6%) and two cases to be not meeting it (9.1%). In one case, which involved an allegation of threatening behaviour and which we assessed as fully meeting the standard, the trial advocate made a clear record of the discussions they had with the complainant at court before the trial started.

### **Victim Personal Statements**

**6.94.** Victims are entitled, if they wish, to provide a VPS and to express a preference as to whether they would like to read it at sentencing, have it read out in court on their behalf, or for the Judge to read it.

**6.95.** The victim's wishes regarding their VPS were fully complied with in 13 of the 28 applicable cases (46.4%). Compliance was assessed as partially meeting the required standard in another six cases (21.4%), with the remaining nine cases (32.1%) assessed as not meeting the standard. If a VPS was not provided at the pre-charge stage or there was an indication that one would be provided at a later date, this was often not revisited or chased after charge. There was also a lack of records on hearing record sheets as to whether a VPS was presented to the court and the manner in which it was presented.

### **Orders at sentencing**

**6.96.** Appropriate orders were sought at sentencing to protect victims, witnesses and the public (fully meeting the standard) in all but two of the 14 relevant cases (85.7%), which is a strength for the Area. The cases handled well included applications for restraining orders.

### **Victim Communication and Liaison scheme letters**

**6.97.** The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge.

**6.98.** There were seven cases in our magistrates' courts sample where a VCL letter was required. Three letters were sent and the timeliness target was met in two of those three cases.

**6.99.** In the remaining four cases, no letters were sent. In one of those cases, the reviewing lawyer recorded on CMS that the victims had attended court, so the reason for dropping the case would have been fully explained to them and, on that basis, his understanding was that no letter was required. This indicates a misunderstanding of the CPS policy; a letter is still required unless a victim spoken to at court has expressly indicated otherwise.

**6.100.** Of the letters sent, we assessed one as partially meeting the quality standard for the contents of the letter. Two letters were assessed as not meeting the standard, in both of which the explanations were inadequate or unclear.

## **7. Casework quality: Crown Court casework themes**

## Introduction to Crown Court casework

**Does the Area deliver excellence in Crown Court prosecutions by ensuring the right person is prosecuted for the right offences, cases are progressed in a timely manner and cases are dealt with effectively?**

**7.1.** We examined 40 Crown Court cases for casework quality. We assessed added value and grip and analysed the cases with regard to the five casework themes or, for some of the themes, scored two or more sub-themes. We used the same scoring mechanism as for added value and grip (set out more fully in chapter 5 and annex F).

**7.2.** Our findings should be seen in light of the context we set out in chapter 2, concerning the impact on the Area of Covid-19 and staffing challenges.



**7.3.** We have scored CPS North West for its Crown Court casework as follows.

**Table 9: Scoring for Crown Court casework**

Question	Rating	%
<b>Pre-charge decision-making and review</b>		
The Area complies with the Code for Crown Prosecutors <sup>23</sup> at pre-charge decision stage	Fully meeting the standard	88.2%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	86.7%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	47.0%
<b>Quality of post-charge reviews and decision-making</b>		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	85.0%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	55.8%
<b>Preparation for the Plea and Trial Preparation Hearing</b>		
The Area prepares its cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to ensure progress is made	Fully meeting the standard	80.9%
<b>Disclosure</b>		
The Area fully complies with its duty of disclosure throughout its Crown Court casework	Partially meeting the standard	65.9%
<b>Victims and witnesses</b>		
The Area addresses victim and witness issues appropriately throughout its Crown Court casework	Fully meeting the standard	70.7%

**7.4.** Our assessment of Crown Court casework was that there were aspects that were done well, including compliance with the Code for Crown Prosecutors before and after charge, selecting appropriate charges that properly reflected the criminality alleged, making appropriate decisions on bail and custody, timeliness in complying with disclosure requirements and court directions, and the handling of third-party material.

<sup>23</sup> *Code for Crown Prosecutors, 8th edition*; CPS; October 2018.  
[www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors)

**7.5.** Several aspects of victim and witness care were also done well, including the timely warning of witnesses for trial, making appropriate and timely applications for special measures, consultation with victims and witnesses where appropriate, and responding effectively to correspondence from the witness care unit.

**7.6.** There were other aspects that required more focus, specifically the quality of pre-and post-charge case analysis and strategy, compliance with initial disclosure obligations, the quality of instructions to counsel, and the quality of letters sent to victims.

## Pre-charge decision-making and reviews

**7.7.** In order to assess the Area's decision-making at the pre-charge stage, we have split the inspection assessment into three sub-themes. These reflect the different aspects that contribute to effective decision-making at the pre-charge stage:

- compliance with the Code for Crown Prosecutors
- selection of the most suitable charges
- the quality of the analysis and case strategy set out in the prosecutor's review.

### Complying with the Code for Crown Prosecutors in pre-charge decisions

**7.8.** We discuss the process by which cases are charged, and compliance with the Code for Crown Prosecutors, in chapter 4 (paragraphs 4.1 to 4.8).

**7.9.** We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with prosecutors correctly applying the evidential and public interest stages of the Code test in 30 of the 34 Area-charged Crown Court cases.

**Table 10: Pre-charge Code compliance in Crown Court cases**

Rating	Number of cases	Percentage
Fully meeting the required standard	30	88.2%
Not meeting the required standard	4	11.8%

**7.10.** The cases where we concluded there had been a wholly unreasonable decision at charge concerned the following:

- a decision to charge an offence of causing grievous bodily harm with intent, when the case rested almost entirely on fundamentally flawed identification evidence
- a decision to charge a racially aggravated public order offence on the basis of words said to officers that were clearly open to interpretation
- a decision to charge inflicting grievous bodily harm, when the complainant's evidence was inherently unreliable because of significant inconsistencies between his various accounts, and there being no independent supporting evidence
- a decision to charge inflicting grievous bodily harm, when the CCTV footage of the incident showed the defendant acting in reasonable self-defence.

## Selecting the most appropriate charges

**7.11.** We discuss the criteria and guidance that help prosecutors to decide which are the most appropriate charges in chapter 4 (paragraphs 4.9 to 4.12).

**7.12.** We rated the Area as **fully meeting the standard** for selecting the most appropriate charges at the pre-charge stage, with a score of 86.7%.

**7.13.** We found that prosecutors were selecting the most appropriate charges in most cases, with 22 cases (73.3%) fully meeting the standard and the remaining eight cases (26.7%) partially meeting the standard.

**7.14.** Most of the cases we examined displayed good decisions about which charge(s) were appropriate across a range of types of cases, including serious assaults and dishonesty offences (including aggravated burglary), weapons offences and drugs offences.

**7.15.** One of the eight cases that we assessed as partially meeting the required standard involved the defendant bursting into a room in a multi-occupancy dwelling and demanding that the two occupants give him their property. There was a conflict in the evidence about whether the defendant had a home-made weapon or a screwdriver in his hand when he entered. A charge of aggravated burglary was preferred, when robbery was a simpler offence to prove, because it did not require the prosecution to prove the nature of the item the defendant had with him. Robbery would have adequately reflected the criminality and carries the same maximum penalty as aggravated burglary. At a later stage, after the case reached the Crown Court, there were two indictments

in existence, each naming one of the items. In the event, the prosecution accepted a plea to robbery.

## **Quality of the pre-charge decision review, including analysis and case strategy**

**7.16.** Our assessment is that the Area is **not meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in Crown Court cases is 47.0%.

**7.17.** We discuss the standards expected of a pre-charge review, and what should be included in instructions to the court prosecutor, in chapter 4 (paragraphs 4.13 to 4.18).

**7.18.** Pre-charge decisions were timely in 21 out of the 34 cases (61.8%). There was minimal delay, with no impact on progressing the case, in seven cases (20.6%) and in the remaining six cases (17.6%) there was significant delay. All Crown Court cases were assessed against either a five-day or a 28-day timescale, depending on the Area's triage decision.

### **Case analysis and strategy**

**7.19.** While 30 out of the 34 Area charging decisions we examined were ones that a reasonable prosecutor could have made, the responsibilities of the lawyer providing pre-charge advice to the police and making charging decisions are much wider than that.

**7.20.** The CPS's own standards require its prosecutors to provide a clear, structured, and cogent record of their decision on an MG3 or MG3A form that:

- demonstrates the factual basis upon which the case is to be prosecuted
- identifies the key elements that need to be proved for there to be a realistic prospect of conviction
- identifies the likely issue or issues were the case to be contested
- identifies the strengths and weaknesses of the evidence
- where the decision is to charge, identifies what the prosecution trial strategy will be.

**7.21.** Correctly deciding whether to prosecute and on what charges is essential, but if the case is to proceed effectively, setting out a clear strategy is also fundamental to the efficiency and effectiveness of the subsequent stages as the case moves through the criminal justice system.

**7.22.** Ten of the 34 Area-charged cases (29.4%) were assessed as fully meeting the standard for case analysis and strategy, nine as partially meeting the standard (26.5%) and 15 (44.1%) as not meeting the standard.

**7.23.** In the stronger cases, we found that the pre-charge prosecutor clearly analysed and weighed the evidence, demonstrated how each of the essential elements of the offence could be proved to the required standard, identified reasonable lines of enquiry where necessary so that a fuller picture could be obtained before making a decision, and set out on what basis the case would be prosecuted by way of a cogent case strategy.

**7.24.** Those cases that did not meet the required standard failed to do some or all of these things.

**7.25.** For example, in one of the non-Code compliant decisions, the likely defence case that the defendant had been acting in reasonable self-defence was not adequately addressed.

**7.26.** The defendant had punched a work colleague in the face, causing him to fall to the ground and fracture his skull. While the consequences were very serious, it was a single punch, and the CCTV footage showed the complainant as having approached the defendant in an aggressive way and feigned throwing a punch. The one witness who was prepared to give evidence described the complainant as the aggressor. There was also information that suggested that the complainant had threatened the defendant with a knife earlier that morning. While the prosecutor considered self-defence, undue weight was placed on the conclusion drawn from the footage that the defendant was taller and more muscular than the complainant, and insufficient weight was given to the evidence that the complainant was the aggressor, and that the defendant may reasonably have believed that he had a knife on him. In the event, the prosecution offered no evidence following the Plea and Trial Preparation Hearing (PTPH) in the Crown Court, where the Judge expressed concerns about whether the prosecution could realistically rebut self-defence.

**7.27.** In other cases that we found to be not or partially meeting the standard, reasonable lines of enquiry were not identified and resolved before the decision to charge was made.

### Case study

Police entered an address using a key found in the rear garden. Inside the property they found 41 cannabis plants being cultivated in two rooms under artificial lights and extractor fans, with an irrigation system on a timer. Police found that the electricity was being bypassed. No-one was in the property, but police left a note for the owner to contact them.

The suspect did so later that day and told police that, although he held the tenancy on the property, he lived at another address nearby. He then made no comment to other questions. The suspect was charged with production of cannabis and abstraction of electricity.

The prosecutor charged the case on the basis that there was a clear inference to be drawn, from the suspect's tenancy of the property, that he was growing the cannabis.

Our assessment was that further lines of enquiry should have been identified and an action plan given to the investigating officer before the decision to charge was made. We based this on the suspect's claim that he did not actually live at the property, and the fact that the key left outside suggested more than one person having access to the address.

The action plan should have included requests to carry out further enquiries with neighbours as to who lived at the address, to establish whether anything found within the address could be tied to the suspect (for example clothes, bank cards or correspondence), to visit the address the suspect had given as his to try to establish whether this was in fact true, and to explore any potential forensic science opportunities, such as whether the suspect's fingerprints or DNA could be found on the cannabis growing equipment.

These enquiries would have allowed the prosecutor to assess the prospect of conviction in a more meaningful way and, if the decision was still to charge, to devise a strategy to overcome the likely defence.

In the event, the prosecution had nothing to rebut a claim made before trial by a third man that he had sub-let the property from the defendant and had in fact been responsible for growing the cannabis. The prosecution was then dropped on the basis that there was no longer a realistic prospect of conviction.

**7.28.** In a case involving a serious attack by two defendants on a man in his own home, where the main perpetrator had earlier been charged by CPS Direct, the charging prosecutor analysed the case against the second suspect and clearly demonstrated how and why he had concluded that there was a realistic prospect of conviction against him on a joint enterprise basis, as well as setting

out a high-level case strategy to address weaknesses in the prosecution case and likely lines of defence.

**7.29.** Consideration of the unused material position as it stands before charge is an integral part of a charging prosecutor's case analysis and trial strategy, not least because material that may undermine the prosecution case or assist the defence needs to be weighed against the prosecution evidence when assessing the prospects of conviction. If the decision is to charge, the prosecutor should at the same time devise a strategy to counter any defence arguments that the material in question creates a reasonable doubt as to the defendant's guilt.

**7.30.** Unused material handling at charge was assessed as not meeting the standard in just over half of the cases (18 cases or 52.9%). We found ten cases (29.4%) to be fully meeting the standard and six cases (17.6%) to be partially meeting it.

**7.31.** In some of the weaker cases, there was no evidence that the prosecutor had turned their mind to the question of unused material at all. In others, there was insufficient thought given to further reasonable lines of enquiry, no strategy for dealing with undermining or assisting material, or no recognition that it needed to be disclosed.

**7.32.** In one case, involving an allegation of threats made in a neighbour dispute, an officer's body worn video footage contained an account of the victim that differed from the account of the threats in her subsequent statement, and so it should have been disclosed. Instead, the prosecutor marked it as 'clearly not disclosable' on the streamlined disclosure certificate. In addition, there was information on file that suggested there had been other incidents, some of which had been recorded, and that there were other named potential witnesses. These were all issues that should have been properly investigated before charge as the outcome may have had an impact on the decision to charge.

### **Instructions to the court prosecutor**

**7.33.** There were full instructions to court prosecutors in ten of the 34 Area-charged cases (29.4%). We assessed 18 cases (52.9%) as partially meeting the standard and six (17.6%) as not meeting it.

**7.34.** Many of the weaker cases did not address acceptable pleas, meaning that opportunities to resolve matters at an early stage may have been lost (or, just as importantly, that inappropriate pleas were not subsequently accepted).

**7.35.** We also noted few references to bail or custody. In addition, allocation guidance sometimes amounted to no more than naming the appropriate venue without a supporting argument or reference to the sentencing guidelines,

meaning the court prosecutor would have had to consider this afresh to make appropriate representations to the court.

**7.36.** For example, in one case involving a racially aggravated either way offence, the instructions on venue simply read 'SST'. In another case, involving an adult and a youth defendant charged with a racially aggravated section 4A Public Order Act offence, no instructions at all on where the case should be heard were recorded on the MG3 form.

### **Reasonable lines of enquiry and action plans**

**7.37.** Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan, which is a specific section of the MG3 form. This allows for actions to be prioritised and timescales set to make sure that all appropriate avenues of investigation have been completed, including those that may point away from a prosecution.

**7.38.** We assessed almost half of the 33 relevant cases as fully meeting the standard for action plans (48.5%), 13 cases (39.4%) as partially meeting the standard and four (12.1%) as not meeting the standard. The issues we noted included not tasking the police with obvious lines of enquiry (including those relating to potentially disclosable unused material) and setting unrealistic target dates for actions to be completed.

**7.39.** In some cases, a lack of consideration of an obvious potential defence, whether or not raised by the suspect in interview, led directly to a failure to include reasonable lines of enquiry that could rebut or support that defence in action plans. Lack of consideration of potential defences was also an issue with the case analysis.

### **Applications and ancillary matters**

**7.40.** Where more information is needed from the police to support applications – such as more details of the defendant's bad character or why a victim or witness needs special measures – a timely request at charging can prevent delays in making the application. Having a special measures order made as soon as possible provides reassurance to the victim or witness.

**7.41.** At the pre-charge stage, applications and ancillary matters were addressed fully in six out of 21 cases (28.6%). Three cases (14.3%) were assessed as partially meeting the standard and 12 cases (57.1%) as not meeting the required standard.

**7.42.** We noted bad character was not addressed in a number of cases where it should have been considered. There were instances where the possibility of



hearsay being admitted was not discussed, or where hearsay evidence was not identified as such.

**7.43.** In one case which involved an assault, the prosecutor correctly identified some hearsay evidence contained in two eyewitnesses' statements, but failed to address the admissibility of an admission made by the defendant a few days later, that he had beaten the complainant up because she had been annoying him. This has been overheard by a witness and would have been admissible by virtue of section 118 of the Criminal Justice Act 2003, which preserves common law exceptions to the hearsay rule. The prosecutor may have appreciated this and concluded that this evidence would form part of the prosecution case, but this was not apparent on the face of the MG3. This was an important consideration because the issue in the case was likely to be the suspect's intention at the time of the attack.

**7.44.** We assessed the consideration of relevant applications and ancillary matters to support victims and witnesses, before charge, as fully meeting the standard in six of the 27 applicable cases (22.2%), partially meeting it in seven cases (25.9%) and not meeting the standard in 14 cases (51.9%).

**7.45.** Most commonly, in those cases not meeting the standard, the charging lawyers failed to consider (sufficiently or at all) Victim Personal Statements (VPSs), special measures where they could assist witnesses to give their best evidence, restraining orders where they were appropriate, or compensation for victims where they had suffered loss.

## Post-charge decision-making and reviews

### Complying with the Code for Crown Prosecutors in post-charge decisions

**7.46.** Our assessment is that the Area is **fully meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for Code compliance in Crown Court cases is 85%. These cases included those that were originally charged by either the police or CPS Direct. The rating includes post-sending reviews, reviews conducted when the prosecution case was served, and any significant event reviews.

**Table 11: Post-charge Code compliance in Crown Court cases**

Rating	Number of cases	Percentage
Fully meeting the required standard	34	85.0%
Not meeting the required standard	6	15.0%

**7.47.** A decision that is not compliant with the Code for Crown Prosecutors is said to be a wholly unreasonable decision: that is to say, it is a decision which no reasonable prosecutor could have made in the circumstances in which it was made, and at the time it was made or ought to have been made.

**7.48.** As Table 11 shows, we identified six cases that involved a wholly unreasonable decision made after charge.

**7.49.** These six cases include the four wholly unreasonable pre-charge decisions (see paragraph 7.10). In three of those cases, fundamental flaws in the evidence were not identified and addressed before trial. Two of these cases resulted in the Judge upholding defence submissions of no case to answer following the prosecution case. In the other case, counsel raised concerns about the prospects of conviction a month before trial, but the decision to offer no evidence was not made until the day of trial. In the final case, the prosecution offered no evidence shortly after the PTPH, at which the Judge had expressed his view that the prosecution was unlikely to be able to rebut the defendant's claim that he had acted in reasonable self-defence.

**7.50.** We found that two correctly charged cases involved wholly unreasonable decisions after charge. These cases involved:

- a decision to accept a guilty plea to affray from three defendants who faced an indictment containing a joint count of aggravated burglary. At charge, the prosecution reasonably concluded that there was a realistic prospect of conviction for an offence of aggravated burglary against each suspect. The prosecution case was that the three suspects drove to the victim's address in a remote location, at night, jointly armed with a hammer, forced their way into the house and attacked the victim, with one defendant wielding the hammer, and at the time of doing so intending to cause serious harm. The evidential position did not significantly change before the first day of trial, when the decision was made to prefer a count of affray and accept a plea to that offence from each defendant. The decision did not comply with the Code for Crown Prosecutors:
  - because affray was a wholly inappropriate charge, being aimed at protecting members of the public caught up in violence not directed against them, and failing in any way to reflect the criminality involved
  - because the decision to accept the plea meant the court could not pass a sentence that matched the seriousness of the offending.
- a decision to accept a plea to simple wounding instead of proceeding with the indictment count of wounding with intent to cause grievous bodily harm. The case involved the victim being subjected to a brutal attack and intentional degradation in his own home by two men under the influence of drink and drugs, which included him being stabbed in the abdomen and being hit around the head with a hard object. The victim spent 12 days in hospital with a serious internal injury and fractures to his face and was diagnosed with post-traumatic stress disorder. The decision to accept a plea to simple wounding was wholly inconsistent with the prosecution case that the victim had suffered serious injuries by being stabbed with an eight-inch knife and hit around the head with a solid object. It is difficult to see how the prosecution could have properly opened its case on the basis that there had been no intent to cause really serious harm.

## Quality of post-charge reviews, analysis, and case strategy

**7.51.** Our assessment is that the Area is **not meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in Crown Court cases is 55.8%.

**7.52.** We discuss the standards expected of a post-charge review in chapter 4 (paragraphs 4.21 and 4.22).

### Comparison of pre- and post-charge case strategy and analysis

**7.53.** As Table 12 shows, the overall quality of legal analysis and trial strategy in the initial post-sending review was slightly better than at the pre-charge stage. There remains much room for improvement, however, as we found two fifths of reviews not to be meeting the expected standard.

**Table 12: Standard of Crown Court case analysis and strategy, pre- and post-charge**

Question	Crown Court cases
<b>Pre-charge case analysis and strategy</b>	
Fully meeting the required standard	29.4%
Partially meeting the required standard	26.5%
Not meeting the required standard	44.1%
<b>Post-sending review analysis and strategy</b>	
Fully meeting the required standard	32.5%
Partially meeting the required standard	25.0%
Not meeting the required standard	42.5%

### Case analysis and strategy

**7.54.** Of the 40 cases in the Crown Court sample, 13 cases (32.5%) had an initial post-sending review we assessed as fully meeting the expected standard. We assessed ten cases (25.0%) as partially meeting the standard and 17 cases (42.5%) as not meeting the standard.

**7.55.** We found some examples of cases where prosecutors had carefully considered the case afresh after charge, where this was required, and addressed relevant issues within the review, clearly adding value. These were cases where it was clear from the review that the case had been properly checked for new evidence or information, not just accepted because it had already been reviewed, and that issues that had been overlooked at the pre-charge stage were addressed. Relevant outstanding issues were identified and either dealt with or appropriate actions put in place.

### **Case study**

This case involved an allegation of causing grievous bodily harm through a single punch. It was one of the cases we identified as being wrongly charged.

The defendant and complainant worked for the same company. Their job was to go through skips brought to the site to see if anything of value could be retrieved. They got into an argument in the yard and a witness tried to calm things down. The witness said that the complainant had threatened the defendant with a knife earlier that morning.

A little later, CCTV captured the complainant walking towards the defendant and adopting a boxing stance before feigning throwing a punch. The footage showed the defendant throwing one punch in reaction to this, which knocked the complainant to the ground. He struck his head on the concrete and suffered a fractured skull.

When interviewed, the defendant said that he had felt that he was about to be attacked, that he feared the other man had a knife and that he had thrown only one punch to defend himself.

The case was charged without a viable strategy for rebutting self-defence.

After the PTPH, a different prosecutor reviewed the evidence and recorded a review that clearly demonstrated her rationale for concluding that there was no realistic prospect of conviction.

The reviewer highlighted that the only independent witness described the complainant as the aggressor, that the CCTV supported this interpretation, that the complainant was vague in his statement about why there had been an argument, that it was open to the defendant to claim that he feared the other man had a knife without the prosecution having any evidence to rebut this, that there had only been a single punch and that the seriousness of the injury was caused primarily by the complainant's head striking the concrete.

These factors were weighed against the evidence that could be used to argue that the defendant had not acted in reasonable self-defence, namely that he could have turned around and walked away when the complainant approached him, that he had been the only one to throw a punch, and that he appeared to be the bigger of the two.

Having clearly demonstrated a careful weighing of the evidence, the reviewer reasonably concluded that there was no realistic prospect of persuading a jury beyond a reasonable doubt that the defendant had not acted in reasonable self-defence.

As a result, the case was ended before a trial date was set, providing certainty to the complainant and defendant at an early stage of the proceedings. The clarity of the review also ensured that a reasoned explanation for the prosecution decision could be given to the complainant.

**7.56.** The weaker post-sending reviews we saw reflected a process-based approach, rather than one that sought to be proactive and add legal value.

**7.57.** We found examples of prosecutors simply setting out the allegation and chasing up outstanding items without considering outstanding issues; not identifying reasonable lines of enquiry that had been overlooked at the pre-charge stage; and not addressing further evidence or information that had been received after the decision to charge. For example:

- in a case involving an allegation that the defendant had gone to the complainant's house and threatened to 'chop him up' him with a meat cleaver, the prosecutor noted that the defendant denied in interview that he had gone to the address but admitted the complainant used to be his drug dealer and friend. The prosecutor concluded that there was 'something fishy' about the case but did not ask the police to provide any background information or intelligence about the history between the parties. It was not until a few months later, when the defence statement raised the issue of previous incidents, that the police made these enquires, which revealed several historical reports of what was described as 'a feud' between the two parties in the two years leading up to the present incident, with the complainant alleged to be the aggressor
- in a case involving possession with intent to supply drugs, the record sheet from the first hearing highlighted that the defendant intended to raise a defence of modern slavery. This was not mentioned or addressed during the post-sending review, suggesting that the prosecutor did not read the record of the first hearing and was simply following a process.

