



HMCPSI

HM Crown Prosecution
Service Inspectorate

Area Inspection Programme

CPS West Midlands

Baseline assessment

September 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. HM Crown Prosecution Inspectorate (HMCPPI) (last inspected all 14 Crown Prosecution Service (CPS) Areas between 2016 and 2019. Since then we have carried out a number of thematic inspections across the CPS, on themes 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.

The function of the CPS is to present each case fairly and robustly at court, but theirs is not the only input

1.2. A common theme from the 2016–19 Area inspection programme and from more recent thematic inspections is the need for the CPS to improve aspects of casework quality. We have therefore developed a new inspection framework which is based wholly on assessing casework quality, and which we will deploy across all 14 Areas over the next two years.

Our findings from the 90 cases we examine for each Area will form a baseline against which the Area will be assessed again in 24 months' time in a follow-up inspection.

1.3. The CPS aspires to deliver high quality casework that, taking account of the impact of others within the criminal justice system, provides justice for victims, witnesses, and defendants, and represents an effective and efficient use of public funds. The function of the CPS is to present each case fairly and robustly at court, but 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, a conviction may ensue even if the case handling has not been of the standard the CPS would wish.

1.4. This report sets out our findings for CPS West Midlands.

1.5. This baseline assessment was carried out during the Covid-19 pandemic, which has been extremely challenging for the Area. The Area has been under significant pressure, with increasing caseloads at both the pre- and post-charge stages, following the first lockdown in March 2020. The Crown Court caseload was levelling off at the time of writing but remained high because of fewer trials being listed, as a result of the need for public health measures around social distancing.

1.6. At the beginning of the Covid-19 pandemic, the Area had a large number of vacancies. To tackle the issue, the Area was carrying out a significant recruitment drive, which continued into the Covid-19 pandemic. The pressures of

the Covid-19 pandemic coincided with a period of change in the Area's workforce that saw the loss of some experienced prosecutors and the recruitment and appointment of a number of new ones. This loss of experience at a time of such pressure has, unsurprisingly, had an impact on casework quality. Additionally, because of the promotion of one of the Area's Deputy Chief Crown Prosecutors (DCCPs), a senior and key role in the Area management team, the Area had to divide the responsibilities between the other DCCPs. This, too, affected the Area.

Added value and grip

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

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

Table 1: Baseline assessment of CPS West Midlands

CPS West Midlands	Added value	Grip
Magistrates' court casework	71.6%	68.4%
Crown Court casework	64.3%	65.8%
Rape and serious sexual offences casework	74.7%	75.1%

1.9. Overall, our file examination showed that the Area added more value and had a better grip on its rape and serious sexual offences (RASSO) casework than it did when dealing with its magistrates' court and Crown Court casework.

1.10. Across all its casework, the Area added significant value and excelled in making good prosecutorial decisions, applying the Code for Crown Prosecutors when making decisions to charge, selecting the most appropriate charges, and making review decisions after charge. There was also good evidence of the Area adding value when it made decisions and considered issues relating to victims and witnesses. The Area's performance when seeking appropriate orders to protect victims, witnesses and the public, and when making appropriate applications for special measures to assist victims and witnesses give evidence, was good.

1.11. There was clear evidence that value was being added when making appropriate decisions about custody and bail, and when prosecutors made decisions around disclosure (of unused material when handling continuous

disclosure, sensitive material, and third-party material). In addition, in RASSO cases, the use of the Disclosure Management Document was consistently of a good standard, ensuring a proactive approach to the disclosure of unused material in these cases and adding clear value.

1.12. However, there were some aspects where the Area could improve, adding more value to its casework. The quality of the Area's reviews – those accompanying decisions to charge a case and those following the charging decisions – were not consistently strong. Case decisions often lacked a clear case analysis and strategy that set out how the prosecution would seek to put its case.

Across all its casework, the Area added significant value

1.13. In addition, whilst we have identified that issues around victims and witnesses were generally handled well, there is scope to add more value, particularly in magistrates' court and Crown Court cases. Opportunities include identifying relevant applications to support victims and witnesses earlier in the pre-charge stage, and improving the quality of letters to victims in all cases.

1.14. In most cases in the magistrates' courts and Crown Court, the Area did not comply fully with the duty of initial disclosure of unused material. This is a crucial aspect where the Area can add value to the whole prosecution process early in the proceedings through its dealings with the police and the defence. The Area needs to improve its performance in this aspect.

1.15. When considering whether the Area had a grip on its casework, it is important that pre-charge decisions are made in a timely manner once the Area receives the case from the police. We found that performance was strong in magistrates' court cases, but less so in Crown Court and RASSO cases. Some of our findings may be a result of the impact of the pandemic, but late charging decisions can contribute to inefficiency for the police and, as our findings indicate, can affect the quality of a prosecutor's decision-making.

1.16. Just as important as timely and effective charging decisions is the efficient and effective preparation of cases to ensure progress at the first hearing. We rated the Area as fully meeting the expected standard in about half of its cases, but there was a significant proportion where more could have been done to improve this aspect of casework performance. Our findings also highlight that the timeliness of the initial or post-sending review could be improved in magistrates' court and Crown Court cases.

1.17. There was good evidence that the Area had a grip on its Crown Court and RASSO casework through the timely service of draft indictments and key

evidence before the Plea and Trial Preparation Hearing (PTPH) in the Crown Court.

the Area moved from a system primarily involving the use of physical hard media to one where it shares media with the defence and magistrates' courts through a digital system

1.18. There was also a high standard of grip in RASSO cases, and a reasonable standard in Crown Court cases, when dealing with general correspondence from the witness care unit and other agencies. This was also the case when responding to new material received from the police or requesting additional material from the police. This contrasted with the magistrates' court cases, where there was less evidence of prosecutors dealing with correspondence in an effective and timely manner, either with the witness care unit or with the police when they submitted new material.

1.19. We found that the Area had significant issues across all cases when it came to the service of hard media. This affected its ability to be proactive in its case progression. As a result of the Covid-19 pandemic, the Area moved from a system primarily involving the use of physical hard media to one where it shares media with the defence and magistrates' courts through a digital system. This has taken some time to resolve with all the police forces within the CPS West Midlands Area, but we have been told this has now been resolved and should improve from this point on.

1.20. We assessed a significant number of cases where counsel was instructed by the Area in Crown Court and RASSO cases, but no advice on the evidence was received from counsel. Missing advice was rarely chased by the Area. The Advocate Panel Members' Commitment details that counsel will read any instructions expeditiously and advise or confer with those instructing. A failure to do this can have an impact on the Area's grip on its casework. It can lead to late requests for evidence from counsel much closer to a trial and, consequently, the late service of material. This has implications for case management.

1.21. The increased use of counsel, throughout the pandemic and to reduce pressures, is understandable. The Area needs to ensure, however, that it is getting the service it needs to be able to deliver high quality, effective casework. Our findings are that in this aspect, the Area needs to improve its processes to support the use of counsel.

1.22. In magistrates' court cases in particular, there is potential for the Area to improve its grip on casework in relation to timely full compliance with court

orders. In Crown Court and RASSO cases, there is generally good evidence of grip in relation to this, although we did find evidence of some cases where additional grip could be exercised.

1.23. To demonstrate that the Area has a grip on its cases, it is important that there be a clear audit trail of key events and decisions in all aspects of casework on the CPS's case management system. This was reasonable in magistrates' court and RASSO cases, but in the Crown Court there was room for improvement.

Casework themes

1.24. 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 grip¹. The themes were:

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

Pre-charge decisions and reviews

1.25. To comply with the Code for Crown Prosecutors, charging lawyers must assess the material supplied by the police and apply a two-stage test.

1.26. The first stage is deciding whether there is sufficient evidence for a realistic prospect of conviction. The second is whether a prosecution is required in the public interest. Only if both stages are met should the lawyer advise charging. We describe as wholly unreasonable any decision that is not compliant with the Code for Crown Prosecutors and where it is one 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.

¹ See annex F for scoring methodology.

1.27. In our file sample, we rated 96.2% of the Area's 78 charging decisions² as compliant with the Code for Crown Prosecutors at the pre-charge stage.

Within the different teams, the Code compliance rates were:

- magistrates' court cases: 100%
- Crown Court cases: 91.2%
- RASSO cases: 100%.

1.28. This is a strength for the Area. In all but three of the cases we assessed, the Area prosecutor correctly applied the evidential and public interest stages as required.

1.29. The three cases that failed to meet the standard were wholly unreasonable decisions. These were all discussed with the Area, who agreed with our findings.

1.30. Another strength for the Area was its selection of the most appropriate charges at the pre-charge stage. The facts and circumstances of each case are different and there are often a number of charges that can be considered and selected by the prosecutor when charging a case. This is particularly true in RASSO cases, where the selection of charges can be complicated, with different offences being relevant dependent upon the date of the offence(s) or the age of the victim.

1.31. In our file sample, we found that in 82.7% of the Area's 75³ correct charging decisions, the most appropriate charges were selected on the information available to the prosecutor at the time. Within the different teams, the charge selection compliance rates were:

- magistrates' court cases: 80.8%
- Crown Court cases: 83.9%
- RASSO cases: 83.3%.

1.32. Whilst getting the initial charging decision correct is essential, clear analysis of the material and setting out a proportionate and thoughtful case strategy are also fundamental to the efficiency and effectiveness of the

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

³ In total, there were 78 Area charging decisions in our file sample. Out of those, 75 were assessed to be correct, with three assessed as wholly unreasonable decisions.

subsequent stages, as the case moves through the criminal justice system. A case strategy should encompass what the case is about, or 'tell the story', and should set out how potentially undermining material (such as material questioning the credibility of a victim or witness) can be addressed.

1.33. The Area was not as strong when it came to this aspect. There was a lack of consistency in clear and effective case analysis and strategy in magistrates' court and Crown Court cases. Overall, performance was better in RASSO cases.

1.34. Many review decisions at the pre-charge stage lacked a clear case analysis and strategy. We rated the Area as fully meeting the standard in a third of magistrates' court and RASSO cases, and less in Crown Court cases. There was limited evidence that the prosecutor had properly considered the available evidence and addressed how the prosecution would seek to put its case. We saw examples of pre charge decisions where the strengths and weaknesses of the evidence were not properly identified and applied to the strategy in the case.

1.35. In more than half of the cases across all casework, unused material was not fully addressed in the pre-charge decisions. Endorsements were very brief, with no active consideration of whether the unused material supplied should be disclosed, and no direction given to the police as to what amounted to unused material in a case. If unused material is not identified at the pre-charge stage, it can make it difficult to identify and appropriately disclose later in the proceedings.

1.36. An important function of a pre-charge decision review is to provide instructions to a court prosecutor. Clear instructions improve effectiveness and efficiency and reduce the risk of something being overlooked at court. Across all casework, we saw that those instructions were often insufficiently comprehensive for a variety of reasons. These included failures to:

- refer to sentencing guidelines in relation to venue
- outline the approach to be taken to bail
- detail the content to be included in the initial details of the prosecution case
- address the acceptability of pleas.

1.37. We rated the Area as fully meeting the standard in 38.5% of magistrates' court cases, 20.6% of Crown Court cases and 27.8% of RASSO cases.

1.38. Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan to the police, prioritising actions and

timescales. We found that actions were generally correctly placed in action plans and, in most instances, the timescales given were logical and appropriate. In three quarters of cases, we rated the Area as fully or partially meeting the standard. The main reasons we rated cases as not meeting this standard were that no actions had been set, there were obvious missing items, or reasonable lines of enquiry were outstanding.

1.39. We recognise that over the past 18 months, the Covid-19 pandemic has put considerable pressure on the Area and there has been a considerable recruitment drive, particularly for new prosecutors. The Area had a clear induction program for both new staff and staff moving between units, and there has been an Area-wide focus on training. Over time, the experience and performance of the Area's staff should improve, and the Area should benefit from that in the future. However, the majority of the cases we considered in our file examination may have been affected to some extent by these circumstances.

1.40. In addition, the CPS is rolling out a national training programme around case review standards, focussing on the importance of a good case analysis and formulating a prosecution strategy to promote the effective conduct of the case through to a just outcome. The majority of the cases we considered in our file examination will have predated this training. We will be able to properly assess the impact of this training in our follow up inspection.

Post-charge reviews

1.41. As with pre-charge reviews, the quality of ongoing reviews and strategy is critical to the effective and efficient progress of cases through the criminal justice system. We assessed that 96.7% of the 90 post-charge decisions in our file sample complied with the Code for Crown Prosecutors. Within the different teams, the Code compliance rates were:

- magistrates' court cases: 100%
- Crown Court cases: 92.5%
- RASSO cases: 100%.

1.42. This is a strength for the Area. In all but three of the cases we assessed, the Area prosecutor correctly applied the evidential and public interest stages as required. The three cases that failed to meet the standard were the same three Crown Court cases where we identified wholly unreasonable decisions at the pre-charge stage. These wholly unreasonable decisions were not identified at the post-charge review stage and all three cases were allowed to continue. Two of them proceeded to trial, where they resulted in acquittals.

1.43. The expectation is that any post-sending review will add value to the case through a proportionate review. The Area was not as strong when it came to this aspect, and performance varied, with 55% of RASSO cases, 46.7% of magistrates' court cases and 32.5% of Crown Court cases fully meeting the standard.

1.44. In cases we rated as not meeting the standard, we found that too often, the Area's post-sending reviews lacked depth. They were often a 'copy and paste' of the pre-charge decision with nothing further added. From our observations of the Area's casework quality committee, we noted that this is a theme the Area has identified through its own Individual Quality Assessments and is working to address.

1.45. The Area also confirmed that, as a result of the casework pressures resulting from the Covid-19 pandemic, it suspended post-charge reviews for non-custody cases for a period to allow it to focus on the increasing number of custody cases which needed to be prioritised. This was a temporary approach and meant the Area could proactively manage the risk resulting from the volume of the backlog of work progressing from the magistrates' courts to the Crown Court. The Area receives a high percentage of custody cases and the risk involved in those cases is significant. The suspension allowed Area prosecutors to focus their review on the increasing number of custody cases which needed to be prioritised. This will in part explain some of our findings from the file examination where reviews were not recorded as having taken place.

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

1.47. We found that the quality of these reviews was not consistent. In several cases there was no effective review at all and, as a consequence, new material or information was not properly addressed. In two of the three cases where we identified wholly unreasonable decisions, no effective review took place at this stage.

1.48. As cases progress, things can change that have an impact on whether or how a prosecution should be brought. If there is a fundamental change because additional information has been received, then a prosecutor should review the

case again to make sure it still complies with the Code for Crown Prosecutors and assess whether the charges remain appropriate, whether the change raises additional lines of enquiry, and whether the case strategy should be altered.

1.49. An effective review at this stage can add real value, but again we encountered an inconsistent approach. We rated significantly more than half of reviews on magistrates' court and Crown Court cases as lacking quality and not meeting the standard, although performance was better on RASSO cases with more than half meeting the standard.

1.50. Throughout the proceedings, 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. Our assessment is that the Area performed well: in the cases we examined, there was evidence of the Area adding value when it made decisions about custody and bail, particularly in magistrates' court and Crown Court cases, with our inspectors rating the majority of cases as fully meeting the standard.

1.51. A guilty plea to an offence must not be agreed on a misleading or untrue set of facts and must take proper account of the victim's interests. Whilst we inspected a relatively small number of cases where pleas were accepted, our findings show that the acceptability of those pleas was generally handled well by the Area, with three quarters of all cases fully meeting the standard.

Preparation of cases for the Plea and Trial Preparation Hearing in the Crown Court⁴

1.52. There are key tasks that the prosecution should complete before the PTPH, including preparing the indictment, uploading the prosecution case papers to the Crown Court digital case system, engaging with the defence and instructing the advocate properly. Completion of the PTPH form is a fundamental aspect of preparation for the hearing. Full and accurate information from the prosecution and defence allows the court to manage the case effectively and make the orders required to progress the case to trial.

1.53. If these issues are not prepared thoroughly, it can prevent cases being resolved at the PTPH or prevent the issues in a case being properly identified for future hearings. It usually results in additional court orders being imposed, which can add to the administrative burden on the Area.

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

1.54. We found that overall, the Area performed better at this in RASSO cases than in Crown Court cases.

1.55. When considering whether the prosecutor had prepared the case effectively to ensure progress at the PTPH, there was a lack of consistency. We rated half of the RASSO cases and slightly under half of the Crown Court cases we examined as fully meeting the standard. Recurring themes in those cases we rated as not fully meeting the standard were failures to address the issues of alternative acceptable pleas, delays in chasing outstanding items from the police, and errors with the PTPH form or its dispatch.

1.56. There was clearly an issue with sharing hard media before the PTPH, as performance in this aspect was poor, with significantly more than half of all cases not meeting the standard. However, this needs to be considered in context. The Covid-19 pandemic has had an impact. The Area has moved from a system primarily using physical hard media to a system where it can share media with the defence and magistrates' courts through a digital system. The Area covers several different police forces, and this move has taken some time to resolve with all these forces, since some have reacted quicker than others to the need for change. This did create a backlog for a while, which we were told has now been removed. This is likely to have affected our file examination data results.

1.57. The drafting of the indictment was of better quality in both Crown Court and RASSO cases, with more than 60% fully meeting the standard. In addition, the service on the defence and court of the draft indictment and key evidence for the PTPH was stronger still, particularly in RASSO cases, with more than three quarters fully meeting the standard.

1.58. It is important to instruct counsel in good time so they can consider the case, prepare properly for the hearing and provide advice on the evidence for the Area. This should be done at least seven days before the PTPH. In this regard, performance was high in RASSO cases, with 90% fully meeting the standard, but less so in Crown Court cases. We rated fewer than half of these as fully meeting the standard and, in several cases, there was evidence of advocates being instructed very late. The Area confirmed that because of the pandemic, cases that were listed at the Crown Court were moved frequently and there was a need to brief people later to manage the movement of work and the available resources.

1.59. The principles of better case management apply in the Crown Court. One of these principles is the duty of direct engagement, which requires parties to engage with each other about the issues in the case from the earliest opportunity and throughout the proceedings. We assessed that the prosecution

was complying with this duty in the majority of cases, although there was very little evidence of engagement by the defence. A log of that engagement is required to be uploaded onto the Crown Court Digital Case System for the Judge to view and refer to at the PTPH, but in the vast majority of cases this did not happen. We understand from the Area that the duty of direct engagement is not consistently raised at the PTPH by Judges, which appears to have had an impact on the Area's performance. We are also aware that many defence firms furloughed staff during the pandemic; the lack of response in those cases may at least partly explain the number of cases we rated as not meeting the standard, as prosecutors become frustrated with the lack of response from defence solicitors.

Disclosure of unused material

1.60. For justice to be served, it is vital that the police and CPS comply with their duties in relation to material that does not form part of the prosecution case ('unused material'). There are specific processes, rules and guidance for disclosing such material, including for handling 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 against the accused or of assisting the case for the accused". If it is, it is disclosable. The defence are 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'.

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

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

1.63. The handling of the disclosure of unused material overall was good in RASSO cases, where we assessed the Area as fully meeting the standard, but weaker in magistrates' court and Crown Court cases, where we assessed the Area as not meeting the standard.

1.64. In terms of compliance with the prosecution's duty of initial disclosure of unused material, the Area's performance was variable, with the majority of cases across all casework assessed as partially or not fully meeting the standard.

Whilst there were a number of reasons for this, in most cases we rated as not meeting the standard, there was a failure by the prosecutor to identify that obvious items of unused material that were not listed on the unused material schedules provided by the police. The timeliness of the initial disclosure was good, but the Area's compliance with the obligations at initial disclosure was less so, despite the Area's focus on both – which is a concern.

1.65. The Area's performance was much better when it came to the handling of continuous disclosure, with the majority of Crown Court and RASSO cases fully meeting the standard. The Area performed strongly when dealing with sensitive material in RASSO cases and when handling third-party material in Crown Court and RASSO cases; we rated more than three quarters of cases as fully meeting the standard for these aspects of casework.

1.66. Disclosure management documents were required in all the RASSO cases we examined. These documents are completed in partnership with the police disclosure officer assigned to the case. They set out the lines of investigation and how the material obtained from them is being handled. In the majority of cases, disclosure management documents were completed accurately, fully meeting the standard.

Victims and witnesses

1.67. The CPS's commitment to support victims and witnesses states that the "fundamental role of the Crown Prosecution Service (CPS) is to protect the public, support victims and 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 commitment is a new framework that provides prosecutors with easy access to all the key considerations that they should reflect in their dealings with victims and witnesses.

1.68. The Area's approach to the handling of victim and witness issues was good in most cases and is a strength across all casework types.

1.69. It is important to focus early on relevant applications and ancillary matters to support victims and witnesses. 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 rated the majority of the RASSO cases we examined as fully meeting the standard. Performance was less strong in magistrates' court cases, with less than half of cases fully meeting the standard, and in Crown Court cases, where we only rated a third of cases as fully meeting the standard. Often this was not because the prosecutor had not considered the need for applications at that stage, but instead because the pre-charge review either lacked detail or actions

to progress, or because the entry was so brief it required further explanation or action to have value.

1.70. At the post-charge stage, we assessed a number of aspects of casework including:

- witness warning
- handling of witness care unit (WCU) correspondence
- consultation with victims and witnesses, including speaking to witnesses at court
- victim personal statements (VPS)
- orders on sentence or acquittal
- Victim Communication and Liaison scheme letters (VCLs).

1.71. The correct and timely warning of witnesses was excellent across all casework.

1.72. WCUs are separate from the CPS. They manage the care of victims and witnesses throughout the post-charge phase of a case, including updating victims and witnesses on the progress of the case. We found that correspondence from the WCU was generally dealt with in a timely and effective manner by prosecutors in 72.4% of Crown Court cases and 94.1% of RASSO cases. We rated half of the magistrates' court cases we examined as fully meeting the standard.

1.73. We found good compliance with consulting victims and witnesses. The consultation, including compliance with the speaking to witnesses at court scheme, was dealt with very well in Crown Court and RASSO cases, where there was clear reference to it endorsed on court hearing record sheets in over 90% of cases. In magistrates' court cases, however, there was full compliance in less than half of cases.

1.74. Victims are entitled, if they wish, to provide a VPS. The VPS sets out the impact that the offence has had on them and helps inform the court's decision on sentencing. We rated more than half of the Area's cases as fully meeting the standard for seeking and giving effect to victims' wishes with regard to VPSs, including whether they wished to read the statement personally in court or for the prosecution advocate to read them. We assessed several cases as partially meeting the standard because there was no record of the VPS being read to the

court on the hearing record sheet, so we did not know whether this had taken place.

1.75. The Area's performance was good across all casework when seeking appropriate orders on sentencing to protect victims and witnesses, with more than 90% of cases fully meeting the standard. This was a strength for the Area.

1.76. Whilst the Area's overall approach to victims and witnesses is good, our findings highlight some room to make improvements in the quality and timeliness of VCLs.

1.77. VCLs should be sent to victims whenever a charge related 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 over a period of time. The timescale in all other cases is five working days. The letter should include a clear and understandable explanation of the decision and a referral to the Victims' Right to Review scheme if applicable, and offer a meeting in certain types of case.

1.78. Whilst the overall number of letters in our file examination was small, their quality and timeliness was not high. We rated a quarter of relevant cases as fully meeting the standard for the quality of the letter, and less than half as fully meeting the standard for timeliness. There is clear room for improvement for the Area.

2. Context and background

Background to the inspection

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

2.2. Since 2019, the thematic inspections we have carried out – notably the charging inspection⁵, serious youth crime inspection⁶, and disclosure follow-up⁷ – have reached similar findings, suggesting that more remains to be done to improve aspects of casework quality. We therefore decided to focus our geographical inspections of the CPS on casework quality. Other aspects of Areas' work, such as strategic partnerships and digital capability, will be addressed only to the extent that they have an impact on casework quality.

