



HM CPSI

HM Crown Prosecution
Service Inspectorate

Area Inspection Programme

CPS North East

Baseline assessment

October 2021

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Who we are

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

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

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

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1. Summary

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

1.2. A common theme from the 2016–19 Area inspection programme and from more recent thematic inspections is the need for the CPS to improve aspects of casework quality. We have therefore developed a new inspection framework 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 forms 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 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 North East.

1.5. This baseline assessment was carried out during the Covid-19 pandemic. The files we examined will have included work carried out by the Area before and after the pandemic struck.

1.6. The Area experienced very high staff abstraction during the pandemic, well above the national average, and was also dealing, as were all CPS Areas, with increasing caseloads. The Area reorganised its operational delivery arrangements in 2019 and, in 2021, combined two Crown Court teams into one, both of which put pressure on the teams and led to staff moves. An increase in budget has enabled the Area to recruit and address some of the challenges it faced, but this also involved additional work inducting and training new joiners or those who had changed jobs. About half the Area's staff are either new to the Area or in a new role compared to March 2020. Much of the burden fell on the magistrates' courts team, where most of the newly recruited staff started.

1.7. We will be better able to assess the success of the Area's efforts to improve casework quality when live caseloads fall back to, or near to, pre-pandemic levels and it no longer has to contend with the unique pressures the pandemic has brought. As those ease and experience grows within the lawyer and operational delivery cadre, the Area will have the opportunity to improve the quality of its casework across all aspects. The hard work and dedication shown by the casework teams under very difficult circumstances is a good indicator that improvement is achievable.

Added value and grip

1.8. 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.

1.9. Our baseline assessment of the value added and grip of casework by CPS North East is set out in Table 1. It demonstrates that Crown Court casework is stronger than that in the magistrates' courts, and that rape and serious sexual offences (RASSO) are handled better than both.

Table 1: Baseline assessment of CPS North East

CPS North East	Added value	Grip
Magistrates' courts casework	59.9%	54.1%
Crown Court casework	67.5%	74.2%
Rape and serious sexual offences	74.5%	76.4%

1.10. Overall, our inspection shows that the Area generally makes the right charging decisions and selects the right charges, properly reflecting the criminality and giving the court adequate sentencing powers. The indictments for Crown Court and RASSO trials were generally properly drafted. These feed into our assessment of added value.

1.11. The Area adds value by the appropriate use of applications to strengthen the evidence in RASSO cases and, to a lesser extent, Crown Court cases. Added value was also demonstrated at sentencing when the prosecution in most instances (and in all casework types) sought the right orders to protect victims, witnesses and the public.

1.12. The handling of sensitive unused and third-party material is of a high standard, adding value to the prosecution's compliance with disclosure duties.

1.13. However, there were some aspects where improvement is called for, most notably in the quality of case analysis and strategy pre-charge and after charge, which were reflected in added value ratings. Post-charge reviews were usually better than pre-charge decisions, but still did not reach the standard the Area would wish to see. Prosecutors have received the national review training, but the Area has identified from its quality assurance that the key messages have yet to become fully embedded. Work continues to address review standards via individual quality assessments, dip-sampling, adverse case reports and other assurance work.

1.14. Disclosure of unused material at the initial stage is an aspect where the Area is not adding as much value as it could, despite considerable work. There is more evidence of improvement in the standard of continuing disclosure.

1.15. Good grip was apparent in the timeliness of charging decisions and, in Crown Court and RASSO cases, the timeliness of disclosure at the initial and continuing stage.

1.16. Correspondence from the court and defence, police and witness care unit was handled well in Crown Court and RASSO cases, enhancing grip scores for both. Communications were generally reviewed promptly and appropriate action taken. In the magistrates' courts, this was much less often the case, which contributed to the lower rating for grip in those cases.

1.17. To build higher ratings for grip across casework, the Area needs to tackle the preparedness for the first hearings in the magistrates' courts and the Crown Court. In all types of cases, we noted a tendency not to deal with the acceptability of pleas, which can jeopardise the prospects of resolving a case at the earliest point. In Crown Court and RASSO cases, the lack of formal instructions meant the court advocate was reliant on the quality of reviews and the pre-trial preparation hearing (PTPH) form; where these fell below the expected standard, again, the effectiveness of the hearing was less certain.

Casework themes

1.18. 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 only), disclosure, and victims and witnesses.

¹ See annex F for scoring methodology.

Pre-charge decisions and reviews

1.19. Compliance with the Code for Crown Prosecutors requires charging lawyers to assess the material supplied by the police and to apply the two-stage test. The first stage is deciding whether there is sufficient evidence for a realistic prospect of conviction and the second is 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.

1.20. In our file sample, we found that 93.6% of the Area's 78 charging decisions² complied with the Code for Crown Prosecutors at the pre-charge stage. Within the different teams, the Code compliance rates were:

- Magistrates' court cases 83.3%
- Crown Court cases 97.1%
- RASSO cases 100%.

1.21. Whilst getting the initial charging decision correct is essential, clear analysis of the material and setting out a thoughtful case 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. 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.

1.22. We found that the quality of this aspect of charging needed work across all three types of casework. Overall, we rated 24.4% of cases as fully meeting the expected standard, 32.1% as partially meeting the standard, and 43.6% as not meeting it. The most common failings were not addressing each aspect that needed to be proved and not developing a trial strategy. Often there was a recitation of the evidence with no or an inadequate assessment of strengths and weaknesses of the evidence and the impact of any defence(s) raised.

1.23. Other aspects of the pre-charge stage that require improvement are the consideration of unused material and its impact on the prosecution case, the quality of action plans given to the investigator before a charging decision is

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.

made, and the quality of the instructions and guidance given by the charging prosecutor to the advocate conducting the first hearing at the magistrates' courts. These generally fell short in the acceptability of pleas and in addressing custody and bail.

1.24. Prosecutors selected appropriate charges in 76.6% of cases, and the charging decision was timely in 59.0% of the Area charged cases.

Post-charge reviews

1.25. As with pre-charge reviews, the quality of ongoing reviews and strategy is of critical importance to the effective and efficient progress of cases through the criminal justice system. In our file sample, we found that 95.6% of the Area's 90 post-charge decisions complied with the Code for Crown Prosecutors at the pre-charge stage. Within the different teams, the Code compliance rates were:

- Magistrates' court cases 90.0%
- Crown Court cases 97.5%
- RASSO cases 100%.

1.26. The standard of review before the first hearing in the magistrates' courts, or after the case had been sent to the Crown Court, was rated as fully meeting the expected standard in just under half (48.9%), and partially meeting it in a further 34.4%. The same issues were apparent as at the pre-charge stage.

1.27. 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. At this point this is also the deadline for service of initial disclosure (the unused material that, at that stage, is deemed capable of either undermining the prosecution case or assisting the case of the accused). Also by this point, additional material should have been submitted by the police to allow the prosecution to review it before it is served on the defence.

1.28. We rated these reviews as fully meeting the required standard in 25.5% of instances – less often than post-sending reviews – frequently because they simply referred back to and neglected to add anything to earlier reviews, or did not correct earlier omissions. We assessed 39.2% of cases as partially meeting the standard and 35.3% as not meeting it.

1.29. As cases progress, things can change that impact on whether or how a prosecution should be brought. If there is a fundamental change due to the

receipt of additional information then a prosecutor should review the case again to ensure that it still complies with the Code for Crown Prosecutors, whether the charges remain appropriate, assess if the change raises additional lines of enquiry, and whether the case strategy should be altered. An effective review at this stage can add real value, and we rated these reviews as fully meeting the expected standard in 54.1% of cases, which still indicates a need for improvement but is better than for any other types of review. We assessed 27.0% of cases as partially meeting the standard and 18.9% of cases as not meeting it.

1.30. 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. While ultimately a matter for the court, these considerations are an extremely important part of keeping victims, witnesses and the public safe. We found that the weakness in addressing these aspects at charge impacted on overall scores for how well custody and bail were dealt with across the life of the case, which we rated as fully meeting the standard in 50.0% of relevant cases, partially meeting it in 34.4% and not meeting it in 15.6% of cases.

1.31. We examined 40 cases where bad character or hearsay applications were required to strengthen the prosecution case. Of these, we rated 42.5% as fully meeting the required standard, 32.5% partially meeting it, and 25.0% as not meeting it. Most of the weaker cases were magistrates' court cases where the applications had not been made. The lack of proper consideration of applications at charge undoubtedly played into weaker ratings when the applications ought to have come to be made.

1.32. We found that prosecutors accepted appropriate pleas, including a clear basis of plea, in two-thirds of instances (66.7%). Where cases were rated as partially or not meeting the required standard (23.8% and 9.5% respectively), it was usually because the rationale had not been properly set out and was difficult to understand.

Preparation of cases for the plea and trial preparation hearing in the Crown Court³

1.33. There are key tasks that the prosecution should take before the plea and trial preparation hearing (PTPH), including preparing the indictment, uploading the prosecution case papers to the Crown Court Digital Case System, engaging with the defence and properly instructing the advocate. Completion of the PTPH form is a fundamental aspect of preparation for the hearing. Full and accurate

³ This theme only relates to Crown Court cases and RASSO cases listed before the Crown Court.

information from the prosecution and defence allows the court to manage the case effectively and make the relevant orders required to progress the case to trial.