### **Stage 1 reviews**

**7.58.** In contested Crown Court cases, there are key stages following on from the first hearing in the Crown Court. The first of these is service of the bulk of prosecution materials, which should be accompanied by a review of the case and updates on any developments since the last review. This is a stage 1 review.

**7.59.** We assessed whether there was a high-quality review in Crown Court cases to coincide with the service of the prosecution case and initial disclosure.

**7.60.** Of the 36 applicable instances, we assessed 11 cases (30.6%) as fully meeting the required standard, nine cases (25.0%) as partially meeting it and 16 cases (44.4%) as not meeting the standard. Where the standard was not met, the most common failings were not recording a stage 1 review at all, not addressing deficiencies in the original charging or post-charge review, not addressing fresh evidence or information, and not considering issues that had arisen at the PTPH.

**7.61.** By contrast, we saw some strong examples of stage 1 reviews that clearly added value, such as in a domestic abuse case involving threats sent by voicemail. In this case, the post-sending and stage 1 reviews, which were carried out by the same prosecutor, were comprehensive and demonstrated a thoughtful and proactive approach. The reviews made it clear on what basis the case should be opened and formulated a trial strategy. They also contained a clear and persuasive rationale for the conclusion that there was a realistic prospect of conviction, notwithstanding that the complainant was the only person to hear the message and that it had not been recorded. The reviews actively considered several developments since charge and identified several further enquires that the officer needed to make to obtain evidence to make the case stronger. In the event, the defendant was convicted after trial.

### **Significant events**

**7.62.** As cases progress, things can change which materially impact on the prosecution case. We discuss the expectations around reviews that should follow these significant events in paragraphs 4.23 to 4.25.

**7.63.** In our sample, there were 24 cases which called for a significant event review, and in nine cases (37.5%) the review was assessed as fully meeting the required standard. Two cases (8.3%) were assessed as partially meeting the standard. The remaining 13 cases (54.2%) were assessed as not meeting the required standard. This was usually because no significant event review had taken place or, if the prosecutor had considered the matter, there was no review recorded on the case management system (CMS).

**7.64.** In one case involving a serious assault, several significant events took place, including a defence application to adduce bad character evidence, a defence application for further disclosure under section 8 of the Criminal Procedure and Investigations Act 1996, comments about the strength of the identification evidence made by the Judge at the pre-trial review, information that original CCTV had been lost and a defence application to exclude evidence. Each of these events should have led to a review of the case, but none was recorded.

**7.65.** We also noted that, in several cases, pleas or bases of pleas were accepted without any clear rationale being recorded to demonstrate that the decision complied with the Code for Crown Prosecutors and the Attorney General's guidance on the acceptance of pleas.

### **Threshold test cases**

**7.66.** There may be circumstances where the police do not have all the evidence needed to apply the full Code test, although they anticipate getting more, but the seriousness of the case demands an immediate charging decision. If the police intend to hold the suspect in custody, they can ask the CPS to make a threshold test charging decision. There are five conditions which must be met before the threshold test can be applied, and a review applying the full Code test must be carried out as soon as the anticipated further evidence or material is received.

**7.67.** By their nature, these are usually the most serious offences and are destined for the Crown Court; and if the suspect remains in custody for trial, the proceedings will be subject to custody time limits (CTLs).

**7.68.** There were six cases in our file sample that were charged on the threshold test by CPS Direct. In all but one of those cases, the full Code test was applied at the post-sending review stage or stage 1. In the other case, involving an allegation of serious assault, the full Code test was never formally applied in relation to the defendants, who were remanded in custody throughout proceedings. In that case, the prosecution offered no evidence when the complainant was unable to attend the trial and an adjournment was refused.

### **Applications**

**7.69.** Of the 16 cases where applications such as bad character or hearsay were appropriate, seven cases (43.8%) were assessed as fully meeting the standard. Seven cases (43.8%) were rated as partially meeting the standard and two cases (12.5%) as not meeting the standard.

**7.70.** Most of the necessary applications were notices to admit bad character evidence. In one of the two cases rated as not meeting the standard, we noted



that there was no notice where one was called for. In the other, a serious assault case, a notice was submitted that included reference to an obstruction of a police officer and public order offences that were over 20 years old, without any accompanying argument to justify why these were relevant and admissible.

**7.71.** For those cases we rated as partially meeting the standard, the notices served did not have adequate information about the instances of bad character relied on and/or a clear argument for relevance and admissibility.

#### **Feedback on police file quality**

**7.72.** We discuss the agreed National File Standard (NFS) for police file submissions, and the CPS's role in feeding back to the police on compliance with it, in paragraphs 4.19 and 4.20. One of the measures introduced across the CPS nationally to ease pressure resulting from the pandemic was to suspend the requirement to use the national file quality (NFQ) feedback mechanism on the CPS case management system. Some of the cases we examined may have fallen into that period, but some post-dated it or were subject to the requirement to use DG6 Assurance (the assurance mechanism brought in with the sixth edition of the Director's Guidance on Charging).

**7.73.** The police file submission complied with the NFS for the type of case in 16 out of the 40 cases (40.0%). In the remaining 24 cases (60.0%), the police file was assessed as not meeting the NFS. Of those 24 cases, the prosecutor used the NFQ or DG6 Assurance to feed back to the police in four cases (16.7%). Feedback to the police was assessed as partially meeting the expected standard in eight cases (33.3) and not meeting it in the remaining 12 cases (50.0%).

**7.74.** From our discussions with the Area, we are aware it has recognised the issue with police file quality and is working with the three police forces to improve compliance with the NFS across all types of casework. If the rate of feedback does not reflect the level of police non-compliance with the NFS, efforts to drive up standards will not be as effective as they would be if the data was more accurate.

## Preparation for the Plea and Trial Preparation Hearing in the Crown Court

**7.75.** Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for preparation for the PTPH in Crown Court cases is 80.9%.

**7.76.** In assessing the Area's performance when preparing for the PTPH, we considered the key tasks the prosecution is required to complete – including filling in the PTPH form for use by the judge presiding at the hearing; carrying out direct engagement with the defence; drafting the indictment; making sure the relevant material is uploaded to the Crown Court Digital Case System (DCS) before the hearing; and making sure an advocate is instructed in advance of the hearing, so that they have time to prepare. There is more detail on these tasks in chapter 4 (paragraphs 4.27 to 4.36).

**7.77.** Preparation for the PTPH – including completing plea and trial preparation forms, making sure actions have been completed by the police and setting out acceptable pleas – was found to be fully meeting the standard in 20 out of 40 cases (50.0%). We rated the other 20 cases (50.0%) as partially meeting the standard, with no cases assessed as not meeting the standard.

**7.78.** In most cases rated as partially meeting the standard, the deficiency was a failure to address whether there were any acceptable pleas, which we also identified as an issue at the pre-charge stage. We also noted that applications were not considered or drafted in some instances; again, this sometimes relates back to pre-charge issues. In some cases, the plea and trial preparation form contained inaccurate information – for example, that a VPS was outstanding when it had already been received – or did not identify which witnesses the prosecution intended to call or read.

**7.79.** The police upload hard media (such as CCTV footage or body worn video) to secure online locations and send the links to the CPS. We found that hard media was correctly shared before the PTPH in 16 out of 23 cases (69.6%), with one case rated as partially meeting the standard (4.3%). The remaining six cases (26.1%) were rated as not meeting the standard, potentially resulting in lost opportunities to resolve or progress the case effectively at the first Crown Court hearing.

**7.80.** The draft indictment and key evidence were uploaded to the DCS seven days before the PTPH in almost all cases, with 37 out of 40 cases (92.5%) assessed as fully meeting the standard, two cases (5.0%) as partially meeting the standard and one case (2.5%) as not meeting the standard.

## Direct engagement with the defence

**7.81.** The prosecution and defence are under a duty to engage with each other to make sure that the case progresses as effectively as possible. We explain more about this duty in chapter 4 (paragraphs 4.35 and 4.36). Usually, the prosecution makes the first approach to the defence, and this should be logged on a duty of direct engagement (DDE) log. The prosecution creates this on CMS and should then share it with the court and defence by uploading it to the DCS.

**7.82.** Covid-19 has had a significant impact on the defence's ability to respond to direct engagement approaches from the prosecution. Many defence firms furloughed employees, and their staff faced the challenges of home working, home schooling, illness, and caring responsibilities that so many others have experienced during the pandemic and consequent lockdowns. This hampered Areas' efforts to engage with defence practitioners.

**7.83.** Direct engagement with the defence (usually by means of a letter) was carried out fully and promptly in 25 out of the 40 cases (62.5%). We assessed three cases (7.5%) as partially meeting the standard and 12 cases (30.0%) as not meeting the standard. In those cases rated as partially or not meeting the standard there was no contact, or the contact that took place did not address aspects such as narrowing the issues and whether resolution of the case was possible.

**7.84.** Inspectors also noted that direct engagement appeared to be something of a 'tick box' exercise and there were no discernible positive effects on casework. This may partly be a result of prosecutor fatigue in trying to get the defence to engage meaningfully before the PTPH, particularly at a time when defence solicitors have been experiencing severe difficulties in obtaining instructions from their clients in time for the PTPH.

**7.85.** There were 29 cases with a DDE log, and the log was uploaded to the DCS in 25 cases (86.2%).

## The indictment

**7.86.** Indictments were generally of good quality, with 27 cases (69.2%) assessed as fully meeting the required standard, 11 cases (28.2%) as partially meeting it and one case (2.6%) as not meeting the standard.

**7.87.** In those cases assessed as partially meeting the standard, we found a number of different errors. In one case, the indictment included an incorrect count and was not in chronological order. In another case, the date of the offence was incorrectly drafted, as the offence was continuing but the indictment confined it to the date when the offence concluded. In another case, the

indictment did not reflect the evidence provided in a further statement in relation to exactly what property was stolen.

## **Instructing the advocate**

**7.88.** We set out the expectations for what should be contained in instructions to the court advocate in paragraph 4.31.

**7.89.** The quality of instructions to the PTPH advocate was a significant weakness, with 13 out of 20 cases (65.0%) assessed as not meeting the required standard, usually because no instructions were prepared. Advocates were supplied with documents from the casefile, but this too often left obvious gaps because of the failings we have already discussed in pre-charge and other reviews, such as lack of a proper case strategy, lack of instructions on acceptable pleas, or inadequate information about applications such as bad character or special measures.

**7.90.** The lack of consideration given to instructing counsel other than in a generic way, and the failure in many cases to devise a trial strategy or to consider acceptable pleas, combined to give the impression that there was a lack of ownership and grip by the reviewing lawyer and that the onus was on the trial advocate to work out how to put the case and to make key decisions about the prosecution case. This can give the impression that reviewing lawyers are processing cases rather than 'owning' the case and proactively considering a case strategy.

**7.91.** We found that counsel (or the crown advocate where relevant) was instructed by being sent the case papers electronically at least seven days before the PTPH or, if not, with sufficient time to prepare the case effectively in 34 out of 40 cases. We assessed the timeliness of instructing counsel as fully meeting the standard in 30 cases (75.0%), as partially meeting the standard in four cases (10.0%) and as not meeting it in six cases (15.0%). For some of the cases not meeting the standard, there was no audit trail on CMS to show when a crown advocate had been instructed to conduct the PTPH.

**7.92.** The good performance in respect of the timeliness of instructing counsel must be seen in the context of our findings regarding the variable quality of pre-charge and pre-PTPH reviews and strategies. If the charging or post-charge review has added little or no legal value, then forwarding that to the advocate in good time for the PTPH as the instructions in the case is of little assistance and perpetuates a lack of a cogent strategy for the case.

## Does the Area fully comply with its duty of disclosure?

**7.93.** Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for disclosure in Crown Court cases is 65.9%.

**7.94.** The duties of the police and CPS in relation to the disclosure of unused material are set out in chapter 4, paragraphs 4.37 to 4.52. We assessed the Area's performance across a range of different aspects pertaining to disclosure, including compliance with the duty of initial disclosure and continuing disclosure, handling of sensitive and third-party material, the correct endorsement of the schedules, timeliness, recording of the decisions on the disclosure record in the CPS case management system and feeding back to the police where necessary.

**7.95.** Although we found some good examples of disclosure handling by prosecutors, there is room for improvement in the quality of initial and continuing disclosure, and the handling of sensitive unused material.

### Police service on disclosure

**7.96.** The standard of the service received by the Area from the police on disclosure shows there is significant room for improvement. The police complied with their disclosure obligations fully in ten out of 39 cases (25.6%). We assessed police compliance as partially meeting the required standard in another 13 cases (33.3%) and as not meeting it in the remaining 16 cases (41.0%).

**7.97.** In around two thirds of cases where we assessed the police as partially meeting or not meeting the standard, the Area fed back to the police regarding the deficiencies. There was no feedback in around a third of cases.

**7.98.** Feedback to the police is an important part of driving improvement, and should occur despite the pressures on CPS Areas, so that the Area receives a better service in future.

### Initial disclosure

**7.99.** We assessed initial disclosure in the Crown Court as fully meeting the required standard in eleven of the 36 applicable cases (30.6%). Another 16 cases (44.4%) were assessed as partially meeting the standard and nine cases (25.0%) as not meeting the standard.

**7.100.** The most common failings were not identifying that other obvious items of unused material were not scheduled (seven cases), not identifying other

obvious lines of enquiry (four cases) and incorrect decisions that disclosable unused material was not disclosable (four cases).

**7.101.** We also found, at both the initial and continuing disclosure stages, that there was widespread use of the abbreviation 'CND' (clearly not disclosable) when it could not be said that the item was not disclosable from the description alone. Often, we also found that while we could see what the high-level decision was, we had no means of ascertaining the prosecutor's rationale, owing to the lack of recorded reasoning.

**7.102.** Instances of material not being disclosed included a failure to identify the results of a negative scientific analysis as meeting the test, and a failure to disclose a crime report that contained an account from the complainant that differed in some respects from that found in their witness statement.

**7.103.** Our process for reporting on potential miscarriages of justice identified by inspectors during file examination was not invoked in any of the cases where we assessed unused material had incorrectly been withheld; for example, because we were satisfied that the defence was aware of the material at some point before trial, or because there was no conviction in the case.

## Continuing disclosure

**7.104.** Continuing disclosure was handled better than initial disclosure, with 13 out of 31 cases (41.9%) assessed as fully meeting the standard, although this still leaves room for improvement. We rated continuing disclosure as partially meeting the standard in 12 cases (38.7%) and not meeting the standard in six cases (19.4%).

**7.105.** This suggests that Area prosecutors are adopting more of a 'thinking approach' to disclosure when they have a defence statement than when they have to adopt a wider overview of the disclosure position at an earlier stage. Our assessment is that at the earlier review stage, prosecutors sometimes appear to be following a process rather than thinking about the case and the disclosure strategy.

**7.106.** As with the issues identified at initial disclosure, we found that the most common failing at continuing disclosure was identifying additional items of unused material that were missing from the schedules (seven cases or 38.9%). We also found two instances each of not endorsing decisions on newly revealed items, not identifying reasonable lines of enquiry, saying disclosable material was not disclosable, and setting out the wrong test for disclosure. As with initial disclosure, it was not necessary for us to invoke the miscarriage of justice process.

**7.107.** The Area's handling of defence statements was mixed. We found 11 out of 22 cases (50%) to be fully meeting the standard in respect of chasing late defence statements, with five (22.7%) partially meeting the standard and six (27.3%) not meeting it.

**7.108.** There were two inadequate defence statements received, neither of which were challenged by the prosecution.

**7.109.** Performance was better in relation to reviewing the defence statement and directing the police to further reasonable lines of enquiry. We assessed 16 out of 32 cases (50.0%) as fully meeting the standard, with 14 cases (43.8%) partially meeting it. Two cases (6.3%) were rated as not meeting the standard.

**7.110.** In those cases rated as partially or not meeting the standard, either no guidance was provided to the police, or the prosecutor's comments did not make the link between the prosecution case strategy and the contents of the defence statement.

## **Timeliness**

**7.111.** The timeliness of disclosure of unused material is an Area strength.

**7.112.** Initial disclosure was timely in 31 out of 36 cases (86.1%). Four cases (11.1%) were assessed as partially meeting the standard and one case (2.8%) as not meeting the standard. In this case, the first requirement for initial disclosure was carried out at the correct time, but further items were subsequently received, and the additional initial disclosure these required was not carried out until just before trial.

**7.113.** Continuing disclosure was timely in 24 out of 31 cases (77.4%). Another three cases (9.7%) were assessed as partially meeting the expected standard for timeliness, meaning that the delay did not have a material impact on case progression.

## **Sensitive and third-party material**

**7.114.** There was relevant sensitive unused material, or the potential for there to be sensitive material, in 16 of the Crown Court cases we examined. Of these, we assessed eight cases (50.0%) as fully meeting the standard, four cases (25.0%) as partially meeting the standard and four cases (25.0%) as not meeting the standard.

**7.115.** In one of the cases we assessed as not meeting the standard, involving an assault, the sensitive material schedule listed a piece of CCTV footage which was provided to the police by a neighbour of the complainant. The prosecutor



agreed that the footage was sensitive, as the neighbour did not wish to be identified and his address would have been revealed if the footage was used. The prosecutor recorded on the schedule that it was sensitive material but that it did not meet the disclosure test. Despite this, the footage was served with the prosecution evidence and uploaded to the DCS.

**7.116.** In another case, the disclosure officer recorded one item on the MG6D form that was not obviously sensitive. The prosecutor recorded the words 'request to review' on the schedule, but there was no record on CMS of any further consideration of this item.

**7.117.** Third-party material was correctly dealt with in all six cases (100%) where it was relevant. The material concerned was either medical records or social services information. In all six cases, the prosecutor showed awareness of the requirements when handing such material, including obtaining the necessary consents, which is very positive.

## **Disclosure records**

### **Disclosure management documents**

**7.118.** Disclosure management documents (DMDs) were not mandated in routine Crown Court cases until 1 January 2021, a change brought about by the release of the sixth edition of the Director's Guidance on Charging. The majority of the Crown Court cases in our sample were governed by the guidance which preceded the change, so DMDs were not obligatory in volume cases.

**7.119.** In the eight cases requiring a DMD, we found one in which the document had been created. This document was rated as partially meeting the standard for the quality of its content. The remaining seven had no DMD.

### **Disclosure record sheets**

**7.120.** There were three cases (7.9%) where the disclosure record on Modern CMS was assessed as not meeting the required standard. The rest of the cases were assessed as fully meeting the standard (47.4%) or partially meeting it (44.7%). We noted that the weaker cases often lacked entries on the disclosure record indicating the prosecutor's rationale for their decisions at both stages, including views on the defence statement and/or reasoning for why additional disclosure was made as a result.



## Does the Area address victim and witness issues appropriately?

**7.121.** Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for victim and witness issues in Crown Court cases is 70.7%.

**7.122.** The duties owed by the CPS to victims and witnesses are set out in chapter 4, paragraphs 4.53 to 4.62. We assessed a range of aspects related to victims and witnesses, including measures to support them to give their best evidence, witness care at court, and communicating and consulting with victims.

**7.123.** Most aspects of the service provided to victims and witnesses after charge are strengths for the Area, including making appropriate applications for special measures after charge, warning witnesses and addressing witness care correspondence in a timely manner, consulting with victims and witnesses, and seeking appropriate orders on sentencing to protect victims, witnesses and the public.

**7.124.** Work is needed to improve performance relating to the process around VPSs, the timeliness and standard of letters to victims, and the consideration of victim and witness issues at the pre-charge stage.

### Before charge

**7.125.** Failure to properly consider special measures at charge risks delaying the reassurance for a victim or witness that comes from knowing they will have the benefit of appropriate measures at the trial.

**7.126.** We assessed the consideration of relevant applications and ancillary matters to support victims and witnesses, before charge, as fully meeting the standard in six of the 27 applicable cases (22.2%), partially meeting it in seven cases (25.9%) and not meeting the standard in 14 cases (51.9%).

**7.127.** Most commonly, in those cases not meeting the standard, the charging lawyers failed to consider (sufficiently or at all) VPSs, special measures that could assist witnesses with giving their best evidence, restraining orders where they were appropriate, or compensation for victims where they had suffered loss.

**7.128.** For example, in a case involving an assault on a mental health support worker by a suspect detained under mental health provisions, in the absence of an MG2 form, the prosecutor endorsed the victim and witness section on the charging MG3 as not applicable. In the context of the case, special measures should have been pursued by the prosecutor from an early stage for both the

complainant and two eyewitnesses. In addition, while the VPS was contained within the complainant's statement, there was no indication how this was to be presented to the court in the event of a conviction. This omission also was not identified or addressed.

## **After charge**

### **Warning witnesses and communication with witness care units**

**7.129.** The Area works well to secure the best evidence possible by warning witnesses correctly and promptly in most cases. We assessed 35 of the 38 applicable cases (92.1%) as fully meeting the required standard. The other three cases were rated as partially meeting the standard, which meant that we found no cases where incorrect or delayed warning of witnesses jeopardised the effectiveness of a trial.

**7.130.** Correspondence from the witness care unit (WCU) regarding witness issues was dealt with in an effective and timely manner in 21 of the 27 applicable cases (77.8%). Three cases (11.1%) were assessed as partially meeting the standard, and three as not meeting it.

**7.131.** Our findings suggest that there is generally a good working relationship between the WCU and the paralegal officers who mostly handle the responses to witness queries. For example, a few weeks before a trial for aggravated burglary, the CPS was informed that an important independent witness was refusing to attend court. Within the space of four days, the CPS successfully applied for a witness summons from the court and arranged for it to be served on the reluctant witness. In the event, the witness complied with the summons and attended on the day of the trial, at which point the defendant entered a guilty plea.

### **Special measures applications**

**7.132.** Overall, performance in relation to making appropriate and timely applications for special measures in the Crown Court after charge was good. We assessed 13 of 20 cases (65.0%) as fully meeting the required standard, six cases (30.0%) as partially meeting it and one case (5.0%) as not meeting the standard.

**7.133.** As we have noted, the pre-charge consideration of relevant applications and ancillary matters to support victims and witnesses, including special measures, was not at the level that the Area would no doubt wish it to be. Our findings suggest that after charge, prosecutors and operational delivery staff are generally proactive in turning their minds to special measures.

### **Consulting victims and speaking to witnesses at court**

**7.134.** In respect of consulting with victims and witnesses where appropriate, including compliance with the CPS's speaking to witnesses at court (STWAC) policy, we found 17 out of 28 cases (60.7%) to be fully meeting the standard, with eight cases (28.6%) partially meeting the standard and three cases (10.7%) not meeting it. The main issue we found when assessing cases as partially meeting the standard was that there was no clear record of the conversation that took place with the victim and witnesses at court.

**7.135.** We know that it was difficult to deliver the STWAC procedure effectively during the pandemic and this doubtless had an impact on the level of performance.

### **Victim Personal Statements and orders at sentencing**

**7.136.** The victim's wishes regarding their VPS were fully complied with in 12 of the 30 applicable cases (40.0%). Compliance was assessed as partially meeting the required standard in 14 cases (46.7%) and not meeting the standard in the remaining four cases (13.3%).

**7.137.** In those cases we assessed as partially meeting the standard, either the victim's views were not ascertained, or there was no record on the hearing record sheet of how the VPS had been dealt with at sentencing. For those cases assessed as not meeting the standard, no VPS was provided, no information was received that the victim did not wish to make one, and there was no effective action by the prosecutor to address the issue.

**7.138.** Appropriate orders were sought at sentencing to protect victims, witnesses and the public (fully meeting the standard) in nine out of the 13 relevant cases (69.2%), with three cases (23.1%) assessed as partially meeting the standard. We rated one case (7.7%) as not meeting the standard.

### **Victim Communication and Liaison scheme letters**

**7.139.** The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge.

**7.140.** There were 13 cases calling for a Victim Communication and Liaison scheme (VCL) letter. Nine letters were sent.

**7.141.** In the remaining four cases where a letter was required, no letter was sent. Three of these were cases where the victim had been spoken to at court but there was no record that they had indicated they did not want a letter. In those circumstances, the CPS's VCL scheme still requires a letter to be sent.

**7.142.** Six of the nine letters that were sent were timely. In terms of the quality of the letter, we rated two (22.2%) as fully meeting the standard, four (44.4%) as partially meeting it and three (33.3%) as not meeting it. Several of the weaker letters lacked empathy or failed to explain decisions in a way that was readily understandable to a lay reader.

