



HMCPSI

HM Crown Prosecution
Service Inspectorate

Area Inspection Programme

CPS Cymru Wales

Baseline assessment

October 2021

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Who we are

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

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

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

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1. Summary

1.1. HMCPsi last inspected all 14 Crown Prosecution Service (CPS) Areas between 2016 and 2019. Since then, we have carried out several thematic inspections across the CPS, including the CPS 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 wholly based on assessing casework quality. We will use this framework across all 14 Areas over the next two years. Our findings from the 90 cases we examine for each Area forms a baseline for assessing the Area in 24 months in a follow-up inspection.

1.3. The CPS aspires to deliver high-quality casework that, taking account of the impact of others in 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 theirs is not the only input. The involvement of criminal justice partners and the defence inevitably impacts on 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 equally there may be a conviction even if the case-handling was not of the standard the CPS would wish.

1.4. This report sets out our findings for CPS Cymru Wales.

1.5. This baseline assessment was carried out during the Covid-19 pandemic. It was clear that the Area has been under significant pressure with increasing caseloads at both pre- and post-charge stages, initially following the first lockdown in March 2020. Crown Court caseloads were levelling off at the time of writing but remained high due to reduced trial listing because of necessary social distancing.

1.6. The pressures of the pandemic coincided with a period of change in the Area's workforce that saw the loss of experienced staff and many new prosecutors appointed. This loss of experience at a time of such pressure has, unsurprisingly, had an impact on casework quality.

Added value and grip

1.7. We 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. We define ‘grip’ as the CPS proactively progressing its cases efficiently and effectively.

1.8. Our baseline assessment of the value added and grip of casework by CPS Cymru Wales is set out in Table 1.

Table 1: Baseline assessment of CPS Cymru Wales

Unit	Added value	Grip
Magistrates’ courts	64.9%	66.2%
Crown Court	65.5%	76.8%
Rape and Serious Sexual Offences	68.1%	75.9%

1.9. Overall, our file examination found that the Area demonstrated a sound application of the Code for Crown Prosecutors¹, an effective approach to the selection of the most appropriate charges, some good quality decision-making around disclosure of unused material, and good victim and witness care post-charge through to trial.

1.10. However, there were some aspects where improvement is called for. Most notably, the quality of reviews needs to be improved, as many failed to address the key aspects needed for cases to progress effectively and efficiently through the system. Whilst the handling of victim and witness issues post-charge was generally effective, there is need for improvement at the pre-charge stage.

1.11. As the figures in the table above highlight, we found that, overall, CPS Cymru Wales had effective systems and processes in place to ‘grip’ their casework and ensure that cases were managed and progressed at key stages within the justice process. Timeliness of case review and the requirements relating to initial disclosure were good across all casework types, although we found that timeliness in some cases was prioritised at the expense of quality. There needs to be a better focus on sharing hard media before the first hearing in all casework types. Examples of hard media are CCTV footage of incidents, body-worn video recorded by the police at the scene of an incident, or video recorded interviews with vulnerable or intimidated victims giving their account of an incident. If this material is shared before the first hearing, it will improve the effectiveness of case management. There is also room for the Area to improve

¹ Code for Crown Prosecutors, 8th edition; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

compliance with court orders and the timeliness of correspondence handling in magistrates' court cases. Making these improvements will give the Area a much better grip on these cases.

1.12. The Area has effective stakeholder relationships, and these have improved with closer working during the pandemic. Internally, senior leaders have a clear grasp of the challenges that need to be addressed to improve casework quality.

1.13. Over the past 18 months, the Area has focused significant activity at improving its handling of disclosure, and our file examination highlighted the successes in this regard. We are, therefore, confident that the Area has a culture that will allow it to focus, prioritise and act on our findings to make improvements, adding greater value in its casework.

Casework themes

1.14. 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 grip². The themes were: pre-charge decisions and reviews, post-charge reviews, preparation for the plea and trial preparation hearing (Crown Court and RASSO only), disclosure, and victims and witnesses.

Pre-charge decisions and reviews

1.15. Compliance with the Code for Crown Prosecutors requires lawyers who make charging decisions 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 whether a prosecution is in the public interest. Only if both stages are met should the lawyer advise charge. We describe as wholly unreasonable any decision that does not comply with the Code for Crown Prosecutors and where no reasonable prosecutor could have made the decision in the specific circumstances and at the time it was made.

1.16. In our file sample, we found that 96.2% of the Area's 79 charging decisions³ complied with the Code for Crown Prosecutors at the pre-charge stage. Within the different teams, the compliance rates were:

² See annex F for scoring methodology.

³ At the pre-charge stage, we assessed only the cases charged by Area prosecutors. We excluded those charged by the police and CPS Direct, the out-of-hours national service.

- Magistrates' court cases – 100%
- Crown Court cases – 91.7%
- Rape and serious sexual offences – 100%

1.17. Whilst it is essential to get the initial charging decision correct, clear analysis of the material and setting out a thoughtful case strategy are fundamental to the efficiency and effectiveness of the subsequent stages through the criminal justice system. A case strategy should encompass what the case is about or 'tell the story'. It should set out how potentially undermining material, such as anything that might affect the credibility of a victim or witness, can be addressed.

1.18. Our casework examination found that the Area was fully meeting the standard around selecting the most appropriate charges in all casework types. It was a particular strength in our sample of RASSO cases, where the selection of charges can be more complex where changes in legislation and the ages of victims at the time of the offence affect which legislation suspects should be charged under.

1.19. In more than half the cases examined, we found that good decisions on charge selection were not supported with clear and cogent analysis of the case or a clear case strategy. As stated earlier, Code compliance and charge selection are essential but setting out a clear analysis and strategy is fundamental to the effective and efficient progress of the case through the system.

1.20. Not setting out a clear case strategy or analysis of the strengths and weaknesses of the case fails to add value. It can often result in duplication and unnecessary use of resources because prosecutors return to cases multiple times to address issues as they are raised, rather than addressing them clearly from the outset. A failure to address key issues affects the quality of the prosecution from the outset – this includes addressing outstanding reasonable lines of enquiry, likely issues that may be raised by the defence, and victim and witness issues. In our sample, 33.3% of magistrates' court cases, 13.9% of Crown Court cases and 31.6% of RASSO files were found to be fully meeting the standard around case analysis and strategy. The remaining cases were found to be either partially meeting or not meeting the standard.

1.21. We were told by the Area that the combined pressures of the pandemic and need to move staff to handle casework backlogs had had an impact on the quality of the reviews. Our case examination highlighted that some decisions were being made by inexperienced prosecutors, which is not surprising given

the large recruitment exercise the Area has had to conduct. We were also aware that large numbers of new legal managers needed to settle into their roles and this will also have contributed to our findings.

1.22. The rape and serious sexual offences team has remained more stable throughout the pandemic. The quality of pre-charge work across all aspects (of which case analysis and strategy is one) was slightly better than the Crown Court team and magistrates' court team (46.3% for RASSO, 38.9% for Crown Court and 43.9% for magistrates' courts). However, the pressures of the pandemic were still clearly evident. We assessed all three casework types as not meeting the overall standard for pre-charge reviews.

1.23. The timeliness of pre-charge decisions was good across the Area. In some cases, however, quality suffered at the expense of timeliness. The Area acknowledged that, at the height of the pressures of the pandemic, there was an element of 'firefighting' or 'getting the work done'. As things settle, they have been able to refocus activity on quality and have started to roll out the CPS case review training.

Post-charge reviews

1.24. The quality of ongoing reviews and strategy is of critical importance to the effective and efficient progress of cases through the justice system. We found that 97.8% 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 – 100%
- Crown Court cases – 95%
- Rape and serious sexual offences – 100%

1.25. Our inspectors found similar themes in the post-charge reviews as in the pre-charge reviews. All magistrates' court and RASSO cases complied with the Code, and 95% of Crown Court cases (38 out of 40 cases) were Code compliant. Of the three cases that were not compliant pre-charge, one was identified and rectified at the post-charge stage, leaving two that were allowed to continue.

1.26. In magistrates' court cases we looked at the reviews before the first hearing and in Crown Court cases (including Crown Court RASSO cases) we looked at the reviews completed after the case was sent by the magistrates' courts to the Crown Court to be heard. We found that the post-charge reviews were generally of better quality than the pre-charge reviews, but many still

lacked good analysis and case strategy. A common theme identified by inspectors was that pre-charge reviews were copied into post-charge reviews without the prosecutor considering issues further, therefore adding no value. If the pre-charge review was good, and nothing had changed between the reviews, then this would have been acceptable. Where the initial quality was poor, however, this simply perpetuated the deficiencies.

1.27. Post-charge reviews should also be carried out at other stages during the case. In Crown Court cases (including RASSO cases), a review should be conducted when the prosecution is required to serve the full evidence upon which the prosecution is to be based. This is also the deadline for initial disclosure (the unused material that could undermine the prosecution case or assist the case of the accused). Also, by this point, additional material should have been submitted by the police to allow the prosecution to review it before it was served on the defence. We found an inconsistent approach to stage one reviews. Many were not being conducted at all in Crown Court and RASSO cases. This meant lost opportunities for the prosecutor to add value to these cases.

1.28. As cases progress, changes may affect whether or how the prosecution should be brought. If there is a fundamental change because of additional information, then a prosecutor should review the case to ensure it continues to comply with the Code and whether the charges remain appropriate. The review should also assess if the change raises additional lines of enquiry and, therefore, whether the case strategy should be altered. We found that effective reviews did not take place in many cases when circumstances changed. We saw this in all units, but it was more prevalent in Crown Court cases. This was possibly the result of less experienced prosecutors being moved into the team to deal with backlogs.

1.29. The prosecution should consider what application to make to the court about a defendant's bail or custody status, when to seek bail conditions and what conditions are appropriate. Whilst ultimately a matter for the court, these considerations are an extremely important part of keeping victims, witnesses and the public safe. We found that this is something the Area does well, particularly in Crown Court and RASSO cases.

1.30. Our findings highlighted the inexperience in the magistrates' court team around whether appropriate applications were used effectively to strengthen the prosecution case with 18.2% rated as fully meeting the standard. An example would be admitting the bad character of the defendant by way of similar previous convictions. By contrast, this was a strength in Crown Court and RASSO cases.

Preparation of cases for the plea and trial preparation hearing in the Crown Court⁴

1.31. The key tasks the prosecution should take before the plea and trial preparation hearing (PTPH) include preparing the indictment, uploading the prosecution case papers to the Crown Court digital case system, engaging with the defence and instructing the advocate properly. Completing the PTPH form is a fundamental part 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 needed to progress to trial. We found that the PTPH form was routinely completed and meeting the standard in all but four of the 56 Crown Court and RASSO cases examined and where it was required.

1.32. We found indictments⁵ were drafted well in most cases and the key papers were served on the defence and court ahead of the PTPH in virtually all cases (91%). This demonstrated grip of the casework at this stage.

1.33. We found a real disparity between the Crown Court and RASSO cases in the approach to engaging with the defence before the PTPH, which is a requirement. Engagement at this stage allows for discussion around acceptability of pleas and any case management issues, such as serving hard media, to be resolved. Compliance was reasonably consistent in the Crown Court (75.7% of cases fully meeting the standard). By contrast, 11.1% of RASSO cases were compliant. This may be a consequence of pressures from the pandemic, which resulted in many defence firms furloughing staff in specific teams. As CPS Cymru Wales emerges from these intense pressures and defence firms return to usual business, the Area may want to remind the RASSO team about the duty of direct engagement with the defence.

Disclosure of unused material

1.34. It is vital for justice 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 and rules, and a wealth of guidance for disclosure, including how to handle sensitive and third-party unused material. The police have duties to retain, record and reveal material to the CPS, who then 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

⁴ This theme only relates to Crown Court cases and RASSO cases listed before the Crown Court.

⁵ The indictment is the document that contains the formal charge or charges faced by the defendant at trial in the Crown Court.

against the accused or of assisting the case for the accused". If it is, it is disclosable. The defence is told about all non-sensitive unused material and are given copies of, or access to, material that meets the test for disclosure. This is initial disclosure.

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

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

1.37. We found that the Area handled disclosure well. This has been a focus of improvement for the Area and that work was reflected in our findings – more so in Crown Court and RASSO cases than in magistrates' court cases.

1.38. In our sample of magistrates' court cases, we assessed six cases as not meeting the standard (20.7% of the total magistrates' courts cases assessed). Whilst we found no cases where this led to a miscarriage of justice, the Area will want to address this aspect of magistrates' court casework.

1.39. Every Crown Court and RASSO case we examined was found to be fully or partially meeting the standard for initial disclosure. This added value in every case at this stage.

1.40. The duty of continuing disclosure in Crown Court and RASSO cases was also properly discharged in most cases, although there was a small number of cases that we assessed as not meeting the standard. None of these led to a miscarriage of justice.

1.41. The Area was particularly strong in handling third-party material, both in Crown Court and RASSO cases. Sensitive material was also handled well in RASSO cases, but there were some instances in Crown Court cases where sensitive material arising from intelligence-led investigations was not so well handled.

1.42. Defence statements were reviewed routinely by the prosecutors in RASSO cases with guidance to the police about further reasonable lines of enquiry. We found this was not as consistent in Crown Court cases – a third of cases were rated as not meeting the standard. Inspectors noted examples where the defence statement was sent to the police by the paralegal officer. Whilst this was expedient and may have been a response to increased

pressures and caseloads, it did not add the value that a prosecutor could have added at this stage.

Victims and witnesses

1.43. The CPS commitment to supporting victims and witnesses sets out that the “fundamental role of the Crown Prosecution Service (CPS) is to protect the public, support victims and witness 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”. This new framework provides prosecutors with easy access to all the key considerations that they should reflect in their dealings with victims and witnesses.

1.44. 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. We found that special measures applications were largely considered and successfully applied for in relevant cases across all casework types

1.45. We found the Area had real strength in considering victim and witness issues post-charge. The Area has clear and effective systems between the casework teams and the police witness care units, which lead to witness queries being dealt with quickly and effectively. There were examples, particularly in Crown Court cases, of proactivity and joint-working between the prosecution and the witness care unit to react swiftly to problems close to or at trial. They made alternative arrangements to ensure that cases could proceed.

1.46. The Area sought appropriate orders on sentencing to protect the victim, witnesses and the public in most cases across the casework types. All RASSO cases were rated as fully meeting the standard.

1.47. The Area appears to be proactive in consulting victims and witnesses where appropriate, but we found an inconsistent approach to keeping a record of speaking to witnesses at court. This makes it difficult for us to be entirely sure of the service being offered. The Area has already addressed this by issuing guidance on the expectations for advocates at court. This includes setting out what needs to be recorded to help managers understand what is happening in the court environment.

1.48. Whilst our findings show that there is much the Area is doing well, the Area needs to focus on improving the quality of letters sent to victims when a charge has been dropped or substantially altered. The Area would also benefit from improvements to how victim and witness issues are considered at pre-

charge – again a lack of clear case strategy and analysis affects the service delivered by the Area.

1.49. Work had already taken place in the Area to improve the quality of victim communication letters. A series of training sessions had been held before our inspection. The Area had evaluated that training, however, and found that quality remained an issue. They intended to repeat the training, but we suggested an alternative approach or different training session might be more effective than simply repeating training that did not seem to have delivered the expected improvements.

2. Context and background

Background to the inspection

2.1. HMCPsi last inspected Crown Prosecution Service Areas in the Area Assurance Programme (AAP) between 2016 and 2019. We identified good performance in aspects such as leadership and financial management. However, we also found that the core elements of legal decision-making and case management needed more attention to meet the quality aspirations of the CPS and the reasonable expectations of public.

2.2. Since 2019, our thematic inspections, notably the charging inspection⁶, serious youth crime⁷ and our disclosure follow-up⁸, have had similar findings – suggesting that more needs to be done to improve aspects of casework quality. We decided, therefore, to focus our Area CPS inspections on casework quality. Other aspects of Area 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 extra funding over a two-year period. To determine if the extra resources have had a real impact on casework quality, we are inspecting all 14 Areas to provide a baseline. We 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 how effectively extra resources have been used, 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 Cymru Wales, assessing current performance against the inspection framework, and deriving scores for the added value and grip displayed by the Area in their 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 are the ongoing pressures on the CPS because of the Covid-19 pandemic. We were mindful of adding to the burden faced by the CPS, but it is our statutory duty as a criminal justice inspectorate to report on the effectiveness and efficiency of the CPS. This inspection programme needs to reflect the

⁶ *Charging inspection 2020*; HMCPsi; September 2020.

www.justiceinspectorates.gov.uk/hmcp/inspections/charging-inspection-2020/

⁷ *Serious youth crime*; HMCPsi; March 2020.

www.justiceinspectorates.gov.uk/hmcp/inspections/serious-youth-crime/

⁸ *Disclosure of unused material in the Crown Court – a follow-up*; HMCPsi; December 2020.

www.justiceinspectorates.gov.uk/hmcp/inspections/disclosure-of-unused-material-in-the-crown-court-a-follow-up/

pressures on the CPS, but equally must consider how the CPS meets the required standard for high-quality legal decision-making and case management. This is what the public expects and deserves. Our findings and scores are, therefore, based on existing expectations and standards. Where the pressures of the pandemic have had a material impact, however, we set out relevant and clear context to enable better understanding of the Area's performance.

The current landscape and the Covid-19 pandemic

2.6. 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. Since the initial lockdown, there have been more national and local lockdowns across the UK.

2.7. In June 2020, we published a report⁹ on the response of the CPS to the first lockdown. 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 the number of cases in Areas as well as court backlogs.

2.8. 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 video application to facilitate remote hearings. There has been a drive to reduce the backlogs in the magistrates' courts. This was successful but has brought with it added pressures for the CPS to deal with an increased number of cases within a short period of time with the same resources.

2.9. In the Crown Court, at the early stage of the pandemic, most hearings were confined to administrative hearings using CVP. Trials were only listed in nine Crown Court centres. By September 2020, jury trials were being heard in 68 of the 81 Crown Court centres. Nightingale courts¹⁰ were also set up as one of the measures to address the growing backlogs of Crown Court cases. At the

⁹ *CPS response to COVID-19: 16 March to 8 May 2020*; HMCPSI; June 2020. www.justiceinspectors.gov.uk/hmcpsi/inspections/cps-reponse-to-covid-19-16-march-to-8-may-2020/

¹⁰ 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.

time of writing, 27 of these courts had been set up, and four existing court venues were being redeployed to hear Crown Court cases – giving an extra 63 court rooms across England and Wales. In CPS Cymru Wales, a single Nightingale court was opened on 17 August in Swansea Council Chambers, with one courtroom able to accommodate Crown Court work from Swansea Crown Court. At the time of writing, this Nightingale Court was still operating. The Nightingale court now takes cases from other parts of South Wales to help tackle the backlogs.

2.10. In March 2021, we published a report¹¹ looking at the CPS response to the continuing pandemic, 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, whilst another Area saw an increase of 30.3%. In September 2020, for the first time in the pandemic, more magistrates’ courts cases were finalised than were being received. By December 2020, however, the number of magistrates’ court cases in the CPS nationally was still 70% higher than pre-pandemic. In the Crown Court, caseloads were increasing pre-pandemic, and Covid-19 exacerbated that. Caseloads nationally rose from 37,700 in April 2019 to 45,300 by March 2020. At December 2020, the total was 64,500 cases.

Impact on the Area

2.11. CPS Cymru Wales was affected, as were most other Areas, with significant backlogs in both magistrates’ and Crown Court cases because of court closures during the first lockdown.

2.12. We heard from the Area that the volume of cases sent to the CPS for pre-charge decisions from the four Welsh police forces (Gwent, Dyfed-Powys, South Wales and North Wales) significantly increased. By comparison, Table 2 shows the Area’s recorded receipts for the first four full months of lockdown.

Table 2: Recorded receipts for the first four months of lockdown

	April 20	May 20	June 20	July 20
Area receipts	1,151	1,233	1,178	1,360

2.13. For comparison, Area charging receipts in April 2021 totalled 791 and in May 2021 totalled 810. The Area responded to this, as did most Areas, by

¹¹ *CPS response to COVID-19: dealing with backlogs*; HMCPsi; March 2021. www.justiceinspectorates.gov.uk/hmcp/inspections/cps-response-to-covid-19-dealing-with-backlogs/

redeploying their Crown Advocates to deliver pre-charge advice and review work, placing an emphasis on throughput.

2.14. As the pandemic situation progressed, the Area adapted to new ways of working to ensure it could continue to function. The Area worked closely with strategic partners to ensure the safety of its staff when attending courts and police stations and to plan recovery, especially addressing the backlogs.

2.15. In CPS Cymru Wales, the workload carried-over figure (which represents the work in the system) peaked in the magistrates' court in June 2020 with 6,500 cases carried over to July 2020. For context, the average for the preceding 12 months carry-over was 2,625 cases.

The Area worked closely with strategic partners to ensure the safety of its staff when attending courts and police stations

2.16. In our inspection, we heard that the magistrates' court caseload had returned to pre-pandemic levels. This is testament to the considerable work the Area did with strategic partners to deal with the backlog in a matter of months through the Wales National criminal justice board, the four local criminal justice boards in Wales and the criminal justice steering group. Area managers were proactive

in the Covid recovery group fortnightly meeting held with criminal justice partners in Wales. They also had daily conversations with Her Majesty's Courts and Tribunals Service to ensure effective listing. The workload carried-over figure in the Crown Court remained relatively steady until June 2020 when it started to climb, peaking in November 2020 at 2,700 cases and maintaining a level above 2,500 thereafter. For context, the average for the preceding 12 months carry-over was 1,750 cases.

2.17. Whilst magistrates' court cases have returned to pre-pandemic levels, Crown Court backlogs remain at higher than pre-pandemic levels. This is because social distancing measures, required to ensure the safety of court users, mean that fewer courtrooms can be used. Social distancing measures have also meant that it takes more time for participants and observers to move in and out of courtrooms. This has had an impact on the throughput of cases by reducing the number of hearings that can take place during the sitting day and at the same time.