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

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

2.5. A complicating factor in establishing a baseline and assessing current performance is the very real and ongoing pressure on the CPS as a result of the

⁵ *Charging inspection 2020*; HMCPsi; September 2020.

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

⁶ *Serious youth crime*; HMCPsi; March 2020.

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

⁷ *Disclosure of unused material in the Crown Court – a follow-up*; HMCPsi; December 2020.

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

global Covid-19 pandemic. We were mindful of potentially adding to the burden faced by the CPS, but it is the role of HMCPSI, as a criminal justice inspectorate, to report on the effectiveness and efficiency of the agencies it inspects. This inspection programme needs to reflect the pressures and burdens being faced by the CPS, but equally has to weigh compliance with the requirements for high quality legal decision-making and case management. This is what the public deserves. Our findings and scores will therefore be based on existing expectations and standards, but where the pressures of the Covid-19 pandemic have had a material impact, we will set out relevant and clear context to enable better understanding of the Area's performance.

The current landscape and the Covid-19 pandemic

2.6. The global Covid-19 pandemic has had a significant impact on the CPS and the wider criminal justice system, including the criminal bar. Court closures during the first UK-wide lockdown from March to May 2020 resulted in significant backlogs of cases awaiting hearings and an increase in caseloads for all case types within the CPS. Since the initial lockdown, there have been more national and local lockdowns across the UK.

The global Covid-19 pandemic has had a significant impact on the CPS and the wider criminal justice system

2.7. In June 2020, we published a report⁸ on the CPS's response 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 both the number of cases in Areas and the size of 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 HM Courts and Tribunals Service's cloud video platform (CVP) to facilitate remote hearings. The drive to reduce the backlogs in the magistrates' courts has been successful, but has brought with it added pressure for the CPS to deal with more cases in a short period of time with the same resources.

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

2.9. At the early stage of the Covid-19 pandemic, most Crown Court hearings were confined to administrative hearings using CVP, with trials only starting to be listed in nine Crown Court centres. By September 2020, jury trials were being heard in 68 of the 81 Crown Court centres. Nightingale courts⁹ were also set up as one of the measures to address the growing backlog of Crown Court cases, with 63 courtrooms at 30 court centres set up at the time of writing.

2.10. In March 2021, we published a report¹⁰ looking at the CPS's response to the continuing Covid-19 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%. Although in September 2020, for the first time in the Covid-19 pandemic, more magistrates' court cases were finalised than were being received, by December 2020 the number of magistrates' court cases in the CPS was still 70% higher than before the Covid-19 pandemic. In the Crown Court, caseloads were increasing before the pandemic, and Covid-19 exacerbated that. The national caseloads rose from 37,700 in April 2019 to 45,300 by March 2020 and stood at 64,500 cases in December 2020.

Impact on the Area

2.11. CPS West Midlands was affected, as were most other Areas, with significant backlogs in both magistrates' court and Crown Court cases as a result of the closure of courts during the initial UK-wide lockdown. The backlog of magistrates' court cases increased from approximately 6,000 in February 2020 to more than 12,000 at its peak in August 2020. The backlog of Crown Court cases increased from approximately 5,000 to nearly 8,000 by December 2020.

2.12. In addition, listing cases in the courts which did proceed was very difficult, with cases being listed or taken out of court at very short notice because of the issues raised by the pandemic. For the first six months of the pandemic, the Area had to adapt to new ways of working in order to function effectively, including using CVP, Microsoft Teams and conference calls to continue to list and attend in some cases.

⁹ 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.

¹⁰ *CPS response to COVID-19: dealing with backlogs*; HMCPsi; March 2021. www.justiceinspectors.gov.uk/hmcp/inspections/cps-response-to-covid-19-dealing-with-backlogs/

2.13. CPS West Midlands was also affected during the initial UK-wide lockdown, similar to most other Areas, by a significant increase in the volume of cases received from the police for pre-charge decisions.

2.14. The Area described the Covid-19 period as extremely challenging.

2.15. Its senior staff normally includes a Chief Crown Prosecutor, Area Business Manager (ABM) and three Deputy Chief Crown Prosecutors (DCCPs). For a significant period during the Covid-19 pandemic, the Area operated without one of its DCCPs and therefore had to divide the responsibilities between the other DCCPs.

2.16. At the beginning of the Covid-19 pandemic, the Area was under-resourced against the resource levels defined by the CPS's national resource model. To tackle the issue, the Area embarked on a major recruitment drive whilst dealing with the Covid-19 pandemic. ABMs worked to identify gaps and move resources within the Area to fill gaps. Much of this meant taking resources from one unit to give to another in a reactive, yet necessary way. This included redeploying the Area's existing crown advocates from their advocacy duties to the pre-charge stage, where they were expected to review and make decisions on whether to charge cases submitted by the police. They required additional training to fulfil this role. The Area's levels of experience were challenged and this constant movement of people into new roles and units included both managers and staff. Managing this rotation throughout the whole Area during this period was a considerable task.

2.17. During the first 14 months of the Covid-19 pandemic, the Area had 117 external recruits and internal promotions, which equates to approximately 20–25% of its workforce. This indicates the degree of change and upheaval the Area has had to deal with.

2.18. Throughout this period, the Area had to work closely with its strategic partners to ensure the safety of their staff when attending courts and police stations. It also had to plan the recovery from the impact of the Covid-19 pandemic, especially by addressing the backlogs that built up over this period.

2.19. West Midlands is the largest CPS Area. It has four regional police forces which are coterminous within its boundary: Staffordshire, Warwickshire, West Mercia and West Midlands. It is also one of the few Areas with a national police force, as it handles all prosecutions from British Transport Police investigations in England and Wales. The Area has long-established stakeholder relationships with a strong governance structure to support casework. It also has a well-developed and clear engagement strategy. This has been very important and helpful during the Covid-19 pandemic.

2.20. At the time of our inspection, the Area confirmed that the magistrates' court caseload had not yet returned to pre-pandemic levels but had significantly decreased, which reflects the considerable work the Area has done through those stakeholder relationships.

2.21. Whilst the backlog of magistrates' court cases has decreased, Crown Court backlogs remain at higher than pre-pandemic levels as because social distancing measures, required to ensure the safety of court users, mean that fewer court rooms can be used than before the pandemic. In addition, the need to adhere to social distancing measures within the wider court buildings has increased the amount of time it takes for participants and observers to move into and out of courtrooms, all of which has reduced the number of hearings that can take place during the sitting day or in parallel at any one time. At the time of our inspection, the Area confirmed that minor decreases in Crown Court backlogs have only begun in recent weeks.

2.22. In addition, throughout this period, the Area's staff were dealing with the impact of the pandemic on their personal and professional lives. The Area had to take account of this, and their health and wellbeing has been at the forefront in the way the Area has managed its staff during this period.

throughout this period, the Area's staff were dealing with the impact of the pandemic on their personal and professional lives

2.23. Whilst the approach to dealing with the backlogs, particularly in magistrates' court cases, is extremely encouraging, we recognise that a court backlog is not something that can simply be worked through and cleared by increasing resources. More resources help, of course, but increasing the number of courts also brings extra pressure. Additional court sittings require prosecutors and paralegals to

be available, and more work in advance of the listing to ensure that cases are ready to progress or for trial. Where new staff are recruited or existing staff redeployed, they need to be trained and mentored to allow them to carry out their roles effectively, and this also requires additional resources to deliver. This means more work by a finite number of staff, against the backdrop of the pandemic's pressure on staff, such as illness, isolation, home-schooling and other child and family caring responsibilities. Despite these pressures, the Area's staff worked extremely hard throughout the pandemic to ensure the criminal justice system worked as effectively as possible.

Performance data

2.24. 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 West Midlands' casework is predicated upon our file examination. This examination focused on the effectiveness of the CPS's actions against their own standards around the quality of legal decision-making and case management, which are solely within the control of the CPS; it is from this alone that the inspection scores have been awarded.

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

3. Framework and methodology

Inspection framework

3.1. The Area Inspection Programme (AIP) framework has been designed to focus on the Crown Prosecution Service's (CPS's) delivery of quality casework, which is its core function and one of the five strands of the CPS 2025 strategy¹¹. To do this, we are examining 90 cases from each Area, which will form the basis of our findings, judgements, and scoring. The inspection will include an assessment of the other four strands of CPS 2025 (people, digital capability, strategic partnerships, and public confidence) only in so far as they impact on, support and promote casework quality.

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

Methodology

File examination

3.3. The primary evidence for our findings and judgements comes from the examination of 90 cases from CPS West Midlands. We looked at 30 magistrates' court cases, 40 Crown Court cases, and 20 cases involving rape and serious sexual offences (RASSO). 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 themes or issues are when the need for improvement is indicated.

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

¹¹ CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

3.6. HM Crown Prosecution Inspectorate (HMCPPI) 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 West Midlands to send us a range of documents across all aspects of the framework, which we reviewed with a focus on the evidence that shed light on the Area's delivery of high quality casework.

3.8. We also attended the Area's casework quality committee (CQC) meeting virtually on 12 May 2021 to understand better how the Area views its casework quality and the work going on in the Area to improve.

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 in advance of a meeting to discuss its contents with senior managers. At the meeting, the Area was able to put findings in context, explain more about the pandemic and other pressures it was dealing with, and supply further evidence where necessary.

Quality assurance

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

3.11. In line with our methodology¹², we held consistency exercises for our inspectors on the question set and guidance. We invited staff from a number of Areas, including CPS West Midlands, to these exercises. Our file examination assessments were then subject to internal quality assurance which included data checks and dip sampling. Dip samples were then checked to ensure consistency of approach.

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

¹² *Inspection handbook*; HMCPPI; January 2021.

www.justiceinspectorates.gov.uk/hmcpipi/wp-content/uploads/sites/3/2021/02/HMCPPI-Inspection-handbook.docx

agree, how many stages the Area wishes to invoke. Ultimately, the decision is ours.

3.13. The Area assessment document, containing our preliminary findings, was reviewed by the Deputy Chief Inspector (Inspections) (DCI(I)). A check and challenge session was held between the DCI(I) and the team before we attended the meeting with the Area's senior managers to discuss the findings.

Scoring

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

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

3.16. We assessed how well CPS West Midlands met the standards against a question set comprising 60 questions¹³ from pre-charge to case conclusion. Inspectors rated each case as fully meeting the standard, partially meeting the standard or not meeting the standard for each question, applying the CPS's own casework standards.

3.17. In reaching our assessments around added value and grip, we examined Area cases against a set of questions that we brigaded into casework themes. These are examined in detail within the report to provide a fair and transparent assessment of the Area's work across the three types of volume casework. Each theme received a score, recorded as a percentage and calculated in the same way as for added value and grip, which then translated into an assessment of how well the Area was meeting the standard for that specific theme¹⁴.

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

¹³ See annex D for the full question set.

¹⁴ See annex F for the scoring methodology and annex G for the questions that contributed to each of the casework themes.

4. Added value and grip

What are added value and grip?

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

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

4.3. The Criminal Procedure Rules (CPR) 2020 require all parties to work together effectively. These rules set out the framework within which cases should be progressed post-charge in the criminal courts. The overriding objective of the CPR 2020 is that criminal cases are dealt with justly, which includes being dealt with efficiently and expeditiously.

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

4.5. We broke down casework quality into two key measures: first, whether the Area added value with its casework decisions; and second, whether the Area gripped 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
- victims and witnesses.

Added value

4.6. We defined added value as the difference made by prosecutors throughout the life of a case through good and proactive prosecution decision-making in accordance with the legal framework both pre- and post-charge, and throughout the case. We drew on the relevant questions in our file examination that most show added value (these are set out in full in 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 by defendants on indictment in cases to be heard at the Crown Court
- good quality reviews including, at all stages, a cogent and clear analysis of the case – this includes whether in each case the prosecutor has:
 - analysed the material
 - identified additional lines of enquiry, including those that might point away from a prosecution, and asked the police to investigate further
 - considered any defence raised, identified ways to strengthen the case and also addressed how any weaknesses might be overcome
 - a clear strategy for trial in contested cases – by this we mean how the case will be presented at trial
- appropriate handling and decision-making around unused material throughout the case
- effective consideration and decision-making around victim and prosecution witness issues, including seeking appropriate orders to protect the victim, witnesses, and the public
- robust and fair decisions about custody and bail
- sound use of applications to strengthen the prosecution case, such as evidence of bad character of the defendant or hearsay evidence.¹⁵

¹⁵ 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 have been effectively progressed at each relevant stage, whether required processes have been adhered to, and whether any timescales or deadlines have been met.

4.8. We assessed grip by identifying the questions that had significant impact in terms of case management. The questions that contributed to our overall score and findings for grip (set out in full in annex G) included:

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

Added value and grip scoring

4.9. The scores for added value and grip are set out as percentages. They were obtained by taking the questions that feed into the aspect (added value or grip) and allocating two points for each question in each case that was marked as fully meeting the expected standard. We allocated one point where a question was marked as partially meeting the standard, and no points for answers not meeting the standard. We then expressed the total points awarded as a percentage of the maximum possible points. Not applicable answers were excluded. There is a worked example in annex F.

4.10. Applying this mechanism, we have scored CPS West Midlands as follows:

Table 2: Added value and grip scoring

CPS West Midlands	Added value	Grip
Magistrates' court casework	71.6%	68.4%
Crown Court casework	64.3%	65.8%
Rape and serious sexual offences	74.7%	75.1%

Magistrates' court casework added value and grip

4.11. In magistrates' court cases, the Area excelled at applying the Code for Crown Prosecutors when making decisions to charge, selecting the most appropriate charges and making review decisions after charge. It is apparent from our case file examination that good prosecutorial decisions are being made, thereby clearly adding significant value to casework.

4.12. The quality of the reviews accompanying those decisions was not as strong, although they were assessed as being closer to the expected standard at the post-charge stage. Many review decisions at the pre-charge and post-charge stages lacked a clear case analysis and strategy that adequately set out that the prosecutor had properly considered the available evidence. Many cases failed to address how the prosecution would seek to put its case and this detracts from the Area's ability to add value to its casework.

4.13. However, at the time of our inspection, the CPS had launched its case review training. This training was delivered by the central legal training team to selected prosecutors in each Area who in turn were tasked with delivering the training to all prosecutors in the Area. The training was designed to support case review standards, focusing on the importance of a good analysis and strategy. At the same time, the Area had to prioritise training and also focus on the implementation of the Director's Guidance on Charging 6th edition and the Attorney General's Guidelines, which came into effect on 1 January 2021.

4.14. To put into context some of the findings of our case file examination results, at the time of our inspection case review training was ongoing and the majority of the cases we considered in our file examination predate this training.

4.15. The added value when handling and making decisions around unused material throughout the case was variable in magistrates' court cases. In most cases the Area did not fully comply with its duty of initial disclosure of unused material but in the more limited number of cases where continuous disclosure, sensitive material or third-party material applied, there was strong compliance.

4.16. In magistrates' court cases, there was evidence of the Area adding value when making decisions and considering issues around victims and witnesses. There was good performance when seeking appropriate orders to protect the victim, witnesses and the public and making appropriate applications for special measures to assist victims and witnesses give evidence. However, there is evidence of scope for further adding value by identifying those applications earlier in the pre-charge stage and by improving the quality of letters to victims.

There was good performance when seeking appropriate orders to protect the victim, witnesses and the public

4.17. In a number of magistrates' court cases, more consideration needed to be given in the pre-charge stage to identifying the appropriate use of applications to strengthen the prosecution case, although later in the proceedings there was good evidence of those applications being made appropriately.

Applications can include bad character and hearsay evidence but also ancillary matters such as confiscation and forfeiture orders.

4.18. In addition, there was clear evidence that value was being added by the magistrates' court team when making appropriate decisions about custody and bail.

4.19. Gripping cases at the early stages makes it much easier to proactively progress cases efficiently and effectively. The Area scored lower for grip than added value in magistrates' court cases.

4.20. In the cases we examined, the timeliness of pre-charge decisions and post-charge reviews, including the timeliness of any decisions to discontinue cases, was generally good – but there were cases where improvements could be made.

4.21. The effective preparation of a case to ensure progress at court at the first hearing is an important aspect when evaluating if the Area has a grip on its casework. We rated half the magistrates' court cases we examined as fully meeting the standard. As with cases that the Area discontinues, there is room for improvement.

4.22. Our file examination showed that there was an issue related to the effective sharing of hard media in the magistrates' courts, which had an impact on the Area's ability to grip its cases and make sure they were effectively prepared. As set out in paragraph 1.19, some of the challenges relate to changes to digital systems as a result of the pandemic.

4.23. In magistrates' court cases, the Area has the potential to improve grip by improving its performance when complying with court orders.

4.24. The Area showed a mixed standard of grip in magistrates' court cases when dealing with correspondence. It dealt with correspondence from the witness care unit and other agencies, and when responding to new material received from the police or requesting additional material from them, in an effective and timely manner. But our findings showed less grip in dealing with new material from the police.

4.25. To show that the Area has a grip on its cases, it is important that there be a clear audit trail of key events and decisions of all aspects of casework, from registration to finalisation, on the CPS's case management system. Our findings were that the magistrates' court team's audit trails were reasonably well set out.

Crown Court casework added value and grip

4.26. In Crown Court cases, the Area excelled in the application of the Code for Crown Prosecutors when making decisions to charge, selecting the most appropriate charges and making review decisions after charge. It is apparent from our case file examination that good prosecutorial decisions are being made, clearly adding significant value to casework.

4.27. The quality of the reviews accompanying those decisions was not as strong. Many review decisions at the pre-charge and post-charge stages lacked a clear case analysis and strategy that adequately set out that the prosecutor had properly considered the available evidence, and failed to address how the prosecution would seek to put its case. This weakness detracts from the Area's ability to add value to its casework.

4.28. To put some of the findings of our case file examination results into context, at the time of our inspection case review training was ongoing and the majority of the cases we considered in our file examination predate this training.

4.29. In addition, the Area has acknowledged that as a consequence of the increase in pre-charge cases during the pandemic, it implemented the short term measure of using external counsel to assist in providing pre-charge decisions in a number of cases. Whilst all such decisions were confirmed by Area lawyers following receipt of counsel's pre-charge advices, the Area accepted that some of the counsel used were not fully aware of the expectations in relation to the detailed strategy required in those pre-charge decisions. This was despite the Area working with counsel on the standards required and providing a template to assist them.

4.30. Furthermore, again because of the casework pressures resulting from the pandemic, the Area suspended post-charge reviews for non-custody cases for a period. This was a temporary approach and meant the Area could proactively manage the risk resulting from the volume of the backlog of work progressing from the magistrates' courts to the Crown Court. The Area receives a high percentage of custody cases and the risk involved in those cases is significant. The suspension allowed Area prosecutors to focus their reviews on the increasing number of custody cases which needed to be prioritised. Both

factors in part may explain some of our findings from the file examination.

In several Crown Court cases, more consideration was required around using appropriate applications to strengthen the prosecution case

4.31. The value added when handling and making decisions around the disclosure of unused material throughout the case was variable in Crown Court cases. In most cases, the Area did not fully comply with its duty of initial disclosure of unused material. There was, however, much stronger performance and evidence of prosecutors adding value when complying with continuous disclosure. We rated most cases in the Crown Court as fully meeting

the standard in this regard. There was also strong performance in dealing with third party material¹⁶.

4.32. In Crown Court cases, there was evidence of added value when the Area was making decisions and considering issues around victims and witnesses. There was good performance when seeking appropriate orders to protect the victim, witnesses and the public and making appropriate applications for special measures to assist victims and witnesses to give evidence. However, there is still evidence of a need to identify those applications earlier in the pre-charge stage and to improve the quality of letters to victims.

4.33. In several Crown Court cases, more consideration was required around using appropriate applications to strengthen the prosecution case. These can include applications such as bad character and hearsay evidence but also ancillary matters such as confiscation and forfeiture orders.

4.34. There was, however, good evidence that the Area made appropriate decisions about custody and bail in Crown Court cases.

¹⁶ Duties of disclosure under the Criminal Procedure and Investigations Act 1996 and the Code of Practice are imposed upon the investigator and the prosecutor. All other categories of persons in possession of relevant material are treated as third parties.

4.35. Gripping cases at the early stages makes it much easier to proactively progress cases efficiently and effectively. For Crown Court cases, we scored the Area's grip slightly higher than its added value.

4.36. We rated less than half of the cases we examined as fully meeting the standard for the timeliness of pre-charge decisions and decisions to discontinue cases.

4.37. The effective preparation of a case to ensure progress at court at the first hearing is an important aspect to consider when evaluating whether the Area has a grip on its casework. We rated less than half of the Crown Court cases we examined as fully meeting the standard. Again, we rated only half of the cases as fully meeting the standard for the timeliness of post-charge reviews. These results partly reflect the Area's decision to suspend post-charge reviews for non-custody cases (paragraph 4.30).

4.38. Our file examination showed that, similarly to magistrates' court cases, there is an issue in relation to the effective sharing of hard media in Crown Court cases, which has an impact on the Area's ability to grip its cases and ensure they are effectively prepared. As outlined in paragraph 1.56, this should be put into context: the pandemic has had an impact on this, with the Area having to change its approach.

4.39. However, there was better evidence of grip when it came to the timeliness of draft indictments and key evidence being served on the court and defence before the PTPH. In Crown Court cases, there was also generally good evidence of compliance with Judges' orders, although we found evidence of some cases where additional grip could be exercised.

4.40. An important aspect of exercising grip in Crown Court cases is receiving an advice on the evidence from the instructed counsel and acting upon it. The Advocate Panel Members' Commitment details that, once instructed, counsel will read the instructions expeditiously and advise or confer with those instructing. The response is to be within five days of receipt of instructions. We allowed more latitude and assessed whether there was advice within 28 days of the first trial date listed and, if not, whether the Area chased that advice. We found a significant number of cases where there was no advice received from counsel and, where that was the case, they were rarely chased. This is a theme the Area has identified through its own Individual Quality Assessments, and action is being taken and managed through the Area casework quality committee. The Area was also raising this issue at the regular meetings with Heads of Chambers to improve performance.

4.41. The Area showed a reasonable standard of grip in Crown Court cases when dealing with correspondence from the witness care unit and other agencies, and when responding to new material received from the police or requesting additional material from them in a timely manner.

4.42. To show that the Area has a grip on its cases, it is important for there to be a clear audit trail of key events and decisions of all aspects of casework, from registration to finalisation, on the CPS's case management system. Our file examination identified that there was a need for improvement. We rated less than half of Crown Court cases as fully meeting the standard expected.

Rape and serious sexual offences casework added value and grip

4.43. In RASSO cases, the Area excelled in the application of the Code for Crown Prosecutors when making decisions to charge, selecting the most appropriate charges and making review decisions after charge. It is apparent from our case file examination that good prosecutorial decisions are being made, clearly adding significant value to casework.

4.44. The quality of the reviews accompanying those decisions was not as strong. Many review decisions at the pre-charge stage lacked a clear case analysis and strategy that adequately set out how the prosecutor had properly considered the available evidence. Often the review also failed to address how the prosecution would seek to put its case. This weakness detracts from the Area adding value to its casework.

4.45. To put some of the findings of our case file examination results into context, at the time of our inspection case review training was ongoing and the majority of the cases we considered in our file examination predate this training.

4.46. The value added when handling and making decisions around unused material throughout the case was generally of a good standard in RASSO cases. In most cases, the Disclosure Management Document was completed accurately. There was significant room for improvement when dealing with initial disclosure, where we rated less than half of cases as fully meeting the standard. There was, however, better performance in relation to dealing with continuous disclosure, where we rated more than half of cases as fully meeting the standard, and found good performance when handling sensitive material and third-party material.