1.34. The preparation for the PTPH was rated as fully meeting the expected standard in just over half the Crown Court and RASSO cases we examined (52.3%). Other findings were 20.5% partially meeting the standard and 27.3% not meeting the standard. One of the reasons for marking down the preparation was the standard of the PTPH form, which we noted on occasions was inaccurate or omitted information on the prosecution position on matters such as special measures. Another issue was not addressing the acceptability of pleas. This omission prevents a much earlier conclusion of the case by way of acceptable pleas without the need for additional work by all parties, saving considerable resource and providing finality for the victim and defendant.

1.35. Almost all of the cases being heard in the Crown Court (including RASSO cases) had no formal instructions to counsel prepared. The Area expectation is that the review and prosecution advocate's electronic bundle for the PTPH will contain sufficient information to enable the advocate to progress the case effectively. We have set out above the issues with the quality of reviews at and after charge; where reviews fail to deal with key matters, such as bail or pleas, applications, significant developments, or the trial strategy, it follows that the advocate is not properly instructed on those aspects. The lack of instructions also made it difficult for us to assess whether counsel had been instructed in good time.

1.36. We found that the indictment was properly drafted in 65.5% of cases, was assessed as partially meeting the expected standard in a further 25.9% and as not meeting it in 8.6% of cases. Examples of why indictments were rated as partially or not meeting the standard included typographical errors, omitting the Crown Court centre, including a duplicitous count, not setting out in the count(s) that the defendant was charged with another, and failing to correct an earlier error with a burglary charge.

1.37. The indictment and key evidence were served in a timely manner in 41 of the 58 applicable cases (70.7%). The evidence was served on time, but the indictment was late in ten cases (17.2%) and neither were served on time in the remaining seven (12.1%). Hard media such as CCTV, video-recorded interviews with vulnerable witnesses, and body worn footage was served in a timely manner in 59.1% of relevant cases.

1.38. Direct engagement was carried out in just under two-thirds (61.4%) of the cases listed in the Crown Court. It has been hampered by the lack of availability of defence practitioners during the Covid-19 pandemic, some through furlough

as well as the challenges faced by Area staff, such as illness, shielding, childcare or other commitments. The Area has mainly relied on letters to defence firms inviting them to contact the prosecutor, which is a pragmatic approach.

Disclosure of unused material

1.39. 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 (called unused material). There are specific processes, rules and a wealth of guidance for disclosure, including for handling sensitive and third-party unused material. The police have duties to retain, record and reveal material to the CPS, which 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 is told about all non-sensitive unused material, and is given copies of or access to material that meets the test for disclosure. This is initial disclosure.

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

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

1.42. Our findings for the standard of initial and continuing disclosure are set out in Table 2.

Table 2: Compliance with disclosure duties

Results	All cases
Initial disclosure	
Fully meeting the expected standard	29.1%
Partially meeting the expected standard	43.0%
Not meeting the expected standard	27.8%
Continuing disclosure	
Fully meeting the expected standard	75.6%
Partially meeting the expected standard	6.7%
Not meeting the expected standard	17.8%

1.43. Initial disclosure is clearly an issue to address for the Area, despite ongoing work to quality assure and improve disclosure performance. The reasons for initial disclosure falling below the expected standard included deciding that disclosable material did not meet the test for disclosure (12 cases), failing to identify that other items of unused material were not scheduled (ten cases), failing to endorse or sign a blank sensitive material schedule (seven cases), not identifying reasonable lines of enquiry relating to unused material (four cases) and not carrying out disclosure at all (three cases).

1.44. Continuing disclosure was handled better than initial disclosure, showing the impact of the work to improve performance more in the former than the latter. Where it was rated as less than fully meeting the standard, the reasons were most often unscheduled material that had still not been addressed, not carrying out continuing disclosure and, in one case, not resolving conflicting versions of the non-sensitive schedule that was supplied by the police for initial disclosure.

1.45. Disclosure was generally timely at both the initial and continuing stages. The prosecution chased late defence statements in 72.0% of instances, and reviewed defence statements and provided direction to the police on further enquiries in 65.1% of cases. Direction to the police was rated as partially meeting the standard in a further 27.9%, leaving only three cases (7.0%) where the statement was not reviewed, nor guidance provided.

1.46. We assessed the handling of sensitive material as fully meeting the required standard in 77.8% of applicable cases, and the handling of third-party material as fully meeting the standard in 94.4% of relevant cases. Disclosure management documents were started and updated as the case progressed most of the time.

1.47. The police complied fully with their disclosure duties in 30.5% of cases, complied partially in 43.9% of cases and not at all in 25.6% of cases. However, the Area fed back to the police on this lack of compliance in under a quarter of cases (21.1%) and partially fed back in 14.0%, leaving 64.9% of cases where there was no feedback. Given the issues the Area has experienced with police file quality, it is important that every opportunity is taken to identify and communicate to the police when and how they can do better.

Victims and witnesses

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

1.49. Early focus on relevant applications and ancillary matters to support victims and witnesses is important. The measures available can support victims and witnesses from the outset, providing certainty about the trial process and reducing the anxiety of the unknown in being called to give evidence. We rated this aspect as fully meeting the required standard in 31.0% of relevant cases, as partially meeting the standard in another 31.0% and not meeting it in 37.9% of cases.

1.50. We found that lack of full and proper endorsements on hearing records sheets meant that we were unable to say that the 'speaking to witnesses at court' initiative had been complied with, or that the victim's personal statement had been dealt with in accordance with the victim's wishes. Our rating of fully meeting for each was 48.2% and 54.5% respectively.

1.51. There are aspects of strength in the Area's handling of victim and witness care. These included seeking appropriate orders at sentencing to protect victims, witnesses and the public, which we rated as fully meeting the standard 73.8% of the time. Witness warnings were another area of strength, with 85.3% of cases featuring the correct and timely warning of necessary witnesses. Additionally, queries from the witness care unit were resolved promptly and effectively in 85.4% of cases.

1.52. The Area has invested time and effort in improving the quality of Victim Communication and Liaison scheme letters (VCLs), including via peer reviews and dip-sampling, and has taken feedback from local scrutiny and involvement panels, and independent sexual violence advisors (ISVAs). Both groups reported that the standard of letters has improved and welcomed the recognition of their comments and actions taken as a result. We noted that some letters still lacked empathy or a sufficiently detailed explanation, but we rated the standard of letters to victims of sexual violence as stronger than in other casework types, which supports the view of the ISVAs that they have improved. Overall, half the letters sent (50.0%) were rated as fully meeting the expected standard, 29.2% as partially meeting it and 20.8% as not meeting it.

2. Context and background

Background to the inspection

2.1. 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 inspection⁴, serious youth crime⁵, and our disclosure follow-up⁶ – 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 impact on casework quality.

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

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

2.5. A complicating factor in establishing a baseline and assessing current performance is the very real and ongoing pressures on the CPS as a result of the global Covid-19 pandemic. We were mindful of potentially adding to the burden faced by the CPS, but it is the role of the role of HMCPsi, as a criminal

⁴ *Charging inspection 2020*; HMCPsi; September 2020.

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

⁵ *Serious youth crime*; HMCPsi; March 2020.

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

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

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

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

2.7. In June 2020, we published a report (CPS response to COVID-19: 16 March to 8 May 2020⁷) on the response of the CPS to the first lockdown. We reported how the CPS had been able, with a high degree of efficiency and success, to move most office-based activities to remote digital working. The report also highlighted that some police forces had taken the opportunity of the first UK lockdown and the consequent reduction in the level of crime to work on long-running cases and clear case backlogs. These cases came into the system as pre-charge receipts and increased the number of cases in Areas, and court backlogs.

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

2.9. In the Crown Court, at the early stage of the pandemic, most hearings were confined to administrative hearings using CVP with trials only starting to be listed in nine Crown Court centres. By September 2020, jury trials were being

⁷ 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/

heard in 68 of the 81 Crown Court centres. Nightingale courts⁸ were also set up as one of the measures to address the growing backlogs of Crown Court cases. Unfortunately, Her Majesty's Courts and Tribunals Service (HMCTS) was unable to identify a suitable venue in the Area's busiest centre, Newcastle, for criminal cases, although a civil Nightingale court was established at a hotel in Middlesbrough. HMCTS was, at the time of writing, discussing possible venues for a criminal Nightingale court in Newcastle.

2.10. In March 2021, we published a report⁹ looking at the CPS's response to the continuing pandemic, with a focus on how it was coping with increased caseloads and backlogs. All Areas saw an increase in their caseloads, although not all were equally affected; for charging, for example, one Area's caseload increased by 13.6% between April and June 2020, whilst another Area saw an increase of 30.3%. Although in September 2020, for the first time in the pandemic, more magistrates' court cases were finalised than were being received, by December 2020 the number of magistrates' court cases in the CPS nationally was still 70% higher than pre-pandemic. In the Crown Court, caseloads were increasing pre-pandemic, and Covid-19 exacerbated that. Caseloads nationally rose from 37,700 in April 2019 to 45,300 by March 2020 and, as at December 2020, stood at 64,500 cases.

2.11. Our findings need to be read in the context of the Covid-19 pandemic and the backlogs created by it, but also bearing in mind the other pressures on the Area, such as police file quality, restructuring and resources, which have exacerbated the Covid-19 impact.