2.18. Although the number of Crown Court cases awaiting trial remains an issue, the Area continues to work closely with strategic partners to reduce the backlogs, using the cloud video platform and measures to facilitate longer, multi-handed trials.

2.19. Whilst the approach to dealing with the backlogs is extremely positive, a court backlog is not simply something that can be worked through and cleared by increasing resources. Increasing the numbers of courts also brings extra pressures. Additional court sittings require prosecutors and paralegals to be available, and more work is needed ahead of the listing to ensure cases are ready to progress. This means more work for a finite number of staff. Some of our findings show that this pressure of increased caseloads may be having an impact on casework quality. Given the circumstances this is not entirely surprising.

Performance data

2.20. The CPS has a suite of performance measures, some designated as high-weighted, that each CPS Area is measured against. Whilst we have considered the performance data available, our assessment of the quality of CPS Cymru Wales' casework is based on our file examination. This focused on the effectiveness of CPS actions against their 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 we have awarded inspection scores.

2.21. Whilst outcomes, often reported as performance measures, are important, this inspection programme focused on how the CPS can increase the value they add and improve their grip on casework. We identified where there were issues to address to make improvements, and we also highlight good practice and strengths in the quality of service.

3. Framework and methodology

Inspection framework

3.1. The Area Inspection Programme (AIP) framework has been designed to focus on CPS delivery of quality casework, which is their core function and one of the five strands of the CPS 2025 strategy¹². We are examining 90 cases from each Area, and these will form the basis of our findings, judgements and scoring. The inspections will include an assessment of the other four strands of CPS 2025 – public confidence, people, digital capability and strategic partnerships – only in how they 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 examining 90 cases from CPS Cymru Wales. We looked at 30 magistrates' court cases, 40 Crown Court cases and 20 cases involving rape and serious sexual offences. We recognise that 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 typical themes or issues are when improvement is needed.

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/unsuccessful outcomes and sensitive/non-sensitive case types for each Area. We chose live cases for 10% of the file sample so that we could examine cases affected by pandemic pressures, particularly pressures in listing. The remaining 90% were cases finalised between October and December 2020. Within these 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.

¹² CPS 2025 is the CPS strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

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

Other inspection activity

3.7. We asked CPS Cymru Wales to send us a range of documents across all aspects of the framework, which we reviewed.

3.8. We also attended (virtually) the Area's Casework Quality Committee meeting (CQC) on 15 April 2021 to understand better how the Area views its casework quality and improvement work.

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 CQC. We sent this assessment document to the Area before a meeting to discuss its contents with senior managers. At the meeting, the Area managers were able to put findings in context, explain more about the pandemic and other pressures they were dealing with, and supply further evidence where necessary.

Quality assurance

3.10. This programme of inspections was 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 methodology¹³, we held consistency exercises for our inspectors on the questions and guidance. We invited staff from several Areas, including CPS Cymru Wales. Our file examination assessments were then internally quality-assured, 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 process for quality assurance of cases where we reach a provisional conclusion that a decision to charge, proceed to trial, accept pleas, or discontinue does not comply with the Code for Crown Prosecutors. The process involves two stages of internal review and at least one, and up to three, stages of consultation with the CPS. The number of external stages depends on whether the Area agrees with our provisional finding. When we cannot agree, the decision is ours.

3.13. The Area assessment document with our preliminary findings was reviewed by the Deputy Chief Inspector (Inspections). There was also a 'check

¹³ Inspection handbook; HMCPsi; January 2021.

www.justiceinspectorates.gov.uk/hmcp/psi/wp-content/uploads/sites/3/2021/02/HMCPsi-Inspection-handbook.docx

and challenge' session held between the DCI and the team before our meeting with the Area's senior managers.

Scoring

3.14. In the past, HMCPSI has awarded a single score to a CPS Area at the conclusion of an Area inspection: excellent, good, fair or poor. Whilst this provides an overall score that is easily accessible to those reading the report, it does not always reflect the variety of findings we find in each Area, and across the Areas.

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

3.16. We assessed how well CPS Cymru Wales met the standards against a set of 60 questions¹⁴ from pre-charge to case conclusion. Inspectors applied ratings of fully meeting the standard, partially meeting the standard or not meeting the standard to each question for each case, applying the CPS' 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 categorised into casework themes. These are examined in detail in the report to offer a fair and transparent assessment of the work of the Areas across the three types of casework assessed. Each theme attracted a score, recorded as a percentage, and calculated in the same way as for added value and grip. This was then translated into an assessment of how well the Area met the standard for that specific theme¹⁵.

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

¹⁴ See annex D for the full question set.

¹⁵ See annex F for the scoring methodology and annex G for which questions contributed to each of the casework themes.

4. Added value and grip

What are added value and grip?

4.1. The Crown Prosecution Service is one of several key organisations within the criminal justice system. Others include: the police, who take reports of and investigate alleged criminal offences; the magistrates' courts and Crown Court, who hear cases and deal with pleas, trials, and sentence; and the defence, who represent defendants.

4.2. The CPS, in many cases, provides advice to the police at the pre-charge stage based on the material gathered by the police during an investigation. The CPS decides whether to prosecute. If the decision is to prosecute, the CPS then reviews the case and prepares it for court – for a plea, trial other hearing or sentence.

4.3. All parties need to work together effectively under the Criminal Procedure Rules 2020, which set out the framework for how cases should progress in the criminal courts post-charge. The overriding objective of the CPR 2020 is that criminal cases be dealt with justly, efficiently and expeditiously.

4.4. The CPS sets its own standards for high-quality casework to ensure effective and efficient prosecution. It is these standards that we applied to assess the quality of casework within the Area.

4.5. We broke down casework quality into two key measures – did the Area add value with its casework decisions? Did the Area 'grip' 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 in the Crown Court, disclosure of unused material, and victims and witnesses.

Added value

4.6. We define 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. We drew on the relevant questions in our file examination that most showed added value (see annex G):

- The decision to charge, and with what offence.
- Decisions about admissibility and credibility of evidence.
- Choosing and drafting clearly and correctly the counts to be faced on indictment by defendants in Crown Court cases.
- Good quality reviews, including (at all stages) a cogent and clear analysis of the case. This includes whether the prosecutor had:
 - analysed the material
 - identified additional lines of enquiry, including those that might point away from a prosecution
 - asked the police to investigate further
 - considered any defence raised
 - identified ways to strengthen the case
 - addressed how any weaknesses might be overcome
 - had a clear strategy for trial in contested cases
- 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 evidence¹⁶.

¹⁶ A statement not made in oral evidence that is evidence of any matter stated s114(1) Criminal Justice Act 2003.

Grip

4.7. 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 demonstrated grip by ensuring that cases were effectively progressed at each stage, whether required processes were adhered to, and whether any timescales or deadlines were met.

4.8. We assessed grip by identifying the questions that had significant impact in terms of case management. These included (see annex G for questions in full):

- 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 extra police material, including requests for editing or additional material and escalation of 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

Added value and grip scoring

4.9. The scores for added value and grip are set out as percentages. They were reached by taking the questions and allocating two points in each case that was marked as fully meeting the expected standard. We allocated one point where an answer was marked as partially meeting the standard, and no points for answers marked 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.

4.10. Applying this mechanism, we have scored CPS Cymru Wales as follows:

Table 3: Added value and grip scoring

CPS Cymru Wales	Added value	Grip
Magistrates' court casework	64.9%	66.2%
Crown Court casework	65.5%	76.8%
Rape and serious sexual offences	68.1%	75.9%

Magistrates' court casework added value and grip

4.11. The Area acknowledged that the pandemic had brought new pressures. There was an increase in the volume of cases referred by the police for a charging decision and caseloads rose because of court closures. There had been a drive on throughput of charging, with an emphasis on Code compliance and selecting the most appropriate charge(s).

4.12. We also heard that there had been a considerable change in staffing following the loss of experienced prosecutors. This led to the Area running 10 prosecutor recruitment exercises between July 2019 and May 2021 and recruiting 38 new prosecutors: more than a third (37.5%) of the total number of prosecutors in the Area (as at 31 December 2020). This level of recruitment has inevitably had an impact on the levels of experience in all teams; new prosecutors joining the magistrates' court teams led to movement and rotation of existing Area prosecutors.

4.13. Whilst recruitment was positive in terms of the available resources and development opportunities, it resulted in a loss of experience in the magistrates' court team. Whilst our findings showed that reviews were mostly timely, we found that they lacked the detailed analysis and strategy that allow cases to progress effectively and did not consistently address victim and witness issues at the pre-charge stage. As a result, there was duplication of work, with cases needing to be re-reviewed at different stages to deal with issues as they arose. This led to a reactive approach to casework.

4.14. CPS national case review training was launched in November 2020 with a requirement for all Area prosecutors to be trained by 30 June 2021. The training was designed to support and improve the standard of case review and focused on good case analysis and strategy. We were told that, because the Area had to prioritise training and implement the Director's Guidance on Charging 6th edition (DG6) and the Attorney General's Guidelines (which came into effect on 1 January 2021), the roll-out of case analysis and strategy training would start in May 2021. The Area held 12 courses between June and August 2021. A final course was arranged for September 2021. The Area's approach in

delaying the training was understandable and the fact training was yet to happen may contextualise some of our findings.

4.15. After the training, the Area may want to carry out some internal assurance to ensure it has been effective in improving the quality of analysis and strategy. Our findings highlight some of the challenges and the aspects the Area needs to improve.

4.16. Casework grip in magistrates' court cases scored slightly better than for added value and this reflects that the Area has effective systems to ensure timely completion of tasks at specific stages, such as reviews and initial disclosure. However, the Area needs to address the timely sharing of hard media, ensuring this is done before the first hearing. This would increase the volume of guilty pleas and ensure effective management of contested cases where hard media is a feature.

4.17. Compliance with court directions and handling correspondence were inconsistent and need improvement. Again, as pressures ease and prosecutor experience grows, the Area should be able to improve its grip on these aspects of casework.

Crown Court casework added value and grip

4.18. The Area told us, and as the figures show, the pressures created by the pandemic, notably the increase in Crown Court caseloads, required them to increase the numbers of prosecutors dealing with Crown Court casework. This meant the Area made decisions to move prosecutors between casework teams and into the Crown Court teams earlier than usual. This exposed less experienced prosecutors to more complex casework at an earlier stage. Also, as prosecutor caseloads increased, the pressure on more experienced lawyers increased too. This meant experienced staff were less available to support and mentor newer staff joining the team. The Area acknowledges that in the circumstances 'getting the work done' became something of a priority.

4.19. To further reduce pressures, the Area moved crown advocates from their advocacy roles and into pre-charge decision reviews. Crown advocates were completing about 20% of their Crown Court pre-charge decisions during the period of our file examination (October to December 2020). This created its own pressure because some were not familiar with CMS and needed training and support.

4.20. Given these factors, our findings around added value are not surprising. The Area clearly has systems and processes to manage tasks on time, but the quality of reviews at pre- and post-charge stages in the Crown Court needs to be improved. 20.7% of pre-charge reviews and 46.9% of post-charge reviews were

rated as fully meeting the standard. Reviews that do not meet the standard create extra work because cases need to be reviewed again, increasing the burden on already stretched resources.

4.21. CPS Cymru Wales' senior leaders have a clear understanding of the quality issues in Crown Court casework, particularly around reviews. We are reassured that the Area has the capability to address these issues. The Area has focused on handling and managing disclosure, and the improvement and standard we have seen during this inspection indicates they will be able to make changes and necessary improvements in other aspects of casework.

4.22. As with magistrates' court cases, grip scored more highly than added value. This reflects the fact that effective processes to deal with correspondence from the court, defence and witness care unit in a timely manner and with appropriate actions are having a positive impact on progressing Crown Court cases. However, there are some issues for improvement. The Area needs to ensure hard media is shared before the pre-trial and preparation hearing to increase the volume of guilty pleas and ensure effective management of contested cases.

Rape and serious sexual offences casework added value and grip

4.23. We heard from the Area that the Rape and Serious Sexual Offences (RASSO) team was somewhat less affected by the staff rotation than those in the magistrates' and Crown Court units. A more settled and experienced team had continued to deal with RASSO cases throughout the pandemic. The Area made a decision to maintain a degree of stability within the unit to ensure experience and casework consistency for their most sensitive cases.

4.24. Whilst this experience was evident in how well disclosure was handled, especially in relation to third-party and sensitive material, we rated 40.7% of the pre-charge reviews and 39.5% of the post-charge reviews as not meeting the required standard.

4.25. Our findings show there are strengths in Code-compliant decision-making, correct selection of charge, drafting of the indictment, and disclosure of unused material, as well as post-charge considerations for dealing with victims and witnesses. Overall, cases were handled well, but the RASSO unit could improve the consistency and quality of reviews.

4.26. The unit's pre-charge reviews lacked consistent, detailed case analysis and strategy. We also found that post-charge reviews were not routinely completed. The lack of clarity in analysis and strategy meant that prosecutors did not always consider how to deal with weaknesses in the evidence or address

all relevant outstanding lines of enquiry – a reactive rather than proactive approach. This does not lead to high-quality casework and does not add value in these often difficult cases.

4.27. In general, the RASSO unit ‘gripped’ cases well. Case progression was good. New material from the police, and correspondence from the court and defence were dealt with well. Requests for editing, additional material and escalation were also dealt with proactively and in a timely fashion in most cases we examined.

5. Casework quality: magistrates' court casework themes

Introduction to magistrates' court casework

Does the Area deliver excellence in magistrates' 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?

5.1. We examined 30 magistrates' court cases for casework quality. We assessed added value and grip and analysed the cases in the four relevant casework themes. We used the same scoring mechanism for each (see chapter 4 and annex F). We gave two points for fully meeting the standard, one point for partially meeting the standard, and no points for not meeting the standard. These were expressed as a percentage for each casework theme (annex G). We translated the percentage into an overall marking of fully, partially or not meeting the required standard, based on the ranges set out in annex F.

5.2. We scored CPS Cymru Wales as follows for its magistrates' court casework:

Table 4: Scoring for magistrates' court casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ¹⁷ at pre-charge decision stage	Fully meeting the standard	100%
The Area selects the most appropriate charge(s) at pre-charge decision	Fully meeting the standard	89.6%
The Area's pre-charge decisions contain a clear analysis of the case and sets out a cogent case strategy	Not meeting the standard	43.9%
The quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	100%
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	Not meeting the standard	58%
Disclosure		
	Partially meeting the standard	65.9%
Victims and witnesses		
	Fully meeting the standard	70.8%

5.3. There were aspects of casework that were done well, including handling victim and witness issues from charge through to trial. Other aspects needed more focus, specifically the value added through good-quality reviews at both the pre- and post-charge stages.

¹⁷ *Code for Crown Prosecutors, 8th edition*; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

Pre-charge decision-making and review

5.4. To assess Area performance in pre-charge decision-making, we assessed three aspects that contribute to effective decisions at this stage – compliance with the Code for Crown Prosecutors; selection of the most suitable charges, and the quality of analysis and case strategy in the prosecutor’s review.

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

5.5. We rated the Area as **fully meeting the standard** for this aspect of pre-charge decision-making. All the Area’s pre-charge magistrates’ court cases complied with the Code for Crown Prosecutors.

Table 5: Pre-charge Code compliance in magistrates’ court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	24	100%
Not meeting the required standard	0	0%

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

5.7. The first, or evidential stage, is an objective test that the prosecutor must consider. It means that a bench of magistrates, 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. Here, they should only convict if they are sure of a defendant’s guilt.

5.8. 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 ensure that the law is properly applied, that relevant evidence is put before the court, and the obligations of disclosure are met.

5.9. The second or public interest stage is only considered if the evidential test has been met. If there is insufficient evidence for a realistic prospect of conviction, irrespective 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.

5.10. 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 that outweigh prosecution. Prosecutors must take account of paragraphs 4.14(a) to 4.14 (g) in the Code for Crown Prosecutors.

5.11. A decision that does not comply with the Code for Crown Prosecutors is said to be a wholly unreasonable decision – 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.

5.12. In every case we assessed, the Area prosecutor¹⁸ correctly applied the evidential and public interest stages.

Selecting the most appropriate charges

5.13. The facts and circumstances of each case are different and there are often several charges that can be considered and selected by the prosecutor. Prosecutors should select charges that:

- Reflect the seriousness and extent of the offence.
- 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.

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

5.15. 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 to encourage a defendant to plead to a less serious one.

5.16. Standards set by the CPS help prosecutors in selecting charges in some types of offending, such as offences against the person. These help to achieve consistency across CPS Areas in England and Wales when 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' court), or as an assault occasioning

¹⁸ As this is an Area inspection, if the charging decision was made outside the Area, either by the police or CPS Direct, the answer was marked not applicable.

actual bodily harm (an offence that can be tried in the magistrates' court or the Crown Court, and which attracts a greater maximum sentence).

5.17. We found that prosecutors tended to select the most appropriate charges, and we assessed the Area as **fully meeting the standard** – based on 83.3% fully meeting the standard and 12.5% partially meeting the standard. In the latter, prosecutors had identified the main offence but did not always identify other relevant offences to reflect the extent of the offending behaviour. One case was assessed as not meeting the standard.

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

5.18. Whilst it is essential to get the initial charging decision correct, a clear analysis of the material and setting out a clear strategy are fundamental to the efficiency and effectiveness of the subsequent stages.

5.19. 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 give a clear and cogent analysis of the material. It should identify how the evidential test is met and set out a clear case strategy. A case strategy should encompass what the case is about or 'tell the story'. It should also set out how potentially undermining material, such as material that could affect the credibility of a victim or witness, can be addressed.

5.20. A good review that meets the standard will show:

- A clear trial strategy. 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 is alleged.
- Reasonable lines of enquiry were identified. These differ widely from case to case but often include the need for scientific evidence or examination of communications, for example. Lines of enquiry that point away from a prosecution should also be identified. There should be a proportionate action plan identifying those reasonable lines of enquiry and setting a realistic target date for completion.
- Issues or defences that could reasonably arise were addressed and the prosecutor articulated how they could be countered.
- Relevant issues of admissibility were addressed, including identification or the significance of hard media.

- The credibility and/or reliability of key witnesses was considered, including previous convictions and past reports to the police. Where a video interview took place, it was properly assessed.
- Relevant CPS policies were followed, for example the domestic abuse policy.
- The charging prosecutor rationally assessed the strengths and weaknesses of the case and any impact they might have, identifying a strategy for how to address any weaknesses. There was consideration of any ancillary applications that might strengthen the case, such as bad character evidence of the defendant.
- Victim and witness issues were considered.
- Instructions to the court prosecutor were set out clearly.

5.21. All the cases we examined resulted in charging decisions that a reasonable prosecutor would have made. However, the wider responsibilities of the prosecutor providing pre-charge advice to the police set out above were not consistently addressed in all cases.

5.22. Our assessment for the quality of the pre-charge decision review including analysis and case strategy for Area magistrates' court cases was 43.9%, meaning that the Area was rated as **not meeting the standard**. We did, though, identify several examples where pre-charge decisions were timely and of good quality (see case study).

Case study

Two individuals were alleged to have smashed a window of a Savers Store in Wrexham in the early hours one morning and to have taken several items. There was CCTV footage of the incident showing two people entering the store and ransacking it, but the CCTV was not clear enough to be able to identify the perpetrators from it. The suspects had been arrested nearby and were wearing similar clothes to the offenders on the CCTV. The police also located a sleeping bag in the vicinity that had items from Savers within it.

The prosecutor properly considered the evidence presented and correctly concluded that, although there was no direct evidence, there was strong circumstantial evidence given the timings and location of the suspects and the items recovered. The prosecutor considered the strengths and weaknesses of the case, including denials by the suspects and outlined a clear trial strategy, indicating that the only conclusion that could be drawn was that these two individuals were responsible for the burglary. The prosecutor identified that bad character was relevant and drafted the appropriate application. No unused material schedules were provided by the police, so; the prosecutor requested them.

The forensic results for one suspect contained some potentially undermining information. The prosecutor was proactive and ensured this was served as part of the prosecution case and included in the initial details of the prosecution case. This meant, meaning that it was served on the defence for the first hearing and did not need to be disclosed separately.

The case action plan to the police contained proportionate and necessary actions with a clear explanation of why they were required. The case concluded by way of late guilty pleas and without significant additional extra work.

The prosecutor's proactive, meticulous and thinking approach and good case analysis and strategy resulted in the case being concluded effectively and efficiently. The good case analysis and strategy was core to the case being concluded positively.

5.23. Whilst the above case study highlights how a thinking approach to dealing with issues from the outset can lead to effective outcomes and good quality decisions, we identified many review decisions at the pre-charge stage, however, that lacked clear analysis of the material. Prosecutors had relied more on rehearsing the facts of the case rather than setting out a case strategy. We rated eight out of 24 cases (33.3%) as fully meeting the standard, three (12.5%) as partially meeting the standard, and the remaining 13 cases (54.2%) as not meeting the standard.

5.24. Many cases lacked a clear case strategy that was proportionate to the case and the material provided. Too few cases considered the impact of the evidence presented or addressed how any defence might be countered. We saw examples of strategy confined to which witnesses to call without addressing how any weaknesses or other issues would be addressed.

Case study

A witness, who lived opposite, saw the suspect punch the victim repeatedly and hit her with a pole. Whilst observing the assault, the witness called 999.

The suspect and the victim had been in relationship that was described as turbulent. There was a domestic violence prevention order in place against the suspect at the time of the incident, and the victim had also been arrested for offences against the suspect in the past. It was also reported to the prosecutor that the victim had mental health problems and she did not normally engage with the police. The suspect said he was acting in self-defence and the independent witness must have been mistaken. The victim provided a statement supporting prosecution.

The prosecutor completed a review, authorising a single charge of assault by beating contrary to section 39 of the Criminal Justice Act 1988. The charge complied with the Code and it was an appropriate charge. The trial strategy was limited to an instruction to call the victim and the witness, as well as the police, to give evidence at trial – nothing more. It did not address the undermining material that was supplied around previous incidents where the victim was said to be the aggressor, nor did it consider the strategy should the victim withdraw support (as she subsequently did) nor whether the case could proceed as an evidence-led (victimless) prosecution. There was mention of bad character, but it simply said to apply to adduce previous convictions without consideration of the relevance of the individual convictions.