4.47. In RASSO cases, there was good evidence of value being added when the Area was making decisions and considering issues around victims and witnesses. There was good performance when seeking appropriate orders to protect the victim, witnesses and the public. There was evidence of early

identification of special measures to assist victims and witnesses to give evidence, and of making appropriate applications for these measures. In some cases, there was still a need to improve the quality of letters to victims.

4.48. The Area also added value in the pre-charge stage and later in proceedings through the appropriate use of applications to strengthen the prosecution case in the RASSO cases we examined. Examples of such applications can include bad character and hearsay evidence but also ancillary matters such as sexual harm prevention orders.

4.49. Gripping cases at the early stages makes it much easier to proactively progress cases efficiently and effectively. In RASSO cases, we scored the Area slightly better for grip than for added value.

4.50. Our file examination showed that the Area was fully meeting the standard for the timeliness of pre-charge decisions in half of the cases we examined. There was better evidence of grip in relation to the timeliness of decisions to discontinue, with more than half of the cases fully meeting the standard, and the timeliness of post-charge reviews, with more than three quarters fully meeting the standard.

In RASSO cases there was good evidence of grip when it came to the timeliness of draft indictments and key evidence being served

4.51. The effective preparation of a case to ensure progress at court at the first hearing is an important aspect to consider when evaluating whether the Area has a grip on its casework. We rated half the RASSO cases we examined as fully meeting the standard. The Area has room for improvement.

4.52. Our file examination showed that, similarly to magistrates' court and Crown Court cases, there is an issue in relation to the effective sharing of hard media in RASSO cases in the Crown Court, which has an impact on the Area's ability to grip its cases and ensure they are effectively prepared. This should be put into context: the pandemic has had an impact on this, with the Area having to revise its systems.

4.53. In RASSO cases, there was good evidence of grip when it came to the timeliness of draft indictments and key evidence being served on the court and defence. In addition, there was reasonable evidence of timely compliance with Judges' orders, although we found evidence of some cases where additional grip could be exercised.

4.54. An important aspect of exercising grip in RASSO cases is receiving an advice on the evidence from instructed counsel and acting upon it. As already

outlined (paragraph 4.40), the Advocate Panel Members' Commitment details that, once instructed, counsel will read the instructions expeditiously and advise or confer with those instructing. The response is to be within five days of receipt of instructions. We found a significant number of cases where there was no advice from counsel and cases without advice were rarely chased. As already set out, the Area has identified this issue and is taking steps to address it.

4.55. The Area showed a high standard of grip in RASSO cases when dealing with correspondence from the witness care unit and other agencies, and when responding to new material received from the police or requesting additional material in a timely manner.

4.56. To show that the Area has a grip on its cases, it is important for there to be a clear audit trail of key events and decisions of all aspects of casework, from registration to finalisation, on the CPS's case management system. Our file examination identified that this audit trail was reasonable in RASSO cases, with most of the cases fully meeting the standard.

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' courts 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 as for added value and grip (set out more fully in chapter 4 above and in annex F), which involves awarding two points for each relevant question marked as fully meeting the standard, one point for each relevant question marked as 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 have scored Crown Prosecution Service (CPS) West Midlands for its magistrates' court casework as follows:

Table 3: 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	Partially meeting the standard	88.5%
The Area's pre-charge decisions contain a clear analysis of the case and sets out a cogent case strategy	Not meeting the standard	59.2%
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	Partially meeting the standard	69.8%
Disclosure		
	Not meeting the standard	59.2%
Victims and witnesses		
	Fully meeting the standard	72.6%

5.3. Our assessment of magistrates' courts casework was that there were aspects of casework that were done well, including the Area's compliance with the Code for Crown Prosecutors in the pre-charge and post-charge stages, selection of the most appropriate charges in the pre-charge stage and addressing victim and witness issues appropriately throughout its casework. There were however others that required more focus, specifically the quality of the analysis and case strategy in its casework at the pre-charge stage and compliance with its duty of disclosure throughout its casework.

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. In order to assess Area performance at pre-charge decision-making the inspection assessment has been split into three sub-themes. These reflect the different aspects that contribute to effective decision making at the pre-charge stage namely: compliance with the Code for Crown Prosecutors; selection of the most suitable charges; and the quality of the analysis and case strategy set out within 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 with all the Area pre-charged magistrates' courts cases being compliant with the Code for Crown Prosecutors.

Table 4: Pre-charge Code compliance in magistrates' court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	26	100%
Not meeting the required standard	0	0%

5.6. Compliance with the Code for Crown Prosecutors requires prosecutors 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 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 to convict the defendant of the charge alleged. This is a different test from the one the criminal courts must apply, whether that is a bench of magistrates, a District Judge or a jury, which states that 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 prosecutor's duty 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 will only be considered if the prosecutor concludes that the evidential test has been met. If there is insufficient evidence for a realistic prospect of conviction, 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 tending against prosecution which outweigh those tending in favour. In reaching this decision prosecutors must consider the paragraphs set out in the Code for Crown Prosecutors at 4.14(a) to 4.14 (g).

5.11. A decision that is not compliant with the Code for Crown Prosecutors is said to be a wholly unreasonable decision. In other words, 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.

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

Selecting the most appropriate charges

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

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

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

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 with a view to encourage a defendant to plead to a less serious one.

¹⁸ As this is an Area inspection, where the charging decision was made outside of the Area, either by the police or CPS Direct – the CPS's out of hours pre-charge team that operates 24 hours a day, 365 days a year – the answer was marked not applicable.

5.16. Prosecutors are also assisted with the selection of charges in some types of offending by charging standards set by the CPS. An example is the charging standard for offences against the person. These help to achieve consistency of approach across CPS Areas in England and Wales in cases where the circumstances of an assault would fit either a charge of common assault by beating, an offence that can be tried only in the magistrates' courts, or as an assault occasioning actual bodily harm. This is an offence that can be tried either in the magistrates' courts or the Crown Court and which attracts a greater maximum sentence.

5.17. We assessed the Area as **fully meeting the standard**. In 80.8% of cases inspectors assessed cases as fully meeting the required standard and in a further 15.4% as partially meeting the required standard. One case was rated as not meeting the standard.

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

5.18. Our assessment for this aspect of the casework theme in magistrates' courts cases was 59.2%, meaning that the Area is rated as **not meeting the standard** overall¹⁹.

5.19. Whilst getting the initial charging decision correct is essential, a clear analysis of the material and setting out a clear strategy are fundamental to the efficiency and effectiveness of the subsequent stages to support the initial application of the Code for Crown Prosecutors and selection of charges as the case moves through the criminal justice system.

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

¹⁹ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme

5.21. A good review that meets the standard will include the following.

- A clear trial strategy was set out. In particular, where there were two suspects or more, the prosecutor 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 can be very different from case to case but often include the need for scientific evidence or examination of communications, for example, and should also identify those lines of enquiry that may point away from a prosecution. There was 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 set out 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 were considered, including previous convictions and past reports to the police. Where a video recorded 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 had, identifying a strategy to address any weaknesses. Any ancillary applications that may strengthen the case, such as bad character evidence of the defendant, were considered.
- Victim and witness issues were considered.
- Instructions to the court prosecutor were set out clearly.

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

5.23. We identified examples of pre-charge decisions that were timely and of good quality, but this was not consistent. The main theme that inspectors identified was that many review decisions at this pre-charge stage lacked clear case analysis and strategy that adequately set out that the prosecutor had

properly considered the available evidence and had considered and addressed how the prosecution would seek to put its case.

5.24. In our file examination we rated nine out of 26 cases (34.6%) as fully meeting the standard, 11 cases (42.3%) partially meeting the standard and the remaining six cases (23.1%) as not meeting the standard for having a proper case analysis and case strategy.

5.25. In the cases rated as not fully meeting the standard, we saw examples of pre-charge decisions where the strengths and weaknesses of the evidence were not properly identified and then applied to a strategy for the case. Instead, either a summary of the evidence or parts of it were often repeated with no proper consideration as to how it impacted on the case. In some cases, the extent of the strategy was often confined to which witnesses to call, and did not go on to address other issues, such as how a case could proceed if a witness refused to attend court (in a likely scenario), or how a defendant's assertions in interview which amounted to a defence could be addressed. In other cases, unused material was not adequately addressed as often there was no active consideration recorded or set out in the prosecutor's review of whether unused material supplied should be disclosed or direction given to the police as to what amounts to unused material.

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

5.27. Instructions will vary dependent upon the relevant factors in each individual case but may include:

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

- what possible pleas may be acceptable and the rationale for the approach to be taken
- details of any material that either assists the defence case at that stage or undermines the prosecution case that 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 (IDPC). This is all the material that is served on the defendant or their legal representative prior to the first hearing in the magistrates' courts²⁰.

5.28. In 10 out of 26 cases (38.5%) the instructions to the prosecutor were rated as fully meeting the standard, with 12 cases (46.2%) rated as partially meeting the standard and four cases (15.4%) as not meeting the standard. Our assessment of why cases were partially meeting or not meeting the standard highlighted a variety of reasons and weaknesses. These included a failure to refer to sentencing guidelines in relation to venue; adequate completion of a Plea and Effective Trial Management (PET) form; no clear outline to the approach to be taken to bail; and failure to detail the content to be included in the IDPC bundle. This is the bundle of material served on the defendant or their legal representative prior to the first hearing in the magistrates' courts.

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

5.30. The action plans on the cases we examined were assessed to be of variable quality, with about an even split of a third of cases being rated as fully meeting, partially meeting or not meeting the standard. The main reason inspectors assessed why action plans did not meet the required standard were cases where no actions were set either when obvious items were missing which should have been requested from the police or where reasonable lines of enquiry were outstanding.

5.31. In addition, in some of the cases we examined actions were included within the body of the pre-charge decision rather than being clearly set out in a structured way with target dates and prioritisation in the action plan section of the pre-charge decision. This is not the standard required as the action plan should be placed within the correct section so that the police can more easily

²⁰ The contents of the IDPC are regulated by [Part 8 of the Criminal Procedure Rules \(CrimPR\)](#) and the [Criminal Practice Directions \(CPD\) 2015 Division 1, at Part 3A](#).

identify and address the actions required. Failure to do so makes it more difficult for the police and this may result in them overlooking actions which then do not form part of ongoing enquiries and investigation. This is not only inefficient for the police but also time-consuming and avoidable.

5.32. Over the past 18 months there have been considerable pressures on the Area brought about by the pandemic in terms both of an increase in the volume of cases referred by the police for a charging decision and caseloads rising because of a lack of availability of courts to allow for social distancing. In addition, in the Area there has been a considerable recruitment drive, particularly for new prosecutors. Most of those prosecutors started their career in the CPS dealing with magistrates' court cases whilst some of the more experienced magistrates' court prosecutors have moved into the Crown Court unit and Rape and Serious Sexual Offences unit. The Area has confirmed that this has had a short-term impact upon the magistrates' court unit as those new prosecutors have needed training and have had to develop their experience in dealing with cases. The Area had a clear induction programme for both new staff and staff moving between units and there has been an Area-wide focus on training. Over time their experience and performance should improve, and the Area should benefit from that in the future.

5.33. At the time of our inspection the CPS is rolling out a national training programme around case review standards, focusing on the importance of a good case analysis and formulating a prosecution strategy to promote the effective conduct of the case through to a just outcome. The aim is to improve the effectiveness and efficiency of case management by ensuring that the pre-charge decision explains, from the outset, decisions taken and conclusions reached in reviewing the case and properly communicates that into an ongoing prosecution strategy. That training is current within the Area and the central legal training team at the CPS set a deadline of 30 June 2021 for this training to be delivered.

5.34. In addition, the Area has also prioritised training for the implementation of the Director's Guidance on Charging 6th edition and the Attorney General's Guidelines which came into effect on 1 January 2021. The Area has focused on consolidation and compliance in relation to the changes in obligations it imposes.

5.35. The majority of the cases we considered in our file examination have predated this training and we will be able to assess the impact of this in our follow-up inspection.

Post-charge decision-making and reviews

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

5.36. We rated the Area as **fully meeting the standard** for this aspect of post-charge decision-making with all the Area decisions post-charge being compliant with the Code for Crown Prosecutors; in other words, the evidential and public interest limbs had been properly applied. These included reviews of cases that were originally charged by either the police or CPSD.

Table 5: Post-charge Code compliance in magistrates' court cases

Compliance with the Code after charge in magistrates' courts cases	Number of cases	Percentage
Fully meeting the required standard	30	100%
Not meeting the required standard	0	0%

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

5.38. In every case we assessed, the Area prosecutor²¹ correctly applied the evidential and public interest stages.

Quality of post-charge reviews, analysis and case strategy

5.39. Our assessment for this aspect of the casework theme is that the Area is partially meeting the standard overall²². The score for the quality of post-charge review, analysis and case strategy for magistrates' courts cases is 69.8%.

5.40. In reaching our assessment, we considered a number of factors around the quality of these reviews, including:

- whether the post-charge review included a proper case analysis and case strategy

²¹ As this is an Area inspection, where the charging decision was made outside of the Area, either by the police or CPS Direct – the CPS's out of hours pre-charge team that operates 24 hours a day, 365 days a year – the answer was marked not applicable.

²² See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

- whether any pleas accepted (other than to all offences) were appropriate, with a clear basis of plea
- where a significant development occurred in the case which represented a major change in the case strategy, whether there was a quality review dealing with the significant development, applying the Code for Crown Prosecutors as to whether there remained a realistic prospect of conviction and whether it remained in the public interest to prosecute, but also how any new evidence or weaknesses would be addressed
- whether decisions about bail and/or custody were timely and appropriate
- whether appropriate applications such as bad character were used effectively to strengthen the prosecution case.

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

5.42. We found the quality of the post-charge reviews in magistrates' court cases to be of a better quality than the pre-charge decision reviews, with some good evidence of value being added by prosecutors in their reviews.

5.43. We assessed that in 14 of the 30 cases (46.7%) a proportionate initial or post-sending review took place that fully meets the standard, with nine cases (30%) partially meeting the standard and seven cases (23.3%) did not meet the standard. Out of those seven cases which did not meet the standard, there were five cases where a review had not taken place in circumstances where one is required either because no instructions had been provided for the Initial Details of the Prosecution Case (IDPC), the Plea and Effective Trial Management (PET) form had not been fully completed, additional information had been received since the charging decision was made or the Streamlined Disclosure Certificate (SDC) had not been completed. In all these instances there should be a review and the lack of such a review can mean that cases are not fully prepared and can therefore limit the progress made at the first hearing.

Case study

A suspect was seen concealing an item under his clothing whilst walking along the pavement. He was stopped by police officers but ran off and was seen to drop the item which was retrieved and turned out to be an ornamental sword. The suspect was arrested and denied having possession of the sword.

The case was charged by the police and the CPS completed a good quality review, including case analysis, trial strategy, a bad character application and an assessment of the youth prosecution criteria. The review identified that the existing charge required amendment and the review clearly added value to the case and resulted in the issues being established early in the proceedings. The defendant was subsequently convicted at trial.

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

5.44. As cases progress, things can change which materially impact on the prosecution case. At this stage a review should take place to see if there is still a realistic prospect of conviction and, if so, how the case strategy should be adapted. This is called a significant event review. Those significant event reviews were completed in nine of the 12 cases (75%) where it applied. Five out of those 12 cases (41.7%) were deemed to fully meet the standard and where appropriate cases were adjusted, pleas were accepted or cases stopped. A further four cases (33.3%) rated as partially meeting the standard and three cases (25%) did not meet the standard.

5.45. The CPS is required to make appropriate and timely decisions about custody and bail throughout the life of a case. This is important to protect victims, witnesses and the public from offenders. Our file examination showed that 23 out of 30 cases (76.7%) were fully meeting the required standard and in the remaining seven cases (23.3%) that standard was not met. This included instances where a defendant in custody for something else was granted technical unconditional bail on the case we assessed, and a defendant remanded in custody following a threshold test review was not followed up with a full code test review, In another case, a defendant charged with a stalking offence was adjourned from the first appearance to trial on summons, without considering the nature of the case and whether the charge warranted bail with the condition that he should not contact the victim in the case.

5.46. Within our file examination 53.3% of the files submitted by the police to the CPS were deemed to be meeting the requirements of the agreed national file standard. This is a document setting out the material and information that the

police must send to the CPS at different stages of criminal cases and for different case types. It lists what is required when a case is submitted for a pre-charge decision, for an anticipated guilty plea case in the magistrates' courts, and for a more complex matter listed before the Crown Court. It seeks to achieve consistency and proportionality across all CPS Areas and police forces throughout England and Wales. The CPS case management system includes a facility to report on 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 as a way of improving police file quality.

5.47. One of the measures introduced across the CPS to ease pressure caused by the pandemic was to suspend the requirement to use the NFQ feedback system. This was a national rather than an Area decision and our findings are likely to be a direct consequence of that decision. The Area is confident, however, that such feedback is provided to the police through other means because, in all cases, including the magistrates' court, they had evidence that there were about 500 instances per month across all casework where issues with files were escalated by CPS to senior police officers. Police file quality is consistently raised by the CPS at performance meetings with the police. In the next inspection we will assess compliance with the Director's Guidance Assessment that is replacing the previous NFQ assurance regime and aims to provide greater detail of compliance with the requirements set out within the Director's Guidance 6th Edition.

Does the Area fully comply with its duty of disclosure?

5.48. We rated the Area as not meeting the standard for this casework theme. Overall, the score for the handling of disclosure in magistrates' courts cases was 59.2%²³.

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

5.50. 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

²³ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

Criminal Procedure and Investigations Act 1996. The prosecution must ensure that any material that might reasonably be considered capable of undermining the case for the prosecution or of assisting the case for the accused is disclosed to the defence. This underpins and ensures the fairness of the trial process.

5.51. 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, with sufficient description to enable the prosecutor and defence to understand what the material is and its relevance to the case and apply the tests. 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 must be sure 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, and there is provision in the template disclosure letter to add any items not listed on the schedule that are disclosable.

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

5.53. In under half the cases examined, we assessed that the Area was fully complying with its obligations at initial disclosure stage applying the tests and disclosing material as necessary. We rated the Area as fully meeting the standard in 10 out of 25 cases (40%). Seven cases (28%) we rated as partially meeting the standard and eight cases (32%) we rated as not meeting the standard.

5.54. The most common reason for those cases which did not fully meet the standard was a failure by the prosecutor to identify either that obvious items of unused material were not listed on the unused material schedules provided by the police (five cases) or that the prosecutor had said unused material was not disclosable when it should have been disclosed (five cases). In those cases, this resulted at the initial disclosure stage in the defence either not being notified of the existence of material or not being disclosed material that should have been as it met the test in section 3 of the Criminal Procedure and Investigations Act 1996. We found no cases where this failure subsequently led to a miscarriage of justice.

Case study

A youth defendant was charged with a street robbery involving two others. He denied being responsible and the issue in this case was identification. The victim recognised him, was able to give his first name and later picked him out in an identification procedure.

The first two items listed on the Streamlined Disclosure Certificate were a 999-call log and a crime report. Each contained descriptions of how the offence took place and physical descriptions of those responsible, but in neither did the victim give the name of the defendant or indicate they recognised him.

These two items met the test for disclosure under the Criminal Procedure and Investigations Act 1996 and should have been disclosed to the defence at the initial disclosure stage but were not. This was later identified by the prosecutor before the trial and disclosure of the documents took place late.

Whilst some aspects of the case were handled correctly, this is an example where the overall approach to disclosure was rated by the inspector as not meeting the standard. The oversight and lack of thinking at an early stage in the proceedings left a significant amount of further work to be identified and completed later to ensure an effective and efficient prosecution.

5.55. We found that the Area performed better when it came to the timeliness of compliance with initial disclosure. The Area was fully meeting the standard in 15 out of 25 cases (60%). Three cases (12%) were partially meeting the standard and seven cases (28%) we rated as not meeting the standard. There is, however, a concern that the better performance on timeliness is not similarly reflected in performance in compliance with the obligations at initial disclosure despite the Area's focus on both.

5.56. There were two cases in the magistrates' court file sample that involved sensitive material and one involving third party material. Of these, all were rated as fully meeting the standard. In addition, there was one case where a defence statement was served and, in that case, the prosecutor fully complied with the duty of continuous disclosure.

5.57. Police compliance with their disclosure obligations was assessed as fully meeting the standard in 13 out of 28 cases (46.4%) and partially meeting the standard in three cases (10.7%). There were 12 cases (42.9%) which we assessed as not meeting the standard. When the police do not comply with their disclosure obligations, it results in the prosecutor requesting re-work on inadequate schedules, for more relevant information or for further enquiries to be made. This often results in delays to the case whilst the matter is addressed.

5.58. Feedback to the police was assessed to be fully meeting the standard in one of the 15 cases (6.7%), which is unacceptable. It is important that these failings are fed back to the police or they are more likely to continue in the future. The Area does provide general feedback to the police on disclosure at performance meetings and it is important that this is also done on specific cases. The Area is working towards this. Since the implementation of the Director's Guidance on Charging 6th edition the Area indicated that it now has high rates of the return of cases to the police where the police have failed to comply with the national file standards required, including the provision of unused material schedules. This is something we will be able to assess at our follow-up inspection.

5.59. 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 and any sensitive unused material schedules, and the disclosure decisions and actions made, including reasons for disclosure of or withholding unused material from the defence.

5.60. In our file examination we rated that in 17 (65.4%) of 26 cases the disclosure record on CPS case management system was properly completed, with actions and decisions taken on disclosure whilst a further four cases (15.4%) were rated as partially meeting the standard.

Does the Area address victim and witness issues appropriately?

5.61. We rated the Area as fully meeting the standard for this casework theme. The overall score for the handling of victim and witness issues in magistrates' courts cases by the Area was 72.6%,²⁴.

5.62. We assessed a range of aspects to find out 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 considered whether the Area dealt with victim and witness needs in a timely and accurate manner, ensuring effective witness warning, the consideration of special measures and whether the Area addressed witness issues and consulted with victims and witnesses properly. We also assessed if victim personal statements (where a victim makes a statement explaining the impact of the offending behaviour on them) were undertaken in line with victim wishes and whether victim

²⁴ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

communication letters explaining the reasons for decisions to drop or substantially alter a charge were good quality and sent on time.

5.63. We rated compliance with victim and witness obligations to be good in most aspects. However, there are a number of aspects where improvement can be made by the Area. These are mainly to do with the quality of letters sent to victims, addressing witness care unit (WCU) correspondence, compliance with the victim personal statement scheme and consultation with victims in appropriate cases.

5.64. At the pre-charge stage we examined whether, in cases involving victims and witnesses, appropriate consideration was given to the relevant issues. These included special measures to support vulnerable or intimidated victims and witnesses to give their best evidence, the appointment of an intermediary to facilitate communication with a victim or witness, and whether the victim wanted to make a victim personal statement about how the offence had impacted them as well as consideration of orders such as restraining orders preventing the defendant from doing things like contacting the victim.

5.65. We rated ten out of 23 cases (43.5%) as fully meeting the required standard, eight cases (34.8%) as partially meeting the standard and five cases (21.7%) as not meeting the standard.

5.66. At the post-charge stage, we assessed a number of aspects of casework including witness warnings, handling of witness care unit correspondence, consultation with victims and witnesses including speaking to witnesses at court, victim personal statements, orders on sentence or acquittal and the quality of victim care letters.

5.67. Correct and timely warning of witnesses for court was rated as fully meeting the standard in 23 out of 24 cases (95.8%) with one remaining case partially meeting the standard. This demonstrates effective and efficient processes to support this aspect of casework.

5.68. Witness care units are separate from the CPS. They manage the care of victims and witnesses throughout the post-charge phase of a case, including updating victims and witnesses on the progress of the case. Where required, they obtain information to assist in the making of a special measures application to support the victim or witness to give their best evidence.