## **8. Casework quality: rape and serious sexual offences casework theme**

## Introduction to rape and serious sexual offences casework

**Does the Area deliver excellence in rape and serious sexual offences (RASSO) prosecutions by making sure the right person is prosecuted for the right offences, cases are progressed in a timely manner and cases are dealt with effectively?**

**8.1.** We examined 20 RASSO cases for casework quality. We assessed added value and grip, and analysed the cases with regard to the five casework themes or, for some of the themes, scored two or more sub-themes. We used the same scoring mechanism as for added value and grip (set out more fully in chapter 5 and annex F).

**8.2.** Our findings should be seen in light of the context we set out in chapter 2, concerning the impact on the Area of Covid-19, including the higher live caseloads RASSO prosecutors have been handling.

**8.3.** We have scored CPS North West for its RASSO casework as follows.

**Table 13: Scoring for RASSO casework**

Question	Rating	%
<b>Pre-charge decision-making and review</b>		
The Area complies with the Code for Crown Prosecutors <sup>24</sup> at pre-charge decision stage	Fully meeting the standard	88.9%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	81.3%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	50.0%
<b>Quality of post-charge reviews and decision-making</b>		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	95.0%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Partially meeting the standard	60.5%
<b>Preparation for the Plea and Trial Preparation Hearing</b>		
The Area prepares its cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to make sure progress is made	Fully meeting the standard	77.2%
<b>Disclosure</b>		
The Area fully complies with its duty of disclosure throughout its RASSO casework	Fully meeting the standard	71.8%
<b>Victims and witnesses</b>		
The Area addresses victim and witness issues appropriately throughout its RASSO casework	Partially meeting the standard	69.6%

**8.4.** Our assessment of RASSO casework was that there were aspects that were done well, including making Code compliant decisions, the legal analysis of cases after charge but before the Plea and Trial Preparation Hearing (PTPH), preparation for the PTPH, the quality of disclosure management documents, the handling of sensitive and third-party material, and several aspects of victim care, including the handling of special measures applications and the quality of letters sent to victims explaining decisions to end a case or accept pleas of guilty to only some of the offences charged.

<sup>24</sup> Code for Crown Prosecutors, 8th edition; CPS; October 2018.  
[www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors)

**8.5.** There were other aspects that required more focus, specifically the quality of legal analyses and trial strategies before charge, including consideration of victim issues, the quality of legal reviews after the PTPH, including when accepting pleas, and the legal quality of decision-making when considering the duty of initial disclosure.

**8.6.** Overall, our findings show that the Area has a sound foundation on which it can build towards the CPS's national strategic aim of high quality RASSO casework, as live caseloads return to pre-pandemic levels.

## Pre-charge decision-making and reviews

**8.7.** In order to assess the Area's decision-making at the pre-charge stage, we have split the inspection assessment into three sub-themes. These reflect the different aspects that contribute to effective decision-making at the pre-charge stage:

- compliance with the Code for Crown Prosecutors
- selection of the most suitable charges
- the quality of the analysis and case strategy set out in the prosecutor's review.

### Complying with the Code for Crown Prosecutors in pre-charge decisions

**8.8.** We discuss the process by which cases are charged, and compliance with the Code for Crown Prosecutors, in chapter 4 (paragraphs 4.1 to 4.8).

**8.9.** We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with 16 of the Area's 18 pre-charged RASSO cases being compliant with the Code for Crown Prosecutors.

**Table 14: Pre-charge Code compliance in RASSO cases**

Rating	Number of cases	Percentage
Fully meeting the required standard	16	88.9%
Not meeting the required standard	2	11.1%



**8.10.** While we examined 20 RASSO cases in total, two cases were charged by CPS Direct, so we assessed Code compliance for 18 cases. Of those, the Code for Crown Prosecutors was correctly applied in 16 instances (88.9%).

**8.11.** In two cases (11.1%), the decisions to charge were wholly unreasonable because there was insufficient evidence for there to be a realistic prospect of conviction.

**8.12.** One case concerned an allegation of sexual assault where the reliability of the complainant's evidence was seriously undermined by other evidence in the case. The decision to charge was made by a non-RASSO Area prosecutor and the weaknesses in the evidence were identified promptly after charge, once the case was transferred to the RASSO unit. The correct decision was then made to discontinue the case. This case illustrates a wider issue in the Area's casework, which is that some prosecutors are not carefully analysing the weight that a court is likely to attach to each piece of evidence before reaching a decision to charge or continue with a prosecution.

**8.13.** The other case involved a correct decision to prosecute a man for grooming and sexually assaulting a girl in the 1990s. He was in his 30s and she was 14–15 at the time. Although several indecent assault charges were correct, the prosecutor also charged two offences under the Indecency with Children Act 1960 which, at the time of the offending, applied only where the child was under 14. The error was perpetuated after charge when the indictment was drafted. The error was picked up by the Judge at the PTPH, who quashed the two counts in question.

## Selecting the most appropriate charges

**8.14.** We discuss the criteria and guidance that help prosecutors decide which are the most appropriate charges in chapter 4 (paragraphs 4.9 to 4.12).

**8.15.** In RASSO cases, the selection of charges can be complicated, with different offences being relevant depending on the date of the incident(s) or the age of the victim. Non-recent allegations can require particular care if they span the transitional provisions in, and the changes to offences brought about by, the Sexual Offences Act 2003.

**8.16.** We rated the Area as **fully meeting the expected standard** for this sub-theme of pre-charge decision-making, with an overall score of 81.3%.

**8.17.** The appropriate charges were selected in 81.3% of cases. While this translates to fully meeting the standard in accordance with our scoring method, it still indicates some room for improvement.

**8.18.** For the two cases assessed as not meeting the standard, we found that the charges selected did not adequately reflect the extent of the offending. In both cases partially meeting the standard, we found that one continuing sexual assault resulted in several separate charges, when one charge would have been more appropriate.

### **Quality of the pre-charge decision review, including analysis and case strategy**

**8.19.** Our assessment is that the Area is **not meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in RASSO cases is 50.0%.

**8.20.** We discuss the standards expected of a pre-charge review, and what should be included in instructions to the court prosecutor, in chapter 4 (paragraphs 4.13 to 4.18).

#### **Case analysis and strategy**

**8.21.** The quality of case analysis and strategy in RASSO cases requires improvement.

**8.22.** We found that a number of the RASSO pre-charge decisions did not clearly analyse the evidence and set out on what basis the case would be prosecuted by way of a cogent case strategy. We assessed five of the 18 Area-charged cases (27.8%) as fully meeting the standard for case analysis and strategy, ten (55.6%) as partially meeting the standard and three (16.7%) as not meeting the standard.

**8.23.** In the cases we assessed as not meeting or partially meeting the standard, the most frequent issue we found was that weaknesses in the case, or defences raised or likely to be raised, were not addressed. For example, in a case involving an alleged sexual assault on a vulnerable woman by a priest, the suspect denied the offence in interview, claiming to have never met the complainant. At the time the charging decision was made, the prosecution had independent evidence of the complainant going into the priest's house and DNA evidence to show both that the complainant had handled a cup found in the bedroom and that the suspect's fleece had her DNA on it. We expected to see the charging prosecutor devising a clearer strategy to deal with the likelihood that the defendant's stance would change, as it did after charge.

**8.24.** We saw some good examples of case analysis – for example, in a case involving an allegation of attempting to cause a child to engage in sexual activity. The defendant sent text messages to a person he believed to be a 13-year-old girl, but who was in fact an undercover police officer. The charging prosecutor

analysed the evidence in depth and clearly set out her reasoning for concluding that there was a realistic prospect of rebutting the likely defence that the suspect had no intention to meet the person and held a reasonable belief that the girl was over 16.

**8.25.** The handling of unused material at charge was assessed as fully meeting the expected standard in a third of cases, six out of 18. Another seven cases (38.9%) were assessed as partially meeting the standard, with the other five cases (27.8%) not meeting it.

**8.26.** The reasons for assessing cases as not meeting the standard included there being no analysis of the unused material in the MG3 form at all. In one case, an MG3 contained a copied and pasted paragraph on common law disclosure that contained an inaccurate reference to a retraction which did not exist in the case. In the same case, there were some statements that were unused material but no guidance was given to the police to make sure that these were scheduled. There was also information that the complainant had made a subsequent allegation of rape against another individual in very similar circumstances. While this was mentioned in an earlier MG3, it was not dealt with under disclosure in the MG3A that authorised charge.

**8.27.** In another case involving an allegation of sexual assault, there were clear reasonable lines of enquiry that required pursuing, because of information that raised questions about the complainant's credibility and motivation. This was not done, and the case was charged prematurely. It was subsequently discontinued on evidential grounds.

### **Instructions to the court prosecutor**

**8.28.** Overall, we found that the quality of instructions to assist court prosecutors at the first hearing was poor. This is an aspect where the Area will want to improve, as the lack of instructions creates additional pressure on prosecution advocates conducting the first court hearing. Poor instructions can lead to missed opportunities – to seek appropriate bail restrictions to protect victims, witnesses and the public, or to resolve or progress cases efficiently.

**8.29.** There were appropriate instructions in five of the 18 Area-charged cases (27.8%). We assessed seven cases (38.9%) as partially meeting the standard and six cases (33.3%) as not meeting it. As with the Crown Court cases, we noted that cases rated as partially or not meeting the standard did not address acceptable pleas or bail, and guidance on allocation was not sufficiently clear. Reference to and application of the Sentencing Council's Guidelines would have assisted the court advocates in the more borderline cases.

### **Reasonable lines of enquiry and action plans**

**8.30.** Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan, which is a specific section of the police MG3 form. This allows for actions to be prioritised and timescales set to make sure that all appropriate avenues of investigation have been completed, including those that may point away from a prosecution.

**8.31.** We assessed nine of the 18 relevant cases as fully meeting the standard (50.0%), with six cases partially meeting the standard (33.3%). Another three cases (16.7%) were assessed as not meeting the standard.

**8.32.** In one of the cases assessed as not meeting the standard, the police were provided with an action plan requesting suggested terms for a sexual harm prevention order (SHPO), when these had already been provided and uploaded to the CPS case management system (CMS). In another case, the action plan did not include a request for medical evidence (the complainant having already consented to this being requested), an MG2 to support a special measures application or a Victim Personal Statement (VPS).

### **Applications and ancillary matters**

**8.33.** Where more information is needed from the police to support applications – such as more details of the defendant’s bad character or why a victim or witness needs special measures – a timely request at charging can prevent delays in making the application. Having a special measures order made as soon as possible provides reassurance to the victim or witness.

**8.34.** Applications and ancillary matters, such as bad character and hearsay, were addressed fully in four out of the 14 applicable cases (28.6%). Three cases (21.4%) were assessed as partially meeting the standard and seven cases (50.0%) as not meeting the required standard.

**8.35.** Most commonly, cases were assessed as not or partially meeting the standard because of inadequacies surrounding consideration of potential bad character evidence and SHPOs.

**8.36.** We assessed the consideration of relevant applications and ancillary matters to support victims and witnesses, before charge, as fully meeting the standard in three out of the 18 applicable cases (16.7%), partially meeting it in seven cases (38.9%) and not meeting the standard in eight cases (44.4%).

**8.37.** The most common reason for assessing cases as not fully meeting the standard were that there was no or inadequate consideration of special measures, VPSs and restraining orders.

**8.38.** In one case involving a complainant who was under 18, the complainant's eligibility for section 28 special measures was not identified at the pre-charge stage. This omission was identified and rectified several months after charge. In the same case, there was also no consideration of the VPS policy before charge. This is something that the Area will no doubt want to improve on, given the sensitive nature of such cases and the need to consider early support for vulnerable victims.

## Post-charge decision-making and reviews

### Complying with the Code for Crown Prosecutors in post-charge decisions

**8.39.** Our assessment is that the Area is **fully meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for Code compliance in RASSO cases is 95.0%. These cases included those that were originally charged by either the police or CPS Direct.

**8.40.** For cases in the Crown Court, the rating includes post-sending reviews, reviews conducted when the prosecution case was served, and any significant event reviews. For cases not heard in the Crown Court (such as those involving youth defendants), we assessed the initial review post-charge.

**Table 15: Post-charge Code compliance in RASSO cases**

Rating	Number of cases	Percentage
Fully meeting the required standard	19	95.0%
Not meeting the required standard	1	5.0%

**8.41.** A decision that is not compliant with the Code for Crown Prosecutors is said to be a wholly unreasonable decision: that is to say, it is a decision which no reasonable prosecutor could have made in the circumstances in which it was made, and at the time it was made or ought to have been made.

**8.42.** As Table 15 shows, we identified one decision as wholly unreasonable at the post-sending review stage. This was one of the two cases that we identified as wholly unreasonable decisions at the pre-charge stage (see paragraph 8.11). The case proceeded through a post-sending file review and to the PTPH, when the Judge identified the error in charging two offences under the Indecency with Children Act 1960 – which, at the time of the offending, applied only where the child was under 14.

## Quality of post-charge reviews, analysis, and case strategy

**8.43.** Our assessment is that the Area is **partially meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in RASSO cases is 60.5%.

**8.44.** We discuss the standards expected of a post-charge review in chapter 4 (paragraphs 4.21 and 4.22).

### Comparison of pre- and post- charge case strategy and analysis

**8.45.** As Table 16 shows, the overall quality of legal analysis and trial strategy in the initial post-sending review was significantly higher than at the pre-charge stage. There remains room for improvement, however, as we assessed half the reviews as not fully meeting the standard expected.

**Table 16: Standard of RASSO case analysis and strategy, pre- and post-charge**

Question	RASSO cases
<b>Pre-charge case analysis and strategy</b>	
Fully meeting the required standard	27.8%
Partially meeting the required standard	55.6%
Not meeting the required standard	16.7%
<b>Post-sending review analysis and strategy</b>	
Fully meeting the required standard	50.0%
Partially meeting the required standard	40.0%
Not meeting the required standard	10.0%

### Case analysis and strategy

**8.46.** Of the 20 cases in the RASSO sample, ten cases (50.0%) had an initial post-sending review that we assessed as fully meeting the expected standard. We assessed eight cases (40.0%) as partially meeting the standard and two cases (10.0%) as not meeting the standard. This was a stronger performance than at the pre-charge stage.

**8.47.** In one allegation of rape, there was a comprehensive post-sending review which addressed several issues that had not been adequately addressed at the pre-charge stage. These issues included the evidence to rebut any defence of reasonable belief in consent and requesting outstanding material that the police had not yet provided.

### Case study

The case concerned an allegation that the defendant (D) had sexually assaulted an acquaintance, the complainant (C), by touching her breast in the hallway of her house. The case was charged by a non-RASSO prosecutor on the basis of C's account, that of an eyewitness who had been in the house at the time (E), and evidence of early complaint made by C to a friend of hers, M, who was D's former partner.

When the case was allocated to the RASSO team after charge, the new prosecutor carried out a careful analysis of the weight that a court was likely to attach to the prosecution evidence. The prosecutor correctly identified the following weaknesses in the case.

Before the decision to charge was made, the witness to the early complaint, M, had decided that she did not wish to support the prosecution, and had said that she now thought C was lying about the incident.

C's allegation was made as a direct result of the police's decision not to charge D with any offence arising out of a separate complaint by M against D. This was unhelpful to the prosecution case as it suggested that C might hold a grudge against D.

In her statement, C was clear that the witness to the assault, E, was not in a position to see what happened, as he was in the kitchen, out of sight of the hallway. She alleged that D was standing at the hallway entrance facing her when he sexually assaulted her.

In direct contradiction to this, E said he did see part of what happened as he was standing in the hallway. His account of where C was standing in relation to D was also wholly inconsistent with C's account and meant that he did not see the touching of the breast.

None of these factors had been given sufficient consideration by the charging prosecutor, but the post-charge RASSO prosecutor analysed the case carefully and, crucially, assessed the weight to be attached to each piece of prosecution evidence.

Having done so, she came to a clearly reasoned decision that there was no realistic prospect of conviction. The case was then discontinued.

**8.48.** In the weaker cases, the post-sending reviews did not add anything significant to the pre-charge reviews, which themselves had been found not to be fully meeting the standard. In one of the cases assessed as not meeting the standard, an allegation of indecent assaults of a girl under 16, the review did not



provide any rationale for concluding that no bad character application should be made; made no mention of ancillary orders, even though the police had submitted a draft SHPO; and contained no trial strategy or consideration of disclosure.

**8.49.** In all but one of the 20 cases, the post-sending review was timely.

### **Stage 1 reviews**

**8.50.** In contested Crown Court cases, there are key stages following on from the first hearing in the Crown Court. The first of these is service of the bulk of prosecution materials, which should be accompanied by a review of the case and updates on any developments since the last review. This is a stage 1 review.

**8.51.** We assessed whether there was a high-quality review to coincide with the service of the prosecution case and initial disclosure at stage 1. Of the 15 applicable instances, we assessed two cases (13.3%) as fully meeting the required standard, eight cases (53.3%) as partially meeting it and eight cases (33.3%) as not meeting the standard.

**8.52.** The most common failings were either not recording a stage 1 review or referring to the pre-charge advice without reflecting new material or other changes in the case.

**8.53.** For example, in one case involving an allegation of sexual assault, the stage 1 review consisted of one sentence saying that nothing had changed since the charging decision. This was not correct. The police had submitted a crime report relating to a complaint against another male made by the complainant, which clearly required careful consideration as it spoke to the complainant's credibility.

### **Significant events**

**8.54.** As cases progress, things can change which materially impact on the prosecution case. We discuss the expectations around reviews that should follow these significant events in paragraphs 4.23 to 4.25.

**8.55.** As with stage 1 reviews, this was an aspect where there is room for improvement.

**8.56.** In our sample, there were 14 cases which called for a significant event review. In three cases (21.4%) there was a review which we assessed as fully meeting the required standard. Three cases (21.4%) were assessed as partially meeting the standard, and we assessed eight cases (57.1%) as not meeting the standard.



**8.57.** Included in the latter category were two cases where decisions to accept pleas to some offences and not proceed with others were made on the day of trial. In both cases, the most serious counts were not proceeded with and there was no recorded rationale for why it had been in the public interest not to do so. In neither case, for example, was there any indication that the prosecutor had considered and understood the implications for sentence or how the decision would affect the way that the case was opened. A note that simply records that the victim was happy with the decision is insufficient.

### **Case study**

The case concerned an allegation that the defendant had repeatedly sexually abused a schoolgirl during a two-year period in the 1980s. The case was charged on the basis that a variety of sexual abuse had occurred, including sexual touching and vaginal and anal sex.

The charges selected were three indecent assaults, two offences of indecency with a child and one offence of buggery, which was the most serious. For legal reasons, the prosecution could not proceed with any charges relating to the occasions of vaginal sex.

On the day of trial, the prosecution accepted pleas of guilty to all counts on the indictment except for the buggery count.

Although the subsequent letter to the victim indicated that she had been spoken to at court on the day of trial and had been content with the proposed decision to accept the pleas offered, we found no review to explain the rationale behind the decision.

As a conviction for the buggery count would in all likelihood have resulted in a higher sentence than that passed, a review applying the Code for Crown Prosecutors should have been recorded to demonstrate the reasoning behind the decision.

### **Threshold test cases**

**8.58.** There may be circumstances where the police do not have all the evidence needed to pass the full Code test, although they anticipate getting more, but the seriousness of the case demands an immediate charging decision. If the police intend to hold the suspect in custody, they can ask the CPS to make a threshold test charging decision. There are five conditions which must be met before the threshold test can be applied, and a review applying the full Code test must be carried out as soon as the anticipated further evidence or material is received.

**8.59.** By their nature, these are usually the most serious offences and are destined for the Crown Court; and if the suspect remains in custody for trial, the proceedings will be subject to custody time limits (CTLs).

**8.60.** There were two RASSO cases that had been charged by CPS Direct applying the threshold test.

**8.61.** In one of these cases, the post-sending review correctly identified that the full Code test could not yet be applied, as key evidence remained outstanding. The defendant entered a guilty plea at the PTPH, which meant that no further review was required.

**8.62.** In the other case, which involved an allegation of rape, neither the post-sending pre-PTPH reviewer nor the stage 1 reviewer applied the full Code test, as key evidence remained outstanding. No further review of the case was recorded, despite the defendant being in custody and the police providing significant further material, although the defendant did enter a late guilty plea shortly before trial several months later.

**8.63.** The Area will wish to ensure that it formally applies the full Code test in all cases charged under the threshold test as soon as the anticipated further evidence or material is received, as required by the Code for Crown Prosecutors.

#### **Feedback on police file quality**

**8.64.** We discuss the agreed National File Standard (NFS) for police file submissions, and the CPS's role in feeding back to the police on compliance with it, in paragraphs 4.19 and 4.20. One of the measures introduced across the CPS nationally to ease pressure resulting from the pandemic was to suspend the requirement to use the national file quality (NFQ) feedback mechanism on CMS. Some of the files we examined were reviewed during this period, having some effect on the findings.

**8.65.** The police file submission complied with the NFS for the type of case in 12 out of the 20 cases (60.0%), which is a better level of service than is received by the magistrates' court and Crown Court teams.

**8.66.** In the remaining eight cases (40%), the police file was assessed as not meeting the NFS. Of those eight cases, the prosecutor used the NFQ tool or DG6 Assurance – the mechanism introduced with the sixth edition of the Director's Guidance on Charging – to feed back to the police in three cases (37.5%), with feedback in another two cases (25.0%) assessed as partially meeting the expected standard. We assessed the remaining three cases (37.5%) as not meeting the standard for feedback to the police.

**8.67.** We are aware that problems persist in relation to police file quality across all types of casework and much work continues to be done at a senior level to improve this. However, that alone is unlikely to result in the improvement required, and individual feedback on cases where the NFS has not been complied with is an important tool to work jointly with police to reduce the number of files submitted that do not meet the standard.

#### **Conferences with counsel**

**8.68.** In cases with allegations of rape or penetrative assault, a conference should be held between counsel, the officer in the case and any expert witness. This conference presents another opportunity to review cases.

**8.69.** It is a chance for the case team to come together to discuss the trial strategy, the strengths and weaknesses of the case, and whether any further actions are needed. Where experts are involved, it is also an opportunity for the expert to help the trial advocate to better understand the relevant material, how to present it to a jury, and what possible areas of agreement and conflict there may be between the prosecution and defence expert evidence.

**8.70.** There were six cases where a conference with trial counsel was mandated, and one was held promptly in five cases (83.3%), which demonstrates that Area is performing well overall in this aspect of its RASSO work. In the other case (16.7%), no conference was held, resulting in an assessment of not meeting the standard.

**8.71.** In six cases, counsel's advice was not delivered on time. In five of these instances (83.3%) the advice was not chased, leading to an assessment of not meeting the expectation. We assessed the other case (16.7%) as partially meeting the expectation that the advice would be chased. We heard from the Area that it has carried out work with heads of chambers recently to address the minimum standards expected, and we will assess whether the situation has improved during our follow-up inspection in the future.

## Preparation for the Plea and Trial Preparation Hearing in the Crown Court

**8.72.** Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for preparation for the PTPH in RASSO cases is 77.2%.

**8.73.** In assessing the Area's performance when preparing for the PTPH, we considered the key tasks the prosecution is required to complete – including filling in the PTPH form for use by the judge presiding at the hearing; carrying out direct engagement with the defence; drafting the indictment; making sure the relevant material is uploaded to the Crown Court Digital Case System (DCS) before the hearing; and making sure an advocate is instructed in advance of the hearing, so that they have time to prepare. There is more detail about these tasks in chapter 4 (paragraphs 4.27 to 4.36).

**8.74.** Preparation for the PTPH hearing – including completing plea and trial preparation forms, making sure actions have been completed by the police and setting out acceptable pleas – was found to be fully meeting the standard in 11 out of 20 cases (55.0%), with the other nine cases (45.0%) rated as partially meeting the standard. There were no cases assessed as not meeting the standard. This level of preparation for the first hearing was similar to that which we found in the Crown Court unit. As with Crown Court cases, a recurring issue in the cases assessed as partially meeting the standard was not addressing acceptable pleas.

**8.75.** The police upload hard media (such as CCTV footage or body worn video) to secure online locations and send the links to the CPS. In respect of sharing of hard media with the court and defence before the PTPH, we assessed nine of the 14 applicable cases (64.3%) as fully meeting the expected standard, one case (7.1%) as partially meeting it and four cases (28.6%) as not meeting the standard.

**8.76.** In RASSO cases, hard media will often be the video interviews conducted with victims or witnesses that form their evidence. It is important that this is shared before the first hearing so that the case can be progressed effectively, with appropriate orders made for actions to take place to make sure the trial is effective and appropriate witness care is in place.

## Direct engagement with the defence

**8.77.** The prosecution and defence are under a duty to engage with each other to make sure that the case progresses as effectively as possible. We explain more about this duty in chapter 4 (paragraphs 4.35 and 4.36). Usually, the prosecution makes the first approach to the defence, and this should be logged on a duty of direct engagement (DDE) log. The prosecution creates this on the CPS case management system and should then share it with the court and defence by uploading it to the DCS.