Impact on the Area

Staff abstraction

2.12. Covid-19 has heavily impacted on the casework and other teams, with staff having to take time off for illness, home schooling or other caring responsibilities. While the Area's caseload per prosecutor was better than the national average from October 2020 to March 2021, this does not take account of staff absences. At its worst, the Area experienced abstraction for Covid-related reasons of half its operational delivery staff and around 40% of its legal staff. The all-staff abstraction rates for January to March 2021 were above the national average in all three months and considerably so for two of the months.

⁸ 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.

⁹ *CPS response to COVID-19: dealing with backlogs*; HMCPsi; March 2021. www.justiceinspectorates.gov.uk/hmcp/inspections/cps-response-to-covid-19-dealing-with-backlogs/

January 2021 was worst, with 20.2% of the staff being off, compared to a national average of 13.3%.

Caseloads and backlogs

2.13. CPS North East was affected, as was the CPS nationally, with significant backlogs in the magistrates' courts and Crown Court as a result of the closure of courtrooms during the initial UK-wide lockdown. There were extra cases coming in as the police progressed existing investigations faster and submitted them to the CPS for charging advice, but cases were not being finalised as the courts heard at first no trials, then later, far fewer trials than pre-Covid.

2.14. Crown Advocates (CAs) were not able to carry out their advocacy roles, so were switched to assisting with the increased numbers of cases coming in for pre-charge decisions. Generally, the Area's CAs, apart from the Principal Crown Advocate, were out of court from late October 2020 to April 2021, although they retained cases to which they were already committed. One CA was, until very recently, assisting another Area with their charging backlog.

2.15. At its highest, in August 2020, the magistrates' courts caseload was 96% greater than the pre-Covid baseline and the Crown Court caseload, at its highest in September 2020, was 84% above the baseline. Even now, with finalisations having outnumbered receipts for some time, caseloads are still higher than before the pandemic.

2.16. Table 3 shows the changes between January–March 2020 and January–March 2021 for the number of live cases the Area was carrying in the two teams at the end of each month.

Table 3: Changes in live cases 2020–21

Month	2020	2021	Difference #	Difference %
Magistrates' courts				
January	2,912	5,396	+2,484	+85.3%
February	2,940	5,303	+2,363	+80.4%
March	3,095	5,101	+2,006	+64.8%
Crown Court				
January	2,400	3,260	860	+35.8%
February	2,416	3,285	869	+36.0%
March	2,452	3,277	825	+33.6%

2.17. The Area's caseloads were, at the time of writing, 37% higher in the magistrates' courts team and 59% higher in the Crown Court team. Such caseloads create obvious pressures, particularly given the extra work in maintaining victim and witness engagement and trial readiness across longer waiting times.

The Crown Court

2.18. When the Crown Court re-started trial listings, the Resident Judge at Teesside in Cleveland decided to list first those cases that were more complex or difficult, including cases with multiple defendants and many of the Area's rape and serious sexual offence cases. The trials lasted several weeks in many instances, and some had two advocates per defendant. One case handled by the Area's complex casework unit took up 13 weeks of court time, and at one stage, two cases occupied almost all the courtrooms in Teesside.

2.19. The Area agrees that this was the right approach, despite the significant work involved in seeing these complex or multi-handed trials through to completion. This approach meant that the reduction of backlogs was slower, with trials now being listed into 2022-23, but it did mean that serious and sensitive cases were heard without too much more delay.

2.20. The North East Crown Court region (called a circuit) made faster progress in recovering than did some others in the country. Across the circuit, the court held future trial reviews (FTRs), which involved listing cases for discussion and a trial-readiness assessment. This approach required the Area to review each contested case for issues that would prevent the trial proceeding, or which needed action to resolve, such as witness availability, and whether any victims or witnesses were particularly vulnerable or shielding. The reviews also considered whether cases could be resolved without the need for a trial, and some did lead to guilty pleas being entered.

2.21. At the same time, the Crown Court was also listing more than the usual number of trials as floating cases (floaters), to be slotted into any court time made available if the original trial(s) could not proceed or finished earlier than expected. This increased the preparation needed. It also caused more work for operational delivery staff; for example, for each trial, whether a fixture or a floater, a bundle of the prosecution case papers needed to be prepared for all the participants, including the jury. Nobody could share papers because of social restrictions, so more bundles were needed, and they all had to be prepared at least 72 hours ahead of time and not touched thereafter to prevent Covid-19 transmission.

2.22. If the trial did not proceed, the bundles had to be stored until the case was re-listed and if anything changed in the meantime, the bundles had to be updated this was a significant undertaking.

Rape and serious sexual offences

2.23. In rape and serious sexual offences (RASSO) cases, pre-Covid, Durham Crown Court was hearing cases with pre-recorded cross-examination of victims (referred to as s.28 cases after section 28 of the Youth Justice and Criminal Evidence Act 1999 which enacted it). If a case is suitable, the cross examination of the victim by the defence can be recorded in advance and it spares the victim the need to attend a trial. During the pandemic, s.28 also came on stream in Newcastle and Teesside Crown Court centres. The RASSO team reviewed all its cases and, with the police, judiciary, court leads for each centre and the defence, identified which were suitable for s.28. The police provided information about which victims were particularly vulnerable, which assisted in prioritising cases.

2.24. From November 2020 to the time of writing, Newcastle and Teesside Crown Court centres have heard 55 s.28 trials. As at the beginning of July 2021, the Area has 121 RASSO cases identified as s.28 cases, some 20% of its workload. There is much work involved in identifying and preparing these cases, but doing so helps victims, some of whom had been losing heart over the delays; shortens trials; and in some instances leads to guilty pleas.

Magistrates' courts

2.25. The Area has worked very closely with the courts and police to manage the extra work in the magistrates' courts. To manage backlogs, the courts have increased the number of sittings by some 22% on the pre-Covid levels.

2.26. To deal with the immediate impact of Covid-19, contested magistrates' court cases were brigaded into a holding court. The cases were brought forward from their trial dates and listed for virtual case management hearings (CMHs), and this included some 220 Northumbria Police contested cases. Decisions were then taken about whether trials could still be effective. The move of so many cases into CMHs caused much disruption, and required urgent work to review and check cases for the hearings. However, about half the cases were resolved by way of acceptable pleas or dropping weak cases, and this saved a great deal of work by the police and CPS, and court time, and also avoided the need for victims and witnesses to attend trials at a future date

2.27. The magistrates' courts team has now overcome many of the issues created by Covid-19 with the holding courts cleared, but there remain some backlogs.

Defence

2.28. Engaging with the defence during the pandemic was complicated by the fact that many defence firms furloughed staff early on in the first lockdown, and faced their own Covid-19 pressures, but some were able to engage, for example, in the s.28 process. The Area has adapted its communication approach, and has been using defence representatives on the local criminal justice boards, and a regional taskforce chaired by the circuit Presiding Judge, to get messages to defence solicitors. The Area has regularly updated defence practitioners about which staff in the Area were working, and provided direct phone numbers for them.

Moving forward

2.29. While the approach to dealing with the backlogs is extremely positive, we recognise that a court backlog is not simply something that can be worked through and cleared by increasing resources. More resources help, of course, but increasing the numbers of courts also brings extra pressures. 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 ready for trial. This means more work by a finite number of staff, against a backdrop of the pandemic pressures on people, such as illness, isolation, home-schooling and other child and family caring responsibilities.

Police service to the Area

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

2.31. The Area is served by three police forces: Northumbria Police, Cleveland Police and Durham Constabulary. The Area receives most of its work from Northumbria Police. As an indicator, Table 4 sets out the proportions of magistrates' courts and Crown Court work from each police force in one week in June 2021.

Table 4: Percentage of work from three police forces in week commencing 23 June 2021

Court	Cleveland Police	Durham Constabulary	Northumbria Police
Magistrates' courts	23.8%	13.2%	62.1%
Crown Court	26.2%	14.9%	60.2%

2.32. The Director of Public Prosecutions issued new charging guidance (referred to as the Director's Guidance, 6th edition or DG6) in December 2020, and it came into force on 1 January 2021. It reflected, among other changes, the

revisions to the Attorney-General's Guidelines on Disclosure 2020 and the related Code of Practice. The national assurance, using the case management system, was suspended during the pandemic, and compliance with DG6 was not formally begun until 1 April 2021 after a three-month introductory period. The Area has been monitoring police compliance with DG6 since its introduction, however, using its own checklist on Microsoft Forms, which it considered gave more bespoke data. The Area has been sharing that data and working intensively with the police on file quality, drilling down to individual cases to identify and address the issues. There were also processes introduced to ensure that all DG6 cases were being checked, and to dip-sample the monitoring.

2.33. As a result of the joint work and data-sharing, Northumbria Police has very recently committed to resourcing six sergeants as gatekeepers, with a chief inspector leading, to check all cases submitted to the CPS for a charging decision from early September 2021.

2.34. The Assistant Chief Constable for criminal justice in Northumbria Police has been tasked to improve a number of key aspects of the police service that were letting down the Area. These were the file quality, redaction of sensitive material from documents and file housekeeping, and making sure documents are properly named and identified.

2.35. Area data shows that joint work has seen the rate of satisfactory file submissions to the Area increase from January 2021 to June 2021. All three forces have improved across the period, although performance across the three varies. The Area is continuing to work jointly with the police to drive consistently high standards.