5.69. As witness care officers are in regular contact with victims and witnesses, where issues arise that may impact on the victim or witness's ability to attend court as required, the witness care unit will send information to the CPS. It is important that this information is dealt with in a timely manner with

effective actions put in place to minimise any impact on the effectiveness of the trial. Such information may be that witnesses are no longer able to attend court on the date that the trial is listed.

5.70. We rated that correspondence from the WCU was dealt with in a timely and effective manner by the Area in ten out of 19 cases (52.6%). The standard was rated as partially meeting in five cases (26.3%) and deemed to be not meeting in a further four cases (21.1%). The most common reason for not meeting the standard was a delay in responding rather than the Area not responding.

5.71. We assessed in the post-charge stage whether the prosecutor applied for and correctly identified the need for special measures. We found nine out of 14 cases (64.3%) where the standard was fully meeting. In one case (7.1%) the standard was rated as partially meeting and in four cases (28.6%) the standard was not meeting.

5.72. In ten out of 11 cases (90.9%) the Area sought appropriate orders on sentencing to protect the victim, witnesses and the public, including seeking compensation for victims or restraining orders to prevent defendants from contacting victims of assault or harassment.

5.73. Victims are entitled, if they wish, to provide a victim personal statement (VPS). The VPS sets out the impact that the offence has had on them and helps inform the court's decision on sentencing. The police should tell the CPS, and the CPS should consider the victim's preferences for how the VPS is presented to the court. These include things like 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.

5.74. We assessed that in 11 out of 18 cases (61.1%) the Area was fully meeting the standard for ensuring victim personal statements and victims' wishes were complied with. A further five cases (27.8%) were partially meeting the standard and two cases (11.1%) did not meet the standard. This may be partly due to poor recording of what was read out to the court at the sentence hearing rather than victim personal statements or their wishes not being complied with. In one example, the hearing record sheet had 'not applicable' marked next to whether a VPS was read out at court; however, there was a VPS on file related to the convicted offending. The Area acknowledges that because of the recruitment issues referred to previously, it had had to increase the use of agents in magistrates' courts. There was a substantial amount of work undertaken with the training of agents in the Area which is ongoing.

5.75. 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 over time. 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 victim's right to a review scheme if applicable (this is a scheme where a victim can ask the prosecution to reconsider a decision to drop or substantially alter a case), and offer a meeting in certain types of cases.

5.76. Whilst the overall approach to victims and witnesses is good, our findings highlight that the Area has some room to make improvements in the quality of VCLs, and when it should consult with victims in appropriate cases.

Whilst the overall approach to victims and witnesses is good, our findings highlight that the Area has some room to make improvements in the quality of VCLs

5.77. We assessed that four of the six VCLs (66.7%) were timely but only one VCL (16.7%) was fully meeting the standard for quality. Two VCLs (33.3%) were rated as partially meeting the standard and three (50%) as not meeting the standard.

5.78. We assessed that victims and witnesses were consulted where appropriate in just over half the cases. This includes consultation out of court as well as at court. We

rated six out of 16 cases (37.5%) examined as fully meeting the standard, another six cases (37.5%) partially meeting the standard and four cases (25%) not meeting the standard. The most common issue we found was insufficient detail on the hearing record sheet to confirm that the speaking to witnesses at court guidance had been followed. Often the hearing record sheet had no endorsement relating to this guidance and this may be partly explained by our previous reference to the increased use of agents in the magistrates' courts.

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 as for added value and grip (set out more fully in chapter 4 above and in annex F), which involves awarding two points for each relevant question marked as fully meeting the standard, one point for each relevant question marked as 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 have scored CPS West Midlands for its Crown Court casework as follows:

Table 6: Scoring for Crown Court casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²⁵ at pre-charge decision stage	Fully meeting the standard	91.2%
The Area selects the most appropriate charge(s) at pre-charge decision	Fully meeting the standard	90.3%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	50.5%
The quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	92.5%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	58.3%
Preparation for the plea and trial preparation hearing		
	Not meeting the standard	59.0%
Disclosure		
	Not meeting the standard	59.5%
Victims and witnesses		
	Fully meeting the standard	77.1%

6.4. Our assessment of Crown Court casework was that there were aspects of casework that were done well, including the Area's compliance with the Code for Crown Prosecutors in the pre-charge and post-charge stages, selection of the most appropriate charges in the pre-charge stage and addressing victim and witness issues appropriately throughout its casework. There were, however, others that required more focus, specifically the quality of the analysis and case strategy in its casework at the pre-charge and post-charge stages, preparation for the plea and trial preparation hearing (PTPH) and compliance with its duty of disclosure throughout its casework.

²⁵ *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. In order to assess Area performance at pre-charge decision-making, the inspection assessment has been split into three sub-themes. These reflect the different aspects that contribute to effective decision-making at the pre-charge stage, namely compliance with the Code for Crown Prosecutors, selection of the most suitable charges and the quality of the analysis and case strategy set out within 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, with all three the Area pre-charged Crown Court cases being compliant with the Code for Crown Prosecutors.

Table 7: Pre-charge Code compliance in Crown Court cases

Compliance with the Code at charge in Crown Court cases	Number of cases	Percentage
Fully meeting the required standard	31	91.2%
Not meeting the required standard	3	8.8%

6.7. Compliance with the Code for Crown Prosecutors requires prosecutors 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 required in the public interest.

6.8. 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, which is that they should only convict if they are sure of a defendant's guilt.

6.9. Prosecutors must be fair and objective, considering each case on its merits, and it is the duty of the prosecutor to make sure 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.

6.10. The second or public interest stage will only be considered if the prosecutor concludes that the evidential test has been met. If there is insufficient evidence for a realistic prospect of conviction, 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.

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

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

6.13. In all but three of the cases we assessed, the Area prosecutor²⁶ correctly applied the evidential and public interest stages as required. It follows therefore that three cases failed to meet the standard and were wholly unreasonable decisions. These were all discussed with the Area who agreed with our findings.

Selecting the most appropriate charges

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

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

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

6.16. Prosecutors should not select more charges than are necessary to encourage the defendant to plead to some of the charges nor should a

²⁶ As this is an Area inspection, where the charging decision was made outside of the Area, either by the police or CPS Direct – the CPS's out of hours pre-charge team that operates 24 hours a day, 365 days a year – the answer was marked not applicable.

prosecutor charge a more serious offence with a view to encourage a defendant to plead to a less serious one.

6.17. Prosecutors are also assisted with the selection of charges in some types of offending by charging standards that are set by the CPS. An example is the charging standard for offences against the person. These help to achieve consistency of approach across CPS Areas in England and Wales in cases where the circumstances of an assault would fit either a charge of common assault by beating, an offence that can be tried only in the magistrates' courts, or as an assault occasioning actual bodily harm, an offence that can be tried either in the magistrates' courts or the Crown Court and which attracts a greater maximum sentence.

6.18. In the Code compliant cases examined we rated that prosecutors had selected the most appropriate charge in the majority of cases. We assessed this aspect of the Area's pre-charge decision making as fully meeting the standard.

6.19. 83.9% of cases were rated as fully meeting the required standard and 12.9% were assessed as partially meeting the required standard, with one case not meeting the standard.

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

6.20. 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 50.5%²⁷.

6.21. Whilst getting the initial charging decision correct is essential, a clear analysis of the material and setting out a clear strategy is fundamental to the efficiency and effectiveness of the subsequent stages to support the initial application of the Code for Crown Prosecutors and selection of charges as the case moves through the criminal justice system.

6.22. The prosecutor's review, which should be recorded on a 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, and setting out a clear case strategy. A case strategy should encompass what the case is about or tell the story and should set out how potentially undermining material, such as material impugning the credibility of a victim or witness, can be addressed.

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

6.23. A good review that meets the standard is one where:

- a clear trial strategy was set out. In particular, where there were two suspects or more, the prosecutor 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 can be very different from case to case but often include the need for scientific evidence or examination of communications, for example, and should also identify those lines of enquiry that may point away from a prosecution. There was 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 recorded 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 may 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.

6.24. Whilst the cases we examined largely resulted in charging decisions that were ones that a reasonable prosecutor would have made, similar to our examination of magistrates' court cases, the wider responsibilities of the prosecutor providing pre-charge decisions to the police and the elements which make for a good review as set out above were not consistently addressed.

6.25. We identified examples of pre-charge decisions that were timely and of good quality, but this was not consistent. The main theme that inspectors identified in Crown Court cases were similar to the magistrates' court cases we

examined. There were many review decisions at this pre-charge stage that lacked clear case analysis and strategy and therefore did not adequately set out that the prosecutor had properly considered the available evidence or addressed how the prosecution would seek to put its case.

6.26. In our file examination proper case analysis and case strategy was rated as fully meeting the standard in eight out of 34 cases (23.5%), a further 16 (47.1%) were rated as partially meeting the standard and the remaining ten cases (29.4%) did not meet the standard.

6.27. We saw examples of pre-charge decisions where the strengths and weaknesses of the evidence were not properly identified and then applied to a strategy for the case. Instead, either a summary of the evidence or parts of it were often repeated with no proper consideration as to how it impacted on the case. The separate elements of the offence which the prosecution is required to establish to prove an offence – for example, dishonesty in a theft charge – were often not considered separately but bound up in an overarching consideration of the offence.

6.28. If unused material is not identified at the pre-charge stage it can lead to difficulties later in the proceedings. In some cases, unused material was not adequately addressed. Prosecutors' views about disclosure were often very brief, with no active consideration as to whether unused material supplied by the police should be disclosed or direction given to the police as to what amounts to unused material in a case. We rated 15 out of 34 cases (44.1%) as fully meeting the standard, six cases (17.6%) as partially meeting the standard and 13 cases (38.2%) did not meet the standard.

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

6.30. Instructions will vary dependent on the relevant factors in each individual case but may include:

- the approach to be taken to bail and/or custody for all suspects including threshold test conditions, objections to bail, any appropriate conditions of bail and whether or not an appeal against bail being granted was necessary
- advice on representations to the court as to venue, including sentencing guidelines where appropriate
- what possible pleas may be acceptable and the rationale for the approach to be taken
- details of any material that either assists the defence case as it is known at that stage or undermines the prosecution case that 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 (IDPC). This is the bundle of material that is served on the defendant or their legal representative prior to the first hearing in the magistrates' courts²⁸.

6.31. In a number of cases we examined those instructions were incomplete. We assessed seven out of 34 cases (20.6%) as fully meeting the standard, 15 cases (44.1%) as partially meeting the standard and 12 cases (35.3%) as not meeting the standard. Our assessment in cases not meeting the standard were for a variety of reasons which included a failure to refer to sentencing guidelines in relation to venue; to outline the approach to be taken to bail; to detail the content to be included in the initial details of the prosecution case (IDPC) and to address the acceptability of pleas. As mentioned previously, this lack of detailed instructions to the court prosecutor can limit the progress that is made at the first hearing, or lead to a duplication of work where the court prosecutor had to read the case again to make decisions about aspects of the case. This results in inefficiency and causes delay.

6.32. There were a number of cases where we assessed the prosecutor had not applied their mind as to whether there may be a need for bad character or special measures applications. In the cases where the lawyer had not considered the need for applications, the MG3 often lacked detail or actions to progress them. Again, this lack of initial proactive thought can result in delay and aspects to support the case being missed.

²⁸ The contents of the IDPC are regulated by [Part 8 of the Criminal Procedure Rules \(CrimPR\)](#) and the [Criminal Practice Directions \(CPD\) 2015 Division 1, at Part 3A](#).

6.33. In addition, there was sometimes a failure in the pre-charge review to properly identify orders to be applied for on conviction such as forfeiture, destruction and deprivation orders. In a number of cases where a restraining order was relevant, to seek the victim/police views or consider what prohibitions may be appropriate, that action was not taken by the prosecutor.

6.34. Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan to the police which is a specific section of the police manual of guidance form 3. This allows for 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. In our file sample we found that actions were generally set out appropriately and in most instances the timescales given were logical and appropriate. In just under half of cases we rated the action plan was meeting the appropriate standard, with 16 of 33 cases (48.5%) being assessed by inspectors as fully meeting the standard.

6.35. The main reason why action plans did not meet the required standard were cases where no actions were set either when obvious items were missing and should have been requested from the police or where reasonable lines of enquiry were outstanding.

6.36. We acknowledge that over the past 18 months there have been considerable pressures upon the Area brought about by the pandemic in terms both of an increase in the volume of cases referred by the police for a charging decision and caseload rising due to court closures. In addition, there has been a considerable recruitment drive, particularly for new prosecutors. The Area has confirmed that this has had a short-term impact upon the Crown Court unit as those prosecutors have required training and have had to develop their experience in dealing with Crown Court cases. Over time their experience and performance should improve, and the Area should benefit from that in the future.

6.37. At the time of our inspection, the CPS is rolling out a national training programme around case review standards, focusing on the importance of a good case analysis and formulating a prosecution strategy to promote the effective conduct of the case through to a just outcome.

6.38. The majority of the cases we considered in our file examination have predated this training and we will be able to assess the impact of this in our follow-up inspection.

6.39. In addition, the Area has acknowledged that, as a consequence of the increase in pre-charge cases during the pandemic, they took the decision to use counsel from outside the CPS to assist in providing pre-charge decisions in a

number of cases. This was a short-term measure intended to remove some of the casework pressures in the Area. Whilst all such decisions were confirmed by Area lawyers following receipt of counsel’s pre-charge advices, the Area accepts that some counsel were not fully aware of the expectations in relation to the detailed strategy and breadth of instructions required in those pre-charge decisions. This was despite work undertaken by the Area with counsel on the standards required and the provision of a template to assist them. Consequently, this may in part explain some of our casework findings. This is not a long-term strategy for the Area and again we will be able to assess the impact of this in our follow-up inspection.

Post-charge decision-making and reviews

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

6.40. We rated the Area as fully meeting the standard for this aspect of post-charge decision-making with all but three of the Area decisions post-charge being compliant with the Code for Crown Prosecutors, that is, the evidential and public interest limbs had been properly applied. These cases included reviews of cases that were originally charged by either the police or CPSD.

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

Compliance with the Code after charge	Number of cases	Percentage
Fully meeting the required standard	37	92.5%
Not meeting the required standard	3	7.5%

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

6.42. In all but three of the cases we assessed, the Area prosecutor²⁹ correctly applied the evidential and public interest stages as required. The three wholly unreasonable decisions we found at the pre-charge stage were not identified at the post-charge review stage within the 40 Crown Court cases we examined. All

²⁹ As this is an Area inspection, where the charging decision was made outside of the Area, either by the police or CPS Direct – the CPS’s out of hours pre-charge team that operates 24 hours a day, 365 days a year – the answer was marked not applicable.

three were allowed to continue beyond post-charge reviews and two of those cases proceeded to trial.

Quality of post-charge reviews, analysis and case strategy

6.43. Our assessment for this aspect of the casework theme is that the Area is not meeting the standard. Overall, the score for the quality of post-charge review, analysis and case strategy in Crown Court cases was 58.3%.³⁰

6.44. A Crown Court case is expected to receive a proportionate post-sending 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 (IDPC) before the Plea and Trial Preparation Hearing (PTPH)
- assesses whether any pleas accepted (other than to all offences) were appropriate, with a clear basis of plea.

6.45. The quality of ongoing reviews and strategy is critical to the effective and efficient progress of cases through the criminal justice system. Making a decision that complies with the Code without supporting analysis of the case material and a clear strategy addressing matters such as undermining material, special measures and applications diminish the value added by the CPS and results in a reactive as opposed to a proactive approach to the case. This can lead to key issues being missed, cracked and/or ineffective trials, duplication of

³⁰ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

effort, waste of resources and delays in decision-making and case progression that can impact on victims, witnesses and defendants, especially where they are in custody.

6.46. We rated the quality of the post-charge reviews in CPS West Midlands Crown Court cases to be of a slightly better quality than the pre-charge reviews. The expectation is that any post-sending review will add value to the case through a proportionate review and we did find examples of cases where prosecutors had carefully considered the case afresh and addressed relevant issues within the review, clearly adding value. However, we also found that too often the Area's post-sending reviews although completed on CMS, lacked any depth and were often a copy and paste of the pre-charge decision with nothing further added. It was noted that this is a theme the Area has identified through its own Individual Quality Assessments (IQAs) and is addressing through its Area Casework Quality Committee (CQC).

The expectation is that any post-sending review will add value to the case through a proportionate review

6.47. We assessed that 13 out of 40 cases (32.5%) received a review that was rated as fully meeting the required standard, eight cases (20%) were partially meeting the standard and 19 cases (47.5%) did not meet the standard. This partly reflects the Area decision to suspend post-charge reviews for non-custody cases referred to at 6.49 below.

There were a number of cases we examined where new material had been received since the charging decision, but no reference was made to it in the review. In addition, where the pre-charge review was lacking, it was not identified and addressed at this stage. A number of reviews were not being used to proactively manage the case, consider or chase responses to action plans or update case analysis and strategy so that sufficient evidence and other material could be served as key evidence before the PTPH. This can result in the PTPH not being as effective as it should be and can therefore waste resources.

6.48. As cases progress, things can change which materially impact on the prosecution case. At this stage a review should take place 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 those significant event reviews were completed in 15 of the 24 cases (62.5%) where it applied. Seven of the 24 cases (29.2%) were fully meeting the standard and, where appropriate, cases were adjusted, pleas were accepted or cases stopped. A further eight cases (33.3%) partially meeting the standard and nine cases (37.5%) did not meet the standard.

6.49. The Area confirmed that, as a result of the casework pressures resulting from the pandemic for a period, the Area suspended post-charge reviews for non-custody cases to allow them to focus on the increasing number of custody cases which needed to be prioritised. This was a temporary approach and meant the Area could proactively manage the risk resulting from the volume of the backlog of work progressing from the magistrates' courts to the Crown Court. The Area receives a high percentage of custody cases and the risk involved in those cases is significant. The suspension allowed Area prosecutors to focus their review on the increasing number of custody cases which needed to be prioritised. This will in part explain some of our findings from the file examination where reviews on CMS did not take place.

6.50. In Crown Court contested cases, a number of orders to manage the case will be made at the first hearing in the Crown Court, the plea and trial preparation hearing (PTPH). In most cases, the court will be able to set just four dates for the parties to complete their pre-trial preparation although, where the case requires it, individual dates can be set. The four stages are:

- Stage one – for the service of the bulk of prosecution materials. This date will ordinarily be 50 days (custody cases) or 70 days (bail cases) after sending. This is in line with the timetable for the service of the prosecution case provided in the Crime and Disorder Act (Service of Prosecution Evidence) Regulations 2005. The court does not have power to abridge this time (without consent) but it does have the power to extend it.
- Stage two – for the service of 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 the service of 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 that will commonly arise out of prosecution disclosure.

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

evidence upon which the prosecution will rely at trial. If not already served, completing initial disclosure serving any material that satisfies section three of the Criminal Procedures and Investigations Act 1996 that may be considered to be capable of undermining the prosecution case or assisting the defendant's case together with the schedules of all non-sensitive unused material. This is a central point in the preparation of the prosecution.

6.52. There was an inconsistent approach to the review which coincided with the service of the prosecution case. Overall, 12 out of 34 cases (35.3%) were assessed as meeting the required standard, nine cases (26.5%) as partially meeting the standard and 13 cases (38.2%) as not meeting the standard.

6.53. Five of the cases we assessed as not meeting the standard were because there was no review at all. Two of these cases were subsequently found to be wholly unreasonable decisions.

Case study

The defendant was a serving prisoner. A search was conducted in his cell and a mobile phone was found concealed behind a light fitting. There was one message on the phone which related to a different prisoner and no activity to link the defendant to the phone. The defendant refused to be interviewed.

The Area authorised that he was charged with an offence of being in unlawful possession of a mobile phone in prison. The pre-charge decision failed to identify the evidential weaknesses in the case and the need to prove that the defendant was in possession of the phone. There was no connection between him and the phone, the phone was not visible and it was unclear who else had access to his cell. The evidence also highlighted that another prisoner who was being prosecuted for unrelated offences of possession of mobile phones in prison was connected to the phone by a text message.

The post-sending review was brief and failed to identify the evidential weaknesses or advance a proper case strategy. There was no review to coincide with service of the prosecution case. No advice on the evidence was received from counsel and it was not chased by the Area. The case went to trial and the defendant was acquitted by the jury.

This example highlights the impact of what can happen when reviews post-charge either contain insufficient analysis of the evidence and consideration of an overall strategy for the case or do not take place at all when required. Weaknesses in the evidence which are not identified at the pre-charge stage are similarly not identified post-charge and addressed. Given the weakness of the evidence in this case and that lack of proactivity the outcome was not unexpected.

6.54. A guilty plea to an offence must not be agreed on a misleading or untrue set of facts and must take proper account of the victim's interests. The acceptability of pleas was handled well by the Area, with six out of eight cases (75%) being assessed as fully meeting the required standard and the other two applicable cases were assessed as partially meeting the required standard.

6.55. The CPS is required to make appropriate and timely decisions about custody and bail throughout the life of a case. Our file examination showed that 28 out of 40 cases (70.0%) were fully meeting the required standard and six cases (15%) were not meeting that standard. It does not necessarily follow in these cases that the wrong determinations were made, but rather it can often mean that prosecutors are not endorsing and evidencing that they are considering the defendants' status and what, if any, applications are to be made in respect of this. None of the cases assessed as not meeting the standard related to decisions over custody.

6.56. Within our file examination 50% of the files submitted by the police to the CPS were meeting the requirements of the agreed national file standard. The national file standard is a document setting out the material and information that the police must send to the CPS at different stages of criminal cases and for different case types. It lists what is required when a case is submitted for a pre-charge decision, for an anticipated guilty plea case in the magistrates' courts, and for a more complex matter listed before the Crown Court. It seeks to achieve consistency and proportionality across all CPS Areas and police forces throughout England and Wales. The CPS case management system includes a facility to report on 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 as a method to improve police file quality.

6.57. One of the measures introduced across the CPS to ease pressure resulting from the pandemic was to suspend the requirement to use the national file quality feedback system. This was a national rather than an Area decision and our findings are likely to be a direct consequence of that decision. The Area is confident, however, that such feedback is provided to the police through other means because in all cases, including the magistrates' court, they had evidence that there were approximately 500 instances per month across all casework where issues with files were escalated by CPS to senior police officers. In the next inspection we will assess compliance with the Director's Guidance Assessment that is replacing the previous NFQ assurance regime and aims to provide greater detail of compliance with the requirements set out within the Director's Guidance 6th Edition.

Preparation for the plea and trial preparation hearing in the Crown Court

6.58. Our assessment for this aspect of the casework theme is the Area is not meeting the standard. Overall, the score for the preparation for the plea and trial preparation hearing in the Crown Court cases was 59%³¹.

6.59. In assessing the Area's performance, we considered the key tasks the prosecution is required to complete in preparation for the PTPH, including completion of the PTPH form used by the Judge presiding at the hearing, prosecutors carrying out direct engagement with the defence, the drafting the indictment, ensuring the relevant material is uploaded to the Crown Court digital case system prior to the hearing and that an advocate is properly and effectively instructed prior to the hearing.

6.60. When considering if the prosecutor had prepared the case effectively to ensure progress at court at the PTPH we assessed 17 out of 38 cases (44.7%) as fully meeting the standard. A further 16 cases (42.1%) were partially meeting the standard and five cases (13.2%) were rated as not meeting the standard. A recurring theme in those cases which did not fully meet the standard was a failure to address the issue of alternative acceptable pleas where this was appropriate, a delay in chasing outstanding items from the police and errors with the PTPH form or its dispatch. If these issues are not prepared thoroughly, it can prevent cases being resolved at the PTPH or prevent the issues in the case being properly identified for future hearings. It usually results in additional court orders being imposed which can add to the administrative burden on the Area and result in more court hearings and wasted resources.