The prosecutor correctly identified possible undermining material from previous incidents between the suspect and the victim but simply indicated that the form MG6, which is a non-disclosable document containing other information about the case, should be disclosed. There was no request (as there should have been) for the items to be listed on a schedule of non-sensitive unused material for disclosure. There was also an instruction to disclose the victim's convictions without analysing why this undermined the prosecution case or assisted the defence case. The prosecutor correctly identified that the victim was entitled to an enhanced service, but was silent about special measures to support the victim in court.

Whilst some aspects of the case were handled correctly, this is an example of an overall strategy and analysis that did not meet the standard and left a significant amount of work to be done. That work should have been addressed at this early stage to ensure an effective and efficient prosecution.

5.25. Another important function of a pre-charge review is to provide adequate instructions to a court prosecutor, who may have many cases to deal with and little time to review cases before the hearing. Inadequate instructions can limit progress at the first hearing or require the advocate to duplicate work 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 the effectiveness and efficiency and reduce the risk of something being overlooked at court.

5.26. Instructions 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 an appeal against bail 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 around the venue and sentencing guidelines.
- What pleas may be acceptable and the rationale for the approach to be taken.
- Details of any material that either assists the defence case or undermines the prosecution case and which needs to be disclosed to the defence at the first hearing under the prosecution's common law duties.
- What should be included within the initial details of the prosecution case. This is the bundle of material served on the defendant or their legal representative before the first hearing in the magistrates' court¹⁹.

5.27. In 10 out of the 24 cases assessed (41.7%), we rated the instructions to the court prosecutor as not meeting the standard; a further 11 were rated as partially meeting the standard (45.8%), and the remaining three cases (12.5%) were assessed as meeting the standard. If the reviews lack detailed instructions to the court prosecutor, it limits the progress that can be made at the first hearing.

5.28. Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan for the police. This allows the prosecutor

¹⁹ The contents of the initial details of the prosecution case (IDPC) are regulated by [Part 8 of the Criminal Procedure Rules \(CrimPR\)](#) and the [Criminal Practice Directions \(CPD\) 2015 Division 1, at Part 3A](#).

to set out priority actions and timescales to ensure all appropriate avenues of investigation have been completed, including those that may point away from a prosecution.

5.29. 14 of the pre-charged cases we looked at had action plans. Inspectors assessed six of those as fully meeting the standard. There was no action plan in three cases where one was needed. In one case, this meant that CCTV of the offence was not requested, nor was the bad character of the defendant. Dealing with cases that have such major deficiencies is very difficult.

5.30. We rated eight action plans as partially meeting the standard. Some items, but not all, were identified by the prosecutor at review. This meant further requests to the police had to be made later in the case. This is not only inefficient for the police but is time-consuming and avoidable. In one case, the additional lines of enquiry were never identified. The action plans rated as partially meeting the standard were of varying quality and were often included in the body of the review decision rather than being clearly set out in a structured way for the police, along with target dates and priorities in the relevant action plan section of the pre-charge review. Failing to set out the action plan properly can lead to actions being overlooked and, ultimately, not forming part of ongoing enquiries and investigation. This is, again, an issue that can lead to inefficiency and the need for rework.

5.31. The Area told us that, although they expected the police to read the full charging advice, prosecutors were expected to set out clear actions in the action plan section of the pre-charge advice form MG3/3A with priorities and timescales. The Area said this was not only important for the police to ensure appropriate investigation, but also for the Area to ensure that staff were able to effectively triage cases re-submitted following an action plan before accepting and allocating for further prosecutor review. If this triage cannot be carried out effectively it can lead to piecemeal submission of material from the police and multiple referrals for review to prosecutors, which is not an effective or efficient use of resources.

Post-charge decision-making and reviews

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

5.32. We rated the Area as **fully meeting the standard** for this aspect of pre-charge decision-making. All the decisions post-charge complied with the Code for Crown Prosecutors in that the evidential and public interest stages had been properly applied. These cases included reviews that were originally charged by either the police or CPSD.

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

Rating	Number of cases	Percentage
Fully meeting the required standard	30	100%
Not meeting the required standard	0	0%

5.33. A decision that does not comply with the Code 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.

5.34. In every case we assessed, the Area prosecutor correctly applied the evidential and public interest stages as required.

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

5.35. We assessed the Area as **not meeting the standard**²⁰ for this aspect of casework. Overall, the score for the quality of post-charge review, analysis and case strategy for magistrates' court cases was 58%.

5.36. We considered several factors around 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.
- Where a significant development represented a major change in the case strategy, whether a quality review dealt with this. We assessed whether the Code for Crown Prosecutors was applied in deciding whether there was still

²⁰ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

a realistic prospect of conviction, that the case was still in the public interest to prosecute and how any new evidence or weaknesses would be addressed.

- Whether decisions about bail or custody were timely and appropriate.
- Whether appropriate applications, such as bad character, were used effectively to strengthen the prosecution case.

5.37. The quality of ongoing reviews and strategy is critical to the effective and efficient progress of cases through the justice system. Decisions that comply with the Code but do not have supporting analysis of the case material and a clear strategy to address matters such as undermining material, special measures and applications diminish the value added by the CPS. This leads to a reactive rather than proactive approach that can mean key issues are missed, trials are cracked or ineffective, effort is duplicated and resources are wasted. Delays in decision-making and case progression can affect victims, witnesses and defendants, especially defendants in custody.

We found similar issues in the post-charge reviews as we did in the pre-charge reviews – case analysis not clearly addressed and trial strategy lacking in detail

5.38. We found that post-charge reviews were of better quality than the reviews at the pre-charge stage but still were not meeting the required standard. Overall, 44.3% of the cases we examined were rated as meeting the standard, 27.3% as partially meeting the standard and adding some value, and 28.4% of cases as not meeting the standard.

5.39. Inspectors noted examples where the post-charge review was simply a copy of the pre-charge review, which itself did not meet the standard, leaving issues outstanding and adding no value.

5.40. As cases progress, changes may affect the prosecution case. When this happens, there should be a review to address whether there remains a realistic prospect of conviction and, if so, how the case strategy should be adapted. We call this a significant event review. We found that significant event reviews were generally completed when appropriate. Six out of the 13 cases were rated as fully meeting the standard. These had a clear review, cases were adjusted, pleas accepted or cases stopped as necessary. In four other cases, there had been a review but it did not explain the decision taken or set out any actions required. In three cases rated as not meeting the standard, there were significant developments or events but no review (or audit trail) that applied the

Code for Crown Prosecutors and set out whether there was still a realistic prospect of conviction and that prosecution remained in the public interest.

5.41. We noted a common theme in cases involving domestic abuse. Domestic abuse cases accounted for just under a quarter of all discontinued magistrates' court cases in the Area at the time of inspection. We saw multiple cases where prosecutors had not considered the approach to be taken if the victim withdrew support for the prosecution. Considerations could have included summoning the witness to court, seeking a witness warrant or using available evidence rather than calling the victim to give evidence. These are considerations that should be present in domestic abuse cases, where attrition resulting from victims withdrawing their support is high across all CPS Areas. We were pleased to note that the Area's Casework Quality Committee also identified this aspect for improvement and that the Area has already started to improve performance.

5.42. The Area should consider setting out clear expectations for how prosecutors handle significant developments with the capacity to materially affect the case.

5.43. In our assessment, 40% (12 out of 30) cases submitted by the police to the CPS met the requirements of the National File Standard. This document sets out the material and information 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' court, and for a more complex matter listed before the Crown Court. It aims for consistency and proportionality across all CPS Areas and police forces throughout England and Wales. The CPS case management system includes a facility to report whether the police file submission complied with the National File Standard. This National File Quality (NFQ) data is collated and considered at local prosecution team performance meetings held between CPS local legal managers and their police counterparts to improve police file quality.

5.44. To ease pressure resulting from the pandemic, the CPS suspended the requirement to use the national file quality feedback system. This suspension was adopted in CPS Cymru Wales. Unsurprisingly, the national file quality system was used infrequently to feed back any deficiencies – just five out of the 18 cases (27.8% of cases where it was relevant).

Does the Area fully comply with its duty of disclosure?

5.45. We rated the Area as **partially meeting the standard** for this casework theme. Overall, the score for handling disclosure in magistrates' court cases was 65.9%.

5.46. We assessed the performance of the Area across a range of different aspects including compliance with the duty of initial disclosure, whether the Area correctly endorsed schedules, whether disclosure was timely and if the Area had recorded decisions in the CPS case management system. We also assessed if the Area was feeding back effectively to the police where necessary.

5.47. It is a crucial element of the prosecution's role to ensure that unused material is properly considered, applying the tests set out in section 3 of the Criminal Procedure and Investigations Act 1996. The prosecution must ensure that any material that might reasonably be considered capable of undermining their case, or of assisting the case for the accused, is disclosed to the defence. This ensures the fairness of the trial process.

5.48. All unused material that is non-sensitive must be scheduled by the police disclosure officer, who is often the investigating officer in the case, on a streamlined disclosure certificate. This needs to have sufficient description to enable the prosecutor and defence to understand what the material is and its relevance to the case. The disclosure officer should identify material on the schedule that they believe satisfies the tests and should supply copies of any such material to the prosecutor. The prosecutor should be confident that all material that should be listed is included on the schedule. The prosecution must disclose a copy of the schedule to the defence along with any material satisfying either of the tests. The disclosure letter template allows for any disclosable items not listed on the schedule to be added.

5.49. All sensitive material must be detailed on a separate schedule. The prosecutor must consider this and apply the same tests. If the material meets the tests, they should either disclose it or make an application to the court to withhold the material on the grounds of public interest immunity.

5.50. In more than half the cases examined, we found that the Area complied fully with its obligations at the initial disclosure stage, applying the tests and disclosing material as necessary. In more than 60% of cases, disclosure was handled in a timely manner. We rated the Area magistrates' court cases as fully meeting the standard in 51.7% (15 out of 29 cases) for initial disclosure.

Initial disclosure was timely in more than 60% of cases

5.51. Of the remaining cases rated as partially meeting the standard (eight cases) or not meeting the standard (six cases), the most prevalent issue was that the prosecutor indicated disclosable unused material was not

disclosable. In six out of 14 relevant cases, material was not disclosed to the defence that should have been, as it met the test in section 3 of the Criminal Procedure and Investigations Act 1996. In no case did we find that this led to a miscarriage of justice, but the impact was that the defence would have been unaware of material they could have used in their cross-examination of prosecution witnesses.

5.52. An example of this can be seen in a case that involved a prosecution for offences contrary to section 3 Dangerous Dogs Act 1991. The incident log was not consistent with the account the witness had given in their statement, but it was not disclosed, neither were the witness' previous convictions for offences involving dishonesty. The case went to trial and failure to disclose the incident log meant that the defence was unaware of the discrepancy and had no opportunity to challenge the witness about it.

5.53. We assessed the police as fully meeting the standard for disclosure in 14 out of 30 cases and partially meeting it in 13. We assessed three cases as not meeting the standard. When the police do not comply with their obligations, the prosecutor has to request relevant information or ask for enquiries to be made. This often results in delays to the case.

5.54. Feedback by the CPS to the police was found to be fully meeting the standard in three out of the 16 cases examined. Where the police did not meet or partially met the standard, there was a tendency for the Area to rely on simply sending a copy of the endorsed streamlined disclosure certificate back to the police rather than specific feedback describing why the items were required. Given the increase in caseload because of the pandemic, this is understandable. In the future, though, the Area should ensure they give effective feedback.

5.55. In all cases, prosecutors must complete a disclosure record on the CPS case management system. This provides an audit trail, covering the receipt and service of the streamlined disclosure certificate, any sensitive unused material schedules, the disclosure decisions and actions made, and the reasons for disclosure or withholding of unused material from the defence. 82.8% of cases (24 out of the 30) were rated as fully meeting the standard for recording decision-making around disclosure of unused material. Four cases were rated as partially meeting the standard, and two as not meeting the required standard.

Does the Area address victim and witness issues appropriately?

5.56. We rated the Area as **fully meeting the standard** for this casework theme. The overall score for handling victim and witness issues in magistrates' court cases was 70.8%²¹.

5.57. We assessed a range of aspects for how the Area addressed and served victim and witness issues. We considered the quality of service at both pre- and post-charge stages, including consideration of relevant and ancillary matters at charging to support victims and witnesses. We assessed whether the Area dealt with victim and witness needs in a timely and accurate manner with effective witness warning and consideration of special measures. We also assessed whether the Area addressed witness issues and consulted with victims and witnesses properly, whether Victim Personal Statements²² were taken in line with victim wishes, and whether victim communication letters explaining the reasons for decisions to drop or substantially alter a charge were good-quality and sent on time.

Considering support for victims and witnesses at the pre-charge stage needs to be improved

5.58. Overall, we found the Area handled victim and witness matters positively. However, there were several aspects that could be improved.

5.59. How the Area considered victim and witness needs at the pre-charge stage was the weakest aspect of the Area's approach in the magistrates' court. Six cases out of 22 rated as fully meeting the standard, six as partially meeting the standard and 10 as not meeting the standard because of issues or applications missed.

5.60. Correct and timely witness warning was rated as fully meeting the standard in 92.3% of cases, with all remaining cases partially meeting the standard, demonstrating effective and efficient processes.

5.61. 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 progress. Where required, they obtain

²¹ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

²² Where a victim makes a statement explaining the impact of the offending behaviour on them.

information to assist in making special measures applications to support the victim or witness in giving their best evidence.

5.62. Witness care officers are in regular contact with victims and witnesses. If issues arise that may affect the victim's or witness's ability to attend court, the unit sends information to the CPS. It is important that this information is dealt with in a timely manner with effective actions to minimise any impact on the effectiveness of the trial. This information may be that witnesses are no longer able to attend court on the trial date. We found that the Area handled correspondence from the witness care units well – inspectors rated 72.2% (13 out of 18 cases) as fully meeting the standard for timely and effective actions.

5.63. The Area sought appropriate orders on sentencing, including seeking compensation for victims or restraining orders to prevent defendants from contacting victims of assault or harassment, in 76.9% of cases (10 out of 13 cases).

5.64. Victims are entitled, if they wish, to provide a Victim Personal Statement (VPS). The VPS sets out the impact the offence had on them and helps inform the court's decision on sentencing. The police should tell the CPS, and the CPS should act on the victim's preferences for how the VPS is presented to the court. This might be the victim reading the statement in court, having the prosecution advocate read it for them, or the Judge or magistrates being given the VPS to read.

5.65. We found that the victim's wishes regarding the VPS were complied with, fully meeting the standard, in 57.9% of cases. We assessed a further 21.1% as partially meeting the standard.

5.66. Victim Communication and Liaison letters (VCLs) should be sent to victims whenever a charge relating to their case is either dropped or substantially altered. The letter should be sent within one working day if the victim is deemed to be vulnerable or intimidated, is a victim of serious crime (including domestic abuse) or has been targeted repeatedly. The timescale in all other cases is five working days. The letter should include a clear and understandable explanation of the decision, a referral to the Victims' Right to Review scheme (VRR)²³ if applicable, and offer a meeting in certain types of case.

²³ The VRR is a scheme where a victim can ask the prosecution to reconsider a decision to drop or substantially alter a case.

The quality of victim communication letters needs to be improved

5.67. In six magistrates' court cases, the Area needed to produce a VCL. In all six cases we examined we rated the letter sent as being timely, but inspectors rated half as fully meeting the standard for quality and the other three as partially meeting the standard. The Area said they had completed some training on the quality of VCLs, but it was a 'work in progress'. We were told evaluation of the training indicated that the issues were wider than non-compliance by a small number of individuals, so further training was planned. The Area should consider an alternative approach to training around VCLs rather than simply repeating training that has not led to improvements.

5.68. Victims were consulted as required in just over half the cases. This includes consultation out of court as well as at court. We rated 36.8% (seven cases) as fully meeting the standard, 36.8% (seven cases) as partially meeting the standard and 26.4% (five cases) as not meeting the standard. Hearing record sheets (a record of what happens in court, completed by advocates), did note that victims or witnesses had been spoken to but there was not enough in the entry to confirm that guidance had been followed.

5.69. The Area told us advocates were expected to properly record this on the hearing record sheet and that compliance had been checked when it was first introduced. The pandemic had had an impact, we were told, with more cases held virtually and with people socially distanced and wearing masks. As there had been several new starters, the Area had reiterated guidance and intended to check compliance again.

6. 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?

6.1. We examined 40 Crown Court cases for casework quality. We assessed added value and grip and analysed the cases in the five casework themes or, for some of the themes, scored two or more sub-themes.

6.2. We used the same scoring mechanism for each (see chapter 4 and annex F). We gave two points for fully meeting the standard, one point for partially meeting the standard, and no points for not meeting the standard. These were expressed as a percentage for each casework theme (annex G). We translated the percentage into an overall marking of fully, partially or not meeting the required standard, based on the ranges set out in annex F.

6.3. We scored CPS Cymru Wales for its Crown Court casework as follows:

Table 7: Scoring for Crown Court casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²⁴ at pre-charge decision stage	Fully meeting the standard	91.7%
The Area selects the most appropriate charge(s) at pre-charge decision	Partially meeting the standard	84.7%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	38.9%
The quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	95%
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%
Disclosure		
	Fully meeting the standard	70.7%
Victims and witnesses		
	Fully meeting the standard	74.1%

6.4. We found that some aspects of casework were done well, including disclosure and preparation for the first hearing in the Crown Court. Others, however, required more focus – specifically around the value prosecutors add in their reviews at pre- and post-charge stages.

²⁴ Code for Crown Prosecutors, 8th edition; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

Pre-charge decision-making and reviews

6.5. To assess Area performance at pre-charge decision-making, the inspection assessment was split into three subthemes. 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, and the quality of the analysis and case strategy in the prosecutor’s review.

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

6.6. We rated the Area as **fully meeting the standard** for this aspect of pre-charge decision-making. All but three of the Area’s pre-charge Crown Court cases complied with the Code for Crown Prosecutors²⁵.

Table 8: Pre-charge Code compliance in Crown Court cases

Rating	Number of cases	Percentage
Fully meeting the standard	33	91.7%
Not meeting the standard	3	8.3%

Selecting the most appropriate charges

6.7. The facts and circumstances of each case are different and there are often several charges that can be considered and selected by the prosecutor²⁶. The three cases where the most appropriate charges were not selected were the same three cases found not to comply with the Code.

6.8. In the Code-compliant cases, we found prosecutors had selected the appropriate charge in most cases. In the cases we rated as partially meeting the standard, prosecutors had correctly identified the substantive charge but other charges to reflect the extent of the offending behaviour were not correctly identified.

6.9. We assessed this aspect of the Area’s pre-charge decision-making as **fully meeting the standard**.

²⁵ See Chapter 5, paragraphs 5.6-5.11 regarding the application of the Code by prosecutors.

²⁶ See chapter 5, paragraphs 5.13 to 5.16.

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

6.10. Our assessment for this casework theme is that the Area is **not meeting the standard**. Our assessment for quality of the pre-charge decision review, including analysis and case strategy for Area Crown Court cases, was 38.9%²⁷.

6.11. Whilst it is essential to get the initial charging decision correct, a clear analysis of the material and a clear strategy is fundamental to the efficiency and effectiveness of the subsequent stages. This supports the requirements of the Code for Crown Prosecutors and the selection of charges as the case moves through the system²⁸.

6.12. Whilst most of the cases we examined resulted in charging decisions that were ones that a reasonable prosecutor would have made, the wider responsibilities of the prosecutor providing pre-charge advice were assessed as not meeting the standard in 43% of the cases we examined.

6.13. We found that reviews, whilst correctly applying the Code and selecting appropriate charges, often did not clearly analyse the evidence and set the basis for prosecution. More than half the cases we examined (52.8%) were rated as not meeting the standard because they lacked a clear and cogent case strategy.

Cases often lacked a clear case strategy appropriate to the case and the material provided

6.14. In many cases, the prosecutor's analysis did not adequately assess the strengths and weaknesses of the evidence or consider the defence(s) raised. In some cases, this included failing to identify reasonable lines of enquiry arising from the accused's account that might point away from a prosecution, and

failing to set out how any defence could be countered in the trial strategy. In one case, clear reasonable lines of enquiry about how a suspect came to be in possession of money alleged to be proceeds of drug-dealing were raised by the suspect in a first interview but not identified and followed up. The review, in fact, suggested that the suspect had not taken the opportunity to produce material for the police before a second interview that would have exonerated him. Another example was a case where there was no consideration of how joint enterprise would be proved against each individual suspect.

²⁷ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

²⁸ See chapter 5, paragraphs 5.19 to 5.20 for an explanation for what should be included in a good-quality pre-charge review.

6.15. Cases often lacked a clear case strategy proportionate to the case and the material provided, supported by admissible and cogent evidence, and addressing how any defences might be countered. We saw many examples of strategy that dealt only with which witnesses to call without addressing how any weakness or undermining aspects of the case might be overcome.

Case study

The suspect was a serving prisoner found to be in possession of class A and B drugs. He was serving a sentence for possession of drugs with intent to supply. He was charged with possession of both drugs with intent to supply.

The prosecution was brought on the basis that the suspect intended to supply for commercial gain.

The statement of the drugs expert indicated that the drugs could be for personal use. The review did not touch upon how the intent to supply element would be proved. The review stated that “it should be left to the jury to decide”.

There was no reference to a bad character application and the case strategy section of the prosecutor’s review was blank. The review did not address how the weakness in the case arising from the expert’s statement would be overcome.

The case proceeded to trial with a plea on the day on a basis that the drugs were for personal use and provided to associates of the defendant for no financial gain rather than the more serious basis upon which the case had been brought.

The lack of strategy in this case highlights a lack of added value, though it did lead to a guilty plea.