**8.78.** Direct engagement with the defence (usually by means of a letter) was carried out fully and promptly in 12 out of the 19 applicable cases (63.2%). We assessed two cases (10.5%) as partially meeting the standard and five cases (26.3%) as not meeting the standard. As with non-RASSO Crown Court cases, we noted that engagement did not usually result in tangible benefits, such as narrowing the issues and achieving resolution of the case where possible.

**8.79.** We appreciate that Covid-19 has had a significant impact on the defence's ability to respond to direct engagement approaches from the prosecution. Many defence firms furloughed employees. This has clearly hampered the Area's efforts to engage effectively with defence practitioners.

**8.80.** In all 16 cases with a DDE log (100%), the log was uploaded to the DCS.

## The indictment

**8.81.** RASSO cases present specific challenges when drafting indictments, particularly where the victim is a child, or the allegations are not recent.

**8.82.** Indictments were of a reasonable quality, albeit with some room for improvement. We assessed 13 out of 19 indictments (68.4%) as fully meeting the standard and two (10.5%) as partially meeting the standard. We rated four indictments (21.1%) as not meeting the standard.

**8.83.** In one of the cases that did not meet the standard, the prosecution case was that the complainant was groomed and sexually abused by an adult male on numerous occasions during the 1980s. The indictment that was preferred for the PTPH contained specimen counts each of which included a specific date on which the offence had been committed. As the Court of Appeal has made clear, if counts are drafted in this way it is not permissible after conviction for the Judge to sentence on the basis that each count reflected a course of conduct. Each count should have been drafted in such a way as to make clear the minimum number of separate incidents the count reflected and the dates between which the offending took place. This is a particular issue when dealing with RASSO casework.

**8.84.** In a case where we assessed the indictment as fully meeting the standard, the defendant had touched the complainant's breast with his foot, kissed her breast and touched her between the legs. This was all during one single incident and was charged as three sexual assaults. In this case different defences were put forward and the rationale for drafting the indictment in such a way was clearly explained by the prosecutor.

**8.85.** In 14 out of 19 cases (73.7%) the draft indictment and key evidence were served in good time for the PTPH (that is, uploaded to the DCS seven days before the PTPH). We assessed two cases (10.5%) as partially meeting the standard, which meant that the documents were served less than seven days before the PTPH but that this did not have any impact of the effectiveness of the hearing. We assessed three cases (15.8%) as not meeting the standard.

### **Instructing the advocate**

**8.86.** We set out the expectations for what should be contained in instructions to the court advocate in paragraph 4.31.

**8.87.** Like in the non-RASSO Crown Court cases, we found that the quality of instructions to external counsel in RASSO cases was variable. We assessed a quarter of cases (two out of eight or 25%) as fully meeting the required standard, three cases (37.5%) as partially meeting the standard and three cases (37.5%) as not meeting the standard because no instructions were prepared.

**8.88.** In those cases assessed as not meeting the standard, although the advocate was supplied with documents from the case file, this too often left obvious gaps because of the failings we have already discussed in pre-charge and other reviews, such as lack of a proper case strategy or instructions on acceptable pleas.

**8.89.** Counsel (or the crown advocate where relevant) was more often than not instructed in good time for the PTPH (by which we mean at least seven days beforehand). We assessed the timeliness of instructing counsel as fully meeting the standard in 12 of the 19 applicable cases (63.2%), partially meeting the standard in two cases (10.5%) and not meeting it in five instances (26.3%).

**8.90.** It was more common in RASSO cases for inspectors to find that instructing counsel or a crown advocate less than seven days before the PTPH was likely to have an impact on the effectiveness of the PTPH, because of the usual presence of achieving best evidence interviews and other evidence or material that generally take longer to watch or read. In two cases where crown advocates conducted the PTPH, we found no audit trail to show when they had been instructed.

## Does the Area fully comply with its duty of disclosure?

**8.91.** Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for disclosure in RASSO cases is 71.8%.

**8.92.** The duties of the police and CPS in relation to the disclosure of unused material are set out in chapter 4, paragraphs 4.37 to 4.52. We assessed the Area's performance across a range of different aspects pertaining to disclosure, including compliance with the duty of initial disclosure and continuing disclosure, handling of sensitive and third-party material, the correct endorsement of the schedules, timeliness, recording of the decisions on the disclosure record in the CPS case management system and feeding back to the police where necessary.

**8.93.** The quality of initial and continuing disclosure was better overall in RASSO cases than in those handled by the magistrates' court and Crown Court teams. However, there is still some room for improvement.

### Police service on disclosure

**8.94.** Feedback to the police is an important part of driving improvement, and should occur despite the pressures on CPS Areas, so that the Area receives a better service in future.

**8.95.** The standard of the service received by the Area from the police on disclosure also shows scope for improvement. Of the 20 RASSO cases, the police complied with their disclosure obligations fully in eight cases (40.0%). We assessed police compliance as partially meeting the required standard in another nine cases (45.0%) and as not meeting it in the remaining three cases (15.0%).

**8.96.** In half (50.0%) of the cases assessed as partially meeting or not meeting the standard, there was no feedback from the Area to the police about the deficiencies in the case. The lack of feedback may suggest that the scale of the issue is masked and may limit the impact of partnership working to improve.

**8.97.** We note from our discussions with the Area that it continues to work closely with its local forces to improve casework quality in RASSO cases, including the standard of disclosure schedules. We were told by the Area at the assessment meeting that it has run a number of disclosure workshops for RASSO prosecutors. Part of the workshop was dedicated to the requirement to be proactive in challenging the content and quality of unused material schedules before charge where necessary, and providing feedback via the DG6 Assurance mechanism when applying the full Code test.



## Initial disclosure

**8.98.** Initial disclosure was required in 18 RASSO cases. We assessed three cases (16.7%) as fully meeting the expected standard and 11 cases as partially meeting it (61.1%), with the remaining four cases (22.2%) assessed as not meeting the standard.

**8.99.** The most common failing (in six cases) was stating non-disclosable material was disclosable. As an example, in one case a witness's previous conviction (from 2007) for keeping a brothel was disclosed without any rationale for why this met the disclosure test. We also found three cases where there was incorrect use of endorsements, most commonly using 'CND' (clearly not disclosable) where the description of the item was insufficient to make a meaningful judgement without reading it.

**8.100.** We found no instances of disclosable material not being disclosed.

## Continuing disclosure

**8.101.** Continuing disclosure was made in all 17 relevant cases, with nine cases (56.3%) fully meeting the standard and seven (43.8%) partially meeting it.

**8.102.** As with Crown Court continuing disclosure, this suggests that Area prosecutors are better able to assess unused material when they have a clear indication from the defence as to the issues.

**8.103.** The cases partially meeting the standard for continuing disclosure included:

- two cases where there was no decision endorsed in relation to newly revealed items
- two cases where disclosure appeared to be made on a courtesy basis rather than because it met the disclosure test.

**8.104.** As at the initial disclosure stage, we found no instances of non-disclosure of disclosable material, which is positive.

**8.105.** Thirteen cases featured a late defence statement. In five of these cases (38.5%) the Area was assessed as fully meeting the standard for proactively chasing the defence. In another three cases (23.1%), we assessed the Area as partially meeting the standard. We rated five cases (38.5%) as not meeting the standard.

**8.106.** In all the cases we assessed as not meeting the standard, the defence statement had not been chased when the stage date passed, and action was



triggered only when there had to be a reaction to an event: for example, because the stage 3 deadline was about to be reached or the defence submitted a retrospective request for extended time to serve the statement.

**8.107.** The defence statement was sent to the police with appropriate guidance on further reasonable lines of enquiry in ten of the 16 relevant cases (62.5%). In another six cases (37.5%), we assessed it as partially meeting the expected standard.

**8.108.** In five of the cases we found to be partially meeting the standard, little or no guidance was provided to the disclosure officer when the defence case statement was sent to them.

**8.109.** The other case involved an allegation of a sexual assault on a 12-year-old boy in his home by a family relative. The defendant claimed that he had been intoxicated at the time and therefore had no recollection of the incident, but his defence statement requested disclosure of the complainant's school records. This was not a reasonable line of enquiry in the context of the particular case, a stance that the prosecutor took in a letter sent to the defence in response. However, the action plan sent to the police still requested a review of the educational records to identify whether there was any disclosable material. This was then challenged by the officer, who clearly regarded the defence request to be a fishing expedition and not a reasonable line of enquiry.

## **Timeliness**

**8.110.** Initial disclosure was timely in 16 out of 18 cases (88.9%). The remaining two cases (11.1%) were assessed as partially meeting the standard, meaning that the delay did not have a material impact on case progression.

**8.111.** Continuing disclosure was timely in 12 out of 16 cases (75.0%), with two cases (12.5%) partially meeting the standard and two cases (12.5%) not meeting it. In one of those cases, continuing disclosure was only completed a few days before the trial, although in the event it did not cause any delay to the proceedings.

## **Sensitive and third-party material**

**8.112.** There was relevant sensitive unused material, or the potential for there to be sensitive material, in 14 of the 20 RASSO cases we examined.

**8.113.** Of these, we assessed 11 cases (78.6%) as fully meeting the standard. For example, in a case involving repeated sexual assaults of a schoolgirl in the 1980s, there was a wealth of third-party material from social services and medical providers stretching back many years, which was placed on the

sensitive unused schedule by the disclosure officer. The prosecutor applied the disclosure test to each item and recorded reasoned decisions for why some met the test for disclosure and some did not. The prosecutor then made sure there were appropriate redactions and the relevant consents were in place before the material was disclosed to the defence. The defendant subsequently pleaded guilty on the day of trial.

**8.114.** We assessed one case (7.1%) as partially meeting the standard and two cases (14.3%) as not meeting it. In one of those cases, involving a sexual assault by the defendant on his sister which dated back to the 1980s, the victim's medical notes were disclosed with no rationale recorded for why these met the disclosure test. We could not see an argument for why they could reasonably be considered capable of undermining the prosecution case or assisting the defence.

**8.115.** Third-party material was correctly dealt with in eight out of the 11 relevant cases (72.7%). We assessed one case (9.1%) as partially meeting the standard and two cases (18.2%) as not meeting it.

**8.116.** Generally, we found good awareness among the Area's RASSO prosecutors of the policy for handling third-party material, including the requirement to make sure the necessary consents are in place before disclosing material that meets the disclosure test.

**8.117.** In one of the two cases assessed as not meeting the standard, the complainant's, and doctor's consent for the release of a medical note was obtained, but the document was not redacted to remove reference to sensitive personal information about the complainant's son. This was provided to the defence and uploaded to the DCS.

## **Disclosure records**

### **Disclosure management document**

**8.118.** Disclosure management documents (DMDs) are mandated in RASSO cases in accordance with both the fifth and sixth editions of the Director's Guidance on Charging. The cases in our file sample were governed by this guidance.

**8.119.** A DMD was created in 17 of the 19 cases. Two cases (10.5%) had no DMD. Of the 17 DMDs on file, 12 (70.6%) were completed accurately and fully throughout the life of the case. We assessed three cases (17.6%) as partially meeting the standard and two cases (11.8%) as not meeting the standard. The issue with those DMDs assessed as partially meeting the standard was that they were not updated as the case developed.

### Disclosure record sheets

**8.120.** The disclosure record on Modern CMS was assessed as fully meeting the required standard in six of the 19 applicable cases (33.3%), as partially meeting it in nine cases (50.0%) and as not meeting it in three cases (16.7%).

**8.121.** The main issue in those cases assessed as partially or not meeting the standard was that the disclosure record consisted primarily of entries showing the receipt and dispatch of disclosure documents. Often there was no adequate record of the reasons for disclosure decisions, which reflects some of our other findings related to reviews and endorsed schedules that do not adequately reveal the factors considered by prosecutors when reaching their decisions, or their reasoning generally.

## Does the Area address victim and witness issues appropriately?

**8.122.** Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for victim and witness issues in RASSO cases is 69.6%.

**8.123.** The duties owed by the CPS to victims and witnesses are set out in chapter 4, paragraphs 4.53 to 4.62. We assessed a range of aspects related to victims and witnesses, including measures to support them to give their best evidence, witness care at court, and communicating and consulting with victims.

**8.124.** The Area's performance in relation to some aspects of the post-charge service it provides to victims and witnesses is good. These aspects are the prompt and accurate witness warnings, handling witness care correspondence, dealing with special measures applications after charge, consulting with witnesses (including at court), and making appropriate applications for orders at sentencing.

**8.125.** In RASSO cases, as with Crown Court cases, there is room to improve the consideration of victim and witness issues at charge, the handling of VPSs, and the standard of Victim Communication and Liaison scheme (VCL) letters – although this latter finding derives from a very small sample of relevant cases.

## Before charge

**8.126.** We assessed the consideration of relevant applications and ancillary matters to support victims and witnesses, before charge, as fully meeting the standard in three out of the 18 applicable cases (16.7%), partially meeting it in seven cases (38.9%) and not meeting the standard in eight cases (44.4%).

**8.127.** Failure to properly consider special measures at charge risks delaying any request to the police for additional information, or delaying the application itself and with it, the reassurance for victims and witnesses that comes from knowing they will have the benefit of appropriate measures at the trial.

**8.128.** The most common reason for cases not being assessed as fully meeting the standard was that there was no or inadequate consideration of special measures, VPSs and restraining orders. In one case involving a complainant who was under 18, the complainant's eligibility for section 28 special measures was not identified at the pre-charge stage. This omission was identified and rectified several months after charge. In the same case, there was also no consideration of the VPS policy before charge.

**8.129.** This is an aspect of performance that the Area will no doubt want to improve on, given the sensitive nature of such cases and the importance of a proactive approach to supporting vulnerable victims at an early stage of proceedings.

## After charge

**8.130.** After charge, the Area performed much better when considering and applying for special measures for victims and witnesses. These were properly sought to support witnesses in most cases, although we sometimes found timeliness to be an issue. We also found that special measures applications were sometimes dealt with orally at the PTPH rather than by way of a written application.

**8.131.** We assessed nine out of 17 cases (52.9%) as fully meeting the standard, with another six cases (35.3%) partially meeting the standard. Two cases (11.8%) were assessed as not meeting the standard.

**8.132.** In one of the cases assessed as not meeting the standard, which involved an allegation of sexual assault by the defendant on a care worker, a written application for special measures was submitted to the court. However, it was inadequate, as it did not contain the information required by the court, and was rejected. It does not appear that any action was taken to address this and there seemed to be a mistaken assumption that special measures had been

granted. There was an email from the court which made the position clear, which was not actioned.

**8.133.** In the other case we found not to be meeting the standard, the complainant was eligible for section 28 special measures. Although this was eventually recognised and actioned following a Crown Court hearing, by that time over a year had elapsed since the PTPH.

#### **Warning witnesses and communications with witness care units**

**8.134.** The Area works well to secure the best evidence possible from witnesses by correctly and promptly warning witnesses in most cases, with 12 cases (70.6%) assessed as fully meeting the standard, four cases (23.5%) as partially meeting the standard and one case (5.9%) as not meeting it.

**8.135.** Correspondence from the witness care unit regarding witness issues was also dealt with in an effective and timely manner, with 11 of the 13 applicable cases (84.6%) assessed as fully meeting the standard. The remaining two cases (15.4%) were assessed as partially meeting the standard.

#### **Consulting victims and speaking to witnesses at court**

**8.136.** We assessed compliance with the requirement to consult with victims where necessary during the progress of a case – for example, where the prosecution is considering ending a case or accepting pleas – and to speak with victims and witnesses at court to make sure they understand what is happening and are up to date with developments.

**8.137.** We assessed eight out of 15 cases (53.3%) as fully meeting the standard, with the other seven cases (46.7%) partially meeting the standard.

**8.138.** The main issue in those cases partially meeting the standard was a lack of adequate record-keeping to demonstrate the quality of the conversations with victims and witnesses at court, which is a requirement of the CPS's speaking to witnesses at court (STWAC) policy. An improvement in note-taking at court or the standard of counsel's attendance notes would enable the Area to demonstrate even fuller compliance with the STWAC policy.

#### **Victim Personal Statements and orders at sentencing**

**8.139.** The victim's wishes regarding their VPS were fully complied with in 10 of the 19 applicable cases (52.6%). Compliance was assessed as partially meeting the required standard in another two cases (10.5%). We assessed seven cases (36.8%) as not meeting the standard.

**8.140.** The issues identified included there being no information about how a victim wished their VPS to be presented to the court, and there being no record

on the hearing record sheet to show that the VPS had been taken into consideration at the sentencing stage.

**8.141.** Appropriate orders were sought at sentencing to protect victims, witnesses and the public (fully meeting the standard) in nine out of 11 cases (81.8%). We found one case (9.1%) to be partially meeting the standard and one case (9.1%) to be not meeting the standard.

**Victim Communication and Liaison scheme letters**

**8.142.** The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge.

**8.143.** There were six cases requiring a VCL letter. Four of these letters (66.7%) were sent, each being timely. Two letters (33.3%) that should have been sent were not.

**8.144.** Of the four letters sent, we assessed two (50%) as fully meeting the standard in terms of quality, and two as partially meeting the standard.

**8.145.** One of the letters we assessed as fully meeting the standard posed a particular challenge, as the decision to end the case – which involved an allegation of sexual assault – was based on reasonable doubts about the reliability of the complainant's account. The prosecutor wrote a very good letter, which struck the fine balance between empathy and the need to explain clearly why the evidence did not provide a realistic prospect of conviction. There was no over-reliance on template paragraphs; instead, there was a response tailored to the case and an explanation which was clear, concise and easily understandable to the lay person.

**8.146.** In the two cases found to be partially meeting the standard, we saw a lack of empathy and use of legal jargon, such as 'lie on file' and 'counts', which could have been expressed more simply.

## 9. Public confidence

**9.1.** One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy<sup>25</sup> is to improve public confidence by "[working] with partners to serve victims and witnesses and uphold the rights of defendants in a way that is fair and understood by all communities".

**9.2.** In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area's performance related to public confidence with a specific focus on the impact on casework quality.

## Correspondence with victims

### Expectations

**9.3.** The CPS is obliged to write to a victim of crime whenever a charge related to them is either dropped or substantially altered. These are called Victim Communication and Liaison scheme (VCL) letters. Where the victim is deemed to be vulnerable or intimidated, is a victim of serious crime (which includes domestic abuse) or has been targeted repeatedly over a period of time, the letter should be sent within one working day. The timescale in all other cases is five working days.

**9.4.** A VCL letter should include a referral to the Victims' Right to Review (VRR) scheme if applicable. This is a scheme where a victim can ask the prosecution to reconsider a decision to drop or substantially alter a case. In certain circumstances, the VCL letter should also offer a meeting.

**9.5.** The CPS may also communicate with someone who has made a complaint about the service they have received, or with bereaved families after an unlawful killing.

**9.6.** All communications in writing with victims, complainants and bereaved families should use plain English, be translated where necessary, be grammatically correct, and avoid the use of legal jargon. They should include a clear, understandable, and accurate explanation of the decision or action being discussed. Where appropriate, empathy should be expressed, and the recipient should be directed to sources of support and other help.

---

<sup>25</sup> CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025. [www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf](http://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)



## **Sending Victim Communication and Liaison scheme letters**

### **Compliance with the Victim Communication and Liaison scheme**

**9.7.** In our examination of 90 cases, 26 required a VCL letter or letters. The required letters were sent in 16 of those cases: three in magistrates' court cases, nine in Crown Court cases and four in RASSO cases. The required VCL letters were not sent in ten cases: four magistrates' court cases, four Crown Court cases and two RASSO cases.

**9.8.** In six of the ten cases in which required VCL letters were not sent, victims were spoken to at court, but there was no confirmation on file that the victim had expressly requested that no written communication be sent. In three of these cases, the Victim Liaison Unit (VLU) had asked the prosecutor making the decision to provide paragraphs for a VCL letter, but none had been completed.

**9.9.** Twelve of the 16 letters that were sent were assessed as fully meeting the standard for timeliness. The remaining four letters which were sent were assessed as not meeting the standard for timeliness, as the delay was more than 48 hours beyond the deadline set out in the Code of Practice for Victims of Crime ('the Victims' Code').

### **Quality of Victim Communication and Liaison scheme letters**

**9.10.** We assessed the quality of the 16 letters sent as set out in Table 17. We assessed four letters (25.0%) as fully meeting the standard, seven (43.8%) as partially meeting the standard and five (31.3%) as not meeting the standard. We found RASSO letters to be better quality than those from the magistrates' court and Crown Court teams, with all four RASSO letters being assessed as fully or partially meeting the standard.

**9.11.** No particular theme emerged from the letters that were assessed as not meeting the standard. Issues identified included a lack of explanation of the qualifying decision or the reason for it, an incorrect explanation, and use of a wrong address.

**Table 17: Quality of Victim Communication and Liaison scheme letters**

<b>Casework type</b>	<b>Magist-rates' courts</b>	<b>Crown Court</b>	<b>RASSO</b>	<b>All cases</b>
Number of letters sent	3	9	4	16
Fully meeting the standard	0.0%	22.2%	50.0%	25.0%
Partially meeting the standard	33.3%	44.4%	50.0%	43.8%
Not meeting the standard	66.7%	33.3%	0.0%	31.3%

**9.12.** The Area has systems in place to identify cases where a VCL letter is required. Operational delivery staff notify the VLU directly if it is clear from the hearing record sheet (HRS) that there has been no prior notification. The VLU also run daily reports to pick up relevant adverse outcomes on case finalisation. Staff have been asked to apply the substantially altered charge flag when appropriate to assist in the identification of relevant cases, and reminded to notify the VLU at the time a decision is made.

**9.13.** The Area's Victim Liaison Manager (VLM) produces quarterly VCL Performance and Recommendations Reports. These report the number of VCL letters sent out against the proxy target. The data is broken down by county and unit. In September 2021, monthly late letter reports began to be sent out to each hub. Legal decision makers and legal managers are chased by the VLU for missing bespoke paragraphs for VCL letters.

**9.14.** The Area Strategic Board (ASB) appointed a Deputy Chief Crown Prosecutor (DCCP) to complete "an independent review of VCL letter quality". The results were reported in January 2022. The review found that magistrates' court and Crown Court letters were less well drafted than RASSO letters, which is consistent with our findings.

**9.15.** VCL letters are discussed at Area Performance Review Meetings. Within the magistrates' court and RASSO units, managers have been directed to consider the quality of letters as part of the individual quality assessment process.

**9.16.** The Area Business Manager (ABM) leads a panel of operational delivery staff to review VCL and complaint letters. The panel focus on how each letter is likely to be perceived by the recipient, looking at language, empathy and quality of the explanation, rather than at legal content. At the January 2022 meeting, the panel reviewed four VCL letters and found an improvement in the quality of the letters. The Area has now identified a Senior District Crown Prosecutor who will be joining the panel to provide legal input.

**9.17.** A staff update bulletin issued in February 2022 provided lawyers with five tips for a quality VCL letter. The Area VLM has also been attending team information briefings to share knowledge of VLU performance and letter writing quality tips. These sessions have now been delivered to most teams within the Area.

**9.18.** The Area reports an improvement in the quality of VCL letters as a result of new national templates. The RASSO unit is moving away from standard paragraphs towards a more bespoke approach and is consulting Independent Sexual Violence Advisors (ISVAs) about how best to communicate a decision.

**9.19.** A scheme piloting face-to-face communication of some RASSO decisions, including the involvement of ISVAs, is being planned between Greater Manchester Police and the Area's RASSO unit. The pilot scheme will be aimed at determining the value added by a specialist prosecutor informing a complainant **face to face** of a decision to stop their case before charge. This scheme will be supported by a RASSO unit legal manager, who will work with a nominated detective inspector to monitor the progress of these investigations.

**9.20.** It is clear that the Area has structures in place to monitor the quality and timeliness of letters and respond to issues as they emerge. Some of the cases we examined will pre-date the Area's activity. We will examine the extent of the progress made when we follow up this baseline inspection.

## **Complaint and Victims' Right to Review responses**

**9.21.** The Area's VLU Complaints Coordinator triages communications from victims and the public and allocates a legal manager, as necessary. The ABM and operational staff panel (see paragraph 9.16) review complaint response letters for clarity of explanation, plain English, tone and empathy. Feedback, including positive feedback, is given to staff.

**9.22.** VLU staff routinely add Victims' Right to Review (VRR) paragraphs to VCL letters where appropriate. Lessons learned, actions and updates on VRR decisions are prepared on a quarterly basis for discussion at casework quality committee (CQC) meetings. Within the RASSO Unit, all VRR letters are quality assured by a Senior District Crown Prosecutor. Feedback is also given to staff (and passed to the VLU and CPS Direct if appropriate) following VRR responses.