6.61. We assessed that the sharing of hard media prior to the PTPH was inconsistent, with it being rated as fully meeting the standard in five out of 18 cases (27.8%), partially meeting the standard in two cases (11.1%) and not meeting the standard in 11 cases (61.1%). This may have a negative impact on the effectiveness of the first hearing as it restricts the ability of the defence to consider the full weight of evidence the prosecution intends to use. As set out above, some of this may be as a result of the Area changing its approach to deal with the pandemic.

6.62. The indictment is the document that contains the charge(s) to be faced by the defendant at trial in the Crown Court. It is the responsibility of the prosecutor to prepare the draft indictment and it is important that it is legally correct, and the number and nature of the counts are appropriate. The draft

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

indictment and key evidence must be served in a timely manner before the PTPH to allow for an effective hearing.

6.63. In our file examination we assessed that 24 out of 38 cases (63.2%) were fully meeting the standard for a properly drafted indictment, nine cases (23.7%) were partially meeting the standard and five cases did not meet the standard. The draft indictment and key evidence were rated as fully meeting the standard for service in a timely manner in 25 out of 38 cases (65.8%), partially meeting that standard in nine cases (23.7%) and did not meet the standard in four cases (10.5%).

6.64. We rated just over a third of relevant cases as not meeting the required standard for instructing the advocate at least seven days prior to the PTPH. It is important counsel is instructed in good time so they can consider the case, prepare properly for the hearing and provide advice on the evidence for the Area. In several cases there was evidence of advocates being instructed very close to the PTPH. The Area confirmed that because of the pandemic cases that were listed at the Crown Court were moved frequently and there was a need to brief people later to manage the movement of work and the available resource.

In several cases there was evidence of advocates being instructed very close to the PTPH

6.65. The principles of better case management³² 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 engage with each other about the issues in the case from the earliest opportunity and throughout the proceedings. The parties

have 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 have to report in that communication to the court at the first hearing.

6.66. Although the duty is placed upon all parties, in practice the prosecution tends to take the lead in contacting the defence and providing the information to the court. The CPS case management system includes a duty of direct engagement log; this should be completed by the prosecutor and then uploaded to the Crown Court digital case system (CCDCS) where it can be viewed by the judge and the defence. Good conversations with the defence at an early stage can lead to resolution of the case without the need to list and prepare for trial.

³² Better Case Management; Courts and Tribunals Judiciary; September 2015. www.judiciary.uk/publications/better-case-management/

This impacts positively on resources but also provides certainty for victims, witnesses and defendants.

6.67. We assessed that the duty of direct engagement was carried out to the required standard in 21 of the 38 cases (55.3%), whilst in one case the standard was rated as partially meeting (2.6%) and in 16 cases (42.1%) the standard was not meeting.

6.68. We found that in those cases marked as fully meeting the required standard, it was normally via a letter or telephone call to the defence. In those cases where the file was assessed as fully meeting in every case except one, where there had been a phone call, the prosecutor had to leave a message for the instructed defence solicitor to contact them back. No evidence was seen on any of these files that they did then receive a telephone call from the defence prior to PTPH. On those files where a letter had been sent giving prosecutors contact details and asking for a response, there was no evidence of any response from the defence. We are aware that many defence firms furloughed staff during the pandemic and the lack of response in those cases may at least partly explain the number of cases which were rated as not meeting the standard as prosecutors become frustrated with the lack of response from defence solicitors.

6.69. In no cases did we find evidence that the log of that engagement was uploaded to the CCDCS for the judge to view and refer to at the PTPH. We understand from the Area that the duty of direct engagement is not consistently raised at the PTPH by judges. The potential impact of this is that the PTPH is not as effective as it should be at clarifying the issues in the case and thus leads to additional wasted resources.

Does the Area fully comply with its duty of disclosure?

6.70. Our assessment for this casework theme for the Area was assessed as not meeting the standard. We rated the Area compliance with disclosure for Crown Court cases at 59.5%,³³.

6.71. Our assessment of disclosure includes compliance with the duty of initial disclosure and continuing disclosure, handling of sensitive and third-party material, the correct endorsement of the disclosure schedules, timeliness of disclosure handling, the recording of the decisions on the disclosure record in

³³ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

the CPS's case management system and feeding back to the police where necessary.

6.72. 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, that any material that might reasonably be considered capable of undermining the case for the prosecution or of assisting the case for the accused is disclosed to the defence. This underpins and ensures the fairness of the trial process.

6.73. The police are required to accurately record all material, retain it and reveal it to the prosecutor. In Crown Court cases the police are required to schedule all relevant non-sensitive unused material on a police manual of guidance form 6C and any sensitive material on a police manual of guidance form 6D that are sent to the prosecutor who, in turn, applies the test in the CPIA 1996; 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, has to review the material and provide a clear and adequate description of all documents on the schedules so that the prosecutor understands what the documents are and what their significance is. Where the descriptions are inadequate, the prosecutor has to ask for copies of the documents to be supplied so that they can discharge their duty. The prosecutor should assure themselves that all material that should be listed is included on the schedules.

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

6.75. 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, but in both cases supplying the form MG6C so that the defence has sight of the list of non-sensitive documents. There is provision in the template disclosure letter to add any disclosable items not listed on the MG6C by the police. The MG6C and letter must be served by stage one, one of the stage dates set by the court at the plea and trial preparation hearing. This is called initial disclosure.

6.76. The defence is required to respond to that initial disclosure by serving a defence statement that sets out the details of the defence case. This is set as stage two. If a defence statement is not served in a case, an inference may be drawn from that failure at trial. On receipt of the defence statement, the prosecutor should review it and send it to the disclosure officer in a timely manner. The prosecutor should draw the attention of the disclosure officer to any

key issues raised within the defence statement, and actions that should be taken. The prosecutor should give advice to the disclosure officer as to the sort of material to look for, particularly in relation to legal issues raised by the defence.

6.77. The police should then carry out a further review of the UM and advise the prosecutor (on a further MG6E) of any material (not previously disclosed) that now meets the disclosure test in the 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 fails to be disclosed. This is called continuing disclosure and is stage three.

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

6.79. We assessed compliance with the specific obligations around the disclosure of unused material at the initial disclosure stage as fully meeting the standard in 11 out of 35 cases (31.4%). Ten cases (28.6%) we rated as partially meeting the standard and 14 cases (40%) we rated as not meeting the standard.

6.80. The most common reason for those cases which did not fully meet the standard was a failure by the prosecutor to identify either that obvious items of unused material were not listed on the unused material schedules provided by the police (eight cases), that the prosecutor had said disclosable unused material was not disclosable (three cases) and that the prosecutor had said non disclosable unused material was disclosable (three cases). In those cases, this resulted at the initial disclosure stage in the defence either not being notified of the existence of material or not being disclosed some material that should have been as it met the test in section 3 of the Criminal Procedure and Investigations Act 1996 or being disclosed unnecessarily some material. In one example, a defendant charged with possession with intent to supply drugs had his mobile phone analysed but nothing incriminating was recovered. This was noted by the prosecutor at the pre-charge stage as being material which met the disclosure test. Subsequently, when disclosure schedules were received from the police, this item was not listed on any of the schedules. This was not identified and challenged by the prosecutor who dealt with the initial disclosure of unused material. It was only later in the proceedings that the defence was notified about this and the mobile phone analysis disclosed.

6.81. We rated timeliness of initial disclosure as fully meeting the required standard in 33 out of 35 cases (94.3%) but, given the levels of compliance on

decision making for initial disclosure, our findings indicate that speed may sometimes be at the expense of quality.

6.82. We found that when defence statements were received, they were not consistently reviewed by prosecutors which led to reasonable lines of enquiry and directions not being given to the police in a significant proportion of cases. Of the 36 cases we examined where defence statements were submitted, we rated nine cases (34.6%) where the Area was fully meeting the standard, eight cases (30.8%) as partially meeting the standard and nine (34.6%) as not meeting the standard. A large proportion of the cases which did not meet the required standard were as a result of the defence statement simply being emailed to the police with no covering letter/instructions either by a paralegal officer or another prosecutor not responsible for the case. The impact of this is that the police are not given any assistance by the prosecutor in identifying how they should approach the defence statement, which items of unused material it is appropriate for them to reconsider and any further reasonable lines on enquiry they should pursue. It was noted that the Area has identified a similar theme through its own IQAs and is taking steps to address this weakness.

6.83. Compliance with the specific obligations around the prosecutor's duty of continuous disclosure was better than initial disclosure. We rated as fully meeting the standard in 15 out of 26 cases (57.7%). Four cases (15.4%) we rated as partially meeting the standard and seven cases (26.9%) we rated as not meeting the standard.

Compliance with the specific obligations around the prosecutor's duty of continuous disclosure was better than initial disclosure

6.84. The most common reason for those cases which did not fully meet the standard was a failure by the prosecutor to complete continuous disclosure following receipt of a defence statement (four cases). One example was a defendant charged with an offence of witness intimidation where a defence statement was received and forwarded promptly to the disclosure officer for consideration. The police responded by identifying a further item which

met the disclosure test, but continuous disclosure was never completed. Four months later the case was discontinued.

6.85. We rated timeliness of continuous disclosure as fully meeting the required standard in 14 out of 24 cases (58.3%).

6.86. All sensitive material must be scheduled separately, and the prosecutor must consider it, applying the same tests. If the prosecutor concludes that there is sensitive material that meets the disclosure tests, they should either disclose

this to the defence or make an application to the court to withhold the material on the grounds of public interest immunity.

6.87. The numbers of cases we examined which contained sensitive material were relatively small (seven), of which two were rated as failing to meet the required standard (28.6%). One case (14.3%) was rated as fully meeting the required standard with the other four cases (57.1%) rated as partially meeting the standard.

6.88. We examined 13 cases with third-party material and rated 10 cases (76.9%) as fully meeting the standard, two cases (15.4%) as partially meeting the standard and one case (7.7%) where the handling of third-party material was not meeting the required standard, and this is a strength for the Area.

6.89. Where the police do not comply with their disclosure obligations, it will result in the prosecutor requesting re-work on inadequate schedules, for more relevant information or for further enquiries to be made, often resulting in a delay to the case whilst the matter is addressed. Police compliance with their disclosure obligations was assessed as fully meeting the standard in 11 out of 39 cases (28.2%) and partially meeting the standard in 14 cases (35.9%). There were another 14 cases (35.9%) which we assessed as not meeting the standard.

6.90. Despite the pressures on CPS Areas, feedback to the police in relation to disclosure failings remains central if the joint national disclosure improvement plans are to be effective in driving up quality in the handling of unused material. We found that feedback of these failings in relation to disclosure by the CPS to the police to be fully meeting the standard in three of the 28 cases (10.7%) which is poor performance. Since the implementation of the Director's Guidance on Charging 6th edition the Area indicates that it now has high rates of the return of cases to the police where they have not complied with the national file standards required. That includes the provision of unused material schedules. This is something we will be able to assess at our follow-up inspection.

6.91. 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 and any sensitive unused material schedules, and the disclosure decisions and actions made, including reasons for disclosure or withholding of unused material from the defence. In our file examination we rated that in 11 of 35 cases (31.4%) the disclosure record on the case management system was properly completed with actions and decisions taken on disclosure with a further 12 cases (34.3%) partially meeting the standard.

Does the Area address victim and witness issues appropriately?

6.92. Our assessment for this casework theme for the Area was assessed as fully meeting the standard. We rated the Area compliance with disclosure for Crown Court cases was 77.1%³⁴.

6.93. To assess the Area handling of victim and witnesses we considered a number of aspects, including issues at both pre and post-charge stages, whether relevant and ancillary matters at charging supported victims and witnesses, the 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 to support victim personal statements (where a victim makes a statement explaining the impact of the offending behaviour on them) and the quality and timeliness of victim communication letters explaining the reasons for decisions to drop or substantially alter a charge. Compliance with victim and witness obligations was found to be good in most cases and is a strength for the Area.

6.94. At pre-charge we examined whether, in cases involving victims and witnesses, appropriate consideration was given to the relevant issues, including special measures to support vulnerable or intimidated victims and witnesses to give their best evidence, 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 has impacted on them as well as consideration of orders such as restraining orders preventing the defendant from doing things, usually contacting victim, and compensation.

6.95. We rated eight out of 25 cases (32.0%) as fully meeting the required standard, seven cases (28.0%) as partially meeting the standard and ten cases (40.0%) as not meeting the standard. In the cases where the lawyer had considered the need for applications, the pre-charge review often either lacked detail or actions to progress them or the entry was so brief it required further explanation or action to have value.

6.96. At the post-charge stage, correct and timely witness warning was rated as fully meeting the standard in 33 out of 34 cases (97.1%), with the one remaining case partially meeting the standard, demonstrating effective and efficient processes to support this aspect of casework.

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

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

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

6.99. We assessed that correspondence from the WCU was generally dealt with in a timely and effective manner and this was a strength, with 21 out of 29 cases (72.4%) fully meeting the standard. The standard was rated as partially meeting in six cases (20.7%) and not meeting in a further two cases (6.9%).

We found good compliance with consulting victims and witnesses

meeting. In four cases (23.5%) the standard was rated as partially meeting and in three cases (17.6%) the standard was not meeting. In a number of those cases which did not fully meet the standard, there was information available at the time of PTPH for special measures applications to be made but those applications were not made until a considerable time later. Earlier applications would have provided assurance to victims and witnesses and been more efficient.

6.101. In 11 out of 12 cases (91.7%) the Area sought appropriate orders on sentencing to protect the victim, witnesses and the public, including seeking compensation for victims or restraining orders to prevent defendants from contacting victims of assault or harassment.

6.102. We found good compliance with consulting victims and witnesses. There was evidence the Area consulted victims and witnesses at all stages where it was appropriate, and their views were considered before decisions were made.

6.100. In the post-charge stage in most cases, the need for special measures for victims and witnesses was identified and they were applied for correctly. We rated in ten out of 17 cases (58.3%) the standard was fully

This included good compliance with the speaking to witnesses at court (STWAC) scheme with clear reference to it on the hearing record sheet in applicable cases. In 19 of 21 cases (90.5%) the standard was rated as fully meeting, another two cases (9.5%) partially meeting the standard with no cases failing to meet the standard.

Case study

The victim was attacked and assaulted by the defendant who was armed with a wooden baton. He also damaged the victim's car and threatened the victim's friend when she attended. A number of days later the defendant telephoned the victim and threatened him further. The defendant denied the offences and the prosecutor authorised that he should be charged with several offences including assault occasioning actual bodily harm, causing criminal damage and making threats to kill.

The submission from the police in the pre-charge stage contained no details on whether the victims required special measures to assist them to give evidence at court or whether a restraining order was required post-conviction. The prosecutor authorised that the defendant should be charged but requested those items in an action plan. The police subsequently supplied detailed applications for special measures and a restraining order.

The defendant pleaded not guilty and the case was listed for trial in the Crown Court. An application was successfully made to the Crown Court for the use of screens. The victims attended the trial and the prosecutor discussed the case with them to prepare them to give evidence. Prior to the trial starting the defendant offered to plead guilty to a number of the offences. The prosecutor discussed those pleas with the victims who were content with the outcome. The prosecutor also discussed and explained the terms of the restraining order. The defendant was subsequently convicted and sentenced. The victim personal statements were read out to the court and a restraining order was imposed. The victims confirmed they did not require a letter outlining what had occurred as everything had been explained to them at court.

This case highlights how a proactive approach to victim care at the pre-charge stage and subsequently throughout the proceedings keeps victims engaged and involved in the proceedings. It enabled the case to run efficiently and saved resources in the end as a victim communication letter was not required.

6.103. Victims are entitled, if they wish, to provide a victim personal statement (VPS). The VPS sets out the impact that the offence has had on them and helps inform the court's decision on sentencing. The police should tell the CPS, and the CPS should take into account the victim's preferences for how the VPS is

presented to the court, such as 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.

6.104. We assessed that in 19 out of 21 cases (90.5%) the Area was fully meeting the standard for ensuring victim personal statements and victims' wishes with regards to whether they wished to read the statement personally in court or for the prosecution advocate to read it, were sought and given effect. A further two cases (9.5%) were partially meeting the standard and no cases were rated as not meeting the standard.

6.105. 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 over time. 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 (this is a scheme where a victim can ask the prosecution to reconsider a decision to drop or substantially alter a case) and offer a meeting in certain types of case.

6.106. Whilst the overall approach to victims and witnesses is good, our findings highlight that the Area has some room to make improvements in the quality and timeliness of VCLs.

6.107. We acknowledge that the number of cases where this applied was small but two of the six VCLs (33.3%) we assessed were timely and two VCLs (33.3%) were rated as fully meeting the standard for quality. Three VCLs (50%) were rated as partially meeting the standard for quality and one (16.7%) as not meeting the standard.

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

Introduction to rape and serious sexual offences 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, cases are progressed in a timely manner and cases are dealt with effectively?

7.1. We examined 20 rape and serious sexual offences (RASSO) 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 (set out more fully in chapter 4 above and in annex F), which involves awarding two points for each relevant question marked as fully meeting the standard, one point for each relevant question marked as 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.

7.3. Most RASSO cases are heard in the Crown Court, but a small number of RASSO cases may be heard in the lower courts, usually in the youth court (for a defendant aged ten to 17). Some of the questions in our file examination, especially those relating to preparation for Crown Court hearings, will not be applicable in youth court cases.

7.4. We have scored CPS West Midlands for its RASSO casework as follows:

Table 9: Scoring for RASSO casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ³⁵ 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	91.7%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Partially meeting the standard	67.3%
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	58.9%
Preparation for the plea and trial preparation hearing		
	Partially meeting the standard	69.0%
Disclosure		
	Fully meeting the standard	74.2%
Victims and witnesses		
	Fully meeting the standard	81.5%

7.5. Our assessment of RASSO casework was that there were aspects of casework that were done well, including the Area's compliance with the Code for Crown Prosecutors in the pre-charge and post-charge stages, selection of the most appropriate charges in the pre-charge stage, compliance with its duty of disclosure throughout its casework and addressing victim and witness issues appropriately throughout its casework. There were, however, others that required more focus, specifically the quality of the analysis and case strategy in its casework at the post-charge stage.

³⁵ *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. In order to assess Area performance at pre-charge decision-making, the inspection assessment has been split into three subthemes. These reflect the different aspects that contribute to effective decision-making at the pre-charge stage, namely compliance with the Code for Crown Prosecutors; selection of the most suitable charges and the quality of the analysis and case strategy set out within 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, with all of the Area pre-charged RASSO cases being compliant with the Code for Crown Prosecutors.

Table 10: Pre-charge Code compliance in RASSO cases

Compliance with the Code at charge in RASSO cases	Number of cases	Percentage
Fully meeting the required standard	18	100%
Not meeting the required standard	0	0%

7.8. Compliance with the Code for Crown Prosecutors requires prosecutors 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 required in the public interest.

7.9. 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, which is that they should only convict if they are sure of a defendant's guilt.

7.10. Prosecutors must be fair and objective, considering each case on its merits, and 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.

7.11. The second or public interest stage will only be considered if the prosecutor concludes that the evidential test has been met. If there is insufficient evidence for a realistic prospect of conviction, 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.

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

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

7.14. In every case we assessed, the Area prosecutor³⁶ correctly applied the evidential and public interest stages as required.

Selecting the most appropriate charges

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

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

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

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

³⁶ As this is an Area inspection, where the charging decision was made outside of the Area, either by the police or CPS Direct – the CPS's out of hours pre-charge team that operates 24 hours a day, 365 days a year – the answer was marked not applicable.

7.18. Prosecutors are also assisted with the selection of charges in some types of offending by charging standards that are set by the CPS. An example is the charging standard for offences against the person. These help to achieve consistency of approach across CPS Areas in England and Wales in circumstances where an assault would fit either a charge of common assault by beating, an offence that can be tried only in the magistrates' courts, or as an assault occasioning actual bodily harm, an offence that can be tried either in the magistrates' courts or the Crown Court and which attracts a greater maximum sentence.

We rated the Area as fully meeting the standard for the selection of most appropriate charges

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

7.20. We rated the Area as fully meeting the standard for the selection of most appropriate charges aspect of pre-charge decision-making with 83.3% of cases fully meeting the standard and the remaining 16.7% partially meeting the standard.

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

7.21. Our assessment for this aspect of the casework theme is that the Area is partially meeting the standard. Overall, the score for the quality of post-charge review, analysis and case strategy in RASSO cases was 67.3%³⁷.

7.22. Whilst getting the initial charging decision correct is essential, a clear analysis of the material and setting out a clear strategy is fundamental to the efficiency and effectiveness of the subsequent stages to support the initial application of the Code for Crown Prosecutors and selection of charges as the case moves through the criminal justice system.

7.23. The prosecutor's review, which should be recorded on a 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, and setting out a clear case strategy. A case strategy should encompass what the case is about or tell the story and should set out how potentially undermining

³⁷ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

material, such as material impugning the credibility of a victim or witness, can be addressed.

7.24. A good review that meets the standard is one where:

- a clear trial strategy was set out. In particular, where there were two suspects or more, the prosecutor 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 can be very different from case to case but often include the need for scientific evidence or examination of communications, for example, and should also identify those lines of enquiry that may point away from a prosecution. There was 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 recorded 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. Any ancillary applications that may strengthen the case, such as bad character evidence of the defendant, were considered
- victim and witness issues were considered
- instructions to the court prosecutor were set out clearly.

7.25. We identified examples of pre-charge decisions that were timely and of good quality, but this was not consistent. The main theme that inspectors identified was that some review decisions at this pre-charge stage lacked clear case analysis and strategy adequately setting out that the prosecutor had properly considered the available evidence and addressing how the prosecution would seek to put its case.

7.26. We rated in our file examination that a proper case analysis and case strategy fully meeting the standard was present in six out of 18 cases (33.3%), partially meeting the standard in 11 cases (61.1%) and not meeting the standard in one case (5.6%).

Case study

The defendant and victim met each other in a nightclub. They left in the early hours of the morning in the company of others and the defendant ushered the victim into an alleyway where he raped her. During this incident he was disturbed by an unidentified male and the victim was able to leave the alleyway. The victim made a complaint to a friend who immediately reported the incident to the police. The police attended and found the victim in a distressed state, but she was able to describe her attacker and the defendant was arrested nearby. He admitted having sexual intercourse with the victim but stated it was consensual.

Over the course of two consultations with the police, the prosecutor provided a good detailed analysis clearly identifying the evidence, reasonable lines of enquiry which needed to be pursued and the strengths and weaknesses of the evidence. The pre-charge decision was a comprehensive assessment of the evidence leading to a clear case strategy.

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

7.27. However, unlike the case study above, we saw examples of pre-charge decisions where the strengths and weaknesses of the evidence were not properly identified and then applied to a strategy for the case. Instead, either a summary of the evidence or parts of it were often repeated with no proper consideration as to how it impacted on the case. In a few cases there was no clear trial strategy, with prosecutors referring in the pre-charge review to the need to discuss what the case strategy might be with counsel at a later stage. Whilst it is accepted that trial strategies may change as cases develop, it is important that the prosecutor, when charging a case, has a clear idea of the trial strategy to be pursued to prove the case. Not dealing proactively with the case at the outset often leads to problems later in the process when the case develops and there is no strategy or plan to address how to deal with the challenges or issues raised.

7.28. Unused material regularly has a significant impact in RASSO cases. Often that material is held by third-party organisations; for example the NHS or private medical practitioner, Local Authority Social Services departments or

forensic service providers. It is important that, wherever possible, relevant material is considered by the prosecutor prior to making a decision whether to charge a case. We found that third-party material was regularly available prior to charge but in a number of cases there was no assessment made as to whether any of that material was disclosable or not. In one case involving a sexual assault the police summarised the third-party material they had examined but made no reference to whether any of this was disclosable. The prosecutor who gave authority to charge the case copied the police summary into the decision to charge but did not assess whether any of this material was disclosable. As a consequence, there was no clear strategy whether the third-party material contained undermining material or how the prosecution intended to deal with it at court.