6.16. Another important function of a pre-charge decision review is to provide adequate instructions for a court prosecutor who may have many cases to deal with in court and little time to review them before the hearing. Inadequate instructions can limit progress at the first hearing or require the advocate to duplicate the review and decisions about 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 court²⁹.

²⁹ See chapter 5, paragraph 5.26 that sets out what should be included in instructions to prosecutors.

The quality of instructions to the court prosecutor need to improve to ensure an effective first hearing

6.17. We assessed four of the 36 cases we examined as fully meeting the standard for instructions to the court prosecutor, 18 as partially meeting the standard, and the remaining 14 as not meeting the standard.

6.18. Where cases were rated as partially meeting the standard, we found that the pre-charge prosecutor had referenced most of the key issues but not provided sufficient detail for the court advocate to properly progress the matter at court. Examples included indicating that a bad character application would be required but not identifying the basis or which

convictions, reference to venue without the detail of why that would be appropriate (no reference to sentencing guidelines) and a lack of instruction about acceptability of pleas in multiple offence or offender cases.

6.19. Where cases were rated as not meeting the standard, we found important issues around bail or custody, and special measures or venue were simply not covered leaving the court advocate no option but to read the case. This led to duplication and created a risk as advocates in busy courts do not have the time to read cases in detail. The quality of instructions to the court prosecutor need to improve to ensure an effective first hearing.

6.20. Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan for the police. This allows for actions to be prioritised and timescales set to ensure all appropriate avenues of investigation have been completed, including those that may point away from a prosecution.

6.21. We assessed 24.2% of Area action plans as fully meeting the standard and 51.5% as partially meeting the standard. 24.3% of Area action plans were rated as not meeting the standard. Where inspectors rated the action plans as partially meeting the standard there were two common themes. The first theme was that some, but not all, required material was identified so that further requests had to be made later in the case, leading to inefficiency and duplication. These tasks could have been dealt with more effectively earlier in the case. It also means that material is sent by the police more than once (through no fault of the officer in the case). This increases the number of times a prosecutor has to review the case, adding extra burden to already stretched resources. The second noticeable theme was that action plans were often included in the body of the review decision rather than being clearly set out in a structured way with target dates and priorities in the relevant action plan section of the pre-charge review. This makes it difficult for the police to identify actions

and complete the request. Actions may be overlooked and, ultimately, not form part of enquiries and investigation.

6.22. The Area told us that they expect prosecutors to set out clear actions in the action plan section of the pre-charge advice form MG3/3A with priorities and timescales for the police. The Area said this was important for the police to ensure appropriate investigation, and also for the Area to ensure that staff could effectively triage cases that were re-submitted following an action plan before accepting and allocating for further prosecutor review. If this triage cannot be carried out effectively, it can lead to piecemeal submission of material from the police and multiple referrals for review to prosecutors.

6.23. We found that the Area's pre-charge decision-making was largely timely, but this contrasts with the quality of the reviews. Whilst it is clear there are processes to ensure cases are reviewed and advice provided in a timely manner, the Area needs to focus on the quality of the reviews in Crown Court casework. They need to ensure case reviews add much more value in providing a clear analysis of the material, both evidential and unused, and that there is an appropriate and well-developed trial strategy.

6.24. The Area said they had to adjust priorities during the pandemic and there was an element of 'getting the work done', focusing on throughput rather than quality. This is reflected in our findings.

6.25. The Area told us that the pressure from the pandemic, coupled with significant changes in their prosecutor cadre because of recruitment, led them to take some difficult decisions. They moved some less experienced prosecutors into the Crown Court team and this is reflected in our findings. The need to move staff was also necessitated by the increase in police requests for pre-charge advice and by a rising caseload of charged cases awaiting a hearing. This created pockets of inexperience in the Crown Court team. The Area also re-deployed crown advocates to advise on cases pre-charge, some of whom were unfamiliar with the case management system for this aspect of work.

6.26. These necessary staffing changes, coupled with the high caseloads arising from the closure of Crown Courts during the initial lockdown and the subsequent reduction in trial listings once courts re-opened, had an impact on quality. The Area had good processes for completing casework on time, but that casework was not consistently good quality. Given the circumstances the team was working in during the pandemic, this finding is not surprising.

6.27. We observed the Area's casework quality board and noted that the senior leaders recognised the issues with quality, in particular the quality of

reviews. As the pressures of the pandemic ease and prosecutors new to the team become more experienced, the quality of reviews should improve

6.28. The Area said they intended to focus on quality again starting with national case review training due to start in the Area in May 2021. Training sessions were delivered in June and July with a final sessions in September 2021.

6.29. The Area may want to consider some internal assurance to make sure the case review training has improved the quality of analysis and strategy.

Post-charge decision-making and reviews

Compliance with the Code for Crown Prosecutors in post-charge decisions

6.30. We rated the Area as **fully meeting the standard** for this aspect of pre-charge decision-making. All but two of the Area decisions post-charge (which included reviews of cases originally charged by either the police or CPSD) complied with the Code for Crown Prosecutors.

Table 9: Post-charge Code compliance in Crown Court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	38	95%
Not meeting the required standard	2	5%

6.31. A decision that fails to comply with the Code for Crown Prosecutors is said to be a wholly unreasonable decision – a decision that 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.

6.32. In all but two of the cases we assessed, the Area prosecutor³⁰ correctly applied the evidential and public interest stages. The two non-compliant cases were ones we had identified as not complying with the Code at the pre-charge stage. The review at this stage was an opportunity to identify the issues and stop them but this was missed. Both cases were reviewed and proceeded on the basis set out at the pre-charge stage.

³⁰ As this is an Area inspection, where the charging decision was made outside the Area, either by the police or CPS Direct, the answer was marked not applicable.

Quality of post-charge reviews, analysis and case strategy

6.33. We rated the Area as **partially meeting the standard** for this casework theme. Overall, the score for the quality of post-charge review, analysis and case strategy for Crown Court cases was 60%.³¹ Whilst this score is better than for pre-charge reviews, there is still room for improvement in several key areas.

6.34. A Crown Court case should have a proportionate post-charge review that:

- Checks the pre-charge decision review and updates the case analysis and strategy, including referencing appropriate applications to be made and orders sought.
- Considers the police response to the pre-charge action plan.
- In threshold test cases, records whether it is yet possible to apply the full Code test.
- Where there has been a significant change in the case, considers whether the Code test is still satisfied, and if so, how any new evidence or weaknesses will be addressed.
- Pursues outstanding action plan requests with police.
- Responds to any correspondence from the police or defence.
- Ensures that the case is proactively managed so that sufficient evidence and other material can be served as the initial details of the prosecution case before the Pre-Trial Preparation Hearing.
- Assesses whether any pleas accepted (other than to all offences) were appropriate, with a clear basis of plea.

6.35. The quality of ongoing reviews and effective case strategies are critical to the effective and efficient progress of cases. There is less added value in making a decision that complies with the Code but is not supported by analysis of the case material and which does not have a clear strategy that addresses matters such as undermining material, special measures and applications. This diminishes the value added by the CPS and leads to a reactive rather than proactive approach, which can lead to key issues being missed. It can also lead to cracked or ineffective trials, duplication of effort, waste of resources and

³¹ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

delays in decision-making that affect victims, witnesses and defendants, especially where defendants are in custody.

6.36. Cymru Wales had good processes for ensuring post-sending reviews were carried out in a timely manner. 45% of the cases in our file sample assessed as fully meeting the standard, 32.5% as partially meeting the standard, and 22.5% as not meeting the standard.

6.37. We found examples of cases where prosecutors had clearly added value through effective analysis of the material at the post-sending review and had addressed the relevant considerations for the case. One example was in a case of an assault occasioning actual bodily harm. The prosecutor reviewed the matter at the post-sending review stage and identified issues that had not been tackled in the pre-charge decision, including the potential for a 'victimless' prosecution. The review set out a clear strategy about how to rebut a claim of self-defence from the defendant and how potentially undermining information about the method of injury could be overcome without affecting the victim's credibility.

6.38. However, there were also cases where the quality of the review added little or no value, where prosecutors simply replicated the original charging advice without adding more comment or review. This is a practice that the senior leaders in the Area recognised from their own internal quality assurance and is something they are addressing.

6.39. In the cases rated as partially meeting the standard, we found there was a lack of detailed analysis and strategy, including acceptability of pleas in multiple offence and multiple defendant cases. This omission leads to delays and discussions at later stages. If clear decisions had been made and recorded in the reviews, pleas could have been discussed with the defence at a much earlier stage and, in some cases, may have led to a much earlier conclusion of the case. This would have saved extra work and use of resources.

6.40. As cases progress, changes can have an impact on the prosecution case. The review should analyse whether there is still a realistic prospect of conviction and, if so, how case strategy should be adapted. We call this a significant event review. We assessed 19% of cases with significant event reviews as fully meeting the standard and 23.8% as partially meeting the standard. In the cases partially meeting the standard, there was some evidence of discussion or consideration (mainly in the form of telephone notes or emails), but we found no properly considered review. In the remaining 57.1% of cases that were not meeting the standard, we found little or no evidence to support any decision-making around the progress of the case because of the significant event. This is a clear gap in the Area's approach that needs to be tackled.

6.41. In cases with a basis of plea, four out of eight (50%) were rated as fully meeting the standard and the other four (50%) were rated as partially meeting the standard.

6.42. In Crown Court contested cases, several orders to manage the case are made at the first hearing in the Crown Court – the plea and trial preparation hearing (PTPH). In most cases, the court can set four dates for the parties to complete their pre-trial preparation, though individual dates can be set where the case requires it. The four stages are:

- Stage one – serving the bulk of prosecution materials. This date will ordinarily be 50 days (custody cases) or 70 days (bail cases) after sending. This is in line with the timetable for serving the prosecution case provided in the Crime and Disorder Act (Service of Prosecution Evidence) Regulations 2005. The court does not have power to shorten this time (without consent) but does have power to extend it.
- Stage two – serving the defence response, including the Defence Statement and Standard Witness Table. This date will ordinarily be 28 days after stage one, reflecting the time provided for serving a Defence Statement.
- Stage three – for the prosecution response to the Defence Statement and other defence items. This date will ordinarily be 14 or 28 days after stage two, depending on the anticipated date of trial.
- Stage four – for the defence to provide final materials or make applications, usually arising from prosecution disclosure.

6.43. Following a plea of not guilty and the stage dates being set at the PTPH, the prosecution asks the police to supply the 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 requires more information than the key evidence served on the defence for the PTPH. When the additional material is supplied, the prosecutor should review the case again in accordance with the Code, analysing all the material and confirming the case strategy. The prosecutor should also compile and serve the bundle of evidence they intend to rely on at trial. If not already served, they should also complete initial disclosure and serve any material that satisfies section 3 of the Criminal Procedures and Investigations Act 1996 that could undermine the prosecution case or assist the defendant's case, along with the schedules of all non-sensitive unused material. This is stage one and a central point in the preparation of the prosecution.

6.44. We found an inconsistent approach to reviews at stage one. 48.5% of cases had not had any review at this point in the proceedings. In two cases, it

was asserted in the post-sending review that the case had been served. This clearly could not be the case because a significant amount more material was received and served after this point that did not appear to have been reviewed. When we asked the Area about this, we were told they tried to serve cases as early as possible, depending on the availability of all relevant information, evidence and unused material. Clearly where all the required material is not available, it is not appropriate to deem a case served at the PTPH. The Area said it had an unequivocal position that a review should be carried out to coincide with the stage one date when the case is served as a single review just after sending is insufficient and not proportionate to the nature and seriousness of such cases. This assertion was not reflected in what we found.

We found an inconsistent approach to conducting reviews at stage one

6.45. Decisions around custody and bail were largely well handled. We assessed 65% of the cases as fully meeting the standard and a 25% as partially meeting the standard. In the 10% of cases rated as not meeting the

standard, there was no evidence that the prosecutor had addressed the issues of whether bail or custody was appropriate. The only references were endorsements by advocates of the court's decision at hearings. In these cases, we did not find that defendants were wrongly on bail or in custody, but only that there was no evidence of any consideration of the position.

6.46. The Area performed well and added value in using appropriate applications, such as bad character evidence, to strengthen its cases. In 88.9% of cases, this was rated as either fully meeting or partially meeting the standard.

Preparation for PTPH in the Crown Court

6.47. In this aspect of casework, we assessed the Area as **fully meeting the standard**. Overall, the score for the PTPH preparation was 71.2%³².

6.48. We considered the key tasks the prosecution must complete in preparation for the PTPH, including the PTPH form used by the Judge at the hearing, prosecutors engaging directly with the defence, drafting the indictment, ensuring that relevant material is uploaded to the Crown Court digital case system before the hearing and that an advocate is properly and effectively instructed before the hearing.

³² See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

6.49. We found that PTPH forms were routinely completed and served in a timely manner. We rated 59.5% of cases as fully meeting the standard and 37.8% as partially meeting the standard. These latter cases tended to be missing some information on the form.

6.50. The indictment is the document that contains the charge(s) to be faced by the defendant. It is the responsibility of the prosecutor to prepare the indictment. It is important that it is legally correct, and the number and nature of the counts are appropriate. The indictment and key evidence must be served in a timely manner before the PTPH to allow for an effective hearing.

6.51. We found well drafted indictments that were fully meeting the standard in 86.5% of the cases we examined. The timeliness of serving the indictment and key evidence was also good –81.1% of cases fully meeting the standard.

6.52. The principles of better case management³³ apply in the Crown Court, one of which is the duty of direct engagement. Rule 3.3 of the Criminal Procedure Rules requires parties to talk to each other about the issues in the case at the earliest opportunity and throughout the proceedings. The parties must 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 must report on that communication to the court at the first hearing.

6.53. Although the duty falls to all parties, it is usually the prosecution that takes 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 log must be completed by the prosecutor and then uploaded to the Crown Court digital case system (CCDCS) where it can be viewed by the Judge and the defence. Good conversations with the defence at an early stage can lead to the case being resolved without the need to list and prepare for trial. This saves resources and provides certainty for victims, witnesses and defendants.

6.54. In the cases we examined, the log was not consistently uploaded to CCDCS for the Judge to view. The Area said prosecutors were expected to do this. Given the pressures, the focus on direct engagement may, understandably, have been lost during the pandemic when many defence firms furloughed staff. This made it more difficult to make contact. The Area should, however, consider reiterating expectations around this aspect of work as the pressures ease.

³³ Better Case Management; Courts and Tribunals Judiciary; September 2015. www.judiciary.uk/publications/better-case-management/

Does the Area fully comply with its duty of disclosure?

6.55. The Area was assessed as **fully meeting the standard** for disclosure, achieving 70.7% compliance in Crown Court cases³⁴.

6.56. Our assessment of disclosure includes complying with the duty of initial disclosure and continuing disclosure, handling sensitive and third-party material, the correct endorsement of the disclosure schedules, timeliness of disclosure-handling, recording on decisions in the CPS case management system and feeding back to the police where necessary.

6.57. It is a crucial element of the prosecution's role to ensure that unused material is properly considered, applying the tests set out in section 3 of the Criminal Procedure and Investigations Act 1996 (CPIA). Any material that could reasonably undermine the case for the prosecution or assist the case for the accused is disclosed to the defence. This ensures the fairness of the trial process.

6.58. The police must accurately record all material, retain it and reveal it to the prosecutor. In Crown Court cases, the police must record all relevant non-sensitive unused material on police Manual of Guidance form 6C, and any sensitive material on police Manual of Guidance form 6D. These are sent to the prosecutor who applies the test in the CPIA. Any material that meets the test must be disclosed to the defence. The police disclosure officer, who in many cases will be the investigating officer, must 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. Where the descriptions are inadequate, the prosecutor needs to ask for copies of the documents so that they can discharge their duty. Prosecutors need to assure themselves that all material that should be listed is included on the schedules.

6.59. The police must supply a Manual of Guidance form 6E, in which the disclosure officer identifies any material they have assessed as capable of meeting the test in section 3 of the CPIA 1996 and why. They must also supply a copy of those items to the prosecutor.

6.60. 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 both cases, the prosecutor must supply form MG6C so that the defence sees the list of non-sensitive documents. The

³⁴ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

disclosure letter template allows for disclosable items to be added if they are not listed on the MG6C by the police. The MG6C and letter must be served by the stage one date set at the PTPH. This is called initial disclosure.

6.61. The defence must respond to that initial disclosure by serving a defence statement that sets out the details of the defence case. This is at stage two. If a defence statement is not served in a case, the prosecution can invite the court at trial to draw an inference from the defendant's failure to set out their defence as required at stage two. After receiving the defence statement, the prosecutor should promptly review it and send it to the disclosure officer in the case. The prosecutor should draw the attention of the officer to any key issues and actions that should be taken. The prosecutor should advise the officer about what sort of material to look for, particularly in relation to legal issues raised by the defence.

6.62. The police should then carry out a further review of the unused material and advise the prosecutor (on a further 6E) of any material not previously disclosed that now meets the disclosure test in light of the defence statement. At that point, the prosecutor must reconsider the unused material and disclose any further material satisfying the disclosure test or confirm that no other material needs to be disclosed. This is called continuing disclosure and is stage three.

6.63. Any other material provided after that date must also be considered by the prosecutor and either served as evidence or dealt with as unused material. If it should 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 are aware of the existence of the additional material.

We found that decisions around the initial disclosure of unused material were handled well

6.64. We found that decisions around the initial disclosure of unused material were handled well. All cases were rated as either fully (19 out of 34) or partially (15) meeting the standard. That there were no cases where the standard was not met reflects the Area's priority in focusing on handling disclosure. There were

no specific trends identified in the cases assessed we assessed as partially meeting the standard.

6.65. We rated 19 out of 30 (63.3%) relevant case as fully meeting the standard for continuing disclosure, nine cases (30%) as partially meeting the standard and two (6.7%) as not meeting the standard. The main issues for partially or not meeting the standard were that prosecutors failed to identify unscheduled new material or to identify further reasonable lines of enquiry. In one drugs case, for example, obvious items were missing from the schedules,

including search records and statements that had been taken but not served as part of the prosecution case. Despite these issues not being identified or rectified, the case proceeded and resulted in a late guilty plea.

6.66. We identified several strengths in the Area's handling of its Crown Court disclosure of unused material. Handling third-party material, which we rated as fully meeting the standard in 14 out of the 16 relevant cases and partially meeting the standard in the remaining two.

6.67. Timeliness of initial disclosure was good with 76.5% of cases fully meeting the standard. At continuing disclosure, however, we assessed 60% of cases as fully meeting the standard.

6.68. All sensitive material must be recorded on a separate schedule for the prosecutor to consider, applying the same tests. If the prosecutor concludes that there is sensitive material that meets the tests, they should either disclose this or make an application to the court to withhold the material on the grounds of public interest immunity.

6.69. Handling of sensitive unused material varied. We found that prosecutors needed to be aware of the potential for (and be proactive in) ensuring the MG6D was completed fully by the police so that they could properly discharge their obligations. In one case involving drugs, the prosecutor sought to prove the case against the defendant by association with two others, one under direct surveillance and another that was part of an intelligence-led operation. The sensitive material was not properly addressed in the case. Some material was listed on the MG6D and was served, but other items that should have been listed were not scheduled. This was not questioned by the prosecutor, which led to problems and an unsuccessful outcome in the case.

6.70. We found that defence statements were not consistently reviewed by prosecutors, which led to reasonable lines of enquiry and direction not being given to the police in more than a third of cases. We rated 46.7% of cases as fully meeting the standard, 20% as partially meeting the standard and 33.3% as not meeting the standard. In some cases, it appeared that the paralegal officer sent the defence statements to the police without the prosecutor seeing them. We asked the Area about this practice and were told that, to relieve pressure, paralegal officers might send the defence statement to the police, but that this had to be followed up by a letter from the prosecutor giving direction and identifying any further reasonable lines of enquiry to the officer. The Area may want to consider communicating this expectation and ensuring compliance.

6.71. Where the police do not comply with their disclosure obligations, the prosecutor should report back and request revisions or more work on

inadequate schedules. This often results in delays to the case. We assessed the police as fully meeting the standard for compliance with their disclosure obligation in 25.6% of cases, partially meeting the standard in 48.7% of cases and not meeting the standard in 25.6% of cases.

6.72. Feedback to the police about disclosure failings was assessed as fully meeting the standard in 37.9% of cases, partially meeting it in 27.6% of cases and not meeting it in 34.5% of cases.

6.73. We heard in our meeting with the Area that there was considerable work going on with the police to improve their handling and management of disclosure.

6.74. In all cases, prosecutors must complete a disclosure record on the CPS case management system. 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 disclosure of or withholding of unused material from the defence.

6.75. Despite the Area's focus on disclosure, recording of disclosure decisions was inconsistent. We rated 50% of cases as fully meeting the standard, 41.2% as partially meeting the standard and 8.8% as not meeting the standard. In most of the cases we assessed as partially meeting the standard, the record was incomplete and not all the decisions made in the case, particularly those made outside the specific requirements at stage one and stage three, were properly recorded. Our findings may again reflect the inexperience of some of the newer prosecutors in the Crown Court team, combined with the pressures of increased caseloads. The Area may want, however, to consider internal assurance to ensure compliance around this aspect of disclosure.

Does the Area address victim and witness issues appropriately?

6.76. For this casework theme, the Area was assessed as **fully meeting the standard**. We rated compliance with disclosure for Crown Court cases at 74.1%³⁵.

6.77. To assess how the Area handled victims and witnesses, we considered issues at both pre- and post-charge stages:

- Whether relevant and ancillary matters at charging supported victims and witnesses.
- Timely and accurate warning of witnesses.
- Application for, and consideration of, special measures.
- Whether the Area addressed witness issues.
- How victims and witnesses were consulted.
- the process for Victim Personal Statements, where a victim makes a statement explaining the impact of the offending behaviour on them.
- The quality and timeliness of victim communication letters explaining the reasons for decisions to drop or substantially alter a charge.