## Victims' Code and Witness Charter

### Expectations

**9.23.** The expectation is that the Area complies with its responsibilities defined in the Victims' Code and the Witness Charter in respect of Victim Personal Statements (VPSs), VCL letters, offering meetings, and the speaking to witnesses at court (STWAC) protocol.

**9.24.** Prosecutors at trials are tasked with speaking to witnesses at court to explain what will happen. The CPS STWAC guidance emphasises the need to make sure that witnesses are properly assisted and know more about what to expect before they give their evidence. The guidance also reminds prosecutors of their important role in reducing a witness's apprehension about going to court, familiarising them with the processes and procedures – which may seem alien and intimidating – and managing their expectations on what will happen while they are at court.

**9.25.** The advocate should make an entry on the HRS that they have had this discussion with witnesses and record anything of note.

**9.26.** Victims are entitled, if they wish, to provide a VPS. The VPS sets out the impact that the offence has had on them and helps inform the court's decision on sentencing. The police should tell the CPS, and the CPS should give effect to the victim's preferences for how the VPS is presented to the court. For example, the victim may read the statement in court, the prosecution advocate may read it for them, or the Judge or magistrates may be given it to read.

**9.27.** The HRS completed by the prosecutor should indicate whether the victim's wishes were met at the sentencing hearing.

### Consulting victims and speaking to witnesses at court

**9.28.** We assessed 64.6% of the applicable cases as fully meeting the standard, and 27.7% of cases as partially meeting the standard, for consulting victims and witnesses where appropriate (including before discontinuance, regarding special measures and court orders and STWAC). A recurring issue was a lack of records of the discussions held with victims and witnesses at court. This issue was found in magistrates' court, Crown Court and RASSO files.

**9.29.** The Area completes STWAC logs for magistrates' court and Crown Court work. These include sections for comments and actions taken where STWAC has not been complied with. Four of six magistrates' court cases identified on one log as lacking an HRS endorsement relating to STWAC were prosecuted by

agents. We were told that guidance has been provided and the Area no longer instructs agents who do not comply with STWAC procedures.

**9.30.** The Area used the cloud video platform to comply with STWAC requirements during the height of the pandemic. STWAC is a standard item at Area governance meetings and guidance has been given to staff about how to have and record the conversations. We were told that the Area's internal governance processes have found strong improvements in recent months. We will assess this when we follow up this baseline inspection.

## **Victim Personal Statements**

**9.31.** The Victims' Code, as it relates to VPSs, was found to have been fully complied with in 45.5% of relevant cases (40.0% in Crown Court, 46.4% in the magistrates' courts and 52.6% in RASSO). The standard was fully or partially met in 74.1% of cases we examined.

**9.32.** Themes identified, across all casework types, included failure to request a VPS where it would be appropriate, failure to confirm the preference of the victim in respect of reading their own VPS aloud in court or having it read on their behalf, and failure to record compliance with the Code.

**9.33.** The Area completed a dip sample of ten cases from Cumbria in Autumn 2021 to assess the recording of the reading of VPSs in court. There was limited evidence on the files examined to confirm whether the Area's obligations under the Victims' Code had been complied with; this was in accordance with our findings. The lack of evidence that VPSs are being read out routinely in court has also been raised at an Area CQC meeting. Individual feedback has been given to advocates who have not complied with the guidance and the Area has reminded staff (at team meetings and through the Area Communications Manager) that VPSs should be requested and HRSs should be endorsed to reflect what has happened at a hearing. The impact of these interventions will be assessed when we follow up on this baseline inspection.

## **Offering meetings in all appropriate cases**

**9.34.** The bereaved family scheme and the Victims' Code both give certain victims the opportunity to meet the prosecutor (or trial advocate in the case of bereaved families). There were no cases involving fatalities in our file sample.

**9.35.** The Area has told us that these meetings have continued through the pandemic, but over the phone or via Microsoft Teams instead of face to face, because of lockdown restrictions. The offer of face-to-face meetings has now resumed. In most cases the meeting is attended by the lawyer/advocate and a legal manager, who is there to support the lawyer and assist with any

explanations. Often these meetings are held on the day of a hearing at court, at the family's request.

**9.36.** We were told that there is no specific quality assurance process for the bereaved family scheme but, as a legal manager attends, any issues identified would be noted, and appropriate action taken or feedback given.

## Community engagement

**9.37.** The Area has continued to engage with communities throughout the pandemic, moving work experience and Local Scrutiny Involvement Panels (LSIPs) online. The Chief Crown Prosecutor (CCP) engages in Community Conversations with the local Muslim and Jewish communities and around Black Lives Matter. These Community Conversations have monitored Area action plans. Governance of the North West Inclusion & Community Engagement Delivery Plan is via the ASB, with monthly meetings of the CCP and Inclusion and Community Engagement Manager (ICEM) taking place.

**9.38.** Hate crime reporting in Greater Manchester was found to be below the expected level. Community Conversations revealed a lack of trust from some communities and a perception that hate crime reports would not be taken seriously or investigated properly. As a direct result of these findings, Early Intervention pilots for hate crime reports were developed for Bolton and Salford. These are very early advice schemes involving weekly meetings between police and prosecutor representatives to discuss reported incidents. The pilots have faced difficulties arising from the pandemic and maintaining resourcing and engagement, but some cases, which may have previously resulted in no further action by the police, have been built and prosecuted. Positive feedback about the pilots has been received through the Community Conversations and when relevant cases have been discussed at LSIPs. An assessment is under way to consider whether improvements can be made to the schemes. The scheme will continue in Salford and currently remains under review in Bolton.

**9.39.** The Area participates in multi-agency LSIPs for Domestic Violence and Rape, Disability and Older People, and Racially and Religiously Aggravated (RARA) matters. Comments and issues arising from the panels are fed back to the CQC, chaired by the CCP. A number of university work experience students were invited to participate in the RARA LSIP in September 2021. One LSIP student panel member has recently been successful in applying for a CPS pupillage and is due to take this post up in September 2023.

**9.40.** The ABM takes the lead for the Area's Social Mobility and School Partnership Project. The project engages with three schools (one in each county) and a dedicated social mobility cohort. Employability sessions are

offered in addition to student work experience placements and ring-fenced apprenticeships. The first apprentice started in February 2021 and the second in June 2021. Work experience is also offered to four universities in the North West, with plans to extend the offering.

**9.41.** Between November 2021 and June 2022, the Area delivered mock sessions, covering a knife crime charging decision and trial resources, to high school and university law students from four establishments.

**9.42.** The Area is involved in delivering the Anthony Walker Pathways Initiative. The Anthony Walker Foundation, National Black Crown Prosecution Association, Liverpool John Moores University and Salford University are also involved. The initiative aims to increase diversity in the CPS by inspiring and supporting students of minority backgrounds into a career as a prosecutor. This is an agenda the Area has been actively addressing and it has promoted CPS career opportunities during many of its community engagement activities. Data provided to us by the Area demonstrates an increase in staff diversity of 3.0% between June 2020 and June 2022.

## 10. CPS people



**10.1.** One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy<sup>26</sup> is to support the success and well-being of its people, to enable everyone to thrive.

**10.2.** In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area's performance related to CPS people, with a specific focus on the impact on casework quality.

## **Recruitment and induction, staff moves and succession planning**

### **Expectations**

**10.3.** CPS Areas should have a clear strategy for recruitment, induction, succession planning, development, and retention. We looked at whether:

- the Area has effective bespoke induction plans for new prosecutors, for when prosecutors move between teams and for when new lawyer managers are appointed, to support their development
- the Area has effective bespoke induction plans for new paralegal and operational delivery staff, for when paralegal and operational delivery staff move between teams and for when operational delivery and paralegal managers are appointed, to support their development
- the Area has an awareness of the legal cadre, including their current strengths and weaknesses and future capability (particularly around specialisms and capacity to deal with complex or sensitive casework), and this awareness informs recruitment, succession planning and development
- staff allocation and movement between teams is based on clearly documented rationales for decisions which include the impact on the Area's casework quality in terms of capacity, capability, and succession planning.

---

<sup>26</sup> CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.  
[www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf](http://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)

## Staff induction

**10.4.** Table 18 shows the increase in legal staff since March 2019, when the additional funding for prosecutors was announced.

**Table 18: Legal staff in post (full-time equivalent)**

	LM1	LM2	SCP	CP	Total
At 31 March 2019	13.68	5.0	109.53	6.90	180.63
At 31 December 2021	21.91	6.0	136.65	5.0	210.19

**10.5.** The number of legal staff had increased by the end of December 2021. The Area had projected that, by March 2022, the number of legal staff in post would have risen to 211.57 full-time equivalent (FTE). By April 2022, the number of legal staff in post had risen to 219.72 FTE and by June 2022 it had increased to 223.66 FTE.

**10.6.** A new national resourcing model (NRM) for 2022–23 has increased the legal resource to 253.57 FTE with increases in first line legal manager posts (up by 35%) and in the numbers of senior crown prosecutors (up by 20%), paralegal officers and operational delivery staff (up by 17%). The increase in paralegal officers is offset by a reduction in other posts of a similar grade. Additional legal posts were expected following the submission of a business case by the Area to resource a hate crime initiative and a pilot relating to rape cases.

**10.7.** The Area's workforce plan sets out the anticipated staff-in-post figures against the figures in the 2022–23 NRM in each unit from March to November 2022. This reveals a shortfall of five lawyers in the Crown Court unit, even with two crown advocates being deployed on Crown Court work. An initial shortfall of two lawyers in the rape and serious sexual offences (RASSO) unit was expected to increase to 13 in March 2023. The breakdown also outlined an expected shortfall of paralegal and operational delivery staff from September 2022. However, the risk around recruitment of operational delivery staff has reduced following a number of recent appointments and a planned national recruitment campaign.

**10.8.** Area managers have identified the risk that the Area will have a large number of new and inexperienced legal staff at a time when the RASSO and Crown Court units will need more resources. Recruitment of legal staff has recently become an issue in the Area. The number of applicants responding to recruitment drives has dropped significantly.

**10.9.** The Area has planned to manage the risk by taking action to retain and develop current staff. The performance and development review process is used

to identify current capability and support the development of staff. Development is supported by offering temporary promotion opportunities for crown prosecutors (the lowest legal grade) to senior crown prosecutors, having experienced staff mentor new staff and using expression of interest exercises to facilitate moves between teams.

**10.10.** The Area experienced high turnover of staff in 2021–22, with 24 members of staff leaving, and took on 88 new starters across all grades. There were also staff who were new to their post after permanent or temporary promotion. Area managers anticipate that 10–20% of staff in the Area will be classed as new to post at any one time. The need to induct and train staff new to post created additional pressure on existing staff and managers at a time when the Area was dealing with backlogs in the magistrates' courts and Crown Court. However, the Area delivered effective induction training, with line managers and mentors supporting new staff to gain experience and fully develop into their roles.

**10.11.** The Area provides 14 prosecutors to a team dedicated to work from CPS East of England. At the time this team was formed, recruitment of legal staff in the North West was not the challenge it has become. Even with the current recruitment difficulties, Area managers told us they do not expect the Area's commitment to supporting this remote East of England legal team to cease in the foreseeable future.

**10.12.** Area managers are kept up to date with resourcing issues in each unit. During the pandemic a 'gold group' meeting was instigated to monitor and deal with day-to-day issues that arose around staff absences and risk to delivery of the business. This gold group, attended by the Area Strategic Board members, met daily from the start of the pandemic but now meets monthly. A 'silver group' is attended by managers within the units. There is a flow of information between the two groups, focused on making sure the Area continues to meet its business needs and obligations.

**10.13.** The Area has taken action to address priorities such as backlogs in the Crown Court unit by moving staff into this unit from the magistrates' court unit. Managers acknowledged that, while this had mitigated the risk in the Crown Court work, it had left the magistrates' court unit with vacancies and had reduced the level of experience there, as the majority of new legal staff were based in this unit.

**10.14.** Our finding that Area has retained an excellent grip of its Crown Court casework suggests that the action it took has significantly mitigated the impact of the increased casework backlogs. Our finding that the Area is partially meeting the standard for added value across the casework types suggests that the

reduced level of experience in the magistrates' court unit, and the need to develop prosecutors new to Crown Court work, have had an impact on legal quality.

**10.15.** The Area has carried out a gap analysis exercise which has identified the priority vacancies in each unit, allowing targeted allocation of new staff expected from the increases in the 2022–23 NRM. It is clear that managers identify and plan for the impact of initiatives planned by the other criminal justice agencies on CPS resources. For example, the Crown Court was planning to increase the number of court centres and the Area was planning to manage the additional paralegal officer resource required.

## **Succession planning**

**10.16.** Effective workforce planning is a priority for the Area's managers. Plans include consideration not only of the shortfalls against the NRM, but also of the likelihood of having to backfill posts following promotions or sideways moves between the units when anticipating the number of staff to recruit. The workforce strategic plan also identifies anticipated attrition in those grades most at risk given the age profile of staff, which supports effective succession planning.

**10.17.** The Area has a clear focus on building a resilient and flexible workforce. It supports staff in their career progression through career conversations between staff and their managers. Being aware of career progression aspirations allows senior managers and HR to facilitate coordinated moves where this is in line with business needs. Temporary promotion and deputising opportunities allow staff to experience work in a different post or unit, with the aim of enabling greater flexibility and movement of staff. The Area has also agreed that the standard structure used for shadowing opportunities for apprentices is to be made available to all new staff. These approaches have contributed to a number of successful moves and permanent promotions.

**10.18.** The Area recognises the particular strengths and specialisms staff develop. Nominations for staff awards clearly set out the strengths and skills of individuals. We saw examples of commendations received by managers from sources such as the courts, the police and victims, praising the performance of particular members of staff. The weekly staff update has a 'Celebrating Success' section that highlights the performance of staff in particular cases or job roles.

## Staff engagement

**10.19.** In the 2021 Civil Service People Survey, the overall staff engagement score for CPS North West was 69.0%, the same as the national score but slightly down on the Area's 2020 score of 71.0%.

**10.20.** Before 2021, the Area's engagement score had been steadily increasing, achieving an increase of 10.0% in 2020 – which included several months at the beginning of the pandemic restrictions. This reflects staff satisfaction with the way in which the Area's managers handled this unprecedented situation.

**10.21.** The North West region was declared a Covid-19 'hotspot' during the pandemic and Manchester in particular was subject to very tight restrictions for a period. This presented a difficult challenge in keeping the criminal justice system running. The Area set up a Covid-19 notification team to manage notifications from anyone expected to attend court who had Covid-19 symptoms or a Covid-19 diagnosis. The team:

- received daily notifications from multiple courts and Area staff
- carried out risk assessments, prioritising the safety and welfare of staff
- coordinated information, taking appropriate action to inform staff of what was happening in terms of court coverage.

**10.22.** The team received a commendation from the Director of Public Prosecution for the success of this demanding work.

**10.23.** The Chief Crown Prosecutor (CCP) and Area Business Manager (ABM) took the lead in keeping staff informed from the very start of the restrictions being imposed. They circulated a daily message to all staff, informing them of relevant issues around the operation of the courts, staff welfare and casework issues. Managers made sure that staff could safely carry out their responsibilities, taking into account those who needed to shield for medical reasons. Relevant information from the gold and silver groups was also fed back to unit staff. Managers felt that it was this level of communication that contributed to the high engagement score in 2020.

**10.24.** In the most recent Civil Service People Survey, the Area's overall score for the question about whether workloads are acceptable was 43%, an improvement of two percentage points from the previous year.

**10.25.** In most units the score for acceptable workload had improved in 2021 – even in the magistrates' court unit, which was affected by difficulties finding agents to cover courts and reports of late court finishes. In the RASSO unit,

however, the score had dropped by almost half from the previous year, to 21%. This reflects the issues around resourcing for the RASSO unit, which lost experienced staff through retirement, promotion or, in one case, a fixed term Bar secondment ending, and new staff in the unit needing time to gain the experience to take on a full caseload. Area managers had assured staff, in a weekly update message, of the intention to address the concerns raised in the 2021 survey around resources and workload.

## Learning and development

### Expectations

**10.26.** The Area should have a continuous learning approach that is effective in improving casework outcomes. We looked at whether:

- the Area has a clear and effective training plan around improvement of casework
- coaching and mentoring take place in the Area to improve the casework skills and experience of lawyers and lawyer managers.

### Training plans

**10.27.** The Area's training plan is linked to the business needs of the Area and to the CPS's five pillars. The Area's priorities – which included disclosure training, having a robust induction process and improving the quality of casework through the casework quality committee (CQC) – highlight the intention to improve casework outcomes. The Area plans to identify training priorities arising from examinations of feedback from courses and issues found in the CQC and the Local Scrutiny Involvement Panels (LSIPs).

**10.28.** The Area has experienced challenges in delivering induction training remotely and in providing time for experienced staff, who are already under pressure with increased caseloads, to mentor a significant number of new starters. Managers also found it difficult to find enough time to support new staff.

**10.29.** To address some of these issues, the Area introduced the concept of having one legal manager who would manage all new lawyers in the unit. This has been implemented in the magistrates' court and Crown Court units. It allows the manager to concentrate on the needs of the new staff, free from the competing needs to manage and support experienced staff. Area managers feel that this approach is working well, allowing them to focus on the development of new staff while allowing other managers to centre their attention on the quality of

the casework of more experienced staff, at a time when they are handling a significantly increased caseload.

**10.30.** Area managers are aware of the importance of a thorough induction programme and a phased introduction to taking on a caseload, for both new starters and those changing role within the Area. There are structured induction programmes for staff in all units at all levels and the programmes are tailored to the experience of the individual. The Area has sought feedback from focus groups on induction training to ensure the consistency of training across the units.

**10.31.** The restrictions in place in the courts meant it could be difficult for new lawyers in the magistrates' courts to observe courts. Consequently, the Area introduced a 'court craft day' which covers the basic skills required by prosecution advocates, such as speaking with defence solicitors in court and delivering opening and closing speeches. The latter session was delivered by one of the Area's experienced crown advocates.

**10.32.** The Area has induction programmes for new managers. The number of legal managers who are new to post is relatively high (approximately 50.0% of first line legal managers, who directly manage the senior crown prosecutors and crown prosecutors responsible for handling the Area's casework, are less than two years in post) and the process of training managers has been challenging, particularly when face-to-face contact between managers and their staff has been restricted because of remote working.

## **Coaching and mentoring**

**10.33.** All those new to post, both those from within the organisation and those new to CPS, are assigned a mentor. The Crown Court unit has a team of mentors to whom staff new to the unit are assigned. In the magistrates' courts, new lawyers are allocated a mentor and given time to observe their mentor in court. The mentor provides a source of support and guidance in addition to that provided by the line manager. New staff will retain a mentor as long as it is felt to be beneficial.

**10.34.** Line management and mentoring of new operational delivery and paralegal staff is discussed at the Area Business Board, attended by the ABM and operational delivery managers.

## Quality assurance

### Expectations

**10.35.** The CPS has quality assurance processes in place to identify aspects of casework that are working well and those that require improvement. These include:

- individual quality assessments (IQAs) and internal assurance to identify individual and wider good practice or performance, and weaknesses in casework quality, and to drive improvement
- analysis of IQAs to identify specific training and interventions and implement them to improve casework quality
- casework quality boards (CQABs) to drive actions and improvements in casework quality, including wider assurance work, in accordance with the CPS's quality standards for charging, case progression, disclosure and advocacy.

**10.36.** We are not assessing advocacy in this inspection programme, but we will include how the Area develops advocates to improve casework quality.

### Quality assurance activity

**10.37.** The Area quality assures its casework in several different ways.

**10.38.** The CPS North West CQC meets monthly. It comprises:

- the CCP (who is the chair)
- the Deputy Chief Crown Prosecutors, who each have responsibility for the magistrates' court, Crown Court or RASSO units
- the Area legal lead
- the head of the Complex Casework Unit
- the head of the RASSO unit
- the head of the business centre
- the learning and development manager.

**10.39.** The committee's responsibility is to identify casework themes arising from the Area's quality assurance work. This includes the IQA process, scrutiny carried out by local case management panels, adverse case reports produced



by each unit, Victims' Right to Review and complaints handling, and the twice yearly mini-inspections that Area carries out. The committee then identifies actions to address the casework issues identified, including training needs. Broader casework themes are also covered at the regular governance meetings for each of the units whose files we have examined.

**10.40.** First line legal managers produce adverse case reports for each of the three units. For magistrates' court cases, reports are prepared for any case which ends in a finding of no case to answer following a defence submission after the prosecution has closed its case. For Crown Court cases, adverse reports focus on Judge directed acquittals, as well as any non-conviction in a narrow category of sensitive casework, including homicides. In the RASSO unit, adverse reports are produced for any case that does not result in a conviction after trial or guilty plea.

**10.41.** The reports that we have seen demonstrate that the focus is on learning lessons for the future and making sure that managers feed back to the relevant prosecutor at monthly one-to-one meetings.

**10.42.** The IQA process was suspended nationally for a period after the first national lockdown, to enable CPS Areas to focus on dealing with the sharp rise in live caseloads across the casework types. The process resumed in September 2020, and the Area's first line legal managers are required to conduct one assessment for each senior crown prosecutor or crown prosecutor deployed in the review teams once every three months. For advocates in the magistrates' courts and Crown Court, the requirement is for two assessments per year.

**10.43.** We were told that managers deliver individual feedback to prosecutors via the IQA process and through monthly one-to-one meetings. These monthly meetings also incorporate feedback arising out of other analyses of casework quality that Area conducts, such as its regular scrutiny of adverse case reports or its own internal mini-inspections.

**10.44.** The two broad findings of our inspection are that the Area is generally progressing its cases effectively, but that there needs to be a higher standard of legal quality across its volume casework. From reading minutes of the Area's CQC meetings and the results of its internal mini-inspections, we know that the senior management team is aware of most aspects for improvement that we have highlighted in this report.

**10.45.** For example, during a meeting of the Area's CQC in April 2022, we noted that the Area's legal lead provided an analysis of a mini-inspection carried out in

December 2021, which looked at magistrates' court, Crown Court and RASSO casework.

**10.46.** Recent positive casework trends were identified, such as a decline in the number of previous case reviews being 'cut and pasted' into a new review, and improvement in the quality of case action plans and disclosure management documents.

**10.47.** Aspects for improvement that were identified included the quality of trial strategies being devised by prosecutors, the late application of the full Code test in cases charged on the threshold test, a lack of audit trails to demonstrate the required quality of communication with victims, and the lack of a thinking approach when reviewing defence statements. These are all issues that we, too, identified as requiring improvement, which provides reassurance that the Area is well aware of which aspects of its casework are working well and which require improvement.

**10.48.** We recognise that the additional pressures caused by the pandemic over the past two and a half years has reduced the time that prosecutors have been able to dedicate to each case, which inevitably will have had an impact on legal quality. However, we know from speaking to the Area's senior management team that it recognises that, as backlogs decrease and staff numbers rise, the rigour and consistency of approach applied to the IQA process, including the monthly feedback given to each lawyer, will be an integral part of developing prosecutors, improving legal quality and achieving the Area's aim of high-quality casework.

**10.49.** The Area's commitment to making this quality assurance process effective is apparent from documents we have seen relating to a district crown prosecutor (first line legal manager) standard-setting event held in the Area in May 2022. This event aimed to equip the Area's legal managers, some of whom are inexperienced in the role, to implement recommendations made by the CQC in order to improve the quality of all aspects of criminal casework, including casework reviews and communications with victims.

**10.50.** One of the aims of the event was to ensure a consistent approach by managers when assessing quality of casework, with an emphasis on adherence to the CPS's national casework quality standards. Session topics included analysing the themes identified from the Area's mini-inspections, optimising the effectiveness of the monthly one-to-one discussion between prosecutor and manager, and discussing case studies.

**10.51.** This event should be seen in the wider context of the support the Area is giving to its less experienced legal managers. This support includes mentoring

by an experienced district crown prosecutor, training that focuses on delivering difficult messages and weekly meetings with their (senior district crown prosecutor) line manager.

**10.52.** We are confident that the Area has laid the groundwork for improvement in those aspects we have highlighted, which relate primarily to the quality of legal value added to casework reviews and the disclosure exercise. As backlogs decrease and more recently recruited or promoted staff gain experience, we hope to see the impact of this work when we return to follow up this baseline assessment.

## 11. Digital capability

**11.1.** One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy<sup>27</sup> is to make sure that "our investment in digital capability helps us adapt to the rapidly changing nature of crime and improve the way justice is done".

**11.2.** In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area's performance related to digital capability, with a specific focus on the impact on casework quality.