2.36. The new monitoring for police file quality under DG6, called DG6 Assurance (DG6A), was introduced nationally on 21 July 2021. The hope is that the improvements seen to date will increase prosecutors' engagement with it, having seen what can be achieved with intensive feedback so far.

2.37. The Area is not complacent; compliance is still not at the level they and the police would wish, but the results of the efforts made by all are encouraging.

RASSO cases

2.38. The Area has also been working very closely with the police specialist teams for RASSO work to improve the standard of their file submissions over the last two years. In January 2019, the average number of consultations on a case was four, indicating a likely issue with the initial investigation and the standard of completion of action plans set by prosecutors for the officer in the case. The Area introduced a lawyer triage with two stages. The first stage was against a checklist and carried out by new prosecutors or legal trainees, and involved

rejecting cases that were missing key items or had broken links for hard media, such as CCTV and other recorded media. Each force (Northumbria, Durham, Cleveland) had a single point of contact to fix those kinds of process errors within 24 hours. A more experienced lawyer would then look at the case for quality and, if necessary, set an action plan for any additional material, further enquiries, or other necessary work. Issues were logged and the police were also asked to explain delays in the investigation or submission to the CPS.

2.39. As a result, the quality of RASSO submissions improved sufficiently for the Area to move back to triage by the operational delivery team (non-legal staff), and this is still the case. The average number of consultations per RASSO case in May 2021 was two.

2.40. The Area has also been engaging with the police specialist teams on the quality of video-recorded evidence from children or vulnerable or intimidated adults. These are called achieving best evidence (ABE) recordings after the title of the Ministry of Justice's guidance¹⁰ on interviewing victims and witnesses and using special measures, issued in 2011. The ABEs from the police have improved as a result, which has built stronger cases and improved the RASSO team's ability to review and charge them.

Staffing levels

2.41. To increase staffing levels in line with the Area resource allocated in the CPS national resourcing model and replace people leaving, the Area has recruited new legal and operational delivery staff. About two-thirds of the people who have joined since the Covid-19 pandemic are from outside the CPS, and this has added to the induction and training burden within the Area. Additional support has also been needed for the 54 staff members¹¹ who have moved teams or been promoted since March 2020.

2.42. In total, about half the Area's staff are either new to the Area or in a new role within the Area compared to the position in March 2020.

2.43. Many of the new starters to the Area joined the magistrates' courts teams, although this was not a matter of routine. The Area assessed the skills of new joiners to ensure that they were placed in the most appropriate team, rather than starting automatically in the magistrates' courts team, and monitored closely how new starters progressed. The Area was conscious that it could not

¹⁰ *Achieving best evidence in criminal proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures*; Ministry of Justice; March 2011.

¹¹ Full time equivalent, rounded to nearest whole figure; data from Area.

take staff from the magistrates' courts team whenever there are shortages in other teams, and worked to ensure that the pressures were spread fairly.

2.44. Nevertheless, much of the pressure landed in the magistrates' courts team, which worked extremely hard, as did the Area's other teams, to deal with growing backlogs and workloads, while also covering for colleagues who were unable to work for one reason or another.

Restructuring the Area

Operational delivery

2.45. A restructure of the Area's operational delivery (OD) administrative team functions took place in 2019-20. The changes, which were within a pre-existing 'One Team' structure, involved moving staff and re-evaluating work processes to reflect casework volumes. We noted that the Area carefully considered if the previous structures provided resilience and supported development opportunities, listened to staff when concerns were raised, and ensured staff were engaged throughout the restructure process.

2.46. The changes have delivered more resilience and improved ability to make speedy changes in prioritising tasks, which were particularly important given the abstractions brought about by Covid-19.

Crown Court

2.47. The Area has also restructured the Crown Court side of the business, merging two legal teams into one, with effect from April 2021. The paralegals are still, in the main, allocated work according to their geographical base.

2.48. At the same time as the new single team was introduced, the existing role of duty lawyer was harmonised, the two teams' duty roles having differed. The aim for the duty lawyer role now is to deal with urgent post-charge work which could not be completed, providing resilience when faced with staff abstractions. It is too soon to evaluate whether the role as it is now designed has improved casework; since it came in after the cases in our file sample were finalised, it would also not have impacted on our findings from file examination.

2.49. It is clear that the pressures we discuss above have made quality casework a real challenge. They have demanded and received real commitment, dedication and drive from the Area's staff. They have also required the Area to be more flexible, to make quicker decisions about how to operate – often before all the relevant information or possible consequences are known – and to introduce new processes with a large number of its staff absent. It is therefore commendable that we have seen some very good work, and found improvements in casework quality.

Performance data

2.50. The CPS has a suite of performance measures, some designated as high weighted, that each CPS Area is measured against. While we have considered the performance data available, our assessment of the quality of CPS North East's casework is predicated upon our file examination. This focused on the effectiveness of the CPS's actions against their own standards around the quality of legal decision-making and case management, which is solely within the control of the CPS. It is from this alone that the inspection scores have been awarded.

2.51. While outcomes, often reported as performance measures, are of course important, this inspection programme focuses on how the CPS can increase the value they add and improve their 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 CPS's delivery of quality casework, which is their core function and one of the five strands of the CPS 2025 strategy¹². 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 North East. 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, for each Area, of successful and unsuccessful outcomes, and of sensitive and non-sensitive case types. We chose live cases for 10% of the file sample to enable us to examine cases that were impacted by pandemic pressures, particularly pressures in listing practices. Most of the remaining 90% were finalised in January to March 2021, although we had to go back to the previous quarter to find sufficient cases in a few instances, almost all of which were convictions after trial in the Crown Court. Within the criteria, cases were chosen at random.

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

¹² 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. HMCPsi house style is to round figures to a single decimal point, so where percentages are cited, they may not total 100%.

Other inspection activity

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

3.8. We also attended virtually the Area's casework quality board (CQB) meeting on 4 May 2021 to better understand how the Area views its casework quality and the improvement work going on in the Area.

3.9. After examining the files, we produced a summary of our preliminary findings, mainly from the files, but supplemented by evidence from the documents and attendance at the CQB. 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 they were 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 methodology¹³, we held consistency exercises for our inspectors on the question set and guidance, and we invited staff from a number of Areas including CPS North East. 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 at least one – and up to 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

¹³ *Inspection handbook*; HMCPsi; January 2021.
www.justiceinspectorates.gov.uk/hmcpsi/wp-content/uploads/sites/3/2021/02/HMCPsi-Inspection-handbook.docx

where we cannot agree, how many stages the Area wishes to invoke. Ultimately, the decision is ours.

3.13. The Area assessment document, containing our preliminary findings, was reviewed by the Deputy Chief Inspector (Inspections) (DCI(I)). They held a 'check and challenge' session with the team prior to us attending 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. While this provided an overall score which was easily accessible to those reading the report, it did not always reflect the variety of findings we found in each Area, and across the Areas.

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

3.16. We assessed how well CPS North East met the standards against a question set comprising 60 questions¹⁴ from pre-charge to case conclusion. Inspectors applied ratings to each question for each case – fully meeting the standard, partially meeting the standard or not meeting the standard – and 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 work of the Areas across the three types of volume casework assessed. Each theme attracted a score – recorded as a percentage and calculated in the same way as for added value and grip – which then translated into an assessment of how well the Area met the standard for that specific theme¹⁵.

¹⁴ See annex D for the full question set.

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

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

4. Key stages in a prosecution case

Pre-charge decision-making

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

4.2. Once the case is with the CPS, they review the evidence and other material sent by the police, and make their decision based on the Code for Crown Prosecutors ("the Code")¹⁶. This is a public document, issued by the Director of Public Prosecutions, that sets out the general principles prosecutors should follow when they make decisions on cases.

Complying with the Code

4.3. Compliance with the Code 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.

4.4. 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.

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

4.6. 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

¹⁶ *The Code for Crown Prosecutors*; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

the offence or the impact on an alleged victim or the public, the prosecutor cannot go on to consider the public interest.

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

4.8. As part of our methodology, we assess Code compliance. If we conclude that the Code decision was incorrect, and was 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, we describe this as a wholly unreasonable decision.

Selecting the most appropriate charges

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

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

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

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

4.12. 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. This helps 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 an assault occasioning actual bodily harm, an offence that can be tried either in the magistrates' courts or the Crown Court and which attracts a greater maximum sentence.

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

4.13. Getting the initial charging decision correct is essential. But a clear analysis of the material and setting out a clear strategy are also fundamental. They help to ensure the efficiency and effectiveness of the subsequent stages, and support the initial application of the Code and selection of charges as the case moves through the criminal justice system.

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

4.15. A good review that meets the standard will include the following aspects.

- 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, for example, the need for scientific evidence or examination of communications, and should also identify those lines of enquiry that may point away from a prosecution. There should be a proportionate action plan identifying those reasonable lines of enquiry and setting a realistic target date for completion.
- Issues or defences that could reasonably arise were addressed and the prosecutor articulated how they could be countered.
- Relevant issues of admissibility were addressed, including identification or the significance of hard media.
- The credibility and/or reliability of key witnesses was considered, including previous convictions and past reports to the police. Where a video-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.

4.16. 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.

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

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

- details of any material that either assists the defence case as it is known at that stage, or undermines the prosecution case, and needs to be disclosed to the defence at the first hearing under the prosecution's common law duties
- what should be included 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' courts¹⁷.