Overall, the Area fully met the standard, and some aspects of victim and witness handling were dealt with well. Some aspects, though, were weak and need to improve

6.78. Whilst overall, the Area was fully meeting the standard and some aspects of victim and witness handling were dealt with well, some aspects were weak and need to improve.

6.79. Witness warning was timely, and we found there were effective and efficient processes to support this aspect of casework.

6.80. 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 progress. Where required, they obtain information to help make special measures applications to support the victim or witness to give their best

³⁵ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

evidence. They also arrange pre-trial witness visits to court to reduce anxiety about the surroundings and they offer practical support to help the victim or witness attend court, such as making travel arrangements.

6.81. As witness care officers are in regular contact with victims and witnesses, they inform the CPS when issues arise that may affect the victim's or witness's ability to attend court. It is important that this information is dealt with in a timely manner with actions to minimise any impact on the effectiveness of the trial. This information may be that witnesses are no longer able to attend court on the listed trial date.

6.82. The post-charge service provided to victims and witnesses leading up to hearings, including trials, was a strength on the files we examined. Witness care unit correspondence was handled well and in a timely manner in most cases. Last minute witness issues were addressed promptly and there was a real drive to find solutions to issues arising from specific situations relating to the witness or as a direct result of the pandemic.

Case study

A witness was waiting to give evidence in a trial at the Crown Court when she received a message from NHS track and trace and needed to isolate for 14 days with immediate effect.

The advocate, paralegal and witness care officer worked together to set up a link to the witness' address the following day to enable her to give evidence and for the trial to proceed.

This swift and effective action meant that the case was able to proceed, saved court time and ensured the victim was able to have closure without further adjournment or delay.

6.83. Appropriate orders were sought on sentence. We assessed 82.4% of cases as fully meeting the standard, 11.8% as partially meeting and 5.9% as not meeting the standard. Our findings show that the Area focuses on ensuring victims, witnesses and the public are protected at this post-charge stage. We did not, however, find the same focus in pre-charge reviews.

6.84. At the pre-charge stage, the consideration of relevant applications and ancillary matters to support victims and witnesses was weak. This correlates with our general findings in relation to the quality of pre-charge reviews. We rated 8.3% of cases as fully meeting the standard, 41.7% as partially meeting the standard and the remaining 50% as not meeting the standard.

6.85. At pre-charge we examined whether appropriate consideration was given to the relevant issues, including special measures to support vulnerable or intimidated victims and witnesses to give their best evidence. This included an assessment in relevant cases of the appointment of an intermediary to facilitate communication with a victim or witness, whether the victim wanted to make a Victim Personal Statement about how the offence had affected them, and consideration of orders, such as restraining orders, usually preventing the defendant from contacting the victim.

6.86. We found that special measures were not routinely considered at the pre-charge stage. Where they were, in many cases no action was taken by the prosecutor to progress applications by requesting relevant information, usually from the police. Orders, such as compensation and restraining orders, were not always addressed on conviction and the Victim Personal Statement was not routinely requested when the police had not supplied it.

6.87. Victims are entitled, if they wish, to provide a Victim Personal Statement (VPS). The VPS sets out the impact 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 act on the victim's preferences for how the VPS is presented to the court. This might be the victim reading the statement in court, having the prosecution advocate read it for them, or the Judge or magistrates being given the VPS to read.

6.88. We found the Area had robust systems to ensure Victim Personal Statements were sought and that victims' wishes were sought and acted on.

6.89. Victim Communication and Liaison letters (VCLs) should be sent to victims whenever a charge relating to them is either dropped or substantially altered. The letter should be sent within one working day 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. The timescale in all other cases is five working days. The letter should include a clear and understandable explanation of the decision, a referral to the Victims' Right to Review scheme if applicable³⁶ and offer a meeting in certain types of case.

6.90. We found performance around VCLs was varied. These tended to be on time but the quality of the letters needed improvement. Of the seven cases in our sample where letters were sent, we rated three as fully meeting the standard, one as partially meeting the standard and the remaining three as not meeting the standard. The Area has carried out training on the quality of VCLs

³⁶ This is a scheme where a victim can ask the prosecution to reconsider a decision to drop or substantially alter a case.

and evaluated the impact. They have seen some improvements but acknowledge that more needs to be done.

6.91. We found brief references on the hearing record that indicated compliance with the speaking to witnesses at court requirement. We were told that the Area expected advocates to properly record this on the hearing record sheet. When it was first introduced, the Area checked compliance and worked with chambers and resident Judges to raise awareness of the expectations. The Area acknowledged that it was likely the pandemic had had an impact with more cases conducted virtually and with people being socially distanced and wearing masks. As there had been several new starters, the Area had reminded advocates and paralegals about what was expected of them. The Area may want to consider carrying out some further assurance to ensure compliance.

7. Casework quality: rape and serious sexual offences casework themes

Introduction to rape and serious sexual offence casework

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

7.1. We examined 20 RASSO cases for casework quality. We assessed added value and grip and analysed the cases in the five casework themes or, for some of the themes, scored two or more sub-themes.

7.2. We used the same scoring mechanism as for added value and grip (see chapter 4 and annex F). We gave two points for answers fully meeting the standard, one point for each relevant answer marked as partially meeting the standard and no points for not meeting the standard. These were expressed as a total of the answers to derive a percentage of the scores for each casework theme (annex G). We translated the percentage into an overall marking of fully, partially or not meeting the required standard, based on the ranges set out in annex F.

7.3. Most RASSO cases are heard in the Crown Court, but a small number 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 relating to preparation for Crown Court hearings, are not applicable in youth court cases.

7.4. We scored CPS Cymru Wales for its RASSO casework as follows:

Table 10: Scoring for RASSO casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ³⁷ at pre-charge decision stage	Fully meeting the standard	100%
The Area selects the most appropriate charge(s) at pre-charge decision	Fully meeting the standard	97.4%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	46.3%
The quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	100%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	50%
Preparation for the plea and trial preparation hearing		
	Partially meeting the standard	62.2%
Disclosure		
	Fully meeting the standard	76%
Victims and witnesses		
	Fully meeting the standard	72%

7.5. Some aspects of RASSO casework were handled well. These included disclosure and victim and witness issues post-charge. Others, however, needed improvement, specifically around the value that prosecutors add in their reviews at pre- and post-charge stages.

³⁷ Code for Crown Prosecutors, 8th edition; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

Pre-charge decision-making and reviews

7.6. To assess Area performance in pre-charge decision-making, we split the assessment into three subthemes. These reflect the aspects that contribute to effective decision-making at pre-charge stage – compliance with the Code for Crown Prosecutors, selection of the most suitable charges and the quality of the analysis and case strategy in the prosecutor’s review.

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

7.7. We rated the Area as **fully meeting the standard** for this aspect of pre-charge decision-making. All the Area pre-charge RASSO cases complied with the Code for Crown Prosecutors³⁸.

Table 11: Pre-charge Code compliance in RASSO cases

Rating	Number of cases	Percentage
Fully meeting the required standard	19	100%
Not meeting the required standard	0	0%

7.8. In every case we assessed, the Area prosecutor³⁹ correctly applied the evidential and public interest stages as required.

Selecting the most appropriate charges

7.9. The facts and circumstances of each case are different and there are often several charges that can be considered and selected by the prosecutor⁴⁰.

7.10. In RASSO cases, selecting charges can be complicated. Different offences may be relevant depending on the date of the offence(s) or the age of the victim. Older allegations need particular care if they span the transitional provisions and changes to offences in the Sexual Offences Act 2003.

7.11. We rated the Area as **fully meeting the standard** for selecting the most appropriate charges in pre-charge decision-making. We rated 97.4% of cases as fully meeting the standard and the remaining 5.3% as partially meeting the standard.

³⁸ See Chapter 5, paragraphs 5.6-5.11.

³⁹ As this is an Area inspection, where the charging decision was made outside the Area, either by the police or CPS Direct, the answer was marked not applicable.

⁴⁰ See Chapter 5, paragraphs 5.13 to 5.16.

7.12. The appropriate charges were selected in almost all cases. This is a strength given the complexities around charge selection in sexual offence cases.

Quality of pre-charge decision reviews, including analysis and case strategy

7.13. We assessed the Area as **not meeting the standard** for this aspect. Overall, the score for the quality of post-charge review, analysis and case strategy in magistrates' court cases was 46.3%⁴¹.

7.14. Whilst it is essential to get the initial charging decision correct, a clear analysis of the material and a clear strategy are fundamental to efficiency and effectiveness in the subsequent stages. Analysis and strategy are needed to comply with the Code for Crown Prosecutors and in selecting charges as the case moves through the criminal justice system.

7.15. The prosecutor's review⁴², which should be recorded on police Manual of Guidance form 3 (or 3A for any subsequent reviews), should set out a clear and cogent analysis of the material, identifying how the evidential test is met. There should be a clear case strategy that encompasses what the case is about or 'tell the story'. It should set out how potentially undermining material, such as material that may affect the credibility of a victim or witness, can be addressed.

7.16. Most of the cases we examined resulted in charging decisions that complied with the Code, but scores were relatively low for the prosecutors' wider responsibilities in giving pre-charge advice to the police set – we assessed 31.6% of cases as fully meeting the standard, 31.6% as partially meeting the standard and 36.8% as not meeting the standard.

The reviews did not consistently set out a clear analysis of the evidence

7.17. Although the correct charges were selected in difficult cases, the reviews did not consistently set out a clear analysis of the evidence, failed to identify the strengths of the case, and, importantly, often did not set out

what the strategy would be to address weaknesses in the case and how these might be addressed at trial.

7.18. In one case, involving an allegation of assault by penetration, the suspect's account was that there were exchanges of 'flirty' messages in the week before the incident and that the activity was consensual. This was not

⁴¹ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

⁴² See chapter 5, paragraph 5.20 for what a good-quality pre-charge review should include.

considered in the review, either as a potential weakness or as a reasonable line of enquiry. That line of enquiry should have assessed the content of the messages and their potential to affect a case that rested on the credibility of the victim.

7.19. We noted that counsel from the external Bar had advised on some RASSO pre-charge cases. The Area confirmed that this was one of the ways they had tried to ease pressure during the pandemic. In some of these cases, counsel had not addressed all the aspects that a prosecutor would be expected to in terms of trial strategy and reasonable lines of enquiry. Instead, they had simply applied the two-stage test set out in the Code, focusing solely on whether the material was sufficient for a realistic prospect of conviction. The Area was already aware of this issue but may want to consider setting out clear expectations to counsel around the requirements of pre-charge advice reviews if they choose to instruct counsel in the future.

7.20. When counsel provides pre-charge advice, a prosecutor still needs to review the case and authorise the charge. We found that prosecutors appeared to simply copy and adopt the advice and authorise the charge. Whilst this is understandable, given the pressures, it can lead to errors. In one case, counsel missed that the Young Witness protocol applied as the witness was under 10 years old. In these circumstances, the case should have been expedited. This was compounded by the prosecutor simply adopting counsel's review at pre-charge and again at the post-sending review stage. A key aspect of support for a vulnerable child was missed.

7.21. Another important function of a pre-charge decision review is to provide instructions to a court prosecutor⁴³ who may have many cases to deal with and little time to review cases before the hearing. Inadequate instructions can limit the progress at the first hearing. They can also require the advocate to duplicate work 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.

7.22. We found that instructions to court prosecutors often lacked sufficient detail to assist the prosecutor at the first hearing. In just over 50% of cases, we assessed instructions as not meeting the standard. Our inspectors found that there tended to be little reference to key evidence for serving on the defence in

⁴³ See Chapter 5, paragraph 5.26 setting out the expectations around instructions to court prosecutors in pre-charge reviews.

the initial details of the prosecution case (IDPC)⁴⁴ before the first hearing. There was also limited guidance on the bail or custody position or acceptability of pleas.

7.23. Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan for the police (a specific section of the police Manual of Guidance form 3). This allows actions to be prioritised and timescales set to ensure that all appropriate avenues of investigation have been completed, including those that may point away from a prosecution.

7.24. We assessed 36.8% of cases as fully meeting the standard and 47.4% partially meeting the standard. In most cases, there was a clear focus on early identification of possible third-party material and clear actions set around these lines of enquiry by Area prosecutors in RASSO cases.

Case study

In a case that involved an allegation of rape, the victim had passed out on the suspect's sofa after drinking alcohol and smoking cannabis. She awoke as the suspect moved her knickers to the side and penetrated her with his penis.

She pretended to be asleep, and the suspect left to go upstairs. The victim contacted a friend and got a taxi home. She spoke to several people about the incident. The police were called. A forensic examination revealed the suspect's DNA and semen in the victim's underwear. The suspect could not account for his DNA being present and said he was so drunk he could not recall anything.

The action plan set out a lengthy list of material required, including social media and phone evidence that were relevant and needed. The items were clearly set out and proportionate and realistic timescales set for the officer in the case to provide the further necessary evidence. Overall, the action plan was effective and assisted in progressing the case.

The quality of the action plan was so good that, after pre-charge, very little extra material had to be requested from the police in the case.

The case went to trial and the defendant was convicted, demonstrating how getting the analysis and strategy right at the outset adds real value and allows cases to progress efficiently.

⁴⁴ The content of the IDPC is regulated by Part 8 of the Criminal Procedure Rules (CrimPR) and the Criminal Practice Directions (CPD) 2015 Division 1, at Part 3A.

Post-charge decision-making and reviews

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

7.25. We rated the Area as **fully meeting the standard** for this aspect of pre-charge decision-making in RASSO cases. All the Area decisions post-charge complied with the Code for Crown Prosecutors – the evidential and public interest tests were properly applied. These included reviews of cases that were originally charged by either the police or CPSD.

Table 12: Post-charge Code compliance in RASSO cases

Rating	Number of cases	Percentage
Fully meeting the required standard	20	100%
Not meeting the required standard	0	0%

7.26. A decision that does not comply with the Code is said to be a wholly unreasonable decision –a decision that 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.

7.27. In every case we assessed, the Area prosecutor⁴⁵ correctly applied the evidential and public interest stages.

Quality of post-charge reviews, analysis and case strategy

7.28. The Area is **not meeting the standard** for this aspect of the casework. Overall, the score for the quality of post-charge review, analysis and case strategy was 50%. Whilst this is an improvement on our assessment of the quality of the pre-charge reviews, improvement is needed.

7.29. The quality of ongoing reviews and strategy is critical for the effective and efficient progress of cases. A decision that complies with the Code, but without supporting analysis of the material and a clear strategy addressing matters such as undermining material, special measures and applications, diminishes the value added by the CPS. It results in a reactive rather than proactive approach that can lead to key issues being missed. It can also result in cracked and/or ineffective trials, duplication of effort, waste of resources and

⁴⁵ As this is an Area inspection, where the charging decision was made outside of the Area, either by the police or CPS Direct, the answer was marked not applicable.

delays in decision-making that can affect victims, witnesses, and defendants, especially where defendants are in custody.

7.30. Whilst we found the post-sending reviews⁴⁶ were mostly timely, the quality of reviews needed improvement. We assessed 60% of cases as not meeting the standard for the quality of post-sending reviews. In 15% of cases, we assessed the review as fully meeting the standard, and in 25% we rated the review as partially meeting the standard. The post-charge review often simply copied the pre-charge decision review, adding little or no value to the case. Where the pre-charge review is good-quality and addresses all issues, it would be deemed to be fully meeting the standard if the prosecutor adopted that review at post-charge and confirmed there was no material change or additional material to review. However, where the pre-charge review was not meeting the standard, adopting it at post-charge merely compounds the failing.

7.31. Changes that occur as cases progress can have a material impact on the prosecution case. At this stage, there should be a review to address whether there is still a realistic prospect of conviction and, if so, how the case strategy should be adapted. We call this a significant event review. We assessed 45.5% of significant event reviews as fully meeting the standard. In 18.2% of cases, we noted some evidence of discussion or consideration (mainly in the form of telephone notes or emails), but no properly considered review that applied the two-stage Code test to support the formal decision-making. These cases were assessed as partially meeting the standard. The remaining 36.4% of cases had little or no evidence to support any decision-making around the progress of the case as a result of the significant event, and these cases were assessed as not meeting the standard. Decision-making in cases is at the core of CPS functions and it is important to have a clear record of the rationale for decisions as cases change. Addressing complaints or victim requests under the Victims' Right to Review scheme where such decisions are not recorded is difficult.

⁴⁶ See chapter 6, paragraph 6.35 for what should be included in a good-quality post-charge review.

Case study

The case involved a suspect who was the older brother of two sisters, who alleged he had sexually assaulted them when they were children. The alleged offences took place more than 30 years earlier. Both sisters had made previous allegations of abuse against their father (which had not been reported to the police), and abuse by a family friend, who was reported to the police, prosecuted and later acquitted. The outcome of this trial was not known when the charging decision was made.

The decision to charge was based on the evidence of a witness who had withdrawn support for the case by the time it was listed for the PTPH in the Crown Court. The withdrawal of the witness and impact on the case was not addressed in any post-charge reviews and there was no review to coincide with serving the case at stage one. The case was dropped five months after the withdrawal statement after a conference with counsel.

The result was that the case was allowed to drift when an effective review at post-charge or at stage one would have identified the material change affecting the evidential test and led to the case being stopped months earlier. This delay affected the alleged victims and the defendant, who was on bail awaiting trial. It also wasted court time. This case demonstrates the impact the lack an effective review can have.

7.32. In contested RASSO cases, several orders to manage the case are made at the first hearing in the Crown Court – the PTPH. In most cases, the court can set just four dates for the parties to complete their pre-trial preparation. Where the case requires it, individual dates can be set. The four stages are:

1. Stage one – serving the bulk of prosecution materials. This date will ordinarily be 50 days (custody cases) or 70 days (bail cases) after sending. This is in line with the timetable for serving the prosecution case provided in the Crime and Disorder Act (Service of Prosecution Evidence) Regulations 2005. The court does not have power to shorten this time (without consent) but does have power to extend it.
2. Stage two – serving the defence response, including the Defence Statement and Standard Witness Table. This date will ordinarily be 28 days after stage one, reflecting the time provided for serving a Defence Statement.
3. Stage three – for the prosecution response to the Defence Statement and other defence items. This date will ordinarily be 14 or 28 days after stage two, depending on the anticipated date of trial.

4. Stage four – for the defence to provide final materials or make applications, usually arising from prosecution disclosure.

7.33. Following a plea of not guilty and the stage dates being set, the prosecution asks the police to supply the additional material required to prove the case so that the jury is sure of the defendant's guilt. This requires more information than the key evidence served on the defence for the PTPH. When that material is supplied, the prosecutor should review the case again in accordance with the Code, analysing all the material and confirming the case strategy and compiling the bundle of evidence the prosecution will rely on at trial. The prosecutor also completes initial disclosure and, if not already served, serves any material that could undermine the prosecution case or assist the defendant's case, along with the schedules of all non-sensitive unused material.

This is a central point in the preparation of the prosecution.

A significant proportion of RASSO cases do not have a good-quality review that gives a clear and cogent analysis of the material and sets out a clear case strategy

7.34. We found that the stage one reviews were not routinely completed – we rated one case as fully meeting the standard. In 13 cases (81.3%) we assessed the review as not meeting the required standard. When we asked the Area about this, they said they expected prosecutors to carry out a review to coincide with the stage one date. Whilst the Area encouraged prosecutors dealing with cases before the Crown Court, whether in the

Crown Court or RASSO teams, to serve the case as early as possible, they agreed that a single review just after sending would be insufficient and not in proportion to the nature and seriousness of the cases. The lack of stage one reviews in RASSO cases compounds our earlier findings around the quality of what is recorded in pre- and post-charge reviews. A significant proportion of RASSO cases do not have a good-quality review that gives a clear and cogent analysis of the material and sets out a clear case strategy.

7.35. The conference with trial counsel (mandated in the ACPO CPS Rape Protocol and referenced in the CPS RASSO policy) is an opportunity to further review rape prosecutions. There was no indication of a conference taking place in 63.6% of cases (seven out of the 11 where it was required). The Area said this has been a casualty of the pandemic and that communication had rather been via emails or telephone calls. They said they were confident that appropriate issues were being discussed and progressed with counsel. We hope that the easing of pressure and restrictions will make it less difficult to arrange conferences as set out in the protocol and policy.

7.36. We found examples of a good and consistent approach in some aspects of post-charge decision-making, including timely and appropriate decisions about bail and custody at the post-charge stage. We rated 75% of cases as fully meeting the standard in this regard. There was good use of appropriate applications to strengthen the prosecution case and 90% of cases rated as either fully or partially meeting the standard.

Preparation of RASSO cases for the plea and trial preparation hearing in the Crown Court

7.37. We assessed the Area as **partially meeting the standard** for this casework theme. Overall, the score for the quality of preparation of RASSO cases for the PTPH was 62.2%⁴⁷.

7.38. To assess the Area's performance, we considered the key tasks the prosecution is required to complete for the PTPH form used by the Judge presiding at the hearing. Prosecutors should talk to the defence, draft the indictment, ensure relevant material is uploaded to the Crown Court digital case system before the hearing and instruct an advocate properly and effectively before the hearing

7.39. We found that PTPH forms were routinely completed and served on time. We assessed 63.2% of the cases as fully meeting the standard and 21.1% as partially meeting the standard, mostly because the form had not been completed in full.

7.40. As at the pre-charge stage (see paragraph 7.10), RASSO cases require particular care in selecting counts for the indictment, especially in the case of older allegations.

7.41. We found the quality of indictment⁴⁸ drafting to be good, continuing the positive findings in relation to the selection of charges in these often-complicated cases. We rated 72.2% of indictments as fully meeting the standard. The draft indictment and the key evidence were uploaded to the Crown Court digital case system on time, fully meeting the standard, in 88.9% of cases. We rated 11.1% of cases as partially meeting the standard – the key evidence was uploaded but the indictment was uploaded late. There was room for improvement, however, in ensuring that hard media, including video recorded interviews with victims, was

⁴⁷ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

⁴⁸ See chapter 6, paragraph 6.51 regarding indictments.

served on the defence before the PTPH to make case management more effective. we rated 56.3% of cases as fully meeting the standard in this regard.