## Data analysis

### Expectations

**11.3.** The Area collects and analyses data to deliver improvements in casework quality. Performance in key aspects – including CPS high weighted measures, National File Standard compliance rates and the charging dashboard – is analysed effectively, shared with staff, and used by managers to drive improvements within the CPS and externally with stakeholders.

### Our findings

**11.4.** A range of reports are produced in the Area analysing performance measures that are key indicators of casework quality. The focus is firmly on identifying aspects of work where it is felt that improvements can be made. This data informs a meeting structure within the Area where the data and unit performance are discussed.

**11.5.** Monthly governance board meetings and delivery boards are held for each unit. Unit managers are held to account by senior managers for the performance reflected in the data. It was clear from the meeting notes that, where aspects to improve have been identified and action taken, this is followed up using the data to confirm that it has been successful.

**11.6.** A comprehensive monthly performance report is produced showing data for the magistrates' court, Crown Court and RASSO units and the Complex Casework Unit. This report includes data covering pre-charge decision performance, high weighted measures and other key measures such as Victim Communication and Liaison scheme performance and file quality. The governance and delivery boards use the report to identify and monitor emerging

---

<sup>27</sup> CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.  
[www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf](http://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)

issues. The Area is undertaking an exercise to rationalise the amount of data presented in reports.

**11.7.** The Area Strategic Board (ASB) maintains strategic oversight of the key issues identified in the performance data. A report is prepared for the monthly ASB meeting which highlights the top three aspects of concern arising from analysis of the performance data. The ASB agrees what needs to be taken forward as a priority and this is communicated to the specific unit (magistrates' court, Crown Court or RASSO) governance board meetings for action.

**11.8.** The regular governance meetings in the Area are augmented by internal quarterly performance review meetings with each unit. These meetings share a similar agenda which includes monitoring the caseload, charging data and high weighted measures. Each agenda item has a data table showing the relevant performance figures for the previous quarter, the four quarters before that and data for the last month. The data was often broken down by police force area or by court centre, which allows the Area to identify whether issues are widespread or localised, so it can concentrate its effort where it is required.

**11.9.** The meetings also follow up on action taken to improve performance. For example, it was noted that action taken had led to much improved figures for compliance with Crown Court directions. Discussions at the meetings make it clear that, where necessary, feedback is given to individuals to bring about improvements in performance.

**11.10.** The minutes of Area performance review meetings with CPS Headquarters demonstrate the strategic oversight of the Area's senior managers regarding the challenges affecting performance in the Area. These included the effects of dealing with the increased number of Victims' Right to Review requests, the impact of the backlogs in the Crown Court and charging volumes in the magistrates' court.

**11.11.** CPS Headquarters senior managers had noted that the performance data indicated good work being achieved in the Area despite the challenges. Area managers were also able to outline action taken to improve the declining number of domestic abuse cases being referred to the CPS, in the form of an early advice pilot in parts of the Area, and to use the figures to confirm that successful action had been taken to decrease the number of cases being dropped at the third or subsequent hearing.

**11.12.** Data reports are produced that focus on particular aspects of performance, such as compliance with Crown Court directions and cases dropped at the third or subsequent hearing in the magistrates' courts. These reports form part of an internal assurance carried out in the Area around issues

identified as aspects of concern. For example, legal managers prepare detailed reports of cases dropped at the third or subsequent hearing for each magistrates' court in the Area. These reports note emerging themes and learning points for advocates and case reviewers, as well as noting where individual feedback had been given.

**11.13.** General learning points from analysing performance are communicated to staff via team information briefings, which may be hosted on Microsoft Teams or face-to-face in the office. Improvements in performance are communicated to all staff via a weekly update document. This contains a section highlighting key performance data, where improvement in performance is celebrated.

**11.14.** Quarterly staff engagement sessions in each unit provide opportunities to give feedback to staff on key issues identified in the performance data – both where improvement is needed and where the data shows that improved performance has been achieved. Feedback to staff from the performance data is focused on priorities, to avoid overloading staff with data.

**11.15.** The Area shares performance data with external stakeholders. A range of performance data is shared with the police at the Joint Operational Improvement Meetings (JOIMs) and data is made available to the police which highlights trends in pre-charge decision admin triage, escalation figures, charging security breaches, and domestic abuse and rape cases. This allows the Area to work with the police to identify issues and agree action to improve.

## Digital tools and skills

### Expectations

**11.16.** The Area makes sure that its people have the tools and skills they need to operate effectively in an increasingly digital environment. The Area includes digital skills audits within the training plan and delivers general and bespoke training to staff to enable them to effectively use the CPS case management system (CMS), Egress, digital case lines, the court store and the cloud video platform (CVP)<sup>28</sup>.

### Our findings

**11.17.** From the beginning of the Covid-19 restrictions, staff in the Area were able to adjust rapidly to the new working conditions using digital technology. Microsoft Teams has been used to successfully induct and train new staff, to keep staff informed and engaged through Area and unit meetings and to maintain one-to-one contact between managers and those they manage. Staff were trained and ready to use CVP when this came online in the courts. Links had been forwarded to staff to give them access to online training and guidance for prosecutors using the CVP system.

**11.18.** Training has covered changes to CMS, including dealing with disclosure in Modern CMS, and refresher training for all staff. Digital champions in each unit help colleagues adapt to changes in digital systems. The Area digital lead also provides staff with user guides, detailing updates to digital systems and information on new initiatives such as the Common Platform.

**11.19.** District Crown Prosecutors have had training from the Central Operational Training Team on functions in CMS that support their role as managers. Training has also been made available to staff that aims to improve their knowledge and effective use of applications available in Office 365, such as OneDrive and OneNote.

**11.20.** Managers identify digital training needs and request specific training. For example, training needs had been identified to help crown advocates deployed on pre-charge decision work in the Crown Court unit to record reviews on CMS.

**11.21.** Training records from October 2021 to January 2022 show that CMS foundation training and training on the new redaction app had been delivered. A

---

<sup>28</sup> Egress, digital case lines, the court store and the cloud video platform are digital tools to store case material or host remote hearings. They are explained further in the glossary in annex C.



follow up on the effectiveness of the redaction app training confirmed that performance had improved.

**11.22.** Staff receive regular reminders about the training that is available. A monthly learning and development update is issued to all staff, which highlights upcoming training sessions and training that is available on the Civil Service Learning website.

**11.23.** The Area planned to use feedback given to CPS Headquarters on digital projects to identify current digital capabilities and pinpoint any gaps in knowledge that would then be included in the Area training plan.

## 12. Strategic partnerships

**12.1.** One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy<sup>29</sup> is to make sure that "the CPS is a leading voice in cross-government strategies and international cooperation to transform the criminal justice system".

**12.2.** In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area's performance related to strategic partnerships, with a specific focus on the impact on casework quality.

## Strategic partnerships with the police

### Expectations

**12.3.** The Area influences change through trusted partnerships with the police at all levels to improve casework quality. The Area has trusted and mature relationships with the police at all levels and influences change through negotiation, persuasion and compromise to improve casework quality, particularly in relation to compliance with:

- the National File Standard (NFS)
- the sixth edition of the Director's Guidance on Charging (DG6)
- the Disclosure Manual, Criminal Procedure and Investigations Act 1996 (CPIA) and relevant codes of practice.

### Our findings

**12.4.** In the documents provided, we saw evidence that the Area has constructive and honest relationships at a senior level with each of its three local police forces and that existing relationships do allow a joint approach to tackling issues. The pressures on the criminal justice system over the past two and a half years have doubtless contributed to our findings that there are still significant issues with police compliance with the NFS and their disclosure obligations.

**12.5.** We were provided with briefing notes and feedback from meetings that the Chief Crown Prosecutor (CCP) had in late 2021 and early 2022 with the forces' three Chief Constables and Police and Crime Commissioners (the deputy mayor, in the case of Greater Manchester). These suggested a constructive and candid relationship at the strategic level across the three forces.

---

<sup>29</sup> CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.  
[www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf](http://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)

**12.6.** We were provided with minutes and action logs from Prosecution Team Performance Management (PTPM) meetings that the Area had with its three police forces in the latter half of 2021 and early 2022. These meetings were designed to provide effective oversight of performance by regularly reviewing relevant performance data, identifying trends and issues, and instigating actions required in relation to key areas where the police and CPS interface.

**12.7.** More recently, the CPS and National Police Chiefs' Council agreed to replace PTPM meetings with Joint Operational Improvement Meetings (JOIMs) as the primary local operational improvement mechanism. This decision followed a national review of the effectiveness of PTPM meetings. The report found that there was strong support for effective, locally led joint working between CPS Areas and police forces. However, there was also a need to refresh and restructure the existing process of regular PTPM meetings in each Area to improve relationships and encourage innovation and problem solving between the police and CPS.

**12.8.** The purpose of the new JOIMs is to identify joint priority areas for focused activity to drive improvement in disclosure, effective case progression and other areas. It is also anticipated that the JOIMs will share good practice and adapt to local casework trends and issues.

**12.9.** During the period covered by our file sample, PTPM meetings were held regularly with each force. Key aspects of casework and performance were discussed, such as charging data, disclosure, case file quality, the quality of CPS action plans and early guilty plea rates. Inevitably, the impact of the pandemic and the strategies to recover from it also featured heavily in these discussions.

**12.10.** Outside the PTPM structure, we also saw examples of the Area helping train officers to improve key areas of performance, such as the quality of disclosure schedules and the number of domestic abuse investigations referred to the CPS for a charging decision.

**12.11.** We were also told of monthly meetings that the Charging Gateway operational manager has with police cluster managers to discuss themes emerging from triage and multiple rejections of police files.

**12.12.** Notwithstanding the joint performance work that has been carried out, the Area told us that the quality of files from the police and the timeliness of responses it receives to action plans have remained variable during the pandemic. This is supported by our findings on the quality of files submitted to the Area, including the quality of disclosure schedules.

**12.13.** We were told that a lot of work has been carried out in the Area to improve the levels and quality of prosecutors' compliance with the requirement to use the DG6 Assurance tool, so that accurate data is available to tackle the issue of file quality at joint operational meetings with the police. The Area told us it has had some recent success in improving prosecutors' compliance with using the tool, which is providing a more accurate picture of the scale of the problem, as measured when the case is first reviewed under the full Code test.

**12.14.** From data provided to us by the Area, we can see that over the two and half years, there has actually been an improvement in the number of pre-charge files rejected at the administrative stage because of non-compliance with the NFS.

**12.15.** For example, in 2020 a quarter of first-time requests for a charging decision were accepted as NFS-compliant. This has almost doubled to 49.0% of cases for the first six months of 2022. This suggests that the Area's joint working with the police has had some effect on improving file quality, in terms of making sure the right NFS documents are provided. The continuing high rate of cases requiring the prosecutor to set an action plan, however, suggests that the quality of what is contained in those documents remains an issue, and that officers are not always pursuing all reasonable lines of enquiry before requesting a charging decision.

**12.16.** The Area is optimistic that the JOIMs will prove to be a more effective forum to achieve improvement in the quality of files and the timeliness of responses to action plans. This optimism is based on concrete changes to the process, including Areas being empowered to narrow the focus of the meeting agendas to reflect local priorities and attendance by more senior police officers, who will be able to influence change within forces more effectively.

**12.17.** We were provided with documents relating to the new JOIM process, which contained the areas of focus for the Area and each of the three forces, and the aspirations for the next 12 months.

**12.18.** For example, for the Greater Manchester JOIM, one of the specific aspects that the monthly meeting is now focusing on is file quality as measured by DG6 Assurance, which is the CMS tool used by prosecutors to assess file quality when carrying out a full file review. The joint aspiration is to be in the top 25.0% of forces nationally when it comes to compliance with the NFS. Another area of focus is the acceptance rate for pre-charge requests for a decision made by Greater Manchester Police. The acceptance rate in April 2022 was 50.3%; the aspiration is to improve this to 70.0%.

**12.19.** Given our finding that no feedback was given for half of the police files which did not comply with the NFS, we will take a particular interest, in our follow-up inspection in two years' time, in the rate of feedback given to the police via the DG6 Assurance mechanism. We will also take an interest in any evidence of concrete improvements to the quality of police case files submitted to the Area and police compliance with their disclosure obligations.

**12.20.** In respect of RASSO casework, the Area has an early advice memorandum of understanding with each force, dating from June 2021, under the joint national rape action plan. These memoranda set out a clear opportunity for police and prosecutors to collaborate at an early stage of rape and other serious sexual offences cases and get an early grip on issues such as:

- investigative rape strategies
- third party material enquiries
- international enquiries
- case strategy
- capacity issues
- Mental Health Act issues
- witness issues, including section 28 eligibility
- other special measures
- the young witness initiative
- engagement with the defence before charge.

**12.21.** The charging stage of the rape cases we have examined mostly pre-dates the introduction of these agreements. The Area has told us that conversations now take place much earlier between the investigating officer and the RASSO team in rape cases. These consultations take place once the police have a suspect and a complainant willing to make a statement.

**12.22.** We were also told of the practical support that the Area has given to a training programme run by Greater Manchester Police, for officers who carry out video interviews with child witnesses. This programme, to which senior legal managers responsible for RASSO work have contributed, is aimed at improving the quality of the evidence provided during the video interview process, as this has often been below the required standard in the past.

**12.23.** The Area works with the three forces to improve the handling of unused material through the North West Disclosure Forums, which are held every month, and by monitoring the Area Disclosure Action Plan.

**12.24.** The terms of reference for these forums include developing and regularly reviewing the joint CPS/police disclosure improvement plan, sharing learning from disclosure failures and good practice across the Area, and resolving local disclosure issues escalated from local CPS/police liaison meetings.

**12.25.** CPS disclosure assurance is a standard agenda item at Area Casework Quality Committee meetings and PTPM meetings (now JOIMs). CPS and force disclosure leads attend the disclosure forums, and the CPS RASSO, magistrates' court and Crown Court leads are also invited. The terms of reference highlight the need to develop a cadre of disclosure experts within the CPS and police, including CPS disclosure champions; to offer mandatory training for prosecutors and officers; and to comply with minimum standards on the quality of schedules, correct use of disclosure management documents and disclosure monitoring by the police as part of each force's performance framework.

**12.26.** We saw minutes from Area Disclosure Forum meetings held in December 2021 and January 2022. Issues discussed included the quality of schedules, the definition of rebuttable presumption material, and the quality of feedback from the CPS when files were rejected because of disclosure issues.

**12.27.** In the January meeting, we noted some optimism that the quality of files submitted by Greater Manchester Police was improving. However, we also noted, from a CCP briefing note for a December meeting with the Deputy Mayor for Greater Manchester, that the first DG6 Assurance reconciliation meeting with Greater Manchester Police proved challenging, and that deficiencies in the provision of unused material to the CPS were a major contributing factor to file quality issues.

## Strategic partnerships with the criminal justice system

### Expectations

**12.28.** The Area has trusted and mature relationships with the criminal justice system at all levels and influences change through negotiation, persuasion and compromise to improve casework quality.

### Our findings

#### Criminal justice partners

**12.29.** We saw evidence of proactive joint working across the criminal justice agencies. For example, we were provided with minutes of Local Criminal Justice Board (LCJB) meetings across the three police force areas. The purpose of these boards is to deliver effective, efficient and fair justice to the local communities.

**12.30.** The minutes demonstrated a willingness among the board members to work collaboratively to cope with, and recover from, the significant pressures and backlogs caused by the pandemic. We also saw evidence that local recovery group meetings involving criminal justice system partners were held across the region and attended by the Area.

**12.31.** Joint meetings for the Transforming Summary Justice initiative across the Area in the magistrates' courts are held with representatives from HM Courts and Tribunals Service (HMCTS), the Probation Service and the police. The minutes we read demonstrated an understandable focus on dealing with the impact of the pandemic on the agencies, including backlogs and court listing.

**12.32.** Action logs are used to progress actions arising out of these meetings, including in relation to early guilty plea rates, victim and witness issues, and effective trial rates. We also noted that domestic abuse attrition rates at the investigative stage are an area of concern and that the Area is working with its local police forces to try to address this.

**12.33.** We noted the existence of a Magistrates' Court Task Force Group, chaired by the Chief Crown Prosecutor (CCP), which aims to identify best practice to promote improvement and consistency across the circuit. This was established at the request of the Senior Presiding Judge for each circuit and chaired by the Circuit Presiding judge. This group sits outside the LCJB structure, but their decisions and discussions were noted at LCJBs and anything relevant discussed there in terms of any changes to delivery.



**12.34.** The CCP for the Area chaired a sub-group which looked at collating best practices from across the region, to allow the criminal justice system in the North West to exit the pandemic in a better state and with better magistrates' court practices than before the pandemic. This has led to a list of best practices being drawn up and fed into the LCJBs by HMCTS with a view to considering adopting those practices as standard as the region emerges from the pandemic.

**12.35.** For example, block listing cases in magistrates' courts where a particular firm of solicitors was instructed has proved to be successful, as it has promoted better engagement between the parties, increased hearing effectiveness and more robust case management.

**12.36.** The limited documents we saw indicated there is a constructive relationship between the Area and the Crown Court judiciary in Lancashire and Greater Manchester. The CCP met the Resident Judges at Manchester and Preston separately in January 2022 and discussed the dual track approach, which we understand to relate to actions to reduce the Crown Court backlogs and to improve grip on new casework. These actions include earlier service of the prosecution case and brigading Plea and Trial Preparation Hearing (PTPH) casework to be handled by robust prosecution advocates, thus increasing early guilty plea rates and narrowing the issues for contested matters.

**12.37.** The Area told us that it is increasingly serving key evidence and disclosure in its Crown Court cases at the time the case is sent from the magistrates' courts or shortly after, and that this has started to increase early guilty plea rates. To supplement this approach, the Area also continues to work with the Crown Court to increase the brigading of PTPHs, so that one crown advocate can deal with a number of cases in one courtroom. We will be interested to see the impact that this dual approach has had in our follow-up inspection.

**12.38.** In respect of promoting effective work with other partner agencies, we saw a protocol between the CPS, Greater Manchester Police and Manchester City Council on the exchange of information in child abuse investigations and prosecutions. The protocol aims to enable a consistent approach to information sharing during the criminal justice process in order to protect the welfare of children.

### **Self-employed barristers (counsel)**

**12.39.** We saw evidence that the CCP has formal meetings with heads of chambers. We noted that the CPS's expectations of counsel – in relation to timely provision of advice and attendance notes, compliance with Judges' orders and compliance with custody time limit policy – were discussed with heads of chambers.

**12.40.** In light of our finding that counsel were not often providing written or oral advice after being instructed, we will assess this issue in our follow-up inspection.

## **Other engagement**

**12.41.** We were interested to read about Area's current involvement in a study being carried out by Durham University into how old age affects criminal justice outcomes and decision-making, older victims of crime being a neglected area of academic study.

**12.42.** Working in partnership with two police forces (Northumbria Police and Greater Manchester Police) and a senior legal manager from the Area, with input and support from other key statutory and non-statutory agencies, this study examines how the criminal justice system responds to older victims of crime and victim experiences of the criminal justice system.

**12.43.** If the research identifies avenues for improvement, it will enable the CPS, as the prosecuting agency, to make positive changes to the way it works. The proper handling of this type of offending will benefit society as a whole, as it will highlight areas for improvement which can be addressed by the CPS and confirm where it is performing well. This will ensure that it is properly safeguarding the interests of the complainants who suffer from elder abuse and other crime.

# **Annex A**

## **Inspection framework**

## **Area Inspection Programme Framework 2021-22**

Section A casework quality will be scored. The remaining sections B–E will be assessed and inspected but will not be formally scored. A report will be prepared covering all sections of the framework.

### **A. Quality casework**

Does the Area deliver excellence in prosecution by ensuring the right person is prosecuted for the right offence, cases are progressed in a timely manner and cases are dealt with effectively?

#### **Magistrates' court casework**

- The Area exercises sound judgement and adds value in its pre-charge decision-making in magistrates' court cases.
- The Area's reviews and other magistrates' court casework decisions are timely and of good quality.
- The Area fully complies with its duty of disclosure throughout its magistrates' court casework.
- The Area addresses victim and witness issues appropriately throughout its magistrates' court casework.
- The Area progresses its magistrates' court casework effectively and efficiently.
- The Area exercises sound judgement and adds value in its magistrates' court casework.
- The Area has a clear grip of its magistrates' court casework.

#### **Crown Court casework**

- The Area exercises sound judgement and adds value in its pre-charge decision-making in Crown Court cases.
- The Area's reviews and other Crown Court casework decisions are timely and of good quality.
- The Area fully complies with its duty of disclosure throughout its Crown Court casework.

- The Area addresses victim and witness issues appropriately throughout its Crown Court casework.
- The Area prepares its Crown Court cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to ensure progress is made.
- The Area progresses its Crown Court casework effectively and efficiently.
- The Area exercises sound judgement and adds value in its Crown Court casework.
- The Area has a clear grip of its Crown Court casework.

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

- The Area exercises sound judgement and adds value in its pre-charge decision-making in RASSO cases.
- The Area's reviews and other RASSO casework decisions are timely and of good quality.
- The Area fully complies with its duty of disclosure throughout its RASSO casework.
- The Area addresses victim and witness issues appropriately throughout its RASSO casework.
- The Area prepares its RASSO cases effectively for the Plea and Trial Preparation Hearing in the Crown Court, or first hearing in the youth court, to ensure progress is made.
- The Area progresses its RASSO casework effectively and efficiently.
- The Area exercises sound judgement and adds value in its RASSO casework.
- The Area has a clear grip of its RASSO casework.

**Evidence will be drawn from:**

- baseline file examination
- charging dashboard (timeliness)
- adverse outcome reports

- Disclosure Board minutes
- Local Case Management Panel minutes (volume casework)
- self-assessment meeting with CPS Area.

## **B. Public confidence**

Does the CPS provide a fair experience for victims and witnesses?

**All correspondence with victims is accurate, timely and empathetic.**

- Communications in writing with victims use plain English (translated where necessary), are grammatically correct, have clear explanations and avoid the use of legal jargon.
- The Area complies with the timescales for Victim Communication and Liaison scheme (VCL) letters.
- The Area complies with the timescales for complaints and Victims' Right to Review (VRR) scheme requests.
- The Area conducts internal quality assurance of all victim communication (VCL, bereaved family service (BFS) complaints and VRR requests).

**The Area complies with its responsibilities defined in the Code of Practice for Victims of Crime and the Witness Charter in respect of Victim Personal Statements, VCL letters, meetings and compliance with the speaking to witnesses at court protocol.**

- Victim Personal Statements (VPSs) are chased, and the victim's wishes sought around the reading of any VPS in court. Those wishes are adhered to at sentence, whether at first hearing or following trial.
- The Area conducts assurance internally to ensure that VCL letters are sent on all appropriate cases pre- and post-charge.
- Meetings are offered to victims in all appropriate cases.
- The Area complies with the speaking to witnesses at court (STWAC) protocol.

**Evidence will be drawn from:**

- baseline file examination – specific questions include STWAC and VCL
- Victim and Witness Criminal Justice Board sub-group minutes
- third sector meeting minutes (where they encompass casework quality learning and actions)

- internal quality assurance reports – monthly or one-off – related to the Code of Practice for Victims of Crime/Witness Charter, VCL letters, VPSs, BFS complaints and VRR requests
- VCL performance data
- advocacy individual quality assessment (IQA) data for STWAC compliance
- complaints and VRR performance data
- witness care unit meeting minutes
- Scrutiny Panel minutes, actions and any associated learning
- complaints log
- VRR log, including volume and detail of any overturned decisions
- self-assessment meeting with CPS Area.

## **C. CPS people**

Does the Area support its people with the skills and tools they need to succeed and develop?

### **The Area has a clear strategy for recruitment, induction, succession planning, development and retention.**

- The Area has effective bespoke induction plans for new prosecutors, for when prosecutors move between teams and for when new lawyer managers are appointed, to support their development.
- The Area has effective bespoke induction plans for new paralegal and operational delivery staff, for when paralegal and operational delivery staff move between teams and for when operational delivery and paralegal managers are appointed, to support their development.
- The Area has an awareness of the legal cadre, including their current strengths and weaknesses and future capability (particularly around specialisms and capacity to deal with complex or sensitive casework) and this awareness informs recruitment, succession planning and development.
- Staff allocation and movement between teams is based on clearly documented rationales for decisions, which include the impact on the Area's casework quality in terms of capacity, capability and succession planning.

**The Area has a continuous learning approach that is effective in improving casework outcomes.**

- The Area has a clear and effective training plan around improving casework.
- Coaching and mentoring take place in the Area to improve casework skills and experience of lawyers and lawyer managers.