Post-charge decision-making and reviews

Police file quality – the National File Standard

4.18. The National File Standard¹⁸ is a document setting out the material and information that the police must send to the CPS at different stages of criminal cases and for different case types. It lists what is required when a case is submitted for a pre-charge decision, for an anticipated guilty plea case in the magistrates' courts, and for a more complex matter listed before the Crown Court. It seeks to achieve consistency and proportionality across all CPS Areas and police forces throughout England and Wales.

4.19. 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. It was suspended nationally during the Covid-19 pandemic, although some Areas carried on monitoring police compliance with the expected standards.

Post-charge reviews

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

¹⁷ 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](#).

¹⁸ The latest version of the National File Standard is contained in [the 6th edition of the Director's Guidance on Charging](#). Many of the files we examined pre-date the 6th edition coming into force on 1 January 2021, when [an earlier version of the National File Standard](#) applied.

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.

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

- whether the post-charge review included a proper case analysis and case strategy
- whether any pleas accepted (other than to all offences) were appropriate, with a clear basis of plea
- where a significant development occurred in the case, which represented a major change in the case strategy, there was a quality review dealing with it. This includes 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 – for example, bad character was used effectively to strengthen the prosecution case.

Significant events

4.22. As cases progress, things can change which materially impact on the prosecution case or which represent a major change in the case strategy. If this happens, the Area should carry out a quality review dealing with the significant development, applying the Code for Crown Prosecutors as to whether there remains a realistic prospect of conviction and whether it remains in the public interest to prosecute. The review should also address how any new evidence or other material will be dealt with, and how the case strategy should be adapted. We call this a significant event review.

Stage 1 reviews

4.23. In Crown Court contested cases, there are key stages following on from the first hearing in the Crown Court. The first of these is service of the bulk of prosecution materials, which should be accompanied by a review of the case and updates on any developments since the last review. This is a stage 1 review. We discuss the other aspects of the plea and trial preparation hearing (PTPH) in paragraphs 4.24 to 4.29.

Preparation for the plea and trial preparation hearing

4.24. In Crown Court contested cases, a number of orders to manage the case will be made at the first hearing in the Crown Court, called 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 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.

4.25. 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 and compiling the bundle of evidence upon which the prosecution will rely at trial. If not already done, the prosecutor will also complete 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.

4.26. In assessing the Area's performance in preparing for the PTPH, we considered the key tasks the prosecution is required to complete, including filling

in the PTPH form for use by the Judge presiding at the hearing, carrying out direct engagement with the defence, drafting the indictment, ensuring the relevant material is uploaded to the Crown Court Digital Case System (CCDCS) prior to the hearing and ensuring an advocate is instructed in advance of the hearing, so that they have time to prepare.

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

4.28. If the instructed advocate is not employed by the CPS, they should read the instructions expeditiously and advise or confer with the Area within five days of receipt of their instructions. This does not need to be a formal advice; a note in a hearing record sheet or email, or a discussion with the Area lawyer will suffice. There is no similar provision for those holding the equivalent role in-house, called Crown Advocates.

The indictment

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

Direct engagement

4.30. The principles of better case management¹⁹ 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.

4.31. 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

¹⁹ Better Case Management; Courts and Tribunals Judiciary; September 2015. www.judiciary.uk/publications/better-case-management/

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 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.

Disclosure of unused material

4.32. 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 (CPIA) 1996. This stipulates that any material that might reasonably be considered capable of undermining the case for the prosecution, or of assisting the case for the accused, is disclosed to the defence. This underpins and ensures the fairness of the trial process.

Police duties

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

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

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

4.36. 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. This often results in delays to the case while the matter is addressed.

Feedback on police compliance with their disclosure duties

4.37. 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.

Initial disclosure

4.38. The prosecutor should assure themselves that all material that should be listed is included on the right schedules and is adequately described. The prosecutor makes an initial assessment and confirms the position to the defence, either by sending any documents that meet the test or confirming that no material meets the test. In both cases they must supply the 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 6C 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.

Continuing disclosure

4.39. In the Crown Court, 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. In magistrates' court cases, the defence may serve a defence statement but does not have to. If a defence statement is not served in a Crown Court case, an inference may be drawn from that failure at trial.

4.40. Upon 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 to the disclosure officer's attention 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.

4.41. The police should then carry out a further review of the unused material 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 falls to be disclosed. This is called continuing disclosure and, in the Crown Court, is stage three.

4.42. Any other material that is provided after that date must also be considered by the prosecutor and either served as evidence or dealt with as

unused material. If it falls to be disclosed it should be served on the defence 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.

Sensitive material

4.43. 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.

Recording decisions

Disclosure record sheets

4.44. In all cases, prosecutors must complete a disclosure record on the CPS case management system (CMS). This provides an audit trail for the receipt and service of the streamlined disclosure certificate 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. The disclosure documents received into the CMS and actions taken through Modern CMS (the newer version of CMS) are logged automatically onto the disclosure record, so the main input expected from the prosecutor is a record of the rationale for disclosure decisions.

Disclosure management documents

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

Victims and witnesses

4.46. We assessed a range of aspects to victim and witness issues at both pre and post-charge stages. This includes consideration of relevant and ancillary matters at charging to support victims and witnesses, timely and accurate witness warning, consideration of special measures, addressing witness issues, consultation with victims and witnesses, victim personal statements (where a victim makes a statement explaining the impact of the offending behaviour on them), and Victim Communication and Liaison scheme letters explaining the reasons for decisions to drop or substantially alter a charge.

Pre-charge

4.47. At pre-charge we examined whether, in cases involving victims and witnesses, appropriate consideration was given to the relevant issues. This includes 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 the victim, and compensation.

After charge

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

Communications with witness care units

4.49. 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.

4.50. 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.

Consulting victims and speaking to witnesses at court

4.51. Victims should be consulted where the CPS is considering accepting pleas to less serious charges, or a basis of plea, or discontinuing the case altogether. Victims should also be asked their views on restraining orders or other orders on sentencing that impact them. Victims and witnesses are also entitled to be given information when they attend court for a trial; this is referred to as the speaking to witnesses at court (STWAC) initiative²⁰ and is intended to explain what they can expect to happen, to better prepare them for the trial and to reduce their apprehension, so that they can give their best evidence.

Victim personal statements

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

Victim Communication and Liaison scheme letters

4.53. Victim Communication and Liaison scheme 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 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, 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.

²⁰ *Speaking to witnesses at court*; CPS; March 2018.
www.cps.gov.uk/legal-guidance/speaking-witnesses-court

Rape and serious sexual offences

4.54. Most allegations of rape and other serious sexual offences (RASSO) cases proceed in the same way as Crown Court cases, and are usually heard there. The information we have set out above in relation to those cases applies equally to most RASSO cases. There are, however, some differences, which we explain below.

Venue

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

Selection of charges

4.56. In RASSO cases, the selection of charges can be complicated, with different offences being relevant depending 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.

The trial advocate's duties

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

5. Added value and grip

What are added value and grip?

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

1.1. The CPS, in many cases, provides advice to the police at the pre-charge stage based upon 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.

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

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

5.4. We broke down casework quality into two key measures, which are 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; and victims and witnesses.

Added value

5.5. We defined added value as the difference made by prosecutors throughout the life of a case through good and proactive prosecution decision-making in accordance with the legal framework at both pre- and post-charge, and throughout the case. We drew on the relevant questions in our file examination that most show added value (these are set out in full at 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 the prosecutor has, in each case: analysed the material; identified additional lines of enquiry, including those that might point away from a prosecution, and asked the police to investigate further; considered any defence raised, identified ways to strengthen the case and also addressed how any weaknesses might be overcome; and has 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.²¹

Grip

5.6. 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.

5.7. 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

²¹ A statement not made in oral evidence that is evidence of any matter stated s114(1) Criminal Justice Act 2003.

- 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

5.8. 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 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 of 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.

5.9. Applying this mechanism, we have scored CPS North East as follows:

Table 5: Added value and grip scoring

CPS North East	Added value	Grip
Magistrates' courts casework	59.9%	54.1%
Crown Court casework	67.5%	74.2%
Rape and serious sexual offences	74.5%	76.4%

5.10. We discuss the pressures caused by the Covid-19 pandemic in relation to each of the types of casework below, but it is worth noting that the Area has also faced other challenges. It has restructured the operational delivery team and moved two Crown Court legal teams into one in the past two years. The Area has also recruited new staff and many other staff have moved roles; these changes have necessitated induction and training.

5.11. We will be better able to assess the success of the Area's efforts when live caseloads fall back to or near to pre-pandemic levels and it no longer has to contend with the unique pressures the pandemic has brought. As those ease

and experience grows within the lawyer and operational delivery cadre, the Area will have the opportunity to improve the quality of its casework across all aspects. The hard work and dedication shown by the casework teams under very difficult circumstances is a good indicator that growth is achievable.

Magistrates' courts casework added value and grip

5.12. At its highest, in August 2020, the Area's magistrates' courts caseload was 96% greater than the pre-Covid baseline. Even now, with finalisations having outnumbered receipts for some time, caseloads are still higher than before the pandemic by 37%. Prosecutors and operational delivery staff have therefore had significantly more tasks to perform, which inevitably will have reduced the average time they had to dedicate to each one. In addition, the Area suffered one of the highest staff abstraction rates – at one stage, it had half its operational delivery staff and 40% of its legal staff absent. Many of the new operational delivery and legal staff started in the magistrates' courts team, so much of the work involved in induction and training has fallen to the team.