7.29. Overall, in relation to the handling of unused material in the pre-charge stage, we rated eight out of 18 cases (44.4%) as fully meeting the standard, seven cases (38.9%) as partially meeting the standard and three cases (16.7%) did not meet the standard.

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

7.31. Instructions will vary dependent upon the relevant factors in each individual case but may include:

- the approach to be taken to bail and/or custody for all suspects including threshold test conditions, objections to bail, any appropriate conditions of bail and whether or not an appeal against bail being granted was necessary
- advice on representations to the court as to venue, including sentencing guidelines where appropriate
- what possible pleas may be acceptable and the rationale for the approach to be taken

- details of any material that either assists the defence case as it is known at that stage or undermines the prosecution case that 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 (IDPC). This is the bundle of material that is served on the defendant or their legal representative prior to the first hearing in the magistrates' courts³⁸.

7.32. In the cases we examined we assessed five out of 18 cases (27.8%) as fully meeting the standard, seven cases (38.9%) as partially meeting the standard and six cases (33.3%) as not meeting the standard. Our assessment in those cases of partially meeting or not meeting the standard highlighted a variety of reasons which included a failure to refer to sentencing guidelines in relation to venue; to outline the approach to be taken to bail; to detail the content to be included in the IDPC; and to address the acceptability of pleas. As said previously, this lack of detailed instructions to the court prosecutor can limit the progress that is made at the first hearing, or lead to duplication of work where the court prosecutor had to read the case again to make decisions about aspects of the case.

7.33. We found that although in most RASSO cases, victims are automatically eligible for special measures. Prosecutors were nevertheless good at identifying the need for special measures applications. Eleven out of 18 cases (64.7%) were fully meeting the standard, five cases (29.4%) partially meeting the standard and in only one case (5.9%) did it not meet the standard. Where we rated the case as partially meeting the standard, the prosecutor had identified the need for special measures, but more detail of further action required to progress the special measures should have been provided.

7.34. We found that prosecutors were also good at identifying relevant applications and orders to be applied for on conviction, thus protecting the victim. We rated two thirds of cases as fully meeting the standard and the other cases were assessed as partially meeting the standard.

7.35. Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan which is a specific section of the police manual of guidance form 3. This allows for actions to 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.

³⁸ The contents of the IDPC are regulated by [Part 8 of the Criminal Procedure Rules \(CrimPR\)](#) and the [Criminal Practice Directions \(CPD\) 2015 Division 1, at Part 3A](#).

7.36. We found that actions were generally correctly placed in action plans at the end of the pre-charge review; however, in three cases the action plan was located in the body of the review and so gave rise to the possibility of actions being missed by the police. In most cases, the timescales set by the prosecutor for the police were logical and appropriate. However, in two of the cases the timescales were unrealistic for the actions requested. Overall, in nine of the 18 cases (50%) we rated the action plan as fully meeting the appropriate standard, in seven cases (38.9%) as partially meeting the standard and two cases (11.1%) as not meeting the standard. In those cases rated as not meeting the standard the prosecutor in one example gave an unnecessary action plan and when the police refused to comply proceeded to charge the case in any event. In another example, the prosecutor failed to request in an action plan material which was required to support a special measures application.

7.37. The Area has acknowledged that as a consequence of the increase in pre-charge cases during the pandemic it took the decision to use counsel from outside the CPS to assist in providing pre-charge decisions in a number of cases. This was a short-term measure intended to remove some of the casework pressures in the Area. Whilst all such decisions were confirmed by Area lawyers following receipt of counsel's pre-charge advices, the Area accepts that some counsel were not fully aware of the expectations in relation to the detailed strategy and breadth of instructions required in those pre-charge decisions. This was despite work undertaken by the Area with counsel on the standards required and the provision of a template to assist them. Consequently, this may in part explain some of our casework findings.

Post-charge decision-making and reviews

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

7.38. We rated the Area as fully meeting the standard for this aspect of pre-charge decision-making in RASSO cases, with all the Area decisions post-charge being compliant with the Code for Crown Prosecutors, in other words, the evidential and public interest limbs had been properly applied. These cases included reviews of cases that were originally charged by either the police or CPSD.

Table 11: Post-charge Code compliance in RASSO cases

Compliance with the Code after charge in RASSO cases	Number of cases	Percentage
Fully meeting the required standard	20	100%
Not meeting the required standard	0	0%

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

Quality of post-charge reviews, analysis and case strategy

7.40. Our assessment for this aspect of the casework theme is that the Area is not meeting the standard. Overall, the score for the quality of post-charge review, analysis and case strategy for RASSO cases is 58.9%. This result is lower than our assessment of the quality of the pre-charge reviews, and highlights that the Area needs to make significant improvement⁴⁰.

7.41. A Crown Court case is expected to receive a proportionate post-sending 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

³⁹ As this is an Area inspection, where the charging decision was made outside of the Area, either by the police or CPS Direct – the CPS's out of hours pre-charge team that operates 24 hours a day, 365 days a year – the answer was marked not applicable.

⁴⁰ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

- 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 (IDPC) before the Plea and Trial Preparation Hearing (PTPH)
- assesses whether any pleas accepted (other than to all offences) were appropriate, with a clear basis of plea.

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

7.43. As set out above, we rated the standard of the post-charge reviews in RASSO cases to be lower than the pre-charge reviews. The expectation is that any post-sending review will add value to the case through a proportionate review and we did find examples of cases where prosecutors had carefully considered the case afresh and addressed relevant issues within the review clearly adding value. However, as with our findings in the Crown Court unit, we also found that in those cases dealt with in RASSO too often the Area's post-sending reviews, although completed, lacked any depth and were often a copy and paste of the pre-charge decision with nothing further added. As acknowledged earlier, this is a theme that the Area has identified through its own Individual Quality Assessments (IQAs) and is addressing through its Area Casework Quality Committee (CQC), and some of our findings may be as a result of the increased pressures brought about by increased caseloads and backlogs.

7.44. Of the 20 cases we assessed that 11 (55%) received a review that was rated as fully meeting the required standard, two cases (10%) were partially meeting the standard and seven cases (35%) did not meet the standard. Of those reviews assessed as not meeting the standard there was no evidence that they were being used to proactively manage the case, consider or chase responses to action plans or update case analysis and strategy so that sufficient evidence and other material could be served as key evidence before the PTPH. This lack of proactivity can and does often result in a waste of resources.

7.45. As cases progress, things can change which materially impact on the prosecution case. At this stage a review should take place 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 rated that those significant event reviews were completed in 11 of the 12 cases (91.7%) where it applied. Seven of the 12 cases (58.3%) we rated the review as fully meeting the standard as cases were adjusted, pleas were accepted, or cases stopped. One case (8.3%) we assessed as partially meeting the standard but four cases (33.3%) did not meet the standard. There were some good instances on prosecutors being proactive in recording reviews where significant developments had taken place fully setting out the rationale behind any decisions they had made, but the Area needs to be more consistent.

Case study

The defendant was charged with several offences of sexual activity with a child, rape and witness intimidation. At a court hearing arranged prior to the trial the defendant indicated he would plead guilty to a number of the offences. The prosecutor considered that the pleas were appropriate and properly reflected the defendant's criminality. The pleas were discussed with the victim, in line with policy. The victim indicated that they were content and as a result the pleas were accepted.

The decision to accept the pleas was properly considered by the prosecutor and recorded in a telephone note on file on the day of the discussion. The day after the discussion with the victim a full review was drafted explaining the decision and added to the file. The review was clear and succinct and included a view on the case strategy and approach. The review was of such quality that it formed the basis for the subsequent letter to the victim that confirmed and explained the decision to accept the pleas, which saved time when the victim care letter had to be drafted.

This case highlights how dealing with cases in a timely and proactive way can not only improve the experience of the victim but also ensure that resources are used effectively and efficiently.

7.46. In RASSO cases that are to be contested (not guilty plea entered), a number of orders to manage the case will be made at the first hearing in the Crown Court, the plea and trial preparation hearing (PTPH). In most cases, the court will be able to set just four dates for the parties to complete their pre-trial preparation although where the case requires it, individual dates can be set. The four stages are:

- Stage one – for the service of the bulk of prosecution materials. This date will ordinarily be 50 days (custody cases) or 70 days (bail cases) after sending. This is in line with the timetable for the service of the prosecution case provided in the Crime and Disorder Act (Service of Prosecution Evidence) Regulations 2005. The court does not have the power to abridge this time (without consent) but does have power to extend it.
- Stage two – for the service of 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 the service of 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 that will commonly arise out of prosecution disclosure.

7.47. Following a plea of not guilty and the stage dates being set, the prosecution will ask 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 will require more information than the key evidence served on the defence for the PTPH. At the point 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, compiling the bundle of evidence upon which the prosecution will rely at trial and, if not already served, completing initial disclosure serving any material that satisfies section three of the Criminal Procedures and Investigations Act 1996 that may be considered to be capable of undermining the prosecution case or assisting the defendant's case together with the schedules of all non-sensitive unused material. This is a central point in the preparation of the prosecution.

7.48. The quality of the review which coincided with the service of the prosecution case was not consistent. Overall, four out of 19 cases (21.1%) were assessed as meeting the required standard, five cases (26.3%) as partially meeting the standard and ten cases (52.62%) as not meeting the standard.

7.49. Seven of the cases we assessed as not meeting the standard were as a result of there simply being no review to coincide with the service of the prosecution case at all and, as a consequence, new material or information received was not properly addressed.

7.50. The Area confirmed that as a result of the casework pressures resulting from the pandemic, the Area suspended post-charge reviews for non-custody cases to allow them to focus on the increasing number of custody cases which needed to be prioritised. This will in part explain some of our findings from the file examination where reviews did not take place.

7.51. A guilty plea to an offence must not be agreed on a misleading or untrue set of facts and must take proper account of the victim's interests. We inspected only two cases where pleas were accepted and, in each case, rated it as fully meeting the standard.

7.52. The CPS is required to make appropriate and timely decisions about custody and bail throughout the life of a case. Our file examination showed that nine out of 20 cases (45%) rated as fully meeting the required standard, seven cases (35%) were partially meeting the standard and four cases (20%) did not meet the standard. It does not necessarily follow in these cases that the wrong determinations are made but is rather simply the case that prosecutors are not endorsing and evidencing that they are considering the defendant's status and what, if any, applications are to be made in respect of this.

Preparation for the plea and trial preparation hearing in the Crown Court

7.53. Our assessment for this aspect of the casework theme is that the Area is partially meeting the standard. Overall, the score for the quality of preparation of RASSO cases for the PTPH is 69.0%⁴¹.

7.54. In assessing the Area's performance, we considered the key tasks the prosecution is required to complete in preparation for the PTPH form used by the Judge presiding at the hearing, prosecutors carrying out direct engagement with the defence, the drafting of the indictment, ensuring that relevant material is uploaded to the Crown Court digital case system prior to the hearing and that an advocate is properly and effectively instructed prior to the hearing.

7.55. When considering if the prosecutor had prepared the case effectively to ensure progress at court at the PTPH, we assessed ten out of 20 cases (50%)

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

we examined as fully meeting the standard. Another six cases (30%) were assessed as partially meeting the standard and four cases (20%) as not meeting the standard. In the cases rated as not fully meeting the standard, this was usually because of a number of factors starting with a poor post-sending review, a failure to address the issue of alternative acceptable pleas, the failure to chase outstanding items from the police and errors with the PTPH form. If these issues are not prepared thoroughly, it can prevent cases being resolved at the PTPH or prevent the issues in the case being properly identified for future hearings. It usually results in additional court orders being imposed which can add to the administrative burden on the Area.

7.56. We found that the sharing of hard media prior to the PTPH was inconsistent, with it being rated as fully meeting the standard in five out of 15 cases (33.3%), and not meeting the standard in ten cases (66.7%). This may have a negative impact on the effectiveness of the first hearing as it restricts the ability of the defence to consider the full weight of evidence the prosecution intends to use. As set out above, the pandemic has impacted on this with the Area having to move from a system primarily involving the use of physical hard media to a system whereby they are able to share hard media through a digital system.

7.57. The indictment is the document that contains the charge(s) or “counts” to be faced by the defendant at trial in the Crown Court. It is the responsibility of the prosecutor to prepare the draft indictment and it is important that it is legally correct, and the number and nature of the counts are appropriate. The draft indictment and key evidence must be served in a timely manner before the PTPH to allow for an effective hearing. As at the pre-charge stage (see paragraph 7.15 above), RASSO cases require particular care in the selection of counts for the indictment, especially in the case of non-recent allegations.

7.58. In our file examination we assessed that 13 out of 20 cases (65%) were fully meeting the standard for a properly drafted indictment, five cases (25%) were partially meeting the standard and two cases (10%) did not meet the standard. Where there were errors, they were usually typographical. The draft indictment and key evidence were fully meeting the standard for service in a timely manner in 16 out of 20 cases (80%) and partially meeting that standard in four cases (20%).

7.59. It is important counsel is instructed in good time so they can consider the case, prepare properly for the hearing and provide an advice on the evidence for the Area. We rated 18 out of 20 cases (90%) as fully meeting the required standard for instructing the advocate at least seven days prior to the PTPH which is good performance.

7.60. The principles of better case management⁴² 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 engage with each other about the issues in the case from the earliest opportunity and throughout the proceedings. The parties are required to establish whether the defendant is likely to plead guilty or not guilty; what is agreed and what is likely to be disputed; what information, or other material, is required by one party or another and why; and what is to be done by whom and when. The parties are required to report in that communication to the court at the first hearing.

7.61. Although the duty is placed upon all parties, in practice the prosecution tends to take the lead in contacting the defence and providing the information to the court. The CPS case management system includes a duty of direct engagement log; this should be completed by the prosecutor and then uploaded to the Crown Court digital case system (CCDCS) where it can be viewed by the judge and the defence. Good conversations with the defence at an early stage can lead to resolution of the case without the need to list and prepare for trial impacting positively on resources but also providing certainty for victims, witnesses and defendants.

7.62. We assessed 12 of the 20 cases (60%) as fully meeting the standard for the duty of direct engagement, one case (5%) as partially meeting the standard and 17 cases (35%) as not meeting the standard.

7.63. Similar to the Crown Court cases, we found that in those cases marked as fully meeting the required standard it was normally via a letter or telephone call to the defence. In those cases where the file was assessed as fully meeting in every case except one, where there had been a phone call, the prosecutor had to leave a message for the instructed defence solicitor to contact them back. No evidence was seen on any of these files that they did then receive a telephone call from the defence prior to PTPH. We are aware that many defence firms furloughed staff during the pandemic and the lack of response in those cases may at least partly explain the number of cases which were rated as not meeting the standard as prosecutors become frustrated with the lack of response from defence solicitors.

7.64. We saw some good examples of logs of that engagement where they were maintained and kept up to date. However, in only one of 13 cases (7.7%) did we find evidence that the log of that engagement was uploaded to the CCDCS for the judge to view and refer to at the PTPH. We understand from the Area that the duty of direct engagement is not consistently raised at the PTPH.

⁴² Better Case Management; Courts and Tribunals Judiciary; September 2015. www.judiciary.uk/publications/better-case-management/

The potential impact of this is that the PTPH is not as effective as it should be at clarifying the issues in the case. If this is done it can lead to resolution of the case without the need to list and prepare for trial impacting positively on resources and also providing certainty for victims, witnesses and defendants.

Does the Area fully comply with its duty of disclosure?

7.65. Our assessment for this aspect of the casework theme is that the Area is fully meeting the standard. Overall, the score for disclosure in RASSO cases is 74.2%,⁴³.

7.66. Our assessment of disclosure includes compliance with the duty of initial disclosure and continuing disclosure, handling of sensitive and third-party material, the correct endorsement of the disclosure schedules, timeliness of disclosure handling, the recording of the decisions on the disclosure record in the CPS's case management system and feeding back to the police where necessary⁴⁴.

7.67. We rated that the standard of compliance with the specific obligations around the disclosure of unused material at the initial disclosure stage as was fully meeting in seven out of 18 cases (38.9%). In eight cases (44.4%) we rated the standard was partially meeting and in three cases (16.7%) it was rated as not meeting.

7.68. The most common reason for those cases which did not fully meet the standard was a failure by the prosecutor to identify that obvious items of unused material were not listed on the unused material schedules provided by the police. This directly resulted from the quality of schedules provided by the police on the files inspected., although the Area prosecutor should have taken action to rectify the issue, and this did not happen.

7.69. We rated timeliness of initial disclosure as fully meeting in 16 out of 18 cases (88.9%) but given the levels of compliance on decision making for initial disclosure our findings indicate that similar to the results for magistrates' court and Crown Court cases speed may sometimes be at the expense of quality.

7.70. We found that when defence statements were received, they were not consistently reviewed by prosecutors which led to reasonable lines of enquiry

⁴³ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

⁴⁴ See chapter 6, paragraphs 6.72 to 6.78 setting out disclosure obligations in cases heard at the Crown Court (which includes the vast majority of RASSO cases).

and directions not being given to the police in a significant proportion of cases. Of the 14 cases we examined where defence statements were submitted, we rated six cases (42.9%) where the Area was fully meeting the standard, seven cases (50%) partially meeting the standard and one (7.1%) as not meeting the standard. In reality, a large proportion of the cases which did not meet the required standard was as a result of the defence statement simply being emailed to the police with no covering letter/instructions. As previously acknowledged, it was noted that this is a theme the Area has identified through its own IQAs and is addressing through the Area CQC.

7.71. Compliance with the specific obligations around the prosecutor's duty of continuous disclosure was slightly better than initial disclosure and was rated as fully meeting the standard in eight (57.1%) out of 14 cases, in five cases (35.7%) as partially meeting the standard and in one case (7.1%) as not meeting the standard.

7.72. The most common reason where we marked cases as either partially or not meeting the required standard were two cases where no MG6E was received from the police and one where an unsigned MG6E was received from the police. This directly resulted from the quality of schedules provided by the police on the files inspected. Again, the prosecutor should have been proactive in rectifying the issue, addressing the problem, and feeding back issues to the police. In the three cases there was no feedback to the police. The Area does provide general feedback to the police on disclosure at performance meetings and it is important that this is also done on specific cases. The Area confirmed that they are working towards this. Since the implementation of the Director's Guidance on Charging 6th edition the Area indicated that they now have high rates of the return of cases to the police where the police have failed to comply with the national file standards required and that includes the provision of unused material schedules. This is something we will be able to assess at our follow-up inspection.

7.73. We rated timeliness of continuous disclosure as fully meeting the required standard in nine out of 13 cases where it was completed (69.2%).

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

7.75. The numbers of cases we examined which contained sensitive material were relatively small (ten), of which eight cases (80%) were rated as fully meeting the standard and two cases (20%) were rated as failing to meet the

required standard. However both involved material listed by the police as sensitive material but in actual fact was unlikely to be sensitive.

7.76. We examined 18 cases with third-party material and performance was good with 15 cases (83.3%) being dealt with correctly and rated as fully meeting the standard and three cases (16.7%) as partially meeting the standard. This is clearly a strength for the Area.

7.77. Where the police do not comply with their disclosure obligations, it will result in the prosecutor requesting re-work on inadequate schedules for more relevant information or for further enquiries to be made, often resulting in delays to the case whilst the matter is addressed.

7.78. Police compliance with their disclosure obligations was assessed as fully meeting the standard in 11 out of 39 cases (28.2%) and partially meeting the standard in 14 cases (35.9%). There were another 14 cases (35.9%) which we assessed as not meeting the standard.

7.79. Despite the pressures on CPS Areas, feedback to the police in relation to disclosure failings remains central if the joint national disclosure improvement plans are to be effective in driving up quality in the handling of unused material.

7.80. We found that the feedback of these failings reflected a lack of challenge to the police. In eight of 16 cases (50%) inspectors rated the case as not meeting the required standard whilst four cases (25%) were rated as partially meeting the standard and a further four cases (25%) as fully meeting the standard.

7.81. Disclosure management documents (DMDs) were required in all the RASSO cases we examined. These documents are completed in partnership with the police disclosure officer assigned to the case and set 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 document would set out what parameters the prosecution team comprising the police and prosecution are applying. For example, a rape case where the defendant and victim are known to each other and the defence is consent may involve investigation into messages and calls between the parties and a review of social media. Dependent on the circumstances of the case, the parameters of the searches may relate to before and after the offence. It should be started at the outset of the case, served on the defence and court prior to the PTPH, regularly reviewed and updated thereafter in line with developments in the approach to the case.

7.82. The DMD is a proactive and transparent approach to assuring all parties that the prosecution is complying with its disclosure obligations and to engage 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 to ensure decisions about whether the case should proceed can be taken as soon as possible if such material exists.

7.83. During our file examination we rated that a DMD was completed in 14 out of 20 cases (70%) and in these cases inspectors rated the case as fully meeting the standard. In five cases (25%) which were assessed as partially meeting the standard, the DMDs were completed although there were examples where they were not updated fully with events following charge. There was one case which was rated as not meeting the required standard because no DMD was ever completed. Similarly, we found that the DMD was completed accurately and fully meeting the standard in 14 of the 19 cases (73.7%), four cases (21.1%) were found to be partially meeting the standard and one case (5.3%) was assessed as not meeting the standard.

7.84. 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 and 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.

7.85. In our file examination we assessed that in six (31.6%) of 19 cases the disclosure record on modern CMS was properly completed with actions and decisions taken on disclosure with a further nine cases (47.4%) partially meeting the standard and four cases (21.1%) not meeting the standard.

Does the Area address victim and witness issues appropriately?

7.86. Our assessment for this aspect of the casework theme is that the Area is fully meeting the standard. Overall, the score for the handling of victim and witness issues in RASSO cases is 81.5%⁴⁵.

7.87. To assess the Area handling of victim and witnesses we considered a number of aspects including issues at both pre and post-charge stages, whether relevant and ancillary matters at charging supported victims and witnesses, the

⁴⁵ See annex F for scoring methodology and annex G for details of the questions that contributed to each casework theme.

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 to support victim personal statements (where a victim makes a statement explaining the impact of the offending behaviour on them) and the quality and timeliness of victim communication letters explaining the reasons for decisions to drop or substantially alter a charge.

7.88. Compliance with victim and witness obligations was rated to be good in most cases and is a strength for the Area.

7.89. At pre-charge we examined whether, in cases involving victims and witnesses, appropriate consideration was given to the relevant issues including special measures to support vulnerable or intimidated victims and witnesses to give their best evidence, 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 has impacted them as well as consideration of orders such as restraining orders preventing the defendant from doing things, usually contacting victim, and compensation.

7.90. We rated 11 out of 17 cases (64.7%) as fully meeting the required standard, five cases (29.4%) as partially meeting the standard and one case (5.9%) as not meeting the standard. In the cases which were partially meeting the standard where the lawyer had considered the need for applications, the pre-charge review often either lacked detail or actions to progress them or the entry was so brief it required further explanation or action to have value.

7.91. Correct and timely witness warning was rated as fully meeting the standard in 17 out of 18 cases (94.4%), with the one remaining case partially meeting the standard, demonstrating effective and efficient processes to support this aspect of casework.

7.92. In the post-charge stage in most cases the need for special measures for victims and witnesses was identified and they were applied for correctly. We rated ten out of 17 cases (58.8%) as fully meeting the required standard, six cases (35.3%) as partially meeting the standard and one case (5.9%) as not meeting the standard. In a number of those cases which did not fully meet the standard there was information available at the time of PTPH for special measures applications to be made but those applications were not made until a considerable time later. Earlier applications would have provided assurance to victims and witnesses.