**The Area uses internal assurance to improve casework quality.**

- The Area uses internal assurance (including IQAs where applicable) effectively to identify individual and wider good practice/performance and weaknesses in casework quality, to drive improvement.
- The Area uses its analysis of IQAs (where applicable) or other internal findings effectively to identify specific training and interventions, and implements them to improve casework quality.
- The Area's casework quality assurance board (CQAB) drives actions and improvements in casework quality, including wider assurance work, in accordance with CPS quality standards around:
  - charging
  - case progression
  - disclosure
  - advocacy (we are not assessing advocacy in this inspection programme, but we will include how the Area develops advocates to improve casework quality).

**Evidence will be drawn from:**

- Area business plan
- workforce planning models
- staff in post figures, current and at 1 April 2019
- people strategy/Area succession planning documents
- minutes of meetings to discuss team composition and resources
- CQAB minutes
- training plan



- induction plans – new starters, movement between teams and new managers
- minutes or other notes of coaching and/or development conversations
- Civil Service People Survey results at Area and team level
- CQAB observation
- IQA assurance records including numbers, timeliness, dip checks and any resulting management reports
- internal assurance reports on charging, case progression or disclosure
- recent examples of “Simply Thanks” or other acknowledgements of good work in the field of casework or victim and witness care by individuals or teams (suitably anonymised)
- any commendations or other recognition by stakeholders of excellent casework or victim and witness care
- minutes of Area meetings of magistrates’ courts, Crown Court or RASSO boards, or any other business board addressing casework quality issues (joint board minutes are requested under section E)
- self-assessment meeting with CPS Area.

## **D. Digital capability**

Does the CPS use data to drive change to improve casework quality?

**The Area collects and analyses data to deliver improvement in casework quality.**

- Performance in key aspects including CPS high weighted measures, National File Standard compliance rates and the charging dashboard are analysed effectively, shared with staff and used by managers to drive improvements within the CPS and externally with stakeholders.

**The Area ensures that its people have the tools and skills they need to operate effectively in an increasingly digital environment.**

- The Area includes a digital skills audit in the training plan and delivers general and bespoke training to staff to enable them to effectively use CMS, Egress, digital case lines, the court store and the cloud video platform.

**Evidence will be drawn from:**

- Area performance reports and analysis
- baseline file examination
- training plan – digital tools and skills
- performance meeting minutes – team and Area level
- communications to staff about performance
- Prosecution Team Performance Meeting (PTPM) minutes
- Transforming Summary Justice (TSJ)/Better Case Management (BCM) meetings
- Local Criminal Justice Board and sub-group meeting minutes
- self-assessment meeting with CPS Area.

**E. Strategic partnerships**

Does the CPS influence change through trusted partnerships to improve casework quality across the criminal justice system?

**The Area influences change through trusted partnerships with the police at all levels to improve casework quality.**

- The Area has trusted and mature relationships with the police at all levels and influences change through negotiation, persuasion and compromise to improve casework quality, particularly in relation to compliance with:
  - the National File Standard (NFS)
  - the Director's Guidance on Charging
  - the Disclosure Manual, Criminal Procedure and Investigations Act and relevant Codes of Practice.

**The Area influences change through trusted partnerships within the criminal justice system at all levels to improve casework quality.**

- The Area has trusted and mature relationships with the criminal justice system at all levels, and influences change through negotiation, persuasion and compromise to improve casework quality.

**Evidence will be drawn from:**

- NFS data
- PTPM minutes (operational and strategic)
- regional disclosure working group minutes
- National Disclosure Improvement Plan reports
- Criminal Justice Board minutes
- PTPM performance reports
- Joint TSJ/BCM board meeting minutes
- TSJ/BCM performance reports
- minutes of meetings with Chief Constables, Police and Crime Commissioners, Resident Judges, presidors, HM Courts and Tribunals Service, and Chambers
- letters/emails demonstrating escalation at strategic level – to presider, Chief Constable or Police and Crime Commissioner, for example
- joint performance plans or strategy documents
- self-assessment meeting with CPS Area.

# **Annex B**

## **File examination findings**

The tables in this annex exclude 'not applicable' results.

## Magistrates' courts

No.	Question	Answers	Result
<b>Pre-charge decision</b>			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	92.0% 8.0%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	32.0% 48.0% 20.0%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	82.6% 13.0% 4.3%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	36.0% 20.0% 44.0%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	40.0% 48.0% 12.0%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	31.3% 12.5% 56.3%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	16.0% 72.0% 12.0%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	56.0% 32.0% 12.0%
<b>Police initial file submission post-charge</b>			
9	The police file submission complied with National File Standard for the type of case.	Fully met Not met	46.7% 53.3%
10	The police file submission was timely.	Fully met Not met	80.0% 20.0%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	41.2% 58.8%

No.	Question	Answers	Result
<b>Post-charge reviews and decisions</b>			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	86.7% 13.3%
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met	40.0% 23.3% 36.7%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	60.0% 36.0% 4.0%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	87.5%  12.5%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	50.0% 50.0%  
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Fully met Partially met Not met	63.6% 9.1% 27.3%
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met	64.3% 7.1% 28.6%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	66.7% 30.0% 3.3%
<b>Post-charge case progression</b>			
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	46.7% 36.7% 16.7%

No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	35.0% 10.0% 55.0%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	8.3% 25.0% 66.7%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	25.0% 37.5% 37.5%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	88.0% 8.0% 4.0%
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	50.0% 30.0% 20.0%
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	86.4% 4.5% 9.1%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	56.5% 21.7% 21.7%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	70.6% 29.4% 0.0%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	63.3% 36.7% 0.0%
<b>Disclosure of unused material</b>			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	36.7% 40.0% 23.3%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	30.8% 42.3% 26.9%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on a non-blank MG6D Did not endorse any decisions on the MG6C Did not identify reasonable lines of enquiry Failed to endorse or sign a blank MG6D Failed to identify that other obvious items of unused material were not scheduled Other Said DUM was not disclosable Said NDUM was disclosable Used the wrong endorsements	5.3% 5.3% 15.8% 5.3% 10.5% 10.5% 15.8% 5.3% 26.3%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	50.0% 15.4% 34.6%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	33.3% 33.3% 33.3%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	100%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	55.2% 41.4% 3.4%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	61.1% 16.7% 22.2%
<b>Victims and witnesses</b>			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	77.3% 13.6% 9.1%



No.	Question	Answers	Result
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	46.4% 21.4% 32.1%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	85.7% 14.3%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	28.6% 71.4%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	33.3% 66.7%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	37.5% 33.3% 29.2%

## Crown Court

No.	Question	Answers	Result
<b>Pre-charge decision</b>			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	88.2% 11.8%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	61.8% 20.6% 17.6%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	73.3% 26.7%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	29.4% 26.5% 44.1%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	29.4% 17.6% 52.9%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	28.6% 14.3% 57.1%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	29.4% 52.9% 17.6%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	48.5% 39.4% 12.1%
<b>Police initial file submission post-charge</b>			
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met	40.0% 60.0%
10	The police file submission was timely.	Fully met Not met	75.0% 25.0%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	16.7% 33.3% 50.0%
<b>Post-charge reviews and decisions</b>			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	85.0% 15.0%

No.	Question	Answers	Result
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met	32.5% 25.0% 42.5%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	97.5% 2.5% 0.0%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	73.3% 13.3% 13.3%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	44.4% 33.3% 22.2%
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Fully met Partially met Not met	65.0% 30.0% 5.0%
18	In CC cases (including RASSO cases before the CC), there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Fully met Partially met Not met	30.6% 25.0% 44.4%
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met	37.5% 8.3% 54.2%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	70.0% 22.5% 7.5%
<b>Post-charge case progression</b>			
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	50.0% 50.0% 0.0%

No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	69.6% 4.3% 26.1%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	69.2% 28.2% 2.6%
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence were served in a timely manner for the PTPH.	Fully met Partially met Not met	92.5% 5.0% 2.5%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	15.0% 20.0% 65.0%
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Fully met Partially met Not met	75.0% 10.0% 15.0%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	62.5% 7.5% 30.0%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	86.2% 3.4% 10.3%
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	Fully met Partially met Not met	76.2%  23.8%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	77.8% 11.1% 11.1%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	43.8% 43.8% 12.5%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	92.1% 7.9% 
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	77.8% 11.1% 11.1%

No.	Question	Answers	Result
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	81.1% 13.5% 5.4%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	86.1% 11.1% 2.8%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	82.1% 12.8% 5.1%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	50.0% 47.5% 2.5%
<b>Disclosure of unused material</b>			
39	In relevant cases a DMD was completed.	Fully met Partially met Not met	12.5%  87.5%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	  100%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	25.6% 33.3% 41.0%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	30.6% 44.4% 25.0%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on the MG6C Did not identify reasonable lines of enquiry Failed to identify that other obvious items of unused material were not scheduled Other Said DUM was not disclosable Said NDUM was disclosable Set out the wrong test for disclosure (e.g. courtesy disclosure) Used the wrong endorsements	4.0% 16.0% 28.0% 12.0% 16.0% 4.0% 4.0% 16.0%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	86.1% 11.1% 2.8%
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met Partially met Not met	41.9% 38.7% 19.4%

No.	Question	Answers	Result
46	If Q44 is PM or NM, the most significant failing was:	Did not endorse any decisions on newly revealed items Did not identify reasonable lines of enquiry Failed to identify that other obvious items of unused material were not scheduled Other Said DUM was not disclosable Said NDUM was disclosable Set out the wrong test for disclosure (e.g. courtesy disclosure)	11.1% 11.1% 38.9% 11.1% 11.1% 5.6% 11.1%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	77.4% 9.7% 12.9%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	50.0% 25.0% 25.0%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	100% 0% 0%
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met	50.0% 22.7% 27.3%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	0% 0% 100%
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Fully met Partially met Not met	50.0% 43.8% 6.3%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	47.4% 44.7% 7.9%

No.	Question	Answers	Result
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	26.7% 36.7% 36.7%
<b>Victims and witnesses</b>			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	60.7% 28.6% 10.7%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	40.0% 46.7% 13.3%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	69.2% 23.1% 7.7%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	46.2%  53.8%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	22.2% 44.4% 33.3%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	22.2% 25.9% 51.9%



## RASSO

No.	Question	Answers	Result
<b>Pre-charge decision</b>			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	88.9% 11.1%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	27.8% 44.4% 27.8%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	75.0% 12.5% 12.5%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	27.8% 55.6% 16.7%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	33.3% 38.9% 27.8%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	28.6% 21.4% 50.0%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	27.8% 38.9% 33.3%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	50.0% 33.3% 16.7%
<b>Police initial file submission post-charge</b>			
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met	60.0% 40.0%
10	The police file submission was timely.	Fully met Not met	60.0% 40.0%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	37.5% 25.0% 37.5%
<b>Post-charge reviews and decisions</b>			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	95.0% 5.0%

No.	Question	Answers	Result
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met	50.0% 40.0% 10.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	95.0% 5.0%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	66.7% 33.3%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	60.0% 40.0%
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Fully met Partially met Not met	52.9% 35.3% 11.8%
18	In CC cases (including RASSO cases before the CC), there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Fully met Partially met Not met	13.3% 53.3% 33.3%
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met	21.4% 21.4% 57.1%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	65.0% 30.0% 5.0%
<b>Post-charge case progression</b>			
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	55.0% 45.0%

No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	64.3% 7.1% 28.6%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	68.4% 10.5% 21.1%
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence was served in a timely manner for the PTPH.	Fully met Partially met Not met	73.7% 10.5% 15.8%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	25.0% 37.5% 37.5%
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Fully met Partially met Not met	63.2% 10.5% 26.3%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	63.2% 10.5% 26.3%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	100%
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	Fully met Partially met Not met	16.7% 83.3%
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met	83.3% 16.7%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	58.8% 29.4% 11.8%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	42.9% 42.9% 14.3%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	70.6% 23.5% 5.9%

No.	Question	Answers	Result
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	84.6% 15.4%
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	84.2% 15.8%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	80.0% 20.0%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	89.5% 10.5%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	30.0% 65.0% 5.0%
<b>Disclosure of unused material</b>			
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met	84.2% 5.3% 10.5%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	70.6% 17.6% 11.8%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	40.0% 45.0% 15.0%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	16.7% 61.1% 22.2%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on the MG6C Did not identify reasonable lines of enquiry Failed to identify that other obvious items of unused material were not scheduled Said NDUM was disclosable Set out the wrong test for disclosure (e.g. courtesy disclosure) Used the wrong endorsements	6.7% 6.7% 13.3% 40.0% 13.3% 20.0%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	88.9% 11.1%
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met Partially met Not met	56.3% 43.8%
46	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on newly revealed items Did not identify reasonable lines of enquiry Other Said NDUM was disclosable Set out the wrong test for disclosure (e.g. courtesy disclosure)	28.6% 14.3% 14.3% 14.3% 28.6%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	75.0% 12.5% 12.5%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	78.6% 7.1% 14.3%

No.	Question	Answers	Result
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	72.7% 9.1% 18.2%
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met	38.5% 23.1% 38.5%
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Fully met Partially met Not met	62.5% 37.5%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	33.3% 50.0% 16.7%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	16.7% 33.3% 50.0%

**Victims and witnesses**

55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	53.3% 46.7%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	52.6% 10.5% 36.8%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	81.8% 9.1% 9.1%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	66.7% 33.3%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	50.0% 50.0%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	16.7% 38.9% 44.4%

# **Annex C**

## **Glossary**

### **Achieving Best Evidence (ABE)**

Guidance from the Ministry of Justice on interviewing victims and witnesses and using special measures. When the police video-record the account of the victim or a witness rather than taking a written statement from them, the recording can be played at trial instead of the victim or witness giving evidence if permission is granted by the court; this is one of a range of special measures. These recordings are known as “Achieving Best Evidence recordings”, or “ABEs”, after the guidance.

### **Agent**

A lawyer from outside the CPS who is employed when required to prosecute cases at court on behalf of the CPS. They cannot make decisions about cases under the Code for Crown Prosecutors and must take instructions from the CPS.

### **Ancillary order**

Orders that the Judge or magistrates may impose on a defendant as well as imposing a sentence, such as a compensation order requiring a defendant to pay a sum of money to the victim.

### **Area Business Manager (ABM)**

The most senior non-legal manager at CPS Area level. They are responsible for the business aspects in an Area, such as managing the budget, and work with the Chief Crown Prosecutor to run the Area effectively and efficiently.

### **Area Champion**

A CPS lawyer with specialist knowledge or expertise in a legal area, such as disclosure. They act as a source of information and support for colleagues and deliver training.

### **Associate Prosecutor (AP)**

A non-lawyer employed by the CPS who conducts uncontested (guilty plea) cases at the magistrates’ courts on behalf of the prosecution. With additional training, APs can also conduct contested (not guilty) hearings.

### **Attorney General (AG)**

The main legal advisor to the Government. Also superintends the CPS.

### **Bad character**

Evidence of previous bad behaviour, including convictions for earlier criminal offences. Normally, bad character cannot be included as part of the evidence in a criminal trial. To be allowed, either the prosecution and defence must agree it



can be used, or an application must be made to the court, based on specific reasons set out by law.

**Barrister/Counsel**

A lawyer with the necessary qualifications to appear in the Crown Court and other criminal courts, who is paid by the CPS to prosecute cases at court, or by the representative of someone accused of a crime to defend them.

**Basis of plea**

Sets out the basis upon which a defendant pleads guilty to an offence.

**Better Case Management (BCM)**

The national process for case management in the Crown Court to improve the way cases are processed through the system, for the benefit of all concerned in the criminal justice system.

**Case management system (CMS)**

The IT system used by the CPS for case management.

**Casework Quality Standards (CQS)**

Issued by the Director of Public Prosecutions, these standards set out the benchmarks of quality that the CPS strives to deliver when prosecuting crime on behalf of the public. They include the CPS's responsibilities to victims, witnesses and communities, legal decision-making and the preparation and presentation of cases.

**Charging decision**

A decision by the CPS (or the police in certain circumstances) whether there is sufficient evidence, and whether it is in the public interest, to charge a suspect with a particular offence. The process is governed by the Director's Guidance on Charging.

**Chief Crown Prosecutor (CCP)**

Each of the 14 CPS Areas has a CCP who runs the Area with the Area Business Manager. The CCP is responsible for the legal aspects in the Area, such as the quality of legal decision-making, case progression, and working with stakeholders, communities, and the public to deliver quality casework.

**Cloud video platform (CVP)**

A video communication system that enables court hearings to be carried out remotely and securely.

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

A public document, issued by the Director of Public Prosecutions, that sets out the general principles CPS lawyers should follow when they make charging decisions. Cases should proceed to charge only if there is sufficient evidence against a defendant to provide a realistic prospect of conviction and it is in the public interest to prosecute.

**Common platform**

A digital case management system which allows all parties involved in criminal cases to access case information.

**Complex Casework Unit (CCU)**

Units responsible for some of the most serious and complicated casework the CPS prosecutes, such as large-scale international cases.

**Contested case**

Where a defendant pleads not guilty or declines to enter any plea at all, and the case proceeds to trial.

**Court order/direction**

An instruction from the court requiring the prosecution or defence to carry out an action (such as sending a particular document or some information to the other party or the court) in preparation for trial.

**CPS Direct (CPSD)**

A service operated by CPS lawyers which provides charging decisions. It deals with many priority cases and much of its work is out of hours, enabling the CPS to provide charging decisions 24 hours a day, 365 days a year.

**Cracked trial**

A case which ends on the day of trial either because of a guilty plea by the defendant or because the prosecution decides to stop the case.

**Criminal Procedure Rules (CPR)**

Rules which give criminal courts powers to manage criminal cases waiting to be heard effectively. The main aim of the CPR is to progress cases fairly and quickly.

**Crown advocate (CA)**

A lawyer employed by the CPS who is qualified to appear in the Crown Court.

### **Crown Court**

The court which deals with graver allegations of criminal offences, such as murder, rape, and serious assaults. Some allegations can be heard at either the Crown Court or the magistrates' courts (see Either-way offence).

### **Crown prosecutor (CP)**

A lawyer employed by the CPS whose role includes reviewing and preparing cases for court and prosecuting cases at the magistrates' courts. CPs can progress to become senior crown prosecutors.

### **Custody time limit (CTL)**

The length of time that a defendant can be kept in custody awaiting trial. It can be extended by the court in certain circumstances.

### **Custody time limit failure**

When the court refuses to extend a CTL on the grounds that the prosecution has not acted with the necessary due diligence and expedition, or when no valid application is made to extend the CTL before its expiry date.

### **Defendant**

Someone accused of and charged with a criminal offence.

### **Defence statement**

A written statement setting out the nature of the defendant's defence. Service of the defence statement is part of the process of preparing for trial, and is meant to help the prosecution understand the defence case better so they can decide if there is any more unused material than ought to be disclosed (see Disclosure).

### **Deputy Chief Crown Prosecutor (DCCP)**

Second-in-command in a CPS Area, after the Chief Crown Prosecutor, for legal aspects of managing the Area.

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

A computer system for storing and managing cases in the Crown Court, to which the defence, prosecution, court staff and the Judge all have access.

### **Direct defence engagement log (DDE)**

A written record of discussions with the defence about a case. The prosecution and defence are obliged by the Criminal Procedure Rules to engage and identify the issues for trial so that court time is not wasted hearing live evidence about matters that can be agreed.

### **Director's Guidance on Charging**

Guidance issued by the Director of Public Prosecutions in relation to charging decisions. It sets out guidance for the police and CPS about how to prepare a file so that it is ready for charging, who can make the charging decision, and what factors should influence the decision. It also sets out the requirements for a suspect whom the police will ask the court to keep in custody to be charged before all the evidence is available, which is called the threshold test. The latest edition (the sixth, also called "DG6") came into effect on 31 December 2020.

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

The head of the CPS, with responsibility for its staff and the prosecutions it undertakes every year. In certain cases, the personal consent of the DPP is required for prosecutions to proceed.

### **Disclosure/unused material**

The police have a duty to record, retain and review material collected during an investigation which is relevant but is not being used as prosecution evidence, and to reveal it to the prosecutor. The prosecutor has a duty to provide the defence with copies of, or access to, all material that is capable of undermining the prosecution case and/or assisting the defendant's case.

### **Disclosure management document (DMD)**

Used for rape and other Crown Court cases, the DMD sets out the approach of the police and CPS to the disclosure of unused material in a case. It may, for example, explain the parameters used by the police to search data held on a mobile phone or other digital device (such as the dates used, or key words) or what actions the police are and are not taking in relation to possible avenues of investigation. The DMD is shared with the defence and court so that everyone is aware of the approach being taken. This enables the defence to make representations if they do not agree with that approach (for example, if they think different search terms should be used). It also helps ensure that disclosure is undertaken efficiently and fairly.

### **Disclosure record sheet (DRS)**

Sets out the chronology of all disclosure actions and decisions, and the reasons for those decisions. It is an internal CPS document that is not shared with the defence or court.

### **Discontinuance**

Where the prosecution stops the case because there is insufficient evidence to carry on, or it is not in the public interest to do so.

### **District Crown Prosecutor (DCP)**

A lawyer who leads and manages the day to day activities of prosecutors and advocates.

### **Domestic abuse**

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members, regardless of gender or sexuality.

### **Effective trial**

Where a case proceeds to a full trial on the date that it is meant to.

### **Either-way offence**

An offence that can be prosecuted in the magistrates' courts or the Crown Court. The prosecution makes representations to the court on where the case should be heard. The magistrates or a District Judge (who sits alone in the magistrates' courts) can decide if the allegation is serious enough that it must go to the Crown Court. If they decide it can be heard in the magistrates' courts, the defendant can choose to have the case sent to the Crown Court, where it will be heard by a jury. If the defendant agrees, the trial will be heard in the magistrates' courts.

### **Full Code test**

A method by which a prosecutor decides whether or not to bring a prosecution, based on the Code for Crown Prosecutors. A prosecution must only start or continue when the case has passed both stages of the full Code test: the evidential stage, followed by the public interest stage. The full Code test should be applied when all outstanding reasonable lines of inquiry have been pursued – or before the investigation being completed, if the prosecutor is satisfied that any further evidence or material is unlikely to affect the application of the full Code test, whether in favour of or against a prosecution.

### **Graduated fee scheme (GFS)**

The scheme by which lawyers are paid for Crown Court cases. For counsel appearing on behalf of defendants who qualify for assistance (or legal aid), the GFS is set and managed by the Legal Aid Agency. For counsel appearing for the prosecution, the rates are determined by the CPS GFS, and the CPS pays counsel.

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

Where the defendant is expected to admit the offence at court, based on an assessment of the available evidence and any admissions made during interview.

### **Hate crime**

Any offence where the defendant has been motivated by or demonstrated hostility towards the victim based on what the defendant thinks is their race, disability, gender identity or sexual orientation. Targeting older people is not (at the time of writing) recognised in law as a hate crime, but the CPS monitors crimes against older people in a similar way.

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

A CPS electronic record of what has happened in the case during the course of a court hearing, and any actions that need to be carried out afterwards.

### **Her Majesty's Courts and Tribunals Service (HMCTS)**

An organisation responsible for the administration of criminal, civil and family courts and tribunals in England and Wales.

### **Honour based violence (HBV)**

A collection of practices which are used to control behaviour within families or other social groups to protect perceived cultural and religious beliefs and/or honour. It can take the form of domestic abuse and/or sexual violence.

### **Inclusion and community engagement strategy**

Sets out the CPS's commitment to promoting fairness, equality, diversity and inclusion across the criminal justice system by engaging with community groups and those at risk of exclusion.

### **Indictable-only offence**

An offence triable only in the Crown Court.

### **Indictment**

The document that contains the charge or charges faced by the defendant at trial in the Crown Court.

### **Individual Learning Account (ILA)**

An allowance of £350 per person, per year, which CPS employees can access for professional development.

### **Individual quality assessment (IQA)**

An assessment of a piece of work done by a CPS member of staff – usually a prosecutor, but some Areas also carry out IQAs for some operational delivery staff. The assessment is carried out by a manager, and feedback on the assessment given to the member of staff. Areas also use IQAs to identify areas for improvement and training needs across a team or the whole Area.

### **Ineffective trial**

A case that does not proceed to trial on the date that it is meant to. This can be owing to a variety of possible reasons, including non-attendance of witnesses, non-compliance with a court order by the prosecution or defence, or lack of court time.

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

The material to be provided before the first hearing at the magistrates' courts to enable the defendant and the court to take an informed view on plea, where the case should be heard, case management and sentencing. The IDPC must include a summary of the circumstances of the offence and the defendant's charge sheet. Where the defendant is expected to plead not guilty, key statements and exhibits (such as CCTV evidence) must be included.