7.42. The principles of better case management⁴⁹ apply in the Crown Court, one of which is the duty of direct engagement⁵⁰. The parties should engage 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 that communication to the court at the first hearing.

7.43. Although the duty falls to all parties, 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. The log 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 the case being resolved without the need to list and prepare for trial. This saves resources and provides certainty for victims, witnesses and defendants.

7.44. We found that the duty of direct engagement was not routinely fulfilled in the RASSO cases we examined. We assessed more than 80% of cases as not meeting the standard. While agreeing acceptable pleas in many sexual offences cases is less likely than in some other types of casework, talking to the defence is still a requirement, and discussions about what is disputed or agreed and what material is required are useful. In the three cases where engagement had taken place, the log was not uploaded to the digital case system.

7.45. The Area said they expected prosecutors to upload the log. Given the pressures, particularly in the Crown Court casework teams, the focus on direct engagement may have been lost during the pandemic. Many defence firms furloughed staff making it more difficult to make contact. The Area should consider reiterating expectations around this aspect of work as the pressures ease.

⁴⁹ Better Case Management; Courts and Tribunals Judiciary; September 2015. www.judiciary.uk/publications/better-case-management/

⁵⁰ 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.

Does the Area fully comply with its duty of disclosure?

7.46. We assessed the Area as **fully meeting the standard** for this aspect of the theme. Overall, the score for disclosure in RASSO cases was 76%⁵¹.

7.47. Our assessment of disclosure includes compliance with the duty of initial disclosure and continuing disclosure, handling sensitive and third-party material, the correct endorsement of the disclosure schedules, timeliness of disclosure handling, recording the decisions on the disclosure record in the CPS case management system and feeding back to the police where necessary⁵².

Decision-making around unused material is good in RASSO cases. This has been a clear focus for the Area in its internal assurance and has clearly had an impact on quality

7.48. Disclosure management documents (DMDs) were required in the RASSO cases we examined. These are documents that are contributed to by the police disclosure officer assigned to the case. The officer sets out the lines of investigation and how the material obtained from them is being handled. Examples of lines of enquiry include CCTV, phones, social media and third-party material. The documents set out what parameters are being applied by the team comprising the police and prosecution. For example, in a rape case where the

defendant and victim are known to each other and the defence is consent, there may be investigation into messages and calls between the parties and a review of social media before and after the offence. The DMD is then drafted by the prosecutor. The DMD should be started at the outset of the case, served on the defence and court prior to the PTPH, and regularly reviewed and updated as the approach to the case develops.

7.49. The DMD is a proactive and transparent way of assuring all parties that the prosecution is complying with its disclosure obligations and is engaging the defence in the process. Proper completion and service of the DMD allows the defence to identify other lines of investigation or widen parameters that might lead to material that points away from the defendant having committed the offence. It is preferable for this to be identified at an early stage so that decisions about whether the case should proceed can be taken as soon as possible.

⁵¹ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

⁵² See chapter 6, paragraphs 6.58 to 6.64 setting out disclosure obligations in cases heard at the Crown Court (which includes most RASSO cases).

7.50. In our sample, we found DMDs were routinely completed – with 75% fully meeting the standard and 25% partially meeting the standard. This demonstrated a real understanding of the investigation and the material relevant to individual cases.

7.51. We assessed initial disclosure as fully meeting the standard or partially meeting the standard in all the RASSO cases we examined, and initial disclosure was timely in 82.4% of cases. We rated no cases as not meeting the standard. The main reasons for partially meeting the standard were prosecutors not identifying items of unused material that had not been scheduled and either not endorsing or signing a blank police Manual of Guidance MG6D sensitive unused material schedule. None of the issues we identified had affected the fairness of the trials in the cases we looked at.

7.52. We assessed continuing disclosure as fully meeting the standard in 66.7% of cases, and partially meeting the standard in 13.3% of cases. We assessed continuing disclosure as not meeting the standard in 20%, of cases. In most cases, continuing disclosure was timely. The reasons for not fully meeting the standard included failing to endorse decisions on newly revealed items, not identifying reasonable lines of enquiry, and not identifying obvious items not scheduled. Again, none of these affected the fairness of the proceedings and in most cases were handled well.

7.53. All sensitive material must be recorded on a separate schedule, which the prosecutor must consider, applying the same tests. If the prosecutor concludes there is sensitive material that meets the tests, they should either disclose this or make an application to the court to withhold the material on the grounds of public interest immunity.

7.54. We found that third-party material was handled well (76.9% fully meeting the standard and 23.1% partially meeting the standard). In cases where there was sensitive material, this too was handled well (70% fully meeting and 20% partially meeting the standard). Prosecutors routinely reviewed defence statements and appropriately directed the police on further relevant lines of enquiry. 80% of cases assessed as fully meeting the standard.

7.55. Where the police did not comply with their disclosure obligations, prosecutors have to request re-work on revised disclosure schedules, or that further enquiries be made. This can result in delay whilst matters are addressed. We rated 50% of cases as fully meeting the standard. In cases we rated as partially or not meeting the standard, the Area tended to rely on simply sending a copy of the endorsed MG6 schedules back to the police, rather than explaining why an item was required.

7.56. Despite the pressures on CPS Areas, feedback to the police about disclosure failings is crucial if the joint National Disclosure Improvement Plans are to be effective in improving quality in handling unused material.

7.57. In all cases, prosecutors must complete a disclosure record on the CPS case management system. This provides an audit trail for receiving and serving the streamlined disclosure certificate and any sensitive unused material schedules, along with the disclosure decisions and actions made, including reasons for disclosure or withholding unused material from the defence.

7.58. Despite the Area's focus on disclosure, we found recording of disclosure decisions for RASSO cases was inconsistent. 41.2%% of the cases we examined fully meeting the standard. The issue in cases only partially meeting the standard tended to be that not all the decisions around disclosure of unused material were recorded, particularly those made outside the specific requirements at stage one and stage three. This needs to be improved. The Area may want to consider checking compliance around this aspect of disclosure.

Does the Area address victim and witness issues appropriately?

7.59. We assessed the Area as **fully meeting the standard** for this element of casework. Overall, the score for handling of victim and witness issues in RASSO cases was 72%⁵³.

7.60. We considered several aspects, including issues at both pre- and post-charge stages, to see whether relevant and ancillary matters at charging supported victims and witnesses. We rated 66.7% of the cases we examined as not meeting the standard at pre-charge. This ties with our findings about the overall quality of the reviews of RASSO cases pre-charge and requires improvement.

⁵³ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme

7.61. At pre-charge we examined whether consideration had been given to:

- In cases involving victims and witnesses, to special measures to support vulnerable or intimidated victims and witnesses in giving 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 how the offence had affected them.
- Orders, such as restraining orders, and compensation.

7.62. By contrast, we found a strong approach to managing and handling victim and witness issues post-charge in the RASSO cases we examined. In all eight cases where it was required, the Area had sought the relevant orders to protect victims, witnesses and the public. Witness warning was strong, although multiple lists of witnesses to attend court were sent due to confirmation of witness requirements by the defence late in the process rather than at the PTPH. This is something the Area is already aware of and they are working with criminal justice partners to improve case management and identify which witnesses are required to give evidence at trial at the PTPH. We rated 94.1% of the relevant cases as fully meeting the standard.

7.63. Correspondence from the witness care unit about witness issues was both prompt and effective in 78.6% of the cases in our sample. We rated the remaining 21.4% as partially meeting the standard. Our findings reflect that the Area has efficient and effective processes to prioritise victim and witness issues.

7.64. Consulting with victims and witnesses was good and we rated no cases as not meeting the standard (53.8% fully meeting and 46.2% partially meeting the standard).

7.65. Victims are entitled, if they wish, to provide a Victim Personal Statement (VPS). The VPS sets out the impact 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 act on the victim's preferences for how the VPS is presented to the court. This might be the victim reading the statement in court, having the prosecution advocate read it for them, or the Judge or magistrates being given the VPS to read.

7.66. A VPS was sought and acted on in most cases – we rated 60% of cases as fully meeting the standard in this regard and 13.3% as partially meeting the standard. In the remaining cases, we found either that victim's views were not acted on or there was no VPS, and it had not been chased up.

7.67. Consultation with victims and witnesses was good. No cases failed were found not to be meeting the standard. 53.8% of cases were fully meeting the standard and the remainder were partially meeting the standard.

7.68. Victim Communication and Liaison letters (VCLs) should be sent to victims whenever a charge relating to them is dropped or substantially altered. The letter should be sent within one working day if the victim is deemed to be vulnerable or intimidated, is a victim of serious crime (which includes domestic abuse) or has been targeted repeatedly. The timescale in all other cases is five working days. The letter should include a clear and understandable explanation of the decision, a referral to the Victims' Right to Review scheme if applicable, and offer a meeting in certain types of case, including serious sexual offences.

7.69. Performance around VCLs was more varied in our sample. Timeliness was good, but one out of the three letters not meeting the required standard. The Area has carried out training on VCL quality and has assessed the impact of that training. They have seen some improvements but acknowledge that more needs to be done.

8. Public confidence

8.1. One of the five aims of the CPS 2025 strategy⁵⁴ 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”. In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit, to consider aspects of Area performance around public confidence with a specific focus on the impact on casework quality.

Correspondence with victims

Expectations

8.2. The CPS is obliged to write to a victim of crime whenever a charge relating to them is either dropped or substantially altered. These are called Victim Communication and Liaison letters (VCLs). The letter should be sent within one working day if the victim is deemed to be vulnerable or intimidated, is a victim of serious crime (which includes domestic abuse) or has been targeted repeatedly. The timescale in all other cases is five working days.

8.3. A VCL should include a referral to the Victims’ Right to Review (VRR) if applicable. This scheme allows the victim to ask the prosecution to reconsider a decision to drop or substantially alter a case. In certain circumstances, the VCL should also offer a meeting.

8.4. 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.

8.5. All communications with victims, complainants and bereaved families should be in plain English, be translated where necessary, be grammatically correct, and should not use legal jargon. They should include a clear, understandable and accurate explanation of the decision or action being discussed. They should be empathetic, and the recipient should be directed to sources of support.

⁵⁴ *CPS 2025* is the CPS strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

Sending Victim Communication and Liaison letters

8.6. In our examination of 90 Area cases, 16 letters were sent by CPS Cymru Wales – six in magistrates' court cases, seven in Crown Court cases and three in RASSO cases. They were sent on time, but quality was inconsistent. Overall, for quality, we rated 50% of the letters as fully meeting the standard, 25% as partially meeting the standard and 25% as not meeting the standard.

Quality of Victim Communication and Liaison letters

8.7. The Area has a Victim Communication and Liaison assurance board that checks the quality and timeliness of VCLs. The VCL board reports to the Area's Casework Quality Committee, attended by the Area's senior legal and business managers.

8.8. We were told, and saw evidence, that the Area had carried out training to improve the quality of VCLs. 80 magistrates' court lawyers and associate prosecutors were trained in writing these letters in the Autumn 2020. The training was extended to Crown Court lawyers in Spring 2021. More specific training has been given to the RASSO and complex casework teams.

8.9. We were told that the Victim Liaison Unit (VLU) manager had trained every new starter in recent months, as well as new lawyers on the Crown Court teams, in the requirements of the bereaved family scheme. We heard that the quality of letters had improved but more needed to be done.

8.10. The Area evaluated the training for the volume casework teams and found that there were still issues with quality across the teams. More training was needed, along with support from the VLU manager, to achieve the improvements they hoped for.

8.11. The quality of VCLs is a priority for the Area and there are clear structures and governance to take an overview of VCL quality. It is unclear how much the pressure of the pandemic has affected the capacity and capability of prosecutors to benefit fully from the training, but the fact that there has been some improvement is a positive. Many of the letters in our file sample pre-date the training, so we cannot give a firm view on whether the training was effective. This is something we will consider when we follow up this inspection in the next stage of our Area Inspection Programme.

Timeliness of Victim Communication and Liaison letters

8.12. The Area monitors timeliness in VCL cases through monthly reports from the VLU manager. The report highlights issues around late letters; the performance of specific teams, particularly lawyers, and late return of hearing record sheets from agents. This is reported to the Casework Quality Committee (CQC) and the deputy chief crown prosecutors are responsible for sharing action points in their own areas. This seems to be an effective system, but we noted where issues had been reported but were still a problem in subsequent months. It is difficult to assess how much the pressures of the pandemic hindered the Area in making improvements to VCL timeliness, but we heard that performance management has been 'light touch' during the period of the pandemic, offering support rather than more formal feedback. Over the past three years, however, the Area has performed consistently above the CPS national average for timeliness of letters sent to vulnerable and intimidated victims. This indicates that Cymru Wales has a grip on this, although it could be improved with full and effective compliance by all staff and teams.

Timeliness of complaint and Victims' Right to Review responses

8.13. The Area has clear processes for managing the timeliness of responses to complaints and Victims' Right to Review (VRRs). The VLU monthly report details performance on timeliness in acknowledging and fully responding to complaints. Timeliness of VRRs is logged and monitored. Reasons for late responses or extensions are noted and the monthly report analyses timeliness and issues for VRRs.

8.14. The VLU report is considered at the Area's CQC, where issues and trends are discussed, and actions identified to improve timeliness and quality. After discussion, Area deputy chief crown prosecutors feed back the actions to their operational managers at each unit's performance boards. Through regular evaluation of actions, the Area is able to assess effectiveness. Where issues remain, further action is taken. Inspectors were reassured there was clear evidence of a 'plan, do, review' cycle in the Area.

Quality assurance of communications

8.15. The Area produces a comprehensive monthly report setting out performance and results of internal quality assurance around communications with victims, as well as a quarterly report on how the Area handles complaints. The Area has a clearly defined approach to internal assurance, overseen by the Area Business Manager and reported back to senior leaders in the CQC. There is evidence that this assurance work leads to actions that are evaluated and challenge performance.

Victims' Code and Witness Charter

Expectations

8.16. The Area is expected to fulfil its responsibilities defined in the Code of Practice for Victims of Crime and the Witness Charter in respect of Victim Personal Statements (VPS), VCLs, offering meetings in specific circumstances, and compliance with the speaking to witnesses at court protocol.

8.17. Victims are entitled, if they wish, to provide a VPS, which sets out the impact the offence has had on them and helps inform the court's decision on sentencing. The police should give victims the opportunity to provide a VPS and there is guidance on when this should happen. The police should provide the CPS with a copy of the statement and the CPS should then act on the victim's preferences for how the VPS is presented to the court. This might be allowing the victim to read the statement in court, having the prosecution advocate read it for them, or the Judge or magistrates being given a copy of the VPS to read. The hearing record sheet (HRS) – the document completed by the advocate that sets out what happened at the hearing – should indicate whether the victim's wishes were met at the sentencing hearing.

8.18. Prosecutors at trials are tasked with speaking to witnesses at court (abbreviated for business purposes to STWAC) to explain what will happen. The CPS STWAC guidance emphasises that witnesses should be 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 being at court, familiarising them with the procedures – which may seem alien and intimidating – and managing their expectations around what will happen in court. The advocate should include on their hearing record sheet that they have had this discussion with witnesses.

Victim Personal Statements

8.19. We rated the Area as fully meeting the standard for Victim Personal Statements (VPS) in 63% of the 90 cases we examined across the three casework types. We assessed 16.7% of cases as partially meeting the standard and 20.4% of cases as not meeting the standard. There were some instances where there was no VPS throughout the case, but it was apparent that prosecutors in the Area were aware of the requirements and were proactive, if not always timely, in chasing the police for a VPS where it had not been supplied. The planned Area training programme around case review may be an opportunity for prosecutors to be reminded of the obligation to ensure this is addressed at the pre-charge stage, which is where we saw the poorest compliance.

8.20. As highlighted in previous chapters, instructions to the court prosecutor were not always present or clear and, in many cases, instructions around the victim's wishes about the presentation of their VPS were not considered at the pre-charge review.

8.21. It was not always clear from hearing record sheets whether the VPS was read out and by whom. The Area recognised the need to improve and addressed it by issuing a document to advocates that includes the requirements around VPS. Given our findings, the Area may want to consider clarifying the documents and reaffirming the expectation that, at sentencing, there should be clear detail about whether the VPS was read out and by whom.

Offering meetings in all appropriate cases

8.22. The Area told us they were satisfied that meetings were being offered where appropriate. We saw evidence in the VLU monthly report that meetings had taken place in line with requirements.

Speaking to witnesses at court

8.23. We found inconsistency in recording details of speaking to witnesses at court (STWAC) on the hearing record sheets. This may have inaccurately reflected what happened at court. We rated the Area as fully meeting the standard in 48.1% of the cases we examined and where it was required (25 out of 52 cases). Many of the endorsements simply said 'STWAC complied with', without setting out in any detail which witnesses had been spoken to or about what. We would not expect to see a lengthy description in volume casework, especially in magistrates' court casework, but there should still be sufficient information to ensure that STWAC requirements have been complied with.

8.24. The Area has already started to address this with trial court endorsement document 2021. This sets out clearly the expectation around what the STWAC note on the case should include. The Area will want to follow this up with internal checks on whether this is being consistently applied. We will look at this again in a later inspection.

9. CPS people

9.1. One of the five aims of the of the CPS 2025 strategy⁵⁵ is to support the success and well-being of its people, to enable everyone to thrive. 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 Area performance relating to CPS people with a specific focus on the impact on casework quality.

Recruitment and induction, staff moves and succession planning

Expectations

9.2. CPS Areas should have a clear strategy for recruitment, induction, succession planning, development and retention. We looked at whether:

- The Area had effective and tailored 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 had effective and tailored induction plans for new paralegal and operational delivery staff, for when these staff move between teams and for when managers are appointed, to support their development.
- The Area had an awareness of the legal teams, including strengths and weaknesses and future capability (particularly around specialisms and capacity to deal with complex or sensitive casework), and that this awareness informed recruitment, succession planning and development.
- Staff allocation and movement between teams was based on clearly documented rationales for decisions, including the impact on the Area's casework quality in terms of capacity, capability and succession planning.

Legal induction

9.3. The Area was under the 'should take' figure for lawyers in the national resourcing model in February 2021, according to the documentation we saw. With known changes, such as legal trainees qualifying and the result of on-recruitment, it was expected it would be over this figure of 109.89 lawyers (crown prosecutors and senior crown prosecutors) as allocated in the national resource model, moving to 113.3 lawyers in future months.

⁵⁵ CPS 2025 is the CPS strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

9.4. The Area had also lost many experienced prosecutors on promotion, retirement or transfer to other CPS Areas, leading to a significant programme of recruitment. There had been 10 recruitment campaigns for prosecutors since July 2019, recruiting 38 prosecutors, a mix of crown prosecutors (junior lawyers) and senior crown prosecutors (senior lawyers). Even with this high level of recruitment, the Area had lost several experienced lawyers, which meant some of the newer recruits needed support and mentoring and led to additional pressures. At the time of writing, the Area had also offered posts to six new prosecutors.

9.5. The Area Business Manager indicated that the level of recruitment and qualification of a several legal trainees would take the Area over its allowed resource numbers. CPS headquarters had supported this in efforts to ease pressures.

9.6. The Area also reported they had used the legal trainee scheme to secure talent, with seven legal trainees qualifying over the past 18 months. This is a sensible approach that allows the Area to develop and retain talent whilst having trainees working in post.

9.7. Table 13 shows the increase in staff since March 2019 when the extra funding for prosecutors was announced:

Table 13: Increase in staff since March 2019

	Legal Manager 2	Legal Manager 1	Senior Crown Prosecutor	Crown Prosecutor	Legal Total
As at 31/03/2019	2.00	12.16	78.54	6.00	125.17
As at 31/12/2020	1.84	14.43	93.86	7.40	141.25

9.8. As detailed above, recruiting new prosecutors has been positive, but it has brought its own challenges with the need to train and induct effectively. This took time and resources from existing staff when the Area was under significant pressure because of the pandemic.

9.9. The Area moved 25 prosecutors from the magistrates' court teams to the Crown Court teams over the last two years. Although, these were not new prosecutors, they were new to Crown Court casework and needed induction into the team along with support to handle more complex casework.

9.10. Pressures on Area resources were exacerbated by movement in frontline legal manager posts (legal manager 1 or LM1). Five LM1s had left the Area or

moved to other posts in the previous few months. This level of change is significant and accounts for over a third of LM1 posts. Whilst this was a challenge, the Area also saw it as a positive change in that it provided opportunity for internal progression. However, given that most LM1 posts are filled through promotion, it did lead to a significant proportion of inexperienced front-line managers newly in post at a time of increased pressure.

9.11. The Area told us that many of the crown prosecutors they recruited had little or no previous experience in the criminal justice system. This inevitably meant it took longer for them to be able to contribute effectively. It did, however, give the Area the opportunity to train people and set expectations from the outset. Some of our findings in the magistrates' courts and Crown Court units highlighted that newer recruits were clear about expectations. This was borne out in greater compliance with recording and process requirements compared to longer standing prosecutors.

9.12. All these factors, along with the increase in caseloads resulting from the pandemic, clearly had an impact on the overall skills and experience in the prosecutor cadre in the Area. This is borne out in our findings on casework quality, particularly around reviews.

9.13. The Area has comprehensive checklists for managers regarding actions and responsibilities during the probationary period for new starters, as well as checklists for staff moving role or returning to work.

9.14. The Area told us that the initial six-month induction for new prosecutors was good and was consolidated with mentoring and regular one-to-ones with the individuals' line managers. Whilst the Area was satisfied this was an effective method of induction, it was clearly a challenge during the pandemic. As the Area emerges from these pressures, it may want to consider a skills audit to ensure the prosecutors who joined the Area or moved teams during the pandemic have gained the necessary skills and experience to carry out their roles effectively.

9.15. The Area's human resources business partner and an experienced LM1 recently developed an LM1 formal induction plan. New LM1s are also given a presentation that explains standards and expectations, and their role as leaders in the Area rather than as leaders of a team of a specific casework type. At the time of writing, the programme had only just started and there had not yet been a formal evaluation. The Area is optimistic, though, that it will support LM1s in being effective as quickly as possible.