5.13. The Area has adopted a 21-day target for charging decisions in more complex cases, although it is not part of the pilot which moves the target forward from 28 days to 21 days. We found that there were cases with multiple triages where the police had not supplied the right material to enable a charging decision to be made. This accords with Area data from quarter 4 of 2020-21 and quarter 1 of 2021-22 (data for April and May only), which show overall acceptance rates of police file submissions at charge of 53.5% and 41.4% respectively. Acceptance rates at first, second, third, fourth or fifth and later triages in more complex cases did not rise above 64.2% in the last quarter of 2020-21.

5.14. As we assessed timeliness from the final acceptance by the Area at a triage, the rejections at earlier triages did not impact on how we assessed the Area. We note it because it supports what the Area's documents, data and our attendance at the May meeting of the Area's Casework Quality Board showed were the difficulties in securing compliance by the police with the file standards in the Director's Guidance on Charging.

5.15. We found that cases were charged on time (that is, fully meeting the expected standard) in 79.2% of relevant cases, or were not charged on time but the delay was minimal and had no impact (partially meeting the standard) in 8.3% of cases. The remaining 12.5% (three cases) were rated as not meeting the standard, but none ended in an adverse outcome as a result of delay, and none were sensitive cases.

5.16. Decisions to charge were correct in 24 of the 28 Area-charged magistrates' court cases. Post-charge, there were also very few cases (three) that proceeded incorrectly. The Area is aware that there is room for improvement in the analysis of cases at charge and at post-charge reviews. All its prosecutors have undertaken the CPS Central Legal Training Team's case review standards training, and the Area has also been using its extensive quality assurance to identify where more work is needed, and to monitor compliance with the Director's Guidance on Charging, 6th edition (DG6). We will be able to assess the impact of the DG6 and case review training in our follow-up inspection in two years' time.

5.17. The Area scored highly for selecting of charges that reflected the suspect's culpability, gave the court sufficient sentencing powers to reflect that culpability if proved, and allowed the court to make appropriate preventative or other orders.

5.18. The standard of action plans at charge needs work. Poor CPS action plans do not help the police understand what is needed in a case and adds delay and inefficiency into the system. Good quality action plans will also afford the Area the opportunity to help the police build stronger cases. The Area's own disclosure compliance presents room for improvement, particularly at initial disclosure.

5.19. The Area has a system of peer-reviewing all letters to victims, which is commendable, but we found that some letters lacked empathy or needed better explanations. The Area is strong, however, at adding value by seeking appropriate orders at sentencing to protect victims, witnesses and the public.

5.20. Grip for magistrates' courts casework scored similarly to added value. The Area has in place effective systems to ensure timely completion of tasks at specific stages, such as reviews and initial disclosure, but needs to ensure that prosecutors more often meet the expectation that the case will be prepared effectively for the first hearing and hard media (such as CCTV or body worn video) served on the defence. In our file sample, both these aspects met with full compliance in just over half the relevant cases. Ensuring these tasks are completed properly before the first hearing will increase the likelihood of an early plea and better promote effective and robust timely management of contested cases from the outset.

5.21. Compliance with court directions, and reacting promptly and appropriately to correspondence from the court, defence, and the police show room for improvement.

5.22. In nearly two-thirds of cases, there was a clear audit trail on the CPS case management system of what had happened in a case.

Crown Court casework added value and grip

5.23. As in the magistrates' courts team, the Crown Court caseload has been much higher than pre-Covid. At worst, it was 84% greater, and is still 56% higher. The workloads increase the tasks that have to be done while reducing the time to do them. The Area has also experienced much higher-than-average staff-abstraction rates. Despite this, added value and grip were better in Crown Court cases than in the magistrates' courts.

5.24. All but one of the Area-charged cases in our Crown Court sample complied with the Code for Crown Prosecutors. Post-charge compliance was also very strong, again with only one case allowed to proceed incorrectly.

5.25. Charging was timely in fewer cases than in the magistrates' courts cases, but in most cases, the choice of charge was appropriate, reflected the offending alleged, and gave the court adequate sentencing powers in nearly all the cases we examined.

5.26. We noted similar issues with the standard of case analysis and strategy, and action plans at charge as we had in magistrates' court cases, against a similar background of rising caseloads, backlogs and significant pressures on the teams caused by the pandemic. After charge, reviews reached a higher standard, but still need to improve to fully meet the standard expected by the Area.

5.27. Victims and witnesses in the Crown Court cases in our sample received a service which we rated as partially meeting the standard expected. There was strong work in correct warning of witnesses, dealing with witness care unit queries and seeking orders to protect victims, witnesses and the public. The overall standard was let down, however, by not properly considering applications to support victims and witnesses at trial, and not recording in hearing records what had happened with victims' personal statements or that witnesses had been spoken to at court as required. The standard of communications with victims also shows room for improvement, especially in tone and the detail given in explaining decisions.

5.28. There is room to improve the use of appropriate applications, such as hearsay or bad character, to strengthen the prosecution case. We note that the Area has issued a podcast on one aspect of hearsay (*res gestae*) and is following up to make sure the podcast is widely viewed. The Area has also recognised the need to reinforce with prosecutors its expectations as to when

prosecutors will decide on and draft bad character applications, rather than leaving the decision and the application to counsel.

5.29. The disclosure of unused material was generally a strength for the Area, with continuing disclosure, the response to defence statements, and sensitive and third-party material all handled appropriately in most cases. There is more for the Area to do on the quality of initial disclosure, but disclosure was usually made in a timely manner at the initial and continuing stages.

5.30. The case study below shows the risks that poor grip entails and how, compounded by delays in the police response and those occasioned by the pandemic, a case can drift for too long before a robust decision is made. We noted the poor letter to the victim when no evidence was offered, but also that the letter replying to the victim's request for a review was of a much higher standard, giving a full explanation and accepting responsibility for those aspects of the case handling that were not of an acceptable standard.

Case study

A defendant was charged with causing danger to road users by interfering with a motor vehicle after he pulled on the handbrake of the taxi he was travelling in during a dispute with the driver about payment. The complainant (the taxi driver) said he told the defendant and the other two passengers he was going to drive them to the police station if they would not pay. The two others got out of the car and the driver set off. The defendant said the driver drove off at speed in the wrong direction, ignored his requests to slow down, and refused to accept his money for the fare. He was scared for his life, so tried to open the door and pulled on the hand brake to make the driver stop.

The charging advice provided by the Area lawyer did not set reasonable lines of enquiry for the police to trace the other two people in the taxi, and clarify some matters with the driver. The strengths and weaknesses of the case, particularly whether the defendant had a reasonable excuse for pulling on the handbrake, were not explored. Neither the post-sending review – nor the further review when the case prosecution case was served – addressed earlier deficiencies or set out a clear trial strategy.

The decision to charge was made in December 2018, the police issued a postal requisition in March 2019, and the first hearing was in May 2019. The trial date was vacated three times: once in November 2019 because the police had not supplied the 999 tape for the prosecution to review; the next in May 2020 because of the Covid-19 pandemic; and the third time in November 2020 because the taxi driver was overseas visiting his sick mother. The trial was relisted for September 2021. At the November 2020 hearing, the Judge invited the prosecution to re-review the case, but that did not take place until the end of

January 2021. The prosecution then asked for the case to be listed and offered no evidence on 3 February 2021.

While much of the delay was outside the control of the prosecution, there were ample opportunities for the case to be properly gripped, which were not taken. Six in-house lawyers and five advocates had conduct of the case at various stages, but the sufficiency of evidence was not questioned until the Judge suggested in November 2020 that the case be reviewed. The initial charging advice missed the opportunity to grip the case from the outset. None of the external counsel involved in the case completed the expected Bar Standards form. There was no material change in the case between charge and the final hearing.

The finalisation code used on the CPS case management system was inaccurate. It said the reason was “undermining evidence received or evidence ruled inadmissible”, neither of which was the case.

The complainant (the taxi driver) was not consulted about dropping the case, and the letter sent to him did not explain why the decision to charge had been overturned without any material change, or seek to explain the delays in the case.

The complainant exercised his victim’s right to review (VRR), and the Area recently replied to him accepting that the original decision to charge did not take sufficient account of the possible defence of reasonable excuse, and was wrong. It is clear that a lot of thought and care went into the VRR letter; it was very empathetic, acknowledged the raised expectations that charging gave rise to, and apologised for the flawed decision. It also addressed the delay.

The impact of lack of grip was that the case was allowed to drift when an effective review should have identified the weakness in the case at the outset and the case should have been stopped months earlier. This delay impacted on the complainant and on the suspect, who was awaiting trial. It also wasted valuable court time.

5.31. Grip is evident in the Crown Court in compliance with court directions, where we found that court orders were met in full and on time in 67.6% of the applicable cases. Hard media was usually shared in good time for the first hearing in the Crown Court, but other preparation for this hearing shows room for improvement. We noted inaccuracies or omissions in the plea and pre-trial preparation (PTPH) form, notably not addressing applications that were needed, or acceptable pleas. The latter undermines the possibility of concluding a case at PTPH, saving further work and giving finality for the victim and defendant.

5.32. We noted very few cases had instructions to counsel; the Area expectation is that the bundle supplied to the advocate, which includes reviews and the PTPH form, will give them the information they need. If the form and the review both omit crucial information, and we noted that too often they did, this means that counsel is not properly instructed and this can reduce the effectiveness of the hearing.