### **Intermediary**

A professional who facilitates communication between, on the one hand, a victim or witness, and on the other hand, the police, prosecution, defence, and/or court. Their role is to make sure the witness understands what they are being asked, can give an answer, and can have that answer understood. To do this, they will assess what is needed, provide a detailed report on how to achieve that, and aid the witness in court. An intermediary may be available at trial, subject to the court agreeing it is appropriate, for defence or prosecution witnesses who are eligible for special measures on the grounds of age or incapacity, or for vulnerable defendants.

### **Local Criminal Justice Boards (LCJBs)**

Groups made up of representatives of the CPS, police, HMCTS and others, whose purpose is to work in partnership to improve the efficiency and effectiveness of the criminal justice system and to improve the experience of the victims and witnesses. LCJBs were originally set up in all 43 police force areas by central government and received central funding. They now operate as voluntary partnerships in most counties in England.

### **Local Scrutiny Involvement Panels (LSIPs)**

Groups made up of representatives of the local community and voluntary sector, especially those representing minority, marginalised or at-risk groups. They meet regularly with their local CPS Area to discuss issues of local concern and provide feedback on the service the Area provides, with a view to improving the delivery of justice at a local level and to better supporting victims and witnesses.

### **Manual of Guidance Form 3 (MG3)**

One of a number of template forms contained in a manual of guidance for the police and CPS on putting together prosecution files. The MG3 is where the

police summarise the evidence and other information when asking the CPS to decide whether a suspect should be charged with a criminal offence, and the CPS then records its decision.

**National File Standard (NFS)**

A national system that sets out how the police should prepare criminal case files. It allows investigators to build only as much of the file as is needed at any given stage – whether that is for advice from the CPS, the first appearance at court or the trial. The latest version was published in December 2020.

**Newton hearing**

A hearing in criminal proceedings required when a defendant pleads guilty to an offence but there is disagreement with the prosecution as to the facts of the offence.

**Not guilty anticipated plea (NGAP)**

Where the defendant is expected to plead not guilty at court, based on an assessment of the available evidence and any defence(s) put forward during interview.

**Offer no evidence (ONE)**

Where the prosecution stops the case, after the defendant has pleaded not guilty, by offering no evidence. A finding of not guilty is then recorded by the court.

**Paralegal officer**

A CPS employee who provides support and casework assistance to CPS lawyers and attends court to take notes of hearings and assist advocates.

**Personal Development Review (PDR)**

A twice yearly review of a CPS employee's performance against a set of objectives specific to their role.

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

The first hearing at the Crown Court after the case has been sent from the magistrates' courts. The defendant is expected to enter a plea to the offence(s) with which they have been charged. If the defendant pleads guilty, the court may be able to sentence them immediately, but if not, or if the defendant has pleaded not guilty, the court will set the next hearing date and, for trials, will also set out a timetable for management of the case.



### **Postal requisition**

A legal document notifying a person that they are to be prosecuted for a criminal offence, and are required to attend the magistrates' courts to answer the allegation.

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

Allegations of rape and other serious sexual offences perpetrated against men, women or children. In the CPS, the prosecution of RASSO cases is undertaken separately from other cases, in RASSO units or teams.

### **Restraining order**

A type of court order made as part of the sentencing procedure to protect the person(s) named in it from harassment or conduct that will put them in fear of violence. They are often made in cases involving domestic abuse, harassment, stalking or sexual assault. The order is intended to be preventative and protective, and usually includes restrictions on contact by the defendant towards the victim; it may also include an exclusion zone around the victim's home or workplace. A restraining order can also be made after a defendant has been acquitted if the court thinks it is necessary to protect the person from harassment.

### **Review**

The process whereby a CPS prosecutor determines that a case received from the police satisfies, or continues to satisfy, the legal test for prosecution in the Code for Crown Prosecutors. This is one of the most important functions of the CPS.

### **Section 28 Youth Justice and Criminal Evidence Act 1999**

Legislation that provides the option to pre-record the cross-examination evidence in advance of a trial for vulnerable victims and witnesses.

### **Senior Crown Prosecutor (SCP)**

A lawyer employed by the CPS with the necessary skills and experience to progress to a more senior legal role, which includes the functions of a crown prosecutor but also includes advising the police on charge. It is not a role that includes managing staff.

### **Sensitive material**

Any unused material (see Disclosure/unused material) which it would not be in the public interest to disclose during the criminal proceedings. If it meets the test for disclosure, the prosecution must either stop the case or apply to the court for an order allowing them to withhold the sensitive material.

### **Speaking to witnesses at court (STWAC)**

An initiative stating that prosecutors should speak to witnesses at or before court to make sure they are properly assisted and know what to expect before they give their evidence.

### **Special measures**

The Youth Justice and Criminal Evidence Act 1999 provides for a range of special measures to enable vulnerable or intimidated witnesses in a criminal trial to give their most accurate and complete account of what happened. Measures include giving evidence via a live TV link to the court, giving evidence from behind screens in the courtroom and using intermediaries. A special measures application is made to the court within set time limits and can be made by the prosecution or defence.

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

Instructions setting out how to complete a particular task or action and cover legal and business aspects of the running of the CPS. The CPS has a range of SOPs which are standard across the organisation and seek to apply consistency to business practices and key steps needed in all prosecutions. Examples include: how to register a new charging request from the police on the case management system; how to record charging advice; how to prepare for the first hearing; and how to deal with incoming communications.

### **Summary offence**

An offence that is normally dealt with in the magistrates' courts. In certain circumstances, and when there is a connected case that will be heard by the Crown Court, the Crown Court may deal with a summary offence as well.

### **Third party material**

Material held by someone other than the investigator and/or prosecutor, such as medical or school records, or documents held by social services departments.

### **Threshold test**

See Director's Guidance on Charging.

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

An initiative led by HMCTS and involving the CPS and the police, designed to deliver justice in summary cases in the most efficient way by reducing the number of court hearings and the volume of case papers. The process involves designating bail cases coming into the magistrates' courts for their first hearing as guilty-anticipated plea (GAP) cases or not guilty-anticipated plea (NGAP) cases. GAP and NGAP cases are listed in separate courtrooms, so that each can be dealt with more efficiently.

### **Uncontested case**

Where a defendant pleads guilty and the case proceeds to sentence.

### **Unsuccessful outcome**

A prosecution which does not result in a conviction is recorded in CPS data as an unsuccessful outcome. If the outcome is unsuccessful because the prosecution has been dropped (discontinued, withdrawn or no evidence offered) or the court has ordered that it cannot proceed, it is also known as an adverse outcome. Acquittals are not adverse outcomes.

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

A CPS scheme to inform victims of crime of a decision to stop, or alter substantially, any of the charges in a case. Vulnerable or intimidated victims must be notified within one working day and all other victims within five working days. In certain cases, victims will be offered a meeting to explain the decision and/or the right to ask for the decision to be reviewed.

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

The team of CPS staff in an Area responsible for communicating with victims under the Victim Communication and Liaison scheme and the Victims' Right to Review, and for responding to complaints and overseeing the service to bereaved families.

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

When a victim explains to the court how a crime has affected them. If a defendant is found guilty, the court will take the VPS into account, along with all the other evidence, when deciding on an appropriate sentence.

### **Victims' Code**

Sets out a victim's rights and the minimum standards of service that organisations must provide to victims of crime. Its aim is to improve victims' experience of the criminal justice system by providing them with the support and information they need. It was published in October 2013 and last updated on 21 April 2021.

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

This scheme provides victims of crime with a specifically designed process to exercise their right to review certain CPS decisions not to start a prosecution, or to stop a prosecution. If a new decision is required, it may be appropriate to institute or reinstitute criminal proceedings. The right to request a review of a decision not to prosecute under the VRR scheme applies to decisions that have the effect of being final made by any crown prosecutor, regardless of their grade or position in the organisation. It is important to note that the "right" referred to in

the context of the VRR scheme is the right to request a review of a final decision. It is not a guarantee that proceedings will be instituted or reinstituted.

### **Violence against women and girls (VAWG)**

A category of offending that covers a wide range of criminal conduct, including domestic abuse, controlling and coercive behaviour, sexual offences, harassment, forced marriage, so-called honour-based violence, and slavery and trafficking. VAWG includes boys and men as victims but reflects the gendered nature of the majority of VAWG offending.

### **Violence against women and girls strategy (VAWGS)**

A government strategy that aims to increase support for victims and survivors of VAWG, increase the number of perpetrators brought to justice, and reduce the prevalence of violence against women and girls in the long term.

### **Vulnerable and/or intimidated witnesses**

Those witnesses who require particular help to give evidence in court, such as children, victims of sexual offences and the most serious crimes, persistently targeted victims, and those with communication difficulties.

### **Witness care unit (WCU)**

A unit responsible for managing the care of victims and prosecution witnesses from when a case is charged to the conclusion of the case. It is staffed by witness care officers and other support workers whose role is to keep witnesses informed about the progress of their case. Almost all WCUs are staffed and managed by the police.

### **Witness summons**

A legal document compelling a reluctant or unwilling witness to attend court.

# **Annex D**

## **File examination question set**

No.	Question	Possible answers
<b>Pre-charge decision</b>		
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met Not applicable (NA)
2	The CPS decision to charge was timely.	Fully met Partially met Not met NA
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met NA
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met NA
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met NA
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met NA
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met NA
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met NA
<b>Police initial file submission post-charge</b>		
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met
10	The police file submission was timely.	Fully met Not met
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met NA

No.	Question	Possible answers
<b>Post-charge reviews and decisions</b>		
12	All review decisions post-charge applied the Code correctly.	Fully met Not met
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met NA
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met NA
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met NA
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Fully met Partially met Not met NA
18	In CC cases (including RASSO cases before the CC), there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Fully met Partially met Not met NA
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met NA
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met

No.	Question	Possible answers
<b>Post-charge case progression</b>		
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met NA
22	Any hard media was shared via Egress with all parties prior to the NGAP hearing or PTPH.	Fully met Partially met Not met NA
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met NA
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence was served in a timely manner for the PTPH.	Fully met Partially met Not met NA
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met NA
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Fully met Partially met Not met NA
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met NA
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to CCDCS.	Fully met Partially met Not met NA
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	Fully met Partially met Not met NA



No.	Question	Possible answers
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met NA
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met NA
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met NA
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met NA
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met NA
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met NA
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions undertaken in response.	Fully met Partially met Not met NA
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met NA
38	There was a clear audit trail on CMS of key events, decisions, and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met
<b>Disclosure of unused material</b>		
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met NA

No.	Question	Possible answers
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met NA
41	The police complied with their disclosure obligations.	Fully met Partially met Not met NA
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met NA
43	If Q42 is PM or NM, the most significant failing was:	
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met NA
45	The prosecutor complied with the duty of continuing disclosure, (but not including timeliness of disclosure).	Fully met Partially met Not met NA
46	If Q45 is PM or NM, the most significant failing was:	
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met NA
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met NA
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met NA
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met NA

No.	Question	Possible answers
51	Inadequate defence statements were challenged.	Fully met Partially met Not met NA
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Fully met Partially met Not met NA
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met NA
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met NA
<b>Victims and witnesses</b>		
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met NA
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met NA
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met NA
58	There was a timely VCL letter when required.	Fully met Partially met Not met NA
59	The VCL letter was of a high standard.	Fully met Partially met Not met NA
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met NA

# **Annex E**

## **File sample composition**

## Breakdown of the standard file sample

The number of files to examine from each Crown Prosecution Service (CPS) Area was determined, in consultation with the CPS, as 90: 30 magistrates' court cases, 40 Crown Court cases and 20 rape and serious sexual offences (RASSO) cases.

The files were randomly selected within certain parameters (set out below) from cases finalised in the quarter before the on-site phase for that Area, and from live cases. This allowed the Covid-19 context from the on-site Area visits to be aligned with the current casework.

Finalised cases included those concluded at either the not-guilty anticipated plea (NGAP) hearing in the magistrates' courts or the Plea and Trial Preparation Hearing (PTPH) in the Crown Court in order to be able to properly assess decision-making and case progression. The sample also included cracked trials, and a mix of successful and unsuccessful cases.

All magistrates' court files were drawn from NGAP cases to capture the review and preparation required before the NGAP hearing. The magistrates' court sample included three youth cases; the remainder were adult cases. Minor motoring cases were excluded from the magistrates' court file sample.

All Crown Court files were chosen from those set down for trial or that had had a PTPH, to capture the post-sending review and pre-PTPH preparation (save for discontinuances, where the decision to discontinue may have been made before the PTPH). Homicide cases were excluded for two reasons: first, because they are frequently investigated by specialist police teams so are not representative of an Area's volume work; second, because they are harder for HMCPSI to assess, as some of the information in the case is often stored off the case management system and not accessible to inspectors. Fatal road traffic collision cases were not excluded.

RASSO files included offences involving child victims, but all domestic abuse RASSO cases had adult victims. No more than two cases were possession of indecent images, and no more than two cases were ones involving a non-police decoy or child sex abuse vigilante in child-grooming or meeting cases.

**Table 19: File sample structure**

<b>Outcome</b>	<b>Magistrates' courts</b>	<b>Crown Court</b>	<b>RASSO</b>	<b>Total</b>
Late guilty plea	6 (20%)	10 (25%)	5 (25%)	21
Guilty plea at NGAP hearing	3 (10%)	4 (10%)	2 (10%)	9
Conviction after trial	7 (23%)	8 (20%)	4 (20%)	19
Discontinued/Judge ordered acquittal	6 (20%)	7 (17%)	3 (15%)	16
No case to answer/Judge directed acquittal	1 (3%)	2 (5%)	1 (5%)	4
Acquittal after trial	4 (13%)	5 (12%)	3 (15%)	12
Live cases	3 (10%)	4 (10%)	2 (10%)	9
<b>Total</b>	<b>30</b>	<b>40</b>	<b>20</b>	<b>90</b>
<i>Police charged</i>	2 (max)	0	0	
<i>CPS Direct charged</i>	4 (max)	6 (max)	2 (max)	
<i>Youth cases</i>	3			

The categories in italics in Table 19 were not additional files but contributed to the total volume of cases. Where there were no Judge directed acquittal or no case to answer outcomes finalised during the quarter preceding the file examination, acquittals after trial were substituted in order to maintain the balance between successful and unsuccessful cases.

Occasionally, it may have been necessary to exceed the maximum numbers of CPS Direct charged cases to avoid selecting older cases, but this was at the discretion of the lead inspector.

## Sensitive/non-sensitive split

Of the standard magistrates' court and Crown Court file samples, 20% were sensitive cases and half of these were domestic abuse allegations.

Table 20 sets out the mandatory minimum number of sensitive case types included in our magistrates' court and Crown Court samples. As far as possible, they were evenly split between successful and unsuccessful outcomes.

Occasionally, it may have been necessary to exceed the minimum numbers in certain categories of sensitive casework to avoid selecting older cases, but this was at the discretion of the lead inspector.

**Table 20: Minimum sensitive case types in sample**

Case type	Magistrates' courts (30)	Crown Court (40)	RASSO (20)	Total (90)
Domestic abuse	3	4	2	9
Racially or religiously aggravated (RARA)	1	1	0	2
Homophobic/elder/disability	1	1	0	2
Sexual offence (non-RASSO)	1	2	0	3
<b>Total</b>	<b>6 (20%)</b>	<b>8 (20%)</b>	<b>2 (10%)</b>	<b>16 (17%)</b>

If there was no RARA case available, another hate crime category file was substituted.

# **Annex F**

## **Scoring methodology**



The scores in this inspection are derived solely from our examination of the casework quality of 90 Area files: 30 magistrates' court cases, 40 Crown Court cases and 20 rape and serious sexual offences (RASSO) cases.

We based our evaluation of casework quality on two key measures: added value and grip. We define added value as the Crown Prosecution Service (CPS) making good, proactive prosecution decisions by applying its legal expertise to each case, and grip as the CPS proactively progressing its cases efficiently and effectively.

We used our file examination data to give scores for added value and grip, which are set out as percentages. They were obtained by taking the questions that feed into each aspect<sup>30</sup> and allocating:

- two points for each case that was assessed as fully meeting the expected standard
- one point for each case assessed as partially meeting the expected standard
- no points for cases assessed as not meeting the expected standard.

We then expressed the total points awarded as a percentage of the maximum possible points. Not applicable answers were excluded.

To help evaluate added value and grip, we also scored the five casework themes and sub-themes in each of the three casework types (magistrates' court cases, Crown Court cases, and RASSO cases):

- pre-charge decisions and reviews
  - compliance with the Code at pre-charge
  - selection of charge(s)
  - case analysis and strategy
- post-charge decisions and reviews
  - compliance with the Code post-charge
  - case analysis and strategy
- preparation for the Plea and Trial Preparation Hearing in the Crown Court

---

<sup>30</sup> See annex G for which questions contributed to each of the casework themes.

- disclosure
- victims and witnesses.

The scores for these themes were obtained by taking the answers for the questions that feed into the theme. We allocated:

- two points for each case that was assessed as fully meeting the expected standard
- one point for each case assessed as partially meeting the standard
- no points for cases assessed as not meeting the standard.

We then expressed the total points awarded as a percentage of the maximum possible points. Not applicable answers were excluded.

For the casework themes and sub-themes, we have reported the percentages, but have also used a range of percentages (see Table 21) to convert the percentage into a finding of fully, partially, or not meeting the expected standard for the theme or sub-theme overall.

**Table 21: Conversion of percentages into ratings**

Rating	Range
Fully meeting the standard	70% or more
Partially meeting the standard	60% to 69.99%
Not meeting the standard	59.99% or less

## A worked example

### Relevant questions

For the victims and witnesses aspect of casework in the magistrates' courts, we took the answers from the following nine questions:

- Q17: Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application is required).
- Q33: Steps were taken to secure best evidence by correct and timely warning of witnesses.
- Q34: Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.
- Q55: The prosecutor consulted victims and witnesses where appropriate (includes STWAC).
- Q56: The victim's wishes regarding VPS were complied with.
- Q57: The prosecution sought appropriate orders to protect the victim, witnesses and the public.
- Q58: There was a timely VCL letter when required.
- Q59: The VCL letter was of a high standard.
- Q60: The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses.

### File examination results

This data is fictitious and used only to demonstrate the scoring mechanism. For the 30 magistrates' court files, we scored the relevant questions as set out in Table 22.

**Table 22: Worked example scores**

Question	Answer	All cases
Q17: Steps were taken to achieve best evidence by making appropriate applications for special measures.	Fully meeting	13
	Partially meeting	7
	Not meeting	5
	Not applicable	5
Q33: Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully meeting	23
	Partially meeting	5
	Not meeting	1
	Not applicable	1
Q34: Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully meeting	8
	Partially meeting	10
	Not meeting	9
	Not applicable	3
Q55: The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully meeting	3
	Partially meeting	4
	Not meeting	3
	Not applicable	20
Q56: The victim's wishes regarding VPS were complied with.	Fully meeting	17
	Partially meeting	3
	Not meeting	4
	Not applicable	6
Q57: The prosecution sought appropriate orders to protect the victim, witnesses, and the public.	Fully meeting	16
	Partially meeting	5
	Not meeting	4
	Not applicable	5
Q58: There was a timely VCL letter when required.	Fully meeting	5
	Partially meeting	4
	Not meeting	4
	Not applicable	17
Q59: The VCL letter was of a high standard.	Fully meeting	3
	Partially meeting	3
	Not meeting	3
	Not applicable	21
Q60: The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses.	Fully meeting	11
	Partially meeting	7
	Not meeting	5
	Not applicable	7
<b>Total for all above questions</b>	Fully meeting	99
	Partially meeting	48
	Not meeting	38
	Not applicable	85

Excluding the not applicable answers leaves 185 answers. The maximum score possible would therefore be 370 points (185 answers  $\times$  2 points per answer) if all answers were “fully meeting the standard”.

The score for this fictitious Area is calculated as follows:

- Two points for each case assessed as fully meeting the expected standard = 198 points
- One point for each case assessed as partially meeting the standard = 48 points
- Total (198 + 48) = 246 points
- Expressed as a percentage of 370 available points, this gives the score as 66.5%. When the ranges are applied, 66.5% (60% to 69.99%) gives an overall rating of partially meeting the required standard for this casework theme.

# **Annex G**

## **Casework themes**

**Table 23: Casework themes**

<b>No.</b>	<b>Question</b>	<b>Casework theme</b>	<b>Included in added value or grip?</b>
1	The CPS decision to charge was compliant with the Code test.	Pre-charge: Code compliance	Added value
2	The CPS decision to charge was timely.	Not applicable (NA)	Grip
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Pre-charge: Selection of appropriate charges	Added value
4	The CPS MG3 included proper case analysis and case strategy.	Pre-charge	Added value
5	The CPS MG3 dealt appropriately with unused material.	Pre-charge	Added value
6	The CPS MG3 referred to relevant applications and ancillary matters.	Pre-charge	Added value
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Pre-charge	NA
8	The action plan was proportionate and met a satisfactory standard.	Pre-charge	Added value
9	The police file submission complied with the National File Standard for the type of case.	NA	NA
10	The police file submission was timely.	NA	NA
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	NA	NA
12	All review decisions post-charge applied the Code correctly.	Post-charge: Code compliance	Added value
13	The case received a proportionate initial or post- sending review including a proper case analysis and case strategy.	Post-charge: Case strategy	Added value

No.	Question	Casework theme	Included in added value or grip?
14	The initial or post-sending review was carried out in a timely manner.	NA	Grip
15	Any decision to discontinue was made and put into effect in a timely manner.	NA	Grip
16	Any pleas accepted were appropriate, with a clear basis of plea.	Post-charge: Case strategy	Added value
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Victims and witnesses	Added value
18	In CC cases (including RASSO cases before the CC), there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Post-charge: Case strategy (CC and RASSO only)	Added value
19	In all cases (MC, CC and RASSO), any reviews addressing significant developments that represented a major change in case strategy (and additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Post-charge: Case strategy	Added value
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Post-charge: Case strategy	Added value
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include as a minimum any acceptable pleas or no acceptable pleas, and completed the PET/PTPH forms.	Preparation for PTPH	Grip
22	Any hard media was shared via Egress with all parties prior to the NGAP hearing or PTPH.	NA	Grip



No.	Question	Casework theme	Included in added value or grip?
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Preparation for PTPH	Added value
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence was served in a timely manner for the PTPH.	Preparation for PTPH	Grip
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	NA <sup>31</sup>	No
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Preparation for PTPH	No
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Preparation for PTPH	No
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Preparation for PTPH	No
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	NA	Grip
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	NA	Grip
31	There was timely compliance with court directions or Judges' Orders.	NA	Grip
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Post-charge: Case strategy	Added value
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Victims and witnesses	No

<sup>31</sup> We are not able to differentiate between crown advocates and Counsel in many casefiles.

No.	Question	Casework theme	Included in added value or grip?
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Victims and witnesses	Grip
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	NA	Grip
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions undertaken in response.	NA	Grip
37	Requests to the police for additional material or editing of material were timely, and were escalated where appropriate.	NA	Grip
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	NA	Grip
39	In relevant cases, a DMD was completed.	Disclosure	No
40	The DMD was completed accurately and fully in accordance with the guidance.	Disclosure	Added value (RASSO only)
41	The police complied with their disclosure obligations.	NA	NA
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Disclosure	Added value
43	If Q42 is PM or NM, the most significant failing was:	NA	No
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Disclosure	No
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Disclosure	Added value
46	If Q44 is PM or NM, the most significant failing was:	NA	No

No.	Question	Casework theme	Included in added value or grip?
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Disclosure	No
48	Sensitive unused material was dealt with appropriately.	Disclosure	Added value
49	Third-party material was dealt with appropriately.	Disclosure	Added value
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Disclosure	No
51	Inadequate defence statements were challenged.	Disclosure	Added value
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Disclosure	Added value
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Disclosure	No
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Disclosure	No
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Victims and witnesses	No
56	The victim's wishes regarding VPS were complied with.	Victims and witnesses	No
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Victims and witnesses	Added value
58	There was a timely VCL letter when required.	Victims and witnesses	No
59	The VCL letter was of a high standard.	Victims and witnesses	Added value
60	The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses.	Pre-charge Victims and witnesses	Added value

## **HM Crown Prosecution Service Inspectorate**

### **London Office**

7th Floor, Tower  
102 Petty France  
London SW1H 9GL  
Tel. 020 7210 1160

### **York Office**

Foss House, Kings Pool  
1–2 Peasholme Green  
York, North Yorkshire, YO1 7PX  
Tel. 01904 54 5490

© Crown copyright 2022

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence,

visit [nationalarchives.gov.uk/doc/open-government-licence/](https://nationalarchives.gov.uk/doc/open-government-licence/)  
or write to the Information Policy Team, The National Archives, Kew,  
London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk)

This document/publication is also available on our website at  
[justiceinspectors.gov.uk/hmcpsi](https://justiceinspectors.gov.uk/hmcpsi)