7.93. In nine out of ten cases (90%) the Area sought appropriate orders on sentencing to protect the victim and witnesses and this was another strength for the Area.

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

There was evidence the Area consulted victims and witnesses at all stages where it was appropriate, and their views were considered before decisions were made

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

listed.

7.96. We assessed that correspondence from the WCU was dealt with in a timely and effective manner and this was a strength with 16 out of 17 cases (94.1%) fully meeting the standard.

7.97. We found good compliance with consulting victims and witnesses. There was evidence the Area consulted victims and witnesses at all stages where it was appropriate, and their views were considered before decisions were made. This included good compliance with the speaking to witnesses at court (STWAC) scheme with clear reference to it on the HRS in applicable cases. In 12 of 13 cases (92.3%) the standard was rated as fully meeting with only one case not meeting the standard.

7.98. Victims are entitled, if they wish, to provide a victim personal statement (VPS). The VPS sets out the impact that the offence has had on them and helps inform the court's decision on sentencing. The police should tell the CPS, and the CPS should consider the victim's preferences for how the VPS is presented to the court, such as 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.

7.99. We assessed that in nine out of 18 cases (50%) the Area was fully meeting the standard for ensuring victim personal statements and victims' wishes with regards to whether they wished to read the statement personally in court or for the prosecution advocate to read them, were sought and given effect. A further five cases (27.8%) were partially meeting the standard because there was no record of the VPS being read to the court on the hearing record sheet and therefore it was not known if this had taken place. Four cases (22.2%) did not meet the required standard, and these were because a VPS had never been taken from the victim and there was no evidence that it was chased with the police.

7.100. 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 over time. The timescale in all other cases is five working days. The letter should include a clear explanation of the decision, a referral to the victims' right to review scheme if applicable (this is a scheme where a victim can ask the prosecution to reconsider a decision to drop or substantially alter a case) and offer a meeting in certain types of case.

7.101. Whilst the overall approach to victims and witnesses is good, our findings highlight that the Area has some room to make improvements in the quality and timeliness of VCLs.

7.102. The number of cases where this applied was small, but we rated one of the five VCLs (20%) we assessed as timely and one of four VCLs (25%) as fully meeting the standard for quality. Two VCLs (50%) were rated as partially meeting the standard and one (25%) as not meeting the standard.

8. Public confidence

8.1. One of the five aims of the of the Crown Prosecution Service (CPS 2025 strategy⁴⁶ 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 discussion with the Area, to consider aspects of the Area’s performance related to public confidence, with a specific focus on the impact on casework quality.

Correspondence with victims

Expectations

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 where the victim is deemed to be vulnerable or intimidated, is a victim of serious crime (which includes domestic abuse) or has been targeted repeatedly over a period of time. The timescale in all other cases is five working days.

8.3. A VCL should include a referral to the Victims’ Right to Review (VRR) scheme if applicable. This is a scheme where a victim can ask the prosecution to reconsider a decision to drop or substantially alter a case. In certain circumstances, the VCL 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 in writing with victims, complainants and bereaved families should use plain English, be translated where necessary, be grammatically correct, and avoid the use of legal jargon. They should include a clear, understandable and accurate explanation of the decision or action being discussed. Where appropriate, empathy should be expressed, and the recipient directed to sources of support and other help.

⁴⁶ CPS 2025 is the CPS’s strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

Sending Victim Communication and Liaison scheme letters (VCLs)

8.6. We examined 90 Area cases in this inspection across magistrates' court, Crown Court and rape and serious sexual offences (RASSO) casework. We found 16 cases where VCLs had been written.

8.7. We assessed the quality of those letters and rated four of those 16 cases (25%) as fully meeting the standard, seven cases (43.8%) as partially meeting the standard and five cases (31.3%) as not meeting the standard.

8.8. We assessed the timeliness of the letters and rated seven of the 16 cases (43.8%) as fully meeting the standard, four cases (25%) as partially meeting the standard and five cases (31.3%) as not meeting the standard.

8.9. The number of letters we assessed was small, but our findings highlight that the Area has some room to improve the quality and timeliness of VCLs.

Quality of VCLs

8.10. The Area has a number of processes to support the quality of communications in writing, with a specific focus on ensuring that quality is high.

8.11. To improve performance, a Deputy Chief Crown Prosecutor (DCCP) has been allocated the strategic lead for the Area on victim and witness issues. The DCCP reports directly to the Chief Crown Prosecutor and the Area's casework quality committee (CQC).

8.12. The Area has a system for monitoring the quality of written communications with victims. All District Crown Prosecutors dip sample two VCLs per week. Senior District Crown Prosecutors dip sample letters sent to victims under the VRR scheme. DCCPs conduct monthly dip samples of VRR decisions and any VCL letter within such a case.

8.13. Feedback on the outcome of the dip samples is provided to prosecutors and the Victim Liaison Unit (VLU) by the legal managers. Both poor and good performance is identified and highlighted through these quality assurance checks.

8.14. A single point of contact has been introduced in casework units and is available to deal with any queries from the Area's VLU. This point of contact is a legal manager who can deal with any queries or issues that arise in relation to VCLs. This single point of contact is helping to break down a previous culture where the VLU was reluctant to contact line managers if it was waiting for prosecutors to send information it needed to send a letter to a victim.

8.15. The Area has an internal Victim and Witness Board (introduced following the HMCPSI inspection into VCLs), with the aim of driving up performance around the quality of communications with victims. It is chaired by a DCCP (strategic lead for victims and witnesses), meets on a quarterly basis and is attended by all Area managers.

8.16. In addition, there is a bi-monthly staff forum that is attended by a cross-section of staff to review the quality of letters. A scoring system is applied to letters to assess quality. The Area acknowledges that there have been some issues with the makeup of the panels. The Area has tried various options but is confident it now has the right people attending to contribute effectively.

8.17. The Area has recently analysed themes from dip sampled letters that were found to be below the required standard during the second half of 2020–21. The main reasons why these letters were considered unsatisfactory were a lack of empathy, a lack of clarity, sentence construction, and the inappropriate use of legal terminology. As a result, more feedback, learning and tips have been provided to assist staff.

8.18. Local Scrutiny Panels (LSPs) are also used to assess the quality of VCLs and VRR referrals and obtain feedback from panel members. Recent examples include an LSP involving West Midlands Ambulance Service and a hate crime LSP which the VLU manager attended, where a selection of correspondence was shared that had been the subject of complaints from victims. Prosecutors receive feedback as a result of the scrutiny panels and, in one instance, bespoke RASSO training was arranged as a result of that feedback.

8.19. Whilst we acknowledge the level of focus within the Area to drive up the quality of VCLs, our findings highlight that this is still an aspect that the Area can substantially improve upon. At our meeting, the Area acknowledged this challenge. Some planned actions have suffered because of the pressures and changes required to react to the pandemic.

8.20. A mandatory Bereaved Families Scheme course was held in the Area between December 2020 and January 2021. The units were provided with a standard introductory letter to be used in all qualifying fatality cases. It had been drafted by one of the DCCPs with help from a bereaved family support charity, following delays caused by the pandemic. A spreadsheet has been compiled to make sure the introductory letter is sent out in all relevant cases.

Timeliness of VCLs

- 8.21.** The Area ensures the timeliness of correspondence through its monitoring systems.
- 8.22.** The monitoring system requires the Area's direct contact team to produce a weekly assurance report detailing how many VCLs were timely and the reasons for any late letters. That report is provided to the Area Business Manager (ABM), who deals with any issues it raises.
- 8.23.** The VLU runs regular reports in relation to the Victims' Code screen that identify any issues with inaccurate completion. These are then raised with senior managers. These include reports on trials held in magistrates' court and Crown Court cases finalised the previous day.
- 8.24.** The VLU delivered a presentation to staff to reinforce the importance of amending the Victims' Code screen to make sure letters are identified. Training sessions were held with operational delivery staff in January 2021 to stress the importance of this and a copy of that presentation was forwarded to all paralegal assistants. VLU leaflets were also placed in each Crown Court site along with a printed copy of the presentation as a visual reminder for staff to update the VLU.
- 8.25.** Another report, provided to all units on a weekly basis, identifies any cases where the VLU has not been informed that a letter is required and the unit has only picked up the need for a VCL from its own checks. It also identifies any cases where paragraphs have been requested and are awaited from prosecutors to be inserted into VCLs.
- 8.26.** There is a clear escalation process in place for all units, which was communicated in March 2021, on requesting a paragraph from the reviewing lawyer for a VCL.
- 8.27.** The DCCP (strategic lead for victims and witnesses) compiles a Victims' Code of Compliance analysis return for the Ministry of Justice every quarter. The return for quarter 3 of 2020 and quarters 4 and 1 of 2020–21 showed that the timeliness of VCLs across all police forces in the Area was better than the national performance, but there remained room for improvement. This accords with our overall findings on timeliness.
- 8.28.** The VLU has an action plan that identifies themes, issues and actions, and any progress or outcome against them. Regarding the theme of timeliness, it was reported that the VLU had seen a dip in timeliness because of staffing shortages. The VLU is now fully staffed and has a new manager. There has been a significant amount of training focusing on timeliness and more training is planned. The timeliness of VCLs has improved as a result.

Timeliness of complaint and VRR responses

8.29. The Area ensures compliance with the timescales for complaints and VRR responses through the completion of a Complaints and VRR Log. This captures the status and timeliness of responses but does not capture the reasons for late responses.

8.30. As with VCLs, the direct contact team produce a weekly assurance report detailing how many VRR requests, feedback and complaints are due to be completed. The reports provided by the Area for earlier in the year suggested that work was ongoing to reduce the number of overdue responses. The Area has now confirmed that these have been successfully cleared. There are now no backlogs.

Quality assurance of communications

8.31. We have outlined the Area's internal quality assurance systems to ensure quality and timeliness. The Area has a clearly defined approach to internal assurance that is overseen by the ABM and reported to the Area's senior leaders in the CQC.

8.32. In October 2020, the DCCP analysed a number of cases in quarter 2 of 2020–21 and reported the findings to the CQC. The purpose was to assess the quality of VRR responses, compliance with the Victims' Code and any improvement work needed. A number of VRR responses and VCLs were considered as part of that report and it agreed a number of actions to improve performance which have since been implemented.

Victims' Code and Witness Charter

Expectations

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

8.34. Victims are entitled, if they wish, to provide a VPS. The VPS sets out the impact that the offence has had on them and helps inform the court's decision on sentencing. The police should tell the CPS, and the CPS should give effect to the victim's preferences for how the VPS is presented to the court, such as 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. The hearing record sheet completed by the prosecutor should indicate whether the victim's wishes were met at the sentencing hearing.

8.35. Prosecutors at trials are tasked with speaking to witnesses at court (STWAC) to explain what will happen. The CPS STWAC guidance emphasises the need to make sure that witnesses are properly assisted and know what to expect before they give their evidence. The guidance also reminds prosecutors of their important role in reducing a witness's apprehension about going to court, familiarising them with the processes and procedures – which may seem alien and intimidating – and managing their expectations about what will happen whilst they are at court. The advocate should make a note on the hearing record sheet that they have had this discussion with witnesses.

Victim Personal Statements

8.36. We examined 90 Area cases in this inspection across magistrates' court, Crown Court and RASSO casework. We found 67 cases where the prosecution's compliance with obligations regarding a VPS were relevant.

8.37. We rated 38 of the 67 cases (56.7%) as fully meeting the standard, 18 cases (26.9%) as partially meeting the standard and 11 cases (16.4%) as not meeting the standard.

8.38. The DCCP (strategic lead for victims and witnesses) compiles a Victims' Code of Compliance analysis return for the Ministry of Justice every quarter. Recent returns revealed, through dip sampling of VPSs from a mix of Crown Court and magistrates' court cases, that a high percentage of cases from the different police forces which feed into the Area were missing a VPS, with a disparity between the different forces. As a result, the Area has focused on improving this. The Area shared details of the file sample with local police forces to assist them in targeting improvements and to raise the different forces' awareness of the disparities between them.

8.39. The Area and police forces have agreed to mandate joint dip sampling of VPS compliance at monthly performance meetings. In addition, the DCCP regularly meets with the Police and Crime Commissioner's victim and witness leads to ensure best practice and that this remains a focus.

8.40. The Area Victim and Witness Board have recommended that a VPS Promotional Task and Finish Group be established as a subgroup of the Local Criminal Justice Board. This has been established, and includes representatives from the agencies working on it to ensure that the quality and quantity of VPSs improves.

8.41. The Area Victim and Witness Board meets quarterly, and VPS performance remains a regular agenda item.

Offering meetings in all appropriate cases

8.42. The Area's internal assurance systems are designed to confirm that meetings are offered to victims in all appropriate cases. We were told that the Area is satisfied that meetings are being offered where appropriate.

Speaking to witnesses at court

8.43. We examined 90 Area cases in this inspection across magistrates' court, Crown Court and RASSO casework. We found 50 cases where the prosecution's compliance with the STWAC protocol was relevant.

8.44. We rated 37 of the 50 cases (74%) as fully meeting the standard, eight cases (16%) as partially meeting the standard and five cases (10%) as not meeting the standard. Performance was strong in relation to compliance with STWAC protocol, particularly in Crown Court and RASSO cases and less so in magistrates' court cases.

8.45. The Area Victim and Witness Board's action plan confirms that the Area has rolled out STWAC training across all units.

8.46. In 2019, Citizens Advice carried out a review of STWAC across the West Midlands as part of the Regional Domestic Abuse Implementation Plan. The review aimed to determine how well the STWAC commitment was being met at courts in the West Midlands and the impact of STWAC for victims and witnesses attending domestic abuse trials. It considered cases held at Walsall, Wolverhampton and Birmingham magistrates' courts. The review found that 98% of prosecutors spoke to witnesses at court and the majority of prosecutors covered all aspects of the STWAC protocol. The Area followed up with a dedicated new lawyer event in February 2020 specifically covering the issues raised in the report.

8.47. In October 2020, the Area identified a need to improve the experience of victims who were being supported by independent sexual violence advisors (ISVAs) whilst in the criminal justice system. As a result, the Area agreed a proposal to engage with ISVAs more by providing them with a single point of contact who was encouraged to:

- make enquiries and representations on behalf of the victims they were supporting
- circulate relevant news and information to ISVAs regularly to assist them
- provide a forum for discussion so that both side could better understand their respective roles and the challenges they faced.

8.48. In March 2021, this proposal was reviewed to assess progress and whether it was achieving the aims. As part of that review, it was reported that there had been significant uptake from ISVAs contacting the RASSO single point of contact, resulting in enquiries from victims about a number of different issues – including the availability of special measures, procedures and progress of cases – being answered quickly and effectively. The newsletter was due to be published the following month and informal meetings had taken place between the Area and ISVAs. It was agreed that the proposals should continue and become integrated, and that a wider forum should be held in the future, to also include external counsel who the Area instructs to prosecute rape cases.

8.49. Whilst this takes place away from court and is not strictly part of STWAC, it does show a willingness by the Area to be proactive, keep witnesses up to date and informed, and answer their questions as early as possible. Liaising with ISVAs in this way better informs victims and enables ISVAs to support and prepare victims for court, giving them a clear understanding of progress in their case and what may happen when they do attend court.

9. CPS people

9.1. One of the five aims of the of the Crown Prosecution Service (CPS) 2025 strategy⁴⁷ is to support the success and wellbeing 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 visit to the Area, to consider aspects of the Area's performance related to CPS people, with a specific focus on the impact on casework quality.

Recruitment and induction, staff moves and succession planning

Expectations

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

- the Area has effective bespoke induction plans for new prosecutors, for when prosecutors move between teams and for when new lawyer managers are appointed, to support their development
- the Area has effective bespoke induction plans for new paralegal and operational delivery staff, for when paralegal and operational delivery staff move between teams and for when operational delivery and paralegal managers are appointed to support their development
- the Area has an awareness of the legal cadre, including their current strengths and weaknesses and future capability (particularly around specialisms and capacity to deal with complex or sensitive casework) and this awareness informs recruitment, succession planning and development
- staff allocation and movement between teams is based on clearly documented rationales for decisions, which include the impact on the Area's casework quality in terms of capacity, capability and succession planning.

Legal induction

9.3. At the beginning of the Covid-19 pandemic, the Area was under-resourced against the CPS national resource model. To tackle the issue, the Area embarked on a recruitment drive at the same time as dealing with the challenges of the pandemic. During the first 14 months of the pandemic, the Area placed 117 externally recruited new starters and staff who had been

⁴⁷ CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

successful in internal promotion exercises. The numbers equated to 20–25% of the Area’s workforce moving whilst the Area was dealing with the pandemic.

9.4. Table 12 shows the increase in staff since March 2019, when the additional funding for prosecutors was announced.

Table 12: Legal staff in post (full-time equivalent)

	LM1	LM2	SCP	CP	Total
At 31 March 2019	6.00	17.86	110.29	8.33	142.48
At 31 March 2021	7.00	25.84	138.95	22.61	194.40

9.5. Managing staff rotation throughout the whole Area during this period has been a considerable task. The Area has achieved this through a clear strategy for recruitment and induction for both new members of staff and staff moving between teams within the Area.

9.6. The Area has detailed induction documents for new prosecutors. These include presentations on CPS values and Area structure, and talks from guest speakers on what a typical day looks like. There are detailed induction plans and checklists designed for each legal role, including new legal managers who have joined the Area from a non-CPS background. Induction plans cover daily requirements during the initial four weeks in the role and include training requirements, key milestones and review points. Prosecutors are now ‘signed off’ on these when they have not only completed the training but can also apply what they have learnt.

9.7. The Area has developed a Crown Court transition document detailing the unit structure, the Crown Court process, IT requirements and drafting skills. There has also been a ‘demystifying RASSO’ event designed to engage staff in the work of the RASSO team and look for expressions of interest from lawyers wishing to join the unit. The Area’s approach to training, support and induction appears to be effective.

Other staff induction

9.8. There are similarly detailed induction plans for the Area’s non-legal staff. These plans have been developed by the Area. The transition documents apply to paralegal and operational delivery staff as well as legal staff.

Succession planning

9.9. The Area has systems in place to track staff’s development needs and the training they receive. This forms part of an approach to effective succession planning and allows the Area to consider development moves to support the business and the individual.

9.10. The Area has a training log which summarises the courses completed by prosecutors. It includes high level figures detailing the ongoing percentage of lawyers who have attended each training course; for example, at the time it was provided to us it showed that 71.1% of prosecutors had received training on the Director's Guidance on Charging, 6th edition. Individual units have their own training logs and line managers know which prosecutors are awaiting training.

9.11. Legal staff in the magistrates' courts unit are closely monitored in terms of their current skill set, the types of cases they can be allocated and which courts they can be deployed to. This is partly because of the influx of new legal staff into that unit, which makes specific management necessary to make sure staff are developed appropriately.

9.12. The Area employs a Crown Court Allocations Framework Document to track ongoing and past allocation of serious casework between lawyers in the Crown Court unit. This ensures a spread of work and that all lawyers have an opportunity to develop skills related to different types of serious casework.

9.13. There is a list of staff who currently undertake specialist roles across the Area. This includes subject matter experts covering various policies, including an overall Area Legal Lead. Career conversations are used for succession planning for these roles. The Area identifies prosecutors with an interest or skill and then looks to involve them. As an example, a prosecutor was interested in becoming a wildlife prosecutions expert, and the Area was able to invite people in to talk to them and then put them on a bespoke training course.

Staff allocation and movement between teams

9.14. In line with the recruitment levels set out in paragraph 9.4, the Area has had a substantial increase in legal resources – mainly within its cadre of Crown Prosecutors and Senior Crown Prosecutors from 2019 to April 2021. However, as at the March 2021 resource meeting, the Area remains under-resourced against the national resource model, particularly at Senior Crown Prosecutor and District Crown Prosecutor level. At March 2021, the Area had 213.31 full time equivalent lawyers in place, which is 21.52 short against the national resource model. The Area continues to forecast an under-resourced position into 2022, as recruitment remains a challenge. Even with specific and focused recruitment activity, the Area struggles to fill all legal posts.

9.15. Each month, the Area examines a number of factors including caseloads, type of caseloads, what incoming work is expected, skill levels, new staff and their skill levels and tries to balance it all when considering staff allocation and movement. This monthly analysis enables the Area's senior management team

to understand their staff in terms of their development, experience and ability and allows decisions on staff movement to be made as appropriate.

9.16. The Area holds regular resourcing and finance meetings where caseloads (including complexity), recruitment and staffing structures across each unit are closely monitored. This includes monitoring new starters and leavers and discussing risk. As an example of proactive management by the Area using the process, in 2020 the Area identified a number of risks relating to the provision of pre-charge decisions, largely because of a loss of experienced staff, and implemented several actions to deal with this.

9.17. In addition, the Area considers whether it can use other resources available to it – such as external counsel, secondees and agents – so that it does not overly deplete one team and move internal resources unfairly. The increased use of counsel throughout the pandemic and to reduce pressure is understandable, but the Area needs to make sure it is getting the service it needs to be able to deliver high quality and effective casework.

9.18. The Area has worked with counsel on the standards required when providing pre-charge decisions. However, our findings in respect of the quality of case strategies in pre-charge decisions and the receipt of advices on evidence where counsel are instructed suggest that this is an aspect the Area needs to revisit, to clarify counsel's understanding of the standards and expectations and also to improve processes to support the use of counsel.

9.19. The Area's staffing is affected to a certain extent by the breadth of serious casework it prosecutes. This is positive, in that it allows prosecutors to develop and build good portfolios of serious work, but it also means that senior lawyers are often successful when applying for specialist prosecutor roles in the central casework divisions, resulting in the Area losing experienced prosecutors and increasing staff rotation.

9.20. Consequently, there are regular opportunities for staff movement and an official rotation policy is not necessary.

Learning and development

Expectations

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

- the Area has a clear and effective training plan around improving casework
- coaching and mentoring take place in the Area to improve lawyers' and lawyer managers' casework skills and experience.

Training plans

9.22. The pandemic has brought increased pressure across all the CPS Areas, with increased caseloads for lawyers and additional stakeholder liaison for managers.

9.23. The pandemic has inevitably had an impact on the plans the Area had for training. Training has been tailored to what has been necessary and possible to deliver.

9.24. In the West Midlands action plan 2020–21, the Area set itself three casework-specific actions to be completed. These are assigned to either the Chief Crown Prosecutor, Deputy Chief Crown Prosecutors or Area Business Manager, but under the governance of the casework quality committee. These actions are:

- a review of the structure to ensure it meets the needs of the changing nature of crime across the region and if there will be a benefit in having a bespoke serious violence unit;
- a focus on casework across at all levels and embedding a casework culture, specifically focusing on case progression system to provide assurance that they add value at every stage; and
- a continued focus on pre charge and pilot/evaluate daytime charging to ensure they make high quality decisions on time.

9.25. Within the documents the Area provided, we identified evidence of a clear training plan, and of records of training completed being kept at both an Area level and a unit level.

Coaching and mentoring

9.26. The Area provided examples to demonstrate effective career development and training conversations between legal staff and their line managers. The evidence we have seen shows that the Area actively supports staff development. Some examples include arranging mock interviews for staff looking to move into managerial positions and providing feedback on strengths and areas for improvement.

9.27. The Area has had success with many legal trainees, legal apprentices, and participants in legal and operational delivery work experience programmes remaining in post after the completion of training. There is also a culture in the Area to support crown prosecutors to secure roles as Senior Crown Prosecutors and for prosecutors to become legal managers.

Quality assurance

Expectations

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

- Individual quality assessments (IQAs) and internal assurance to identify individual and wider good practice or performance, and weaknesses in casework quality, and to drive improvement
- analysing IQAs to identify specific training and interventions and implementing them to improve casework quality
- casework quality assurance boards (CQABs) to drive actions and improvements in casework quality, including wider assurance work, in accordance with the CPS's quality standards for charging, case progression, disclosure, and advocacy.