5.33. Grip was apparent in the way that correspondence from the court, defence and police was handled. We rated 77.8% of applicable cases as fully meeting the expected standard for properly dealing with defence and court correspondence and taking appropriate actions in response. New information from the police was reviewed promptly and acted upon effectively in 80.6% of relevant Crown Court cases in our sample. The response to communications from the witness care unit was particularly strong, fully meeting the expected standard in 90.9% of applicable cases.

5.34. In nearly two-thirds of cases, there was a clear audit trail of what had happened in a case on the CPS case management system.

Rape and serious sexual offences casework added value and grip

5.35. Rape and serious sexual offences (RASSO) casework was the strongest of the three types of casework for added value and grip.

5.36. All the Area-charged cases in our RASSO sample complied with the Code for Crown Prosecutors, and Code compliance after charge was also 100%.

5.37. The choice of charge was a strength in RASSO cases, which is particularly important given the challenges that such cases present, especially in non-recent allegations or those involving children.

5.38. As we had noted in magistrates' courts and Crown Court cases, the weakest aspects of RASSO work were case analysis and strategy at and after charge. This again, is against a background of rising caseloads, backlogs and significant pressures on the teams caused by the pandemic. Action plans at charge often did not set realistic timescales for further work to be conducted by the police.

5.39. Disclosure was rated as fully meeting the expected standard in most aspects in RASSO cases, but initial disclosure let down what was otherwise a strength for the Area. We found that prosecutors need to pay more attention to whether disclosure schedules are complete. Timeliness of disclosure was good,

and continuing disclosure, dealing with defence statements, and the handling of sensitive and third-party material all demonstrated added value and grip.

5.40. RASSO victims and witnesses received a good service in most cases. The quality of the work was let down by the consideration at charge of relevant applications and ancillary matters to support victims and witnesses. That was one of the few aspects of the Area's performance in relation to victims and witnesses that requires significant improvement. In other respects – such as warning witnesses, assessing the need after charge for special measures, and dealing with witness care unit queries – the Area added value to the case.

5.41. There was good recording of the orders sought at sentencing, which were appropriate, but compliance with the 'speaking to witnesses at court' initiative was not so well noted.

5.42. The Area is working closely with independent sexual violence advisers to build stronger communication and better support victims. The standard of communications with victims was better in RASSO cases than in other casework types.

5.43. Lack of consideration of acceptable pleas caused us to mark down the preparation for the plea and trial preparation hearing (PTPH). We reiterate our concern that where counsel is routinely not sent formal instructions and the PTPH form and reviews do not address key issues such as pleas or necessary applications, the effectiveness of the hearing is jeopardised.

5.44. Grip was demonstrated in compliance in RASSO cases with court directions (77.8% were rated as fully meeting the expected standard), sharing hard media (63.2% as fully meeting the standard), and in the prompt and effective handling of communications from the court and defence, police and witness care unit. In two-thirds of cases, there was a clear audit trail of what had happened in a case on the CPS case management system.

6. Casework quality: magistrates' courts casework themes

Introduction to magistrates' courts 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?

6.1. We examined 30 magistrates' court cases for casework quality; we assessed added value and grip, and analysed the cases in the four relevant casework themes. We 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 5 and annex F).

6.2. Our findings should be seen in light of the context we set out in chapter 2, concerning the impact on the Area of Covid-19, staff and structural changes and the quality of service the Area receives from its three police forces.

6.3. At its highest, in August 2020, the magistrates' courts caseload was 96.0% greater than the pre-Covid baseline. Even now, with finalisations having outnumbered receipts for some time, caseloads are still higher than before the pandemic by 37.0%. Prosecutors and operational delivery staff have therefore had significantly more tasks to perform, which inevitably will have reduced the average time they had to dedicate to each one. In addition, the Area suffered one of the highest staff abstraction rates – at one stage it had half its operational delivery staff and 40% of its legal staff absent. Many of the new operational delivery and legal staff started in the magistrates' courts team, so much of the work involved in induction and training has fallen to the team.

6.4. We have scored CPS North East for its magistrates' courts casework as follows:

Table 6: Scoring for magistrates' courts casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²² at pre-charge decision stage	Fully meeting the standard	83.3%
The Area selects the most appropriate charge(s) at pre-charge decision	Fully meeting the standard	77.1%
The Area's pre-charge decisions contain a clear analysis of the case and sets out a cogent case strategy	Not meeting the standard	49.6%
The quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	90.0%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy, including custody and/or bail	Not meeting the standard	55.4%
Disclosure		
	Not meeting the standard	46.0%
Victims and witnesses		
	Partially meeting the standard	67.2%

6.5. Our assessment of magistrates' courts casework was that there were aspects of casework that were done well, including compliance with the Code after charge, selection of the right charges, and looking after victims and witnesses. There were other aspects that required more focus, specifically case analysis and strategy at and after charge, and dealing with unused material.

²² *Code for Crown Prosecutors, 8th edition*; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

Pre-charge decision-making and review

6.6. 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

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

6.8. We rated the Area as **fully meeting the standard** for this aspect of pre-charge decision-making, with all but four of the Area pre-charged magistrates' court cases being compliant with the Code for Crown Prosecutors.

Table 7: Pre-charge Code compliance in magistrates' courts cases

Rating	Number of cases	Percentage
Fully meeting the required standard	24	83.3%
Not meeting the required standard	4	16.7%

6.9. In all but four of the cases we assessed, the Area prosecutor²³ correctly applied the evidential and public interest stages as required. All of the four cases where we determined that the Area had not correctly applied the Code were not sensitive. One was a live case and after we highlighted the case to the Area, their further review and direct engagement with the defence led to a plea being offered by the defendant to an alternative charge, which the Area correctly accepted. Another of the four cases ended in an acquittal after trial, and one in a successful submission by the defence of no case to answer. In the fourth case, the evidence became sufficient to meet the Code test after the defence agreed that hearsay evidence could be admitted, and the defendant was convicted at trial.

²³ 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.

Selecting the most appropriate charges

6.10. We discuss above (paragraphs 4.9 to 4.12) the criteria and guidance that assist prosecutors in deciding which are the most appropriate charges.

6.11. We assessed 62.5% of cases as fully meeting the standards on selection of charges, and a further 29.2% of cases as partially meeting the standard. There were two cases where the charge was wrong; the first was a flawed Code test decision (the defendant offered a guilty plea to an alternate offence). The second was under-charging a domestic assault and that case was dropped when the complainant did not attend for the trial.

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

6.12. Our assessment for this aspect of the casework theme is that the Area is **not meeting the standard**. Overall, the score for pre-charge review in magistrates' court cases is 49.6%.

6.13. We discuss above (paragraphs 4.13 to 4.17) the standards expected of a pre-charge review, and what should be included in instructions to the court prosecutor.

Case analysis and strategy

6.14. When considering case analysis and strategy, we assessed 25.0% or six of the 24 relevant cases as fully meeting the required standard, 20.8% (five cases) as partially meeting it, and 54.2% (13 cases) as not meeting the standard. The issues we identified in many of the cases marked as partially or not meeting the standard are set out below.

- Not addressing every element that was required to be proved. This accounted for three of the wholly unreasonable decisions: not being able to prove one suspect was a trespasser; that another had possession of an item said to be an offensive weapon; and in the third, that there was no admissible evidence to prove that a card used by the suspect was the same as had been stolen from the victim.
- Lack of consideration of the case as a whole; in weaker cases, often the review was a summary of the prosecution evidence as it stood then. Too few reviews adequately considered reasonable lines of enquiry that were relevant but had yet to be pursued, either to strengthen the prosecution case or to address likely lines of defence, even if raised in interview, and which may have pointed away from a prosecution. One of the wholly unreasonable decisions was based on a failure to consider the suspect's reasonable excuse.

- Cases lacking a trial strategy, which may have identified weaknesses either in the evidence or the unused material, or both, but without addressing how they would be overcome, or which amounted to simply a recitation of which witnesses to call, serve section 9, or tender. We noted from the Area's Casework Quality Board meeting we attended in May that the Area has identified an issue with not using agreed admissions as effectively as possible, which it is addressing.

6.15. Stronger examples (rated as fully meeting the required standard) were:

- good advice tackling self-defence and reluctant witnesses, as set out in the case study below
- in a burglary, where the house was unoccupied and being renovated at the time, the lawyer properly addressed how the prosecution would establish this was a dwelling.

Case study

The victim and defendant were known to each other, but were not on good terms. On the day in question, the victim was out with her friend, when they both decided to call on another person, who was a friend of the defendant. The defendant was already at his friend's house.

The victim's friend got into an argument with the defendant who was abusive to the victim's friend, and the victim told him to stop. The defendant threw the contents of his glass on the victim, who reciprocated by flicking her can of drink at him so some of the contents went on the defendant. He then punched the victim on the nose, causing a deviated septum and deformity of the nose. The victim did not lose consciousness, but things became very hazy for her at that point. She had not seen the defendant strike her, but her friend and the defendant's friend had. The victim's friend made a statement, but refused to sign it. The defendant agreed there had been an altercation, but said that the victim had hit him with a glass, so he pushed her away and she fell to the floor.