Other staff induction

9.16. There had been a similar turnover of staff in operational delivery roles, which had had an impact on the Area.

9.17. The Area has general induction checklists for new starters and for those moving teams. We were told that the induction and support of operational delivery staff involved training in specific roles and responsibilities within the teams, peer support and one-to-one support from line managers.

Succession planning

9.18. Until the recent spate of recruitment, the Area had an experienced workforce. As experienced staff were lost and with the significant recruitment, the Area was looking to develop staff in general, supporting crown prosecutors to become senior crown prosecutors and for prosecutors to become LM1s.

9.19. The Area successfully recruited from within, but identified that candidates were not always able to demonstrate the skills required. This is something the Area will focus on to ensure that staff have the skills and opportunities to develop.

9.20. Recruitment and movement between teams has been high on the agenda for the Area since July 2019. Senior leaders in the Area are responsible for discussing who is ready to progress to the next level, and who can be developed and how. In October 2020, the Area promoted five crown prosecutors to senior crown prosecutor posts on a six-month basis to help individual development and increase resources for pre-charge reviews. Measures were put in place for the five lawyers to carry out pre-charge work under supervision. After the temporary promotion, all five were successful in their applications to become senior crown prosecutors. This was an innovative approach by the Area.

Staff allocation and movement between teams

9.21. The Area's strategic board has an overview of staffing and decisions about staff movements. All decisions are considered and made by this board. The strategic board also reviews unit caseloads to identify any issues. We saw evidence that lawyers had been moved to address backlogs and rebalance resources.

9.22. The Area moved staff (especially prosecutors) between teams because of the recent recruitment and to address the increase in casework in the Crown Court teams. This increase arose because fewer cases could be finalised when pandemic safety measures led to a reduction in court capacity.

9.23. The Area told us that, having made so many changes, they could see little merit in more rotation at this stage. The focus now was on stability, allowing individuals to settle into their roles, develop new skills, and then get support to move into new roles in the future.

Learning and development

Expectations

9.24. The Area should have a continuous learning approach that is effective in improving casework outcomes. We looked at whether:

- The Area had a clear and effective training plan around improvement of casework.
- Coaching and mentoring took place in the Area to improve casework skills and experience of lawyers and lawyer managers.

Training plans

9.25. The documents provided showed that the Area had a clear training plan and kept records of training completed.

9.26. The Area completes and maintains a schedule for each member of staff. This details the training required and completed. It also includes mandatory training and says whether the individual will receive the training from Area resources or from the central legal training team catalogue. This showed an appreciation of individual needs and is good practice.

9.27. The pandemic has inevitably had an impact on plans the Area had for training. Where possible, the training programme was tailored to what was necessary and feasible. The Area carried out training on the changes in the new Attorney General's Guidelines (AGG) and the Director's Guidance on Charging 6th edition (DG6), both of which came into effect on 1 January 2021. The Area evaluated the training through internal assurance and by using Individual Quality Assessments.

9.28. The Area planned to start to roll out the national case review training in May 2021, and this has now taken place. The Area held 12 courses between June and August 2021. A final course was arranged for September 2021. Given our findings on quality pre- and post-charge across all case types, the Area should make this training a priority for all prosecutors and should carry out checks to ensure the quality of reviews improves as a result.

Coaching and mentoring

9.29. No notes were provided specifically of regular one-to-one meetings between lawyers and their managers to discuss performance and development around casework quality issues. We did, though, see reference to those conversations in the Individual Quality Assessment (IQA) monthly reports reviewed at the Casework Quality Committee (CQC).

9.30. The CQC felt compliance with some aspects of casework was an issue even for more experienced prosecutors, despite their skills and abilities. This is something the Area intends to address through IQAs and one-to-one manager feedback.

Quality assurance

Expectations

9.31. The CPS has quality assurance processes to identify aspects of casework that are working well and those that require improvement. These include:

- Individual Quality Assessments (IQAs) and internal assurance. These identify individual and wider good practice or performance, and weaknesses in casework quality.
- The analysis of IQAs to identify specific training and interventions.
- Casework Quality Assurance Boards (CQABs) to drive actions and improvements in casework quality, including wider assurance work, in accordance with CPS quality standards for charging, case progression, disclosure and advocacy.

9.32. We are not assessing advocacy in this inspection programme, but we do include how the Area develops advocates to improve casework quality.

Individual Quality Assessments

9.33. During the pandemic, the CPS nationally determined that Areas could reduce the number of IQAs or even stop them entirely if necessary. CPS Cymru Wales decided to continue monthly assessments, although any performance management was 'light touch' due to the considerable pressures staff were under. This seems an appropriate approach given the circumstances of the pandemic.

9.34. From the documents we saw, the Area had a clear and detailed system for IQAs across casework types and compiled detailed reports across all teams. Operational legal managers (LM1s) confirm the numbers completed, and give an overview of all the 'not met' answers and actions taken. We saw some evidence of ongoing assurance and scrutiny where individual issues had been identified.

9.35. Second-tier legal managers (LM2s) carry out a 10% dip sample to assure the work carried out by the LM1s. We saw that details from this dip sample were added to the reports, but noted that the sample tended to support the markings of the LM1s. Our analysis of the 90 cases highlighted there may be a disconnect between some of the issues identified in the adverse case reports considered by the CQC and the quality of casework according to the IQAs completed. At the April 2021 CQC, there was a discussion about pockets of over-generous marking and the tendency of some LM1s to choose fewer complex cases to review, which had the effect of artificially inflating quality ratings for the Area.

Analysis of IQAs

9.36. The CQC considers the Individual Quality Assessments (IQA) reports at each meeting. It is a standing item on the agenda. The committee directs the legal managers about the focus for IQAs each month. For recent months, that focus has largely been on disclosure.

9.37. It is clear from the minutes of the CQC meetings and our observation of the April 2021 meeting that issues have been identified by the senior leaders about how robust the assessments are and whether the right complexity of cases have been chosen to review for IQA. Similar issues were noted in the meeting minutes over several months.

9.38. At the April meeting, the senior leaders decided to hold a consistency meeting with the Area's legal managers to go through some cases together. The aim was to set consistent standards around the quality of casework and marking on IQA to address the issues identified.

9.39. The Area considered tying this to a revised question set for IQA being developed by the CPS headquarters compliance and assurance team. It is likely

that the roll-out of the revised IQA will take some months. As the IQA is the primary tool used to assure quality, the Area might want to consider more immediate methods to address concerns over consistency and robustness in casework quality.

Casework Quality Committee

9.40. Senior legal leaders at the Area's Casework Quality Committee (CQC) had good awareness at strategic level (deputy chief crown prosecutor and above) of the weaknesses in the Area's casework, specifically around pre-charge decisions, reviews, aspects of disclosure and Victim Communication and Liaison letters. This fits with our findings. The CQC identified actions to address aspects for improvement.

The senior legal leaders in the Area had good awareness at strategic level of the weaknesses in the Area's casework and had identified actions to address aspects needing improvement

9.41. Discussions and actions identified at the CQC are fed back through the internal performance boards, chaired by the deputy chief crown prosecutors. This level of feedback and focus results in actions to improve casework quality. From discussions at the CQC, there was a concern that LM1s and LM2s were not necessarily applying consistent standards to their assessment of casework quality. It is, therefore, difficult to assess whether appropriate actions are consistently implemented, evaluated and effective across all aspects of casework quality.

9.42. It was clear from the documentation and from our observation of the CQC that the Area had been focusing on improving the handling and management of disclosure of unused material. It has been a focus of IQAs and partnership working with the police at all levels to ensure proper implementation of the DG6 and the AGG, which both came into force on 1 January 2021. There was intense activity in training around the changes between January and March 2021 for lawyers and operational delivery staff conducting administrative triage of pre-charge decision files.

9.43. In February 2020, the Area conducted an internal audit of disclosure of 45 volume cases (20 Crown Court cases, 15 RASSO cases and 10 magistrates' court cases), using the methodology of previous audits in the 2018 Better Case Management scheme. The cases were peer-reviewed by disclosure champions from different teams, and the conclusion was an improvement in compliance, with disclosure obligations in line with their IQA findings. As we set out in

chapters 6 and 7, we also found good compliance with disclosure obligations in Crown Court and RASSO casework.

9.44. We saw minutes of meetings of the Wales Disclosure Group for September 2020, November 2020 and January 2021. This group comprises representatives of prosecutors from across the Area and is chaired by the Crown Court unit senior district crown prosecutor. It appears to have a wide remit for discussing all disclosure-related issues. This forum is good practice and appears to be effective in driving improvement. The result of this can be seen in some of the positive findings of our file examination.

10. Digital capability

10.1. One of the five aims of the of the CPS 2025 strategy⁵⁶ is to ensure that “our investment in digital capability helps us adapt to the rapidly changing nature of crime and improve the way justice is done”. In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit, to consider aspects of Area performance relating to digital capability with a specific focus on the impact on casework quality.

Performance information

Expectations

10.2. The Area collects and analyses data to improve 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 make improvements within the CPS and externally with stakeholders.

Our findings

10.3. The Area clearly produces and considers a range of performance data relating to casework quality.

10.4. We saw evidence that casework issues are discussed at Area performance review meetings with headquarters, and the Area reports on aspects of work that are of concern and the actions taken to address these.

10.5. Monthly reports are produced for aspects of casework, including specific reports on violence against women and girls offences, finalised domestic abuse and rape cases. The reports identify Issues and relevant teams are required to respond with action taken to improve performance.

10.6. Caseload volume reports are produced monthly for police force areas, magistrates’ court cases, Crown Court cases, RASSO and Complex Casework Unit cases. These are used to address resourcing.

10.7. The Area produces a graph of performance information that shows reason categories for adverse outcomes. The adverse case reports are discussed at the CQC and shared with the police at operational prosecution team performance meetings.

⁵⁶ CPS 2025 is the CPS strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

10.8. We were told that the Area focuses on the volume of cases submitted by the police for charge that need further work and the number of cases finalised where the police do not return the case for charge after the initial CPS advice sets out further work in an action plan to influence an improvement in file quality with the police.

10.9. The Area holds performance boards for magistrates' court casework, and for Crown Court, RASSO and complex casework, each chaired by a deputy chief crown prosecutor (DCCP).

10.10. These boards are forums for the DCCPs to meet their management teams to review performance, including the data, and set actions and expectations. Where issues are identified at the CQC, through IQAs, VLU reports or from liaising with stakeholders, the DCCPs are expected to ensure appropriate actions are carried out through these boards.

Digital tools and skills

Expectations

10.11. The Area ensures people have the tools and skills they need to operate effectively in the digital environment. The Area audits digital skills in the training plan and gives general and bespoke training to staff so they can effectively use the CPS case management system (CMS), Egress, digital case lines, court store and the cloud video platform⁵⁷.

Our findings

10.12. The Area training schedule included TWIF (two-way interface), PowerPoint and Office 365.

10.13. The Area identified gaps in CMS training and trained staff to address this in January and February 2021.

10.14. Induction packages include IT training so that new starters have access to all the applications they will use. For those moving teams or roles, managers should identify Prosecution College or civil service courses that need to be taken.

10.15. The Area is a pilot for common platform and training was planned to coincide with implementation of the change in mid-2021.

⁵⁷ Egress, digital case lines, 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.

10.16. The criminal justice system has had to adapt rapidly to new digital technology to continue working throughout the pandemic. This includes using Microsoft Teams to hold meetings, one-to-ones and conferences. The cloud video platform is used to conduct virtual or remote hearings. There has been little formal training. The Area, along with the rest of the CPS and wider criminal justice system has had to 'learn on the job'. It is a credit to the Area that this has worked well and has contributed to reducing backlogs in court listings.

11. Strategic partnerships

One of the five aims of the of the CPS 2025 strategy⁵⁸ is to ensure that “the CPS is a leading voice in cross-government strategies and international cooperation to transform the criminal justice system”. In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit, to consider aspects of Area performance around strategic partnerships, specifically focusing on the impact on casework quality.

Strategic partnerships with the police

Expectations

11.1. The Area improves casework quality by influencing change through trusted partnerships with the police at all levels. The Area has mature relationships with the police at all levels and change is brought about through negotiation, persuasion and compromise to improve casework quality, particularly in relation to compliance with the following:

- National File Standard (NFS).
- The Director’s Guidance on Charging, 6th Edition (DG6).
- The Disclosure Manual, Criminal Procedure and Investigations Act 1996 (CPIA) and relevant Codes of Practice.

Our findings

11.2. Strategic prosecution team meetings (PTPMs) are well attended by CPS and police. The Area also has a strategic charging board and a quarterly meeting attended by the deputy chief crown prosecutors, the assistant chief constables and heads of criminal justice across the Welsh forces.

11.3. We saw evidence of discussions around file quality leading to measures by the police to make improvements. Our findings suggest the issues with police file quality are under-recorded by the Area. We accept this is a result of the suspension of the need to use the National File Quality (NFQ) tool in CMS to report back to the police. Whilst relationships are good, police file quality remains an issue.

11.4. The Area had detailed discussions around charging, including around quality, timeliness, gatekeeping and resources.

⁵⁸ CPS 2025 is the CPS strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

11.5. We were told that senior officers engage with the Area to discuss improving police file quality but the focus at operational PTPMs was on questioning the validity of NFQ quality data rather than on activity to improve. The Area has used the DG6 as a way to address quality in unused material. The DG6 requires that unused material schedules are provided at the pre-charge stage by the police and allows the CPS to reject the case if they are not properly completed.

11.6. The Area also focused on the volume of cases that had to be returned to the police with action plans before a charge is authorised as a measure of the quality of the files. They felt that this, along with the volume of cases relating to unused material rejected at triage, were indisputable measures of file quality. The police accepted this. The Area reported there had been a more effective method of working with the police in improving the quality of their file submissions at the pre-charge stage.

11.7. The Area's PTPMs are attended by two LM1s, one from the magistrates' court team and one from the Crown Court team. The focus of these meetings is clearly more local and operational, with discussion about file quality, disclosure and performance. It is unclear from the documents we saw how effective the meetings are in delivering improvements. The Area acknowledged that some of the operational PTPMs were better than others and there was still an issue with consistent engagement from the police. We were told that there were difficulties with the PTPMs effecting improvements in police file quality, but that they were a good vehicle to allow the LM1s to forge positive relationships with their police counterparts that allowed for effective escalation when needed. The Area said that few issues required escalation above LM1 level.

11.8. The chief crown prosecutor in post at the time of our meeting with the Area in April 2021 (who has since retired) said he had regular meetings with the chief constables across Cymru Wales and had raised the issue of the level of police representation at the operational PTPMs. This senior level engagement was not necessarily then translated to the operational level.

11.9. Joint Disclosure Board minutes and the Area's joint National Disclosure Improvement Plan (NDIP) show significant work was jointly carried out to improve the handling of unused material. The minutes started in 2017 and chart the progress of CPS and the four Area forces to implement the NDIP and several local initiatives arising from the national actions in the plan. There were 22 NDIP actions and 14 local actions. The All-Wales Disclosure Forum meets quarterly to update the plan. There were some interesting inter-agency developments, including trying to get all Welsh local authorities to sign up to the 2013 National Third-party Material Protocol, and meetings with counsels' chambers and defence, but the pandemic intervened.

11.10. There has been good progress in several practical steps to get competent disclosure champions in forces and the CPS, training, increased monitoring, quality assurance and improved use of standard forms and technology. More needs to be done to ensure police comply with their obligations to complete schedules clearly and accurately, ensuring that all relevant material is scheduled and that relevant material is disclosed to the prosecutor through applying the tests in section 3 of the Criminal Procedure and Investigations Act 1996.

Strategic partnerships with the criminal justice system

Expectations

11.11. The Area influences improvements to casework quality through partnerships with the criminal justice system at all levels. The Area has trusted and mature relationships with the criminal justice system at all levels and uses negotiation, persuasion and compromise to influence change that improves casework quality.

Our findings

11.12. The local criminal justice board minutes showed there are trusted and good relationships at strategic level among the criminal justice partners in the Area. CPS Cymru Wales is represented at the National Criminal Justice Board for Wales and four local criminal justice boards.

11.13. The chief crown prosecutor (CCP) said the effectiveness of the criminal justice boards has improved in the past six to nine months as the pandemic has led to a clear common purpose relevant to all agencies that was not always apparent before Covid-19.

11.14. A criminal justice board coordinator has been appointed and is paid jointly by all agencies, including the CPS. The CCP said this role had been key to improvements and more collaborative working. The board has identified specific targets and measures around, for example, rape and serious sexual offences and the code of practice for victims of crime, that are reviewed at the strategic board.

11.15. The CCP described a collective interest in ensuring the criminal justice system works well in Wales and an element of healthy competition between the Welsh regions that contributes to effective joint-working. The National Criminal Justice Board for Wales provides clear direction to the regional criminal justice boards and sets the agenda. The CCP said that being a separate nation added

a dimension that might not be as apparent in the other CPS Areas – a sense of working together for the good of Wales as a country. This perception is reinforced by the fact that a member of the Welsh Parliament also has a seat at the national board.

11.16. We were told that the Area's work was seen as positive in a recent review of the criminal justice boards.

11.17. There has been cooperative and dynamic joint-working on issues resulting from the pandemic, which have necessarily dominated the criminal justice board meetings. A steering group and daily work with Her Majesty's Court and Tribunal Service have aimed to get Wales into a good position with court listing. We were told that listing in the magistrates' courts had returned to pre-pandemic levels and that trial dates were listed in half the time of most other Areas. Crown Court backlogs had also reduced thanks to the cloud video platform and measures to facilitate longer, multi-handed trials.

11.18. We were told the Area has good relationships with the judiciary that allow for candid conversations and exchanges of views. The CCP and the DCCP with responsibility for Crown Court casework meet regularly with the presiders, and the LM2s and LM1s play a role in local judicial liaison about specific cases or issues.

11.19. The Area has a good relationship with the external Bar in Wales. During the pandemic, the CCP worked with the external Bar to review all cases they were instructed in, with the aim of assessing whether compromise was possible given the likelihood of significant delays. Some cases were resolved in this way. The Area did express concerns over the breadth and depth of the experience and skills of the Wales circuit, especially at grade two and three, with few new counsel coming through. This could be a problem in the future.

11.20. The quality of counsel was described as variable, and this was reflected in the files we examined. There were some good examples of clear and cogent advice and advocacy, which contributed to good casework quality, but there were many cases where counsel had appeared to add little or no value to – or even detracted from – overall casework quality. The Area said they were being more selective in their choice of instructed counsel to ensure the right advocate for the right case to improve the quality of the service. Increased use of Microsoft Teams had allowed them to engage more effectively with the Bar, as counsel were able to join in meetings remotely from across the country. The Area is optimistic this help set clear expectations for the quality of service.

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 offence (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 Area CPS

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 Correspondence and Liaison (VCL) letters.
- The Area complies with the timescales for complaints and Victims' Right to Review (VRRs).
- The Area conducts internal quality assurance of all victim communication (VCL, BFS complaints and VRR).

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, VCLs, meetings and compliance with the speaking to witnesses at court protocol.

- VPS 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 VCLs 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 protocol.

Evidence will be drawn from:

- Baseline file examination – specific questions include STWAC and VCL
- Victim and Witness CJB subgroup minutes
- Third sector meeting minutes (where they encompass casework quality learning and actions)

- Quality assurance reports internally – monthly or one-off – in relation to the Code of Practice for Victims of Crime/Witness Charter, VCL, VPS, BFS, complaints and VRRs
- 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 Area CPS

C. CPS people

Does the Area support their 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 IQA where applicable) effectively to identify individual and wider good practice/performance and weaknesses in casework quality to drive improvement.
- The Area uses the analysis of IQA (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 the following:
 - 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
- Casework Quality Assurance Board (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 (V&W) care by individuals or teams (suitably anonymised)
- Any commendations or other recognition by stakeholders of excellent casework or V&W 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 below).
- Self-assessment meeting with Area CPS

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 their 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, 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
- PTPM Minutes
- TSJ/BCM meetings
- LCJB and subgroup meeting minutes.
- Self-assessment meeting with Area CPS

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 following:
 - National File Standard (NFS)
 - The Director’s Guidance on Charging 6th Edition (DG6)
 - The Disclosure Manual, CPIA 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
- NDIP reports
- CJB minutes
- PTPM performance reports
- Joint TSJ / BCM board meeting minutes
- TSJ/BCM performance reports
- Minutes of meetings with CCs/PCCs/RJ/Presider/HMCTS/Chambers
- Letters/emails demonstrating escalation at strategic level – to presider or CC/PCC, for example
- Joint performance plans or strategy documents
- Self-assessment meeting with Area CPS

Annex B

File examination findings

The tables in this annex exclude 'not applicable' results.