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

Individual Quality Assessments

9.30. During the pandemic, the CPS nationally determined that Areas could reduce the number of IQAs they carried out or cease IQA entirely, if the pressures the Area faced made that necessary. CPS West Midlands appears to have maintained its completion of IQAs throughout the pandemic, although the figures provided to us show that the amount of dip sampling in the magistrates' courts, Crown Court and RASSO units is lower than is expected.

9.31. There is a system for overseeing IQAs across the Area, which involves compiling detailed reports across all units on a monthly or quarterly basis to confirm the number of IQAs completed, providing an overview of all 'not met' results, identifying any themes, and noting actions taken. The Area's casework quality committee (CQC) considers the IQA reports each meeting as a standing item on the agenda. There is evidence that IQAs are used to target certain areas of work, with particular emphasis on charging and disclosure in addition to other areas. An example of this is that in the magistrates' courts unit, in January 2021, as a result of the Covid-19 pandemic, the Area chose to focus on assaults against emergency workers to ascertain whether wider training was required for staff and agents.

9.32. There is clear evidence of extensive use of case management panels across all units as an internal assurance to improve casework quality. Panels are held between the reviewing lawyer and senior managers as appropriate and follow a consistent structure dealing with strategy, case progression, court orders, disclosure, custody time limits and other issues, with clear actions resulting from them.

Analysis of Individual Quality Assessments

9.33. The Area's CQC provides legal managers with direction about the monthly or quarterly focus for IQAs.

9.34. The monthly or quarterly reports submitted to the CQC show that training is identified on an individual and unit basis, depending on the issues identified through IQAs. The CQC also reviews these reports and it was evident from documents supplied to us that learning was being identified and, where themes were identified, they were being fed back across the Area.

9.35. It is clear from the minutes of the meetings and from our observation that the CQC has identified several issues consistent with the findings from our own casework examination, and is looking to address these. Examples include the quality of post-charge reviews, the handling of defence statements and ensuring advice from counsel is received in Crown Court and RASSO cases.

Casework quality committee

9.36. The Area's CQC meets every two months.

9.37. It is clear from the minutes of those meetings and our observation of the May meeting that there is an agenda designed to drive improvements in casework quality. There are several standing items, and the committee considers feedback and learning opportunities identified through strategic casework updates, IQAs, adverse outcomes and case management panels. Updates on disclosure and the unit's Disclosure Plans are considered.

9.38. Assurance around advocacy is handled through a combination of IQAs for internal advocates and court observations for outside counsel. The results of these are feedback to the CQC; for example, at the May meeting, advocacy in the magistrates' courts unit was a topic specifically fed back on in relation to IQAs.

9.39. The Area set itself three casework-specific actions to be completed before the end of March 2021 under the governance of the CQC (see paragraph 9.24). These actions have been completed and the Area has identified the need for a serious violence unit, to sit under the line management of the complex casework unit, in order to maintain a high level of performance. It was felt to be a risk to introduce this new unit during the pandemic, but after a delay, it has now been established.

10. Digital capability

10.1. One of the five aims of the of the Crown Prosecution Service (CPS) 2025 strategy⁴⁸ is to make sure that “our investment in digital capability helps us adapt to the rapidly changing nature of crime and improve the way justice is done”. In this inspection, we used our file examination, supplemented by documents requested from the Area and our visit to the Area, to consider aspects of the Area’s performance related to digital capability, with a specific focus on the impact on casework quality.

Expectations

10.2. The Area collects and analyses data to improve casework quality. Performance in key aspects, including CPS high weighted measures, compliance with the National File Standard, and the charging dashboard, is analysed effectively, shared with staff and used by managers to drive improvements within the CPS and externally with stakeholders.

Our findings

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

10.4. The Area takes a structured and systematic approach to analysing performance data to identify key issues, and links these to actions to address those issues. There is evidence that the CPS high weighted measures, compliance with the National File Standard and the CPS charging dashboard are analysed on a regular basis at performance meetings and that local data is used to support local analysis.

10.5. At performance review meetings with CPS Headquarters, the Area analyses a range of performance data and sets out clear actions that it intends to take in response to the issues highlighted by the analysis.

10.6. At the Area Strategy Board, a high level review of performance is a standing item on the agenda. Performance discussions involve all managers and there is clear accountability. Managers are held to account for performance based on high level indicators, including comparisons to national and local high weighted measures, compliance rates and the charging dashboard. This activity is linked to casework improvement actions. In addition to this, the Area Strategy Board considers resourcing issues and takes account of staff workloads and

⁴⁸ CPS 2025 is the CPS’s strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

wellbeing. This balanced review of the equity of workloads helps ensure a positive approach to casework and performance.

10.7. A weekly performance report is produced for line managers and unit managers to share with their management teams. These reports cover performance in all the units. They include performance related to unweighted and high weighted measures and comparative performance between the police forces feeding into the Area. Charging dashboards are distributed to legal managers together with high level analysis, interpretation and comment.

10.8. In addition, there are examples of other common issues being disseminated, such as principal offence code error rates, data quality errors, record hearing outcomes and finalisation performance and task management issues.

10.9. Performance is discussed at each unit's management meetings. The Area uses input from each of the units to explain and understand the level of performance. This is an inclusive approach and should help build engagement, with actions identified to resolve any performance issues identified.

10.10. All unit team meeting minutes illustrate that staff are informed of issues that directly relate to performance and the management of casework, and which could have an impact on casework quality. In addition, before the pandemic the Area held a staff conference aimed at explaining performance measures to staff and how their day to day work contributed to those outcomes.

10.11. Once actions are introduced within teams to improve performance, there is evidence that in subsequent meetings, the effectiveness of the previous action is reviewed.

10.12. Performance data is shared and discussed with stakeholder colleagues by all senior managers at the various forums which are ongoing in the Area (see chapter 11), with the aim of improving casework quality.

Digital tools and skills

Expectations

10.13. The Area ensures that its people have the tools and skills they need to operate effectively in an increasingly digital environment. The Area includes digital skills audits within the training plan and delivers general and bespoke

training to staff to enable them to effectively use the CPS case management system, Egress, digital case lines, court store and cloud video platform⁴⁹.

Our findings

10.14. The Area does not have a specific digital skills audit within the training plan, instead preferring to concentrate on individual needs as identified by staff and their managers.

10.15. Each unit does have a training log showing the recent training staff have received. Each training log is very different in its format but they all show clear evidence of training to enable staff to improve their capability with digital systems such as the CPS case management system, Egress, the Crown Court digital case system, court store and cloud video platform.

10.16. Team meeting minutes show references to digital issues that arise. For example, at a Rape and Serious Sexual Offences (RASSO) team meeting there was a discussion and explanation of what discs and material can be transferred via Egress.

10.17. There are comprehensive digital training plans in place for new starters as part of their induction. This includes apprentices and secondees from the Bar. There has also been good planning to make sure staff who move from the magistrates' courts unit to the Crown Court and RASSO units have the digital skills necessary. The Area also has a detailed Crown Court transition document.

10.18. The criminal justice system has had to adapt rapidly to new digital technology as a method to continue working throughout the pandemic, including using Microsoft Teams to hold meetings, one to ones and conferences and using the cloud video platform 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.

10.19. The Area acknowledges that not all staff have the same digital skills, but where issues are identified, training is organised and delivered. Staff are generally becoming much more confident with their digital skills following increased exposure to technology as a consequence of the Covid-19 pandemic.

⁴⁹ Egress, digital case lines, court store and cloud video platform are digital tools to store case material or host remote hearings. They are explained further in the glossary in annex C.

11. Strategic partnerships

11.1. One of the five aims of the of the Crown Prosecution Service (CPS) 2025 strategy⁵⁰ 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 visit to the Area, to consider aspects of the Area’s performance related to strategic partnerships. with a specific focus on the impact on casework quality.

Strategic partnerships with the police

Expectations

11.2. 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:

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

Our findings

11.3. The Area has trusted and mature relationships at a senior level with the police, which it uses to influence change.

11.4. The Chief Crown Prosecutor (CCP) has a seat on the Regional Police Chiefs Council (RPCC), which used to meet quarterly but is now bi-annual. At the RPCC there is a regular opportunity to discuss casework quality, which is used to discuss common issues that relate to all police forces and encourage improvements. In addition, the CCP meets individually on a regular basis with all Chief Constables within the Area to discuss issues specific to each police force.

11.5. There are quarterly meetings between Deputy Chief Crown Prosecutors (DCCP) and Assistant Chief Constables, which cover issues that have a direct impact on casework quality. The minutes of all these meetings indicate an open,

⁵⁰ CPS 2025 is the CPS’s strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

honest and mature relationship. Where decisions are made at these meetings, they are enforced by agreeing appropriate actions to drive change.

11.6. Strategic prosecution team performance meetings are held with the British Transport Police, Staffordshire, Warwickshire, West Mercia and West Midlands police forces. The focus of these meetings is clearly at a more local and operational level and allow legal managers to forge positive relationships with operational police counterparts. File quality, performance, and charging are standing items on the agenda and disclosure is either a standing item on some or is discussed as appropriate in others.

11.7. RASSO meetings are held jointly with representatives from all police forces. Standing items include charging, early investigative advice, casework issues, review of unsuccessful cases, pre charge decisions (backlogs specifically) and disclosure of unused material. Other issues are clearly picked up where necessary examples being the Attorney General's new guidelines on disclosure and digital issues.

11.8. Since 2018 the Area has implemented the CPS West Midlands and Police Joint Disclosure Plan. This plan has been routinely updated since 2018 and there is evidence of significant work undertaken jointly to improve the handling of unused material. The regular bi-monthly meetings appear suitably detailed and focussed upon operational implementation of disclosure requirements.

11.9. The Area acknowledges that whilst the meetings with the police forces are effective that some of the challenges continue although there is evidence of improvement in performance because of engagement. Police forces are also undergoing a significant period of change with large recruitment drives which has caused issues for the Area. It is apparent that the Area is respected and has a prominent standing with stakeholders, and they need to continue to use that influence to drive up file quality to support effective casework decisions at the operational level.

Strategic partnerships with the criminal justice system

Expectation

11.10. The Area influences change through trusted partnerships with the criminal justice system at all levels to improve casework quality. The Area has trusted and mature relationships with the criminal justice system (CJS) at all levels and influences change through negotiation, persuasion, and compromise to improve casework quality

Our findings

11.11. The Area has trusted and mature relationships with all the stakeholders in the Criminal Justice System.

11.12. Local Criminal Justice Boards (LCJB) are in place for all parts of the CPS Area and have consistent representation across each LCJB, covering all main partner organisations. Although performance in general is discussed at LCJBs, understandably over the recent period the main focus of discussions has been the impact of the pandemic and how this is being dealt with.

The Area has trusted and mature relationships with all the stakeholders in the Criminal Justice System

11.13. Joint Transforming Summary Justice (TSJ) and Better Case Management (BCM) business board meetings are held bi-monthly with representation from Her Majesty's Courts and Tribunals Service (HMCTS), the National Probation Service and local police forces. TSJ and BCM are cross-agency criminal justice schemes introduced to reform how

criminal casework is dealt with in the magistrates' courts and Crown Court. Performance is monitored at the business board meetings. Area performance, court performance and rankings are routinely reviewed and considered when appropriate. Again, however, most recent meetings have primarily focused on dealing with the impacts of the pandemic on listings and other immediate challenges.

11.14. Weekly meetings are held between HMCTS, the CPS and the police for magistrates' court work. These cover a range of operational topics including victims and witnesses, file quality, listings and warrant applications. There are also forums for dealing with magistrates' court and Crown Court recovery following the pandemic.

11.15. There are numerous examples of individual meetings at a senior level between the Area and the Police and Crime Commissioners, Resident Judge, Presiding Judge and HMCTS. These are attended by a combination of the CCP, the DCCPs and the Area Business Manager as appropriate. Minutes of meetings provide strong evidence of trusted partnerships with the criminal justice system at all levels to improve casework quality.

11.16. The CCP is a member of the Birmingham Law Society and chairs one of the committees. This relationship has allowed the Area to develop and support its legal trainees.

11.17. Meetings take place between the Area and local counsel's chambers on a regular basis. At the senior level, these include the Circuit Advocate Liaison Committee for the Midland Circuit and Heads of Chambers; at a more practical level, meetings also take place with local bar clerks. They cover several different types of issues with an impact on casework quality. The minutes indicate a good working relationship with chambers and there appear to be no longstanding unresolved issues. The Area appears to be the key driver in working with chambers to improve the quality of casework.

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

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- 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	80.8% 15.4% 3.8%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	80.8% 15.4% 3.8%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	34.6% 42.3% 23.1%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	42.3% 38.5% 19.2%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	47.6% 42.9% 9.5%
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	38.5% 46.2% 15.4%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	32.0% 32.0% 36.0%
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	53.3% 46.7%
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	50.0% 8.3% 41.7%

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	46.7% 30.0% 23.3%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	60.9% 8.7% 30.4%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	57.1% 28.6% 14.3%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	100%
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	64.3% 7.1% 28.6%
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	41.7% 33.3% 25.0%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	76.7% 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	50.0% 35.7% 14.3%

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	46.7% 53.3%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	22.2% 50.0% 27.8%
32	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	66.7% 25.0% 8.3%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	95.8% 4.2%
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	52.6% 26.3% 21.1%
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	55.0% 5.0% 40.0%
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	72.2% 11.1% 16.7%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	68.4% 15.8% 15.8%
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	70.0% 10.0% 20.0%
Disclosure of unused material			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	46.4% 10.7% 42.9%
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	40.0% 28.0% 32.0%

No.	Question	Answers	Result
43	If PM or NM, the most significant failing was: see list of options in drop-down box	Did not identify reasonable lines of enquiry	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	33.3%
		Used the wrong endorsements	20.0%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	60.0% 12.0% 28.0%
45	The prosecutor complied with the duty of continuous disclosure (but not including timeliness of disclosure).	Fully met Partially met Not met	100%
46	If PM or NM, the most significant failing was	Did not carry out continuous disclosure at all	100%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	100%
49	Third party material was dealt with appropriately.	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	100%
53	The disclosure record on modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met	65.4%
		Partially met	15.4%
		Not met	19.2%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met	6.7%
		Partially met	13.3%
		Not met	80.0%
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met	37.5%
		Partially met	37.5%
		Not met	25.0%

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No.	Question	Answers	Result
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	61.1% 27.8% 11.1%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	90.9% 9.1%
58	There was a timely VCL when required.	Fully met Partially met Not met	66.7% 33.3%
59	The VCL was of a high standard.	Fully met Partially met Not met	16.7% 33.3% 50.0%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	43.5% 34.8% 21.7%

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	91.2% 8.8%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	44.1% 23.5% 32.4%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	83.9% 12.9% 3.2%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	23.5% 47.1% 29.4%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	44.1% 17.6% 38.2%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	33.3% 33.3% 33.3%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	20.6% 44.1% 35.3%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	48.5% 30.3% 21.2%
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	50.0% 50.0%
10	Police file submission was timely.	Fully met Not met	75.0% 25.0%
11	The CPS used the NFQ Assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	10.0% 40.0% 50.0%
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	92.5% 7.5%

No.	Question	Answers	Result
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met	32.5% 20.0% 47.5%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	51.3% 15.4% 33.3%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	25.0% 25.0% 50.0%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	75.0% 25.0% 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	58.8% 23.5% 17.6%
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	35.3% 26.5% 38.2%
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	29.2% 33.3% 37.5%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	70.0% 15.0% 15.0%
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	44.7% 42.1% 13.2%

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	27.8% 11.1% 61.1%
23	In CC (including RASSO cases before the CC) cases, a properly drafted indictment was prepared.	Fully met Partially met Not met	63.2% 23.7% 13.2%
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	65.8% 23.7% 10.5%
25	In CC and RASSO cases a clear instruction to advocate document was prepared.	Fully met Partially met Not met	28.9% 55.3% 15.8%
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	42.1% 23.7% 34.2%
27	In CC (including RASSO cases before the CC) cases, the duty of direct engagement was carried out.	Fully met Partially met Not met	55.3% 2.6% 42.1%
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	18.2% 4.5% 77.3%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	58.8% 29.4% 11.8%
32	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	50.0% 50.0%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	97.1% 2.9%
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	72.4% 20.7% 6.9%

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	65.7% 20.0% 14.3%
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	65.6% 25.0% 9.4%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	71.0% 19.4% 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	45.0% 42.5% 12.5%
Disclosure of unused material			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	28.2% 35.9% 35.9%
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	31.4% 28.6% 40.0%

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	4.2%
		Did not endorse any decisions on the MG6C	4.2%
		Did not identify reasonable lines of enquiry	4.2%
		Failed to endorse or sign a blank MG6D	4.2%
		Failed to identify that other obvious items of unused material were not scheduled	33.3%
		Other	20.8%
		Said DUM was not disclosable	12.5%
		Said NDUM was disclosable	12.5%
		Used the wrong endorsements	4.2%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	94.3%
		Partially met	
		Not met	5.7%
45	The prosecutor complied with the duty of continuing disclosure, (but not including timeliness of disclosure).	Fully met	57.7%
		Partially met	15.4%
		Not met	26.9%
46	If PM or NM, the most significant failing was: see list of options in drop-down box	Did not carry out continuous disclosure at all	36.4%
		Did not endorse any decisions on newly revealed items	18.2%
		Did not identify reasonable lines of enquiry	18.2%
		Failed to identify that other obvious items of unused material were not scheduled	9.1%
		Other	18.2%

No.	Question	Answers	Result
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	58.3% 16.7% 25.0%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	14.3% 57.1% 28.6%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	76.9% 15.4% 7.7%
50	In CC (including RASSO cases before the CC) cases, late defence statements were chased.	Fully met Partially met Not met	75.0% 8.3% 16.7%
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	34.6% 30.8% 34.6%
53	The disclosure record on modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	31.4% 34.3% 34.3%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	10.7% 17.9% 71.4%
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	90.5% 9.5%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	58.1% 25.8% 16.1%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	91.7% 8.3%
58	There was a timely VCL when required.	Fully met Partially met Not met	33.3% 66.7%
59	The VCL was of a high standard.	Fully met Partially met Not met	33.3% 50.0% 16.7%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	32.0% 28.0% 40.0%

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	50.0% 22.2% 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	83.3% 16.7%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	33.3% 61.1% 5.6%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	44.4% 38.9% 16.7%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	66.7% 33.3%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	27.8% 38.9% 33.3%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	50.0% 38.9% 11.1%
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	35.0% 65.0%
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	23.1% 23.1% 53.8%
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	55.0% 10.0% 35.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	85.0% 15.0%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	60.0% 20.0% 20.0%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	100%
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	58.8% 35.3% 5.9%
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	21.1% 26.3% 52.6%
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	58.3% 8.3% 33.3%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	45.0% 35.0% 20.0%

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	50.0% 30.0% 20.0%
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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	33.3% 66.7%
23	In CC (including RASSO cases before the CC) cases, a properly drafted indictment was prepared.	Fully met Partially met Not met	65.0% 25.0% 10.0%
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	80.0% 20.0%
25	In CC and RASSO cases a clear instruction to advocate document was prepared.	Fully met Partially met Not met	25.0% 60.0% 15.0%
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	90.0% 10.0%
27	In CC (including RASSO cases before the CC) cases, the duty of direct engagement was carried out.	Fully met Partially met Not met	60.0% 5.0% 35.0%
28	In CC (including RASSO cases before the CC) cases, the DDE was uploaded to CCDCS.	Fully met Partially met Not met	7.7% 92.3%
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	22.2% 11.1% 66.7%
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met	33.3% 66.7%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	55.6% 33.3% 11.1%
32	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	81.8% 18.2%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	94.4% 5.6%

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	94.1% 5.9%
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	89.5% 10.5%
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	75.0% 20.0% 5.0%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	89.5% 10.5%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	60.0% 30.0% 10.0%
Disclosure of unused material			
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met	70.0% 25.0% 5.0%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	73.7% 21.1% 5.3%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	20.0% 70.0% 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	38.9% 44.4% 16.7%

No.	Question	Answers	Result
43	If PM or NM, the most significant failing was: see list of options in drop-down box	Did not endorse any decisions on the MG6C	18.2%
		Did not identify reasonable lines of enquiry	9.1%
		Failed to endorse or sign a blank MG6D	18.2%
		Failed to identify that other obvious items of unused material were not scheduled	27.3%
		Other	27.3%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	88.9% 11.1%
45	The prosecutor complied with the duty of continuing disclosure, (but not including timeliness of disclosure).	Fully met Partially met Not met	57.1% 35.7% 7.1%
46	If PM or NM, the most significant failing was: see list of options in drop-down box	Did not carry out continuous disclosure at all	16.7%
		Did not endorse any decisions on newly revealed items	16.7%
		Other	50.0%
		Said NDUM was disclosable	16.7%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	69.2% 23.1% 7.7%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	80.0% 20.0%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	83.3% 16.7%
50	In CC (including RASSO cases before the CC) cases, late defence statements were chased.	Fully met Partially met Not met	81.8% 18.2%

No.	Question	Answers	Result
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	42.9% 50.0% 7.1%
53	The disclosure record on modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	31.6% 47.4% 21.1%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	25.0% 25.0% 50.0%
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	92.3% 7.7%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	50.0% 27.8% 22.2%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	90.0% 10.0%
58	There was a timely VCL when required.	Fully met Partially met Not met	20.0% 40.0% 40.0%
59	The VCL was of a high standard.	Fully met Partially met Not met	25.0% 50.0% 25.0%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	64.7% 29.4% 5.9%

Annex C

Glossary

Achieving Best Evidence (ABE)

The police video-record 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 scheme (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' courts cases, 40 Crown Court cases and 20 rape and serious sexual offences cases.

The files were randomly selected within certain parameters (set out below) from cases finalised in the quarter before the on-site phase for that Area and from live cases. This allowed the Covid-19 context from the on-site Area visits to be aligned with the current casework.

Finalised cases included those concluded at either the not-guilty anticipated plea (NGAP) hearing in the magistrates' court or the plea and trial preparation hearing (PTPH) in the Crown Court in order to be able to properly assess decision-making and case progression. The sample also included cracked trials, and a mix of successful and unsuccessful cases.

All magistrates' courts (MC) files were drawn from NGAP cases to capture the review and preparation required prior to 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 prior to 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 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 non-police decoy or child sex abuse vigilante in child-grooming or meeting cases.

Table 13: 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

Outcome	Magistrates' court	Crown Court	RASSO	Total
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 in order 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.

Table 15 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 in order to avoid selecting older cases, but this was at the discretion of the lead inspector.

Table 14: 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

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Case type	Magistrates' court (30)	Crown Court (40)	RASSO (20)	Total (90)
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 (RASSO) 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 in each case 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 cases):

- Pre-charge decisions and reviews:
 - Compliance with the Code at pre-charge
 - Selection of charge(s)
 - Case analysis and strategy
- Post-charge decisions and reviews:
 - Compliance with the Code post-charge
 - Case analysis and strategy
- Preparation for the plea and trial preparation hearing in the Crown Court
- 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 16) to convert the percentage into a finding of fully, partially, or not meeting the expected standard for the theme or sub-theme overall.

Table 15: Conversion of percentages into ratings

Rating	Range
Fully meeting the standard	70% or more
Partially meeting the standard	60% to 69.99%
Not meeting the standard	59.99% or less

A worked example

Relevant questions

For the victims and witnesses aspect of casework in the magistrates' courts, we took the answers from the following nine questions (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 16: 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

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Excluding the not applicable answers leaves 185 answers. The maximum score possible would therefore be 370 points if all answers were 'fully meeting 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

Table 17: 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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