Magistrates' courts

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Partially met Not met	100%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	45.8% 12.5% 41.7%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	83.3% 12.5% 4.2%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	33.3% 12.5% 54.2%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	20.8% 33.3% 45.8%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	40.0% 35.0% 25.0%
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	12.5% 45.8% 41.7%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	35.3% 47.1% 17.6%
Police initial file submission post-charge			
9	The police file submission complied with National File Standard for the type of case.	Fully met Not met	40.0% 60.0%
10	Police file submission was timely.	Fully met Not met	76.7% 23.3%
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	27.8% 16.7% 55.6%

No.	Question	Answers	Result
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	100%
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	33.3% 33.3% 33.3%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	60.7% 21.4% 17.9%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	71.4% 14.3% 14.3%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	75.0% 25.0% 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	37.5% 37.5% 25.0%
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	46.2% 30.8% 23.1%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	60.0% 16.7% 23.3%
Post-charge case progression			
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, completion of PET/PTPH forms.	Fully met Partially met Not met	40.0% 36.7% 23.3%

No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties prior to the NGAP hearing or PTPH.	Fully met Partially met Not met	35.3% 5.9% 58.8%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	55.6% 5.6% 38.9%
32	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	18.2% 36.4% 45.5%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	92.3% 7.7%
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	72.2% 16.7% 11.1%
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	65.2% 26.1% 8.7%
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	47.4% 21.1% 31.6%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	53.3% 26.7% 20.0%
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	73.3% 23.3% 3.3%
Disclosure of unused material			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	46.7% 43.3% 10.0%
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	51.7% 27.6% 20.7%

No.	Question	Answers	Result
43	If PM or NM, the most significant failing was: see list of options in drop-down box	Did not carry out initial disclosure at all	7.1%
		Did not endorse any decisions on a non-blank MG6D	7.1%
		Did not endorse any decisions on the MG6C	7.1%
		Failed to identify that other obvious items of unused material were not scheduled	14.3%
		Other	7.1%
		Said DUM was not disclosable	42.9%
		Set out the wrong test for disclosure (e.g. courtesy disclosure)	7.1%
		Used the wrong endorsements	7.1%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	62.1%
		Partially met	6.9%
		Not met	31.0%
48	Sensitive unused material was dealt with appropriately.	Fully met	33.3%
		Partially met	33.3%
		Not met	33.3%
49	Third-party material was dealt with appropriately.	Fully met	75.0%
		Partially met	
		Not met	25.0%
53	The disclosure record on modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met	82.8%
		Partially met	13.8%
		Not met	3.4%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met	18.8%
		Partially met	12.5%
		Not met	68.8%
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met	36.8%
		Partially met	36.8%
		Not met	26.3%

No.	Question	Answers	Result
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	57.9% 21.1% 21.1%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	76.9% 23.1%
58	There was a timely VCL when required.	Fully met Partially met Not met	100%
59	The VCL 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	27.3% 27.3% 45.5%

Crown Court

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Partially met Not met	91.7% 8.3%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	44.4% 27.8% 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	77.8% 13.9% 8.3%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	13.9% 33.3% 52.8%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	27.8% 13.9% 58.3%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	39.3% 28.6% 32.1%
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	11.1% 50.0% 38.9%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	24.2% 51.5% 24.2%
Police initial file submission post-charge			
9	The police file submission complied with National File Standard for the type of case.	Fully met Not met	55.0% 45.0%
10	Police file submission was timely.	Fully met Not met	82.5% 17.5%
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	50.0% 22.2% 27.8%
Post-charge reviews and decisions			
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	45.0% 32.5% 22.5%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	77.5% 12.5% 10.0%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	54.5% 9.1% 36.4%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	50.0% 50.0% 0.0%
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	38.5% 46.2% 15.4%
18	In CC (including RASSO cases before the CC) cases, 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	33.3% 18.2% 48.5%
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	19.0% 23.8% 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% 25.0% 10.0%
Post-charge case progression			
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, completion of PET/PTPH forms.	Fully met Partially met Not met	59.5% 37.8% 2.7%

No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties prior to the NGAP hearing or PTPH.	Fully met Partially met Not met	68.2% 9.1% 22.7%
23	In CC (including RASSO cases before the CC) cases, a properly drafted indictment was prepared.	Fully met Partially met Not met	86.5% 10.8% 2.7%
24	In CC (including RASSO cases before the CC) cases, the draft indictment and key evidence was served in a timely manner for PTPH.	Fully met Partially met Not met	81.1% 10.8% 8.1%
25	In CC and RASSO cases a clear instruction to advocate document was prepared.	Fully met Partially met Not met	21.6% 32.4% 45.9%
26	In CC (including RASSO cases before the CC) cases, the advocate was instructed at least seven days before PTPH.	Fully met Partially met Not met	53.3% 13.3% 33.3%
27	In CC (including RASSO cases before the CC) cases, the duty of direct engagement was carried out.	Fully met Partially met Not met	75.7% 5.4% 18.9%
28	In CC (including RASSO cases before the CC) cases, the DDE was uploaded to CCDCS.	Fully met Partially met Not met	20.0% 80.0%
29	In CC (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	57.7% 7.7% 34.6%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	54.5% 36.4% 9.1%
32	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	66.7% 22.2% 11.1%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	97.0% 3.0%
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	78.6% 14.3% 7.1%

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	77.1% 22.9%
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	59.4% 34.4% 6.3%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	77.4% 12.9% 9.7%
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	62.5% 25.0% 12.5%
Disclosure of unused material			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	25.6% 48.7% 25.6%
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	55.9% 44.1%

No.	Question	Answers	Result
43	If PM or NM, the most significant failing was: see list of options in drop-down box	Did not endorse any decisions on a non-blank MG6D	6.7%
		Did not endorse any decisions on the MG6C	6.7%
		Did not identify reasonable lines of enquiry	6.7%
		Failed to endorse or sign a blank MG6D	6.7%
		Failed to identify that other obvious items of unused material were not scheduled	33.3%
		Other	6.7%
		Said DUM was not disclosable	6.7%
		Said NDUM was disclosable	13.3%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Used the wrong endorsements	13.3%
		Fully met	76.5%
		Partially met	2.9%
45	The prosecutor complied with the duty of continuing disclosure, (but not including timeliness of disclosure).	Not met	20.6%
		Fully met	63.3%
		Partially met	30.0%
46	If PM or NM, the most significant failing was: see list of options in drop-down box	Not met	6.7%
		Did not endorse any decisions on newly revealed items	18.2%
		Did not identify reasonable lines of enquiry	27.3%
		Failed to identify that other obvious items of unused material were not scheduled	27.3%
		Other	18.2%
		Said NDUM was disclosable	9.1%

No.	Question	Answers	Result
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	60.0% 23.3% 16.7%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	54.5% 27.3% 18.2%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	87.5% 12.5%
50	In CC (including RASSO cases before the CC) cases, late defence statements were chased.	Fully met Partially met Not met	66.7% 4.8% 28.6%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	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	46.7% 20.0% 33.3%
53	The disclosure record on modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	50.0% 41.2% 8.8%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	37.9% 27.6% 34.5%
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	55.0% 30.0% 15.0%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	70.0% 20.0% 10.0%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	82.4% 11.8% 5.9%
58	There was a timely VCL when required.	Fully met Partially met Not met	62.5% 25.0% 12.5%
59	The VCL was of a high standard.	Fully met Partially met Not met	42.9% 14.3% 42.9%

No.	Question	Answers	Result
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	8.3% 41.7% 50.0%

RASSO

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Partially met Not met	100%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	36.8% 42.1% 21.1%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	94.7% 5.3%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	31.6% 31.6% 36.8%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	52.6% 15.8% 31.6%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	50.0% 7.1% 42.9%
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	15.8% 31.6% 52.6%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	36.8% 47.4% 15.8%
Police initial file submission post-charge			
9	The police file submission complied with National File Standard for the type of case.	Fully met Not met	50.0% 50.0%
10	Police file submission was timely.	Fully met Not met	90.0% 10.0%
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	30.0% 70.0%
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	100%

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	15.0% 25.0% 60.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	76.5% 11.8% 11.8%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	75.0% 25.0%
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	64.7% 11.8% 23.5%
18	In CC (including RASSO cases before the CC) cases, 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	6.3% 12.5% 81.3%
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	45.5% 18.2% 36.4%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	75.0% 15.0% 10.0%

Post-charge case progression

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, completion of PET/PTPH forms.	Fully met Partially met Not met	63.2% 21.1% 15.8%
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No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties prior to the NGAP hearing or PTPH.	Fully met Partially met Not met	56.3% 25.0% 18.8%
23	In CC (including RASSO cases before the CC) cases, a properly drafted indictment was prepared.	Fully met Partially met Not met	72.2% 11.1% 16.7%
24	In CC (including RASSO cases before the CC) cases, the draft indictment and key evidence was served in a timely manner for PTPH.	Fully met Partially met Not met	88.9% 11.1%
25	In CC and RASSO cases a clear instruction to advocate document was prepared.	Fully met Partially met Not met	16.7% 55.6% 27.8%
26	In CC (including RASSO cases before the CC) cases, the advocate was instructed at least seven days before PTPH.	Fully met Partially met Not met	61.1% 11.1% 27.8%
27	In CC (including RASSO cases before the CC) cases, the duty of direct engagement was carried out.	Fully met Partially met Not met	11.1% 5.6% 83.3%
28	In CC (including RASSO cases before the CC) cases, the DDE was uploaded to CCDCS.	Fully met Partially met Not met	100%
29	In CC (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	55.6% 44.4%
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met	27.3% 9.1% 63.6%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	47.1% 41.2% 11.8%
32	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	60.0% 30.0% 10.0%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	94.1% 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	78.6% 21.4%
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	83.3% 11.1% 5.6%
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	87.5% 6.3% 6.3%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	83.3% 11.1% 5.6%
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	65.0% 30.0% 5.0%
Disclosure of unused material			
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met	78.9% 5.3% 15.8%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	75.0% 25.0%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	47.4% 42.1% 10.5%
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	35.3% 64.7%

No.	Question	Answers	Result
43	If PM or NM, the most significant failing was: see list of options in drop-down box	Failed to endorse or sign a blank MG6D	27.3%
		Failed to identify that other obvious items of unused material were not scheduled	36.4%
		Other	9.1%
		Said NDUM was disclosable	18.2%
		Set out the wrong test for disclosure (e.g. courtesy disclosure)	9.1%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	82.4%
		Partially met	11.8%
		Not met	5.9%
45	The prosecutor complied with the duty of continuing disclosure, (but not including timeliness of disclosure).	Fully met	66.7%
		Partially met	13.3%
		Not met	20.0%
46	If PM or NM, the most significant failing was: see list of options in drop-down box	Did not endorse any decisions on newly revealed items	40.0%
		Did not identify reasonable lines of enquiry	20.0%
		Failed to identify that other obvious items of unused material were not scheduled	20.0%
		Other	20.0%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met	66.7%
		Partially met	20.0%
		Not met	13.3%
48	Sensitive unused material was dealt with appropriately.	Fully met	70.0%
		Partially met	20.0%
		Not met	10.0%

No.	Question	Answers	Result
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	76.9% 23.1%
50	In CC (including RASSO cases before the CC) cases, late defence statements were chased.	Fully met Partially met Not met	66.7% 33.3%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	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	80.0% 20.0%
53	The disclosure record on modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	41.2% 35.3% 23.5%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	50.0% 20.0% 30.0%

Victims and witnesses

55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	53.8% 46.2%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	60.0% 13.3% 26.7%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	100%
58	There was a timely VCL when required.	Fully met Partially met Not met	75.0% 25.0%
59	The VCL was of a high standard.	Fully met Partially met Not met	66.7% 33.3%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	16.7% 16.7% 66.7%

Annex C

Glossary

Achieving Best Evidence (ABE)

The police video-recording the account of the victim or a witness rather than taking a written statement from them. The recording is 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 (see below). The recording is known as an 'achieving best evidence' recording, or "an ABE", after the guidance of the same name from the Ministry of Justice on interviewing victims and witnesses and using special measures.

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 orders

As well as imposing a sentence, the Judge or magistrates may also impose orders on a defendant, such as a compensation order requiring a defendant to pay a sum of money to the victim. These are known as 'ancillary orders.'

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 (see below) 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' court on behalf of the prosecution. With additional training, APs can undertake contested (not guilty) hearings.

Attorney General (AG)

The main legal advisor to the Government and superintends the Crown Prosecution Service.

Bad character/bad character application

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. They set out the benchmarks of quality that the CPS strives to deliver in 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 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, with the Area Business Manager (see above), runs the Area. 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 decisions on cases. Cases should proceed 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 Units (CCUs)

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 a charging decision 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 about criminal procedure which give criminal courts powers to manage effectively criminal cases waiting to be heard. 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 court (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' court. 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

A custody time limit failure occurs 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 (DS)

A written statement setting out the nature of the accused'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' above).

Deputy Chief Crown Prosecutor (DCCP)

Second-in-command after the Chief Crown Prosecutor (see above) for legal aspects of managing the Area.

Digital Case System (DCS)

A digital/computerised 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 Logs (DDE)

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

Issued by the Director of Public Prosecutions in relation to charging decisions (see above). 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 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 action 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 not sufficient 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 (DA)

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' court) can decide the allegation is serious enough that it must go to the Crown Court. If they decide it can be heard in the magistrates' court, 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' court.

Full Code test (FCT)

A decision where the prosecutor applies 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 prior to 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 (called '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

The law recognises offences as 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 Tribunal Service (HMCTS)

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)

CPS employees can access an allowance of £350 per person, per year, 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 will be 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' court 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 the court. Their role is to ensure that 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 a vulnerable defendant

Key stakeholders

The organisations and people with whom the CPS engages, such as the police, courts, the judiciary, and victim and witness services.

Local Criminal Justice Boards (LCJBs)

Made up of representatives of the CPS, police, HMCTS and others. LCJBs were originally set up in all 43 Force areas by central government and received central funding. They now operate as a voluntary partnership in most counties in England. The Boards' 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.

Local Scrutiny Involvement Panels (LSIPs)

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 set out a summary of 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 record their 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 (PO)

Provides support and casework assistance to CPS lawyers and attends court to take notes of hearings and assist advocates.

Personal Development Review (PDR)

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' court. 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' court 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 (RO)

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

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 that includes the functions set out above for

crown prosecutors 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 initiative (STWAC)

The prosecutor should speak to witnesses at or before court to ensure that they are properly assisted and know what to expect before they give their evidence.

Special measures applications (SMA)

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 the use of 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)

The CPS has a range of standard operating practices which set out how to complete a particular task or action and cover legal and business aspects of the running of the CPS. They 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' court. In certain circumstances, and when there is a connected case that will be heard by the Crown Court, it 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 are explained above. 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 VLU is the team of CPS staff in an Area. It is responsible for communication with victims under the victim communication and liaison (see above), the Victims' Right to Review (see below), and for responding to complaints, and overseeing the service to bereaved families.

Victim Personal Statement (VPS)

Gives victims the opportunity of explaining 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 (VRR)

This scheme provides victims of crime with a specifically designed process to exercise the 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 every 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 reinstated.

Violence Against Women and Girls (VAWG)/VAWG Strategy (VAWGS)

VAWG includes boys and men as victims but reflects the gendered nature of the majority of VAWG offending. It 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. The aim of the Government's VAWGS is to increase support for victims and survivors, 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 of the progress of their case. Almost all WCUs are police-staffed and managed teams.

Witness summons

A legal document compelling a reluctant or unwilling witness to attend court.

Annex D
File examination question
set

No.	Question	Possible answers
Pre-charge decision		
1	The CPS decision to charge was compliant with the Code Test.	Fully met Partially 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
Police initial file submission post-charge		
9	The police file submission complied with National File Standard for the type of case.	Fully met Not met
10	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
Post-charge reviews and decisions		
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 (including RASSO cases before the CC) cases, 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
Post-charge case progression		
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, completion of 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 (including RASSO cases before the CC) cases, a properly drafted indictment was prepared.	Fully met Partially met Not met NA
24	In CC (including RASSO cases before the CC) cases, the draft indictment and key evidence was served in a timely manner for 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 (including RASSO cases before the CC) cases, the advocate was instructed at least seven days before PTPH.	Fully met Partially met Not met NA
27	In CC (including RASSO cases before the CC) cases, the duty of direct engagement was carried out.	Fully met Partially met Not met NA
28	In CC (including RASSO cases before the CC) cases, the DDE was uploaded to CCDCS.	Fully met Partially met Not met NA
29	In CC (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 (e.g. 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
Disclosure of unused material		
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 PM or NM, the most significant failing was: see list of options in drop-down box	
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 PM or NM, the most significant failing was: see list of options in drop-down box	
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 (including RASSO cases before the CC) cases, 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
Victims and witnesses		
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 when required.	Fully met Partially met Not met NA
59	The VCL 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 examined from each Area was determined, in consultation with the CPS, as 90. There were 30 magistrates' court cases, 40 Crown Court cases and 20 rape and serious sexual offence cases (RASSO).

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 context from the on-site Area visits to be aligned with current casework.

Finalised cases included those concluded at either the not-guilty anticipated plea (NGAP) hearing in the magistrates' court or the plea and trial preparation hearing (PTPH) in the Crown Court 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' courts (MC) files were drawn from NGAP cases to capture the review and preparation required before the NGAP hearing. The MC sample included three youth cases; the remainder were adult cases. Minor motoring cases were excluded from the MC file sample.

All Crown Court (CC), 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: firstly, because they are frequently investigated by specialist police teams so are not representative of an Area's volume work; secondly, because they are harder for HMCPSI to assess, as some of the information in the case is often stored off the CMS and not be 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 14: File sample structure

Outcome	Magistrates' court	Crown Court	RASSO	Total
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/JOA	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
Total	30	40	20	90
<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 14 were not additional files but contributed to the total volume of cases. Where there were no JDA or NCTA outcomes finalised during the quarter preceding the file examination, acquittals after trial were substituted to maintain the balance between successful and unsuccessful cases.

Occasionally, it may have been necessary to exceed the maximum numbers of CPSD charged cases to avoid selecting older cases, but this was at the discretion of the lead inspector.

Sensitive/non-sensitive split

Of the standard MC and CC file samples, 20% were sensitive cases and half of these were domestic abuse allegations.

The table below sets out the mandatory minimum number of sensitive case types included in our MC and CC 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 15: Minimum sensitive case types in sample

Case type	Magistrates' court (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
Total	6 (20%)	8 (20%)	2 (10%)	16 (17%)

If there was no RARA Case available, another hate crime category file was substituted.

Annex F

Scoring methodology

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 cases.

We based 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.

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 the aspect (added value or grip as set out in annex G) and allocating two points for each answer that was assessed as fully meeting the expected standard. We allocated one point for a rating of partially meeting the expected standard, and no points for a rating of 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):

- 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 PTPH in the Crown Court.
- Disclosure.
- Victims and witnesses.

The scores for these themes were obtained by taking the answers for the questions that feed into the aspect (as set out in annex G). We allocated two points for each rating of fully meeting the expected standard, and one point for a rating of partially meeting the standard. There were no points for ratings of not meeting the standard, and not applicable answers were excluded. We then expressed the total points awarded as a percentage of the maximum possible points.

For the casework theme or sub-themes, we have reported on the percentages, but have also used a range of percentages (see table below) to convert the percentage into a finding of fully, partially or not meeting the expected standard for the theme or sub-theme overall.

Table 16: Conversion of percentages into ratings

Ranges for overall scores for casework themes	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 (see annex G):

- 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 when required.
- Q59: The VCL 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 17.

Table 17: 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 when required	Fully meeting	5
	Partially meeting	4
	Not meeting	4
	Not applicable	17
Q59: The VCL 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
Total for all above questions	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 if all answers fully met the standard.

The score for this fictitious Area is calculated as follows:

- Two points for each fully meeting answer = 198 points
- One point for each partially meeting answer = 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.

Annex G

Casework themes

No.	Question	Casework theme	Included in added value or grip?
1	The CPS decision to charge was compliant with the Code test.	PCD Code compliance	Added value
2	The CPS decision to charge was timely.	NA	Grip
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Selection of appropriate charges	Added value
4	The CPS MG3 included proper case analysis and case strategy.	PCD	Added value
5	The CPS MG3 dealt appropriately with unused material.	PCD	Added value
6	The CPS MG3 referred to relevant applications and ancillary matters.	PCD	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.	PCD	NA
8	The action plan was proportionate and met a satisfactory standard.	PCD	Added value
9	The police file submission complied with National File Standard for the type of case.	NA	NA
10	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.	Code compliance post-charge	Added value

No.	Question	Casework theme	Included in added value or grip?
13	The case received a proportionate initial or post-sending review including a proper case analysis and case strategy.	Reviews	Added value
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.	Reviews	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).	V&W	Added value
18	In CC (including RASSO cases before the CC) cases, there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage one set at PTPH).	Reviews (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.	Reviews	Added value
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Reviews	Added value

No.	Question	Casework theme	Included in added value or grip?
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, completion of PET/PTPH forms.	Preparation for first hearing – CC and RASSO Case management - NA	Grip
22	Any hard media was shared via Egress with all parties prior to the NGAP hearing or PTPH.	NA	Grip
23	In CC (including RASSO cases before the CC) cases, a properly drafted indictment was prepared.	Preparation for first hearing – CC and RASSO only	Added value
24	In CC (including RASSO cases before the CC) cases, the draft indictment and key evidence was served in a timely manner for PTPH.	Preparation for first hearing – CC and RASSO only	Grip
25	In CC and RASSO cases a clear instruction to advocate document was prepared.	NA – not able to differentiate between CA and counsel in many cases.	No
26	In CC (including RASSO cases before the CC) cases, the advocate was instructed at least seven days before PTPH.	Preparation for first hearing – CC and RASSO only	No
27	In CC (including RASSO cases before the CC) cases, the duty of direct engagement was carried out.	Preparation for first hearing – CC and RASSO only	No
28	In CC (including RASSO cases before the CC), the DDE was uploaded to CCDCS.	Preparation for first hearing – CC and RASSO only	No

No.	Question	Casework theme	Included in added value or grip?
29	In CC (including RASSO cases before the CC and the youth court where counsel is instructed) cases, 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 (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Review	Added value
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	V&W	No
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.	V&W	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

No.	Question	Casework theme	Included in added value or 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 (where applicable)	No
40	The DMD was completed accurately and fully in accordance with the guidance.	Disclosure (where applicable)	AV (RASSO only as applicable to RASSO cases only for tranche 1 and to ensure consistency across the baseline and follow up)
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 PM or NM, the most significant failing was: see list of options in drop-down box.	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 PM or NM, the most significant failing was: see list of options in drop-down box.	NA	No
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Disclosure	No

No.	Question	Casework theme	Included in added value or grip?
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 (including RASSO cases before the CC) cases, late defence statements were chased.	Disclosure - CC/RASSO only	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).	V&W	No
56	The victim's wishes regarding VPS were complied with.	V&W	No
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	V&W	Added value
58	There was a timely VCL when required.	V&W	No
59	The VCL was of a high standard.	V&W	Added value
60	The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses.	V&W AND PCD	Added value

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