The prosecutor set a proportionate action plan when the file was first submitted for charge, tasking the police to explore reasonable lines of enquiry which might point towards the defendant (such as approaching the victim's friend again to see if she would sign her statement and give evidence) and away from him (including seeking cooperation from the defendant's friend and another person who was there). The police did not fully complete the actions, so the second consultation was not final. The advice to charge was given in the third request for charging advice.

Across the various advices, the prosecutor set out and properly dealt with the key issues in the case, including considering:

- how to prove that the victim was struck by the defendant
- whether the victim's friend's unsigned statement undermined the victim's account
- whether the prosecution could use the attending officers' body worn evidence on which the victim's friend said that the defendant had punched the victim
- what the defendant had said about the incident, and how to rebut self-defence. This included reference to injuries sustained by the victim and the lack of injuries to the defendant, and seeking better custody photographs of the defendant as confirmation
- the possibility of making a bad character application, including the ground for arguing it was admissible).

The prosecutor concluded, correctly, that there was sufficient evidence to charge, but that the prosecution would need to ask for a witness summons for the defendant's friend to ensure that he attended the trial. In fact, he attended voluntarily and the defendant was convicted after a full trial.

6.16. The Area has delivered review training to all prosecutors, but it was clear from the discussions at the Casework Quality Board we attended in May 2021 that this has yet to land fully with all prosecutors. The Area is using individual quality assessments to focus where remedial action is required and managers are tackling the issues with individuals where necessary.

Instructions to the court prosecutor

6.17. Almost all the magistrates' court cases in our sample had instructions to the court prosecutor that we assessed as fully (45.8%) or partially (41.7%) meeting the expected standard. We rated three cases (12.5%) as not meeting the standard. We noted that instructions on venue were often supported by reference to the relevant sentencing guideline.

Reasonable lines of enquiry and action plans

6.18. 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 (MG3). This allows for actions to the police 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.

6.19. In the MG3s we examined, action plans were found to be of varying quality, with eight cases (36.4%) fully meeting the expected standard, five (22.7%) assessed as partially meeting the standard, and nine (40.9%) as not meeting it. Weaker action plans often failed to include reasonable lines of enquiry that could point away from the suspect, which flowed from the lack of consideration of this aspect as part of the analysis and strategy. Poor action plans can lead to further requests to the police having to be made later in the case. This is not only inefficient for the police, but is also time consuming and avoidable. Some action plans also included actions needed within the body of the MG3 rather than in the specific action plan section of the document. We have identified this in previous thematic inspections as a matter of concern, because it impacts on how readily the police can view the action plan on their systems, and how straightforward it is for operational delivery teams to chase and escalate the actions if need be. We note that the Area had also identified this and was arranging for a presentation to prosecutors by one of their police forces to make them aware of the issues involved.

6.20. Stronger action plans identified gaps in the evidence and were proportionate about the tasks set to fill those gaps, explained clearly what was required, and gave realistic dates by which the actions should be completed.

Post-charge decision-making and reviews

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

6.21. Our assessment for this aspect of the casework theme is that the Area is **fully meeting the standard**. Overall, the score for Code compliance in magistrates' court cases is 90.0%. These cases included those that were originally charged by either the police or CPS Direct.

Table 8: Post-charge Code compliance in magistrates' court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	27	90.0%
Not meeting the required standard	3	10.0%

6.22. 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.

6.23. As the table above shows, in all but three of the cases we assessed, the Area prosecutor correctly applied the evidential and public interest stages as required. In all three cases we assessed as not meeting the required standard, we concluded there had been a wholly unreasonable decision at charge, which the Area had not corrected later. We give more details of the cases and their outcomes at paragraph 6.14 above.

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

6.24. Our assessment for this aspect of the casework theme is that the Area is **not meeting the standard**. Overall, the score for post-charge reviews in magistrates' court cases was 55.4%.

6.25. We discuss above (paragraphs 4.20 to 4.21) the standards expected of a post-charge review.

Case analysis and strategy

6.26. The standard of case analysis and strategy in the Area's magistrates' courts casework is better in post-charge reviews than at the charging stage.

Table 9: Standard of magistrates' courts case analysis and strategy, pre- and post-charge

Question	Magistrates' court cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	25.0%
Partially meeting the required standard	20.8%
Not meeting the required standard	54.2%
Post-charge analysis and strategy	
Fully meeting the required standard	43.3%
Partially meeting the required standard	30.0%
Not meeting the required standard	26.7%

6.27. Where cases fell below the expected standard in case analysis, the issues were similar to those identified at the charging stage (paragraph 6.14 to 6.16 above). We again saw examples of good reviews which put the case on its way to a successful outcome, including in an assault on an emergency worker, properly considering witness credibility, unused material and relevant applications helped to ensure that there was a conviction after trial. In another case, a neighbourhood dispute resulting in a racially aggravated assault, there was a history between the defendant and victim. The post-charge review developed the case strategy, made further enquiries with the police and progressed the case, which concluded in a conviction after trial.

Significant events

6.28. As cases progress, things can change which materially impact on the prosecution case. We discuss at paragraph 4.22 the expectations around reviews that should follow these significant events. There were four cases in our magistrates' courts sample that required a significant event review, and two were of a high quality and addressed the development(s) in the case appropriately. In one case, assessed as partially meeting the standard, the reviewer misstated the plea offered, and in the final case, assessed as not meeting the standard, no significant event review was carried out.

Feedback on police file quality

6.29. We discuss at paragraphs 4.18 to 4.19 the agreed National File Standard (NFS) for police file submissions, and the CPS role in feeding back to the police on compliance with it. One of the measures introduced across the CPS nationally to ease pressure resulting from the pandemic was to suspend the requirement to use the national file quality feedback (NFQ) mechanism on the CPS case management system. The Area also suspended formal use of NFQ

but used its own form to capture data about compliance, which it shared with the police. Some of the files we examined will have been reviewed after the suspension of the NfQ requirement, and this will account for why there is not a higher rate of feedback in our file sample. This showed that 46.7% (14 out of 30) of the magistrates' courts files submitted by the police to the Area complied with NfQ. The Area fed back lack of compliance either fully or partially in 37.5% (six cases out of the 16 that were deficient).

6.30. We discuss the steps taken by the Area with the police to address file quality in chapter 12 (strategic partnerships).

Does the Area fully comply with its duty of disclosure?

6.31. Our assessment for this aspect of the casework theme is that the Area is **not meeting the standard**. Overall, the score for disclosure in magistrates' court cases is 46.0%.

6.32. The duties of the police and CPS in relation to the disclosure of unused material are set out in paragraphs 4.32 to 4.45 above. We assessed the performance of the Area across a range of different aspects pertaining to unused material, including compliance with the duty of initial disclosure, correct endorsement of the schedule, timeliness, recording of the decisions on the disclosure record in the CPS's case management system and feeding back to the police where necessary.

Initial disclosure

6.33. We assessed initial disclosure in the magistrates' courts as **fully meeting the required standard** in 22.2% of cases (6 out of the 27 applicable cases). A further 40.7% (11 cases) were assessed as partially meeting the standard and 37.0% (ten cases) as not meeting the standard. The most prevalent themes where cases were assessed as partially or not meeting the standard were:

- the prosecutor said disclosable unused material was not disclosable (seven cases)
- the prosecutor did not identify that other obvious items of unused material were not scheduled (five cases)
- initial disclosure was not carried out at all (three cases).

Case study

The complainant and suspect were mother and daughter, respectively. They have had a difficult relationship at times and, on the day in question, the suspect came to the complainant's house and an argument ensued. The suspect allegedly assaulted her brother, but he and his girlfriend (also at the property) declined to cooperate with the police. It was also suggested by the complainant that an axe retrieved by her from the doorstep had been brought there by the suspect, although it was not alleged that the suspect had used it to threaten or inflict violence. The suspect was charged with possession of an offensive weapon.

The existence of and possible need to disclose unused material was not adequately addressed as part of the charging advice. The refusal by two witnesses to assist ought to have been disclosed. The prosecutor needed to consider, with a view to disclosure, information the police supplied about rumours circulating amongst neighbours. These were not particularised in the police submission, but police were told of them during house-to-house enquiries.

Relevant unused material was not provided by the police, nor chased by the Area, and while the post-charge review did consider what might and might not fall to be disclosed, initial disclosure was not carried out.

The case was discontinued for a reason unrelated to disclosure.

Sensitive material

6.34. There was one case featuring sensitive intelligence material in our magistrates' courts sample, the handling of which we assessed as **fully meeting the required standard**. In that case, the Area properly challenged a blank sensitive material schedule from the police and obtained revelation of intelligence information that undermined the complainant's credibility. The lawyer properly considered the impact of the material on the prosecution case and whether it was disclosable.

Other disclosure matters

6.35. There were no cases in the magistrates' courts sample with third-party material. There was one case where a defence statement was served, triggering continuing disclosure. The statement was served very late (the day before trial) so there was very little time for the Area to deal with it, but there was no action on CMS recording an attempt to do so.

Feedback on police compliance with their disclosure duties

6.36. In our sample of magistrates' court cases, the police service to the Area on disclosure was assessed as fully meeting the required standard in 23.3% of cases, partially meeting the standard in 43.3% and not meeting it in 33.3% of cases. The most common issues were the police supplying the wrong schedules, missing items off schedules and not providing a sufficiently detailed description of the items listed. The provision of unused schedules was also late in many instances.

6.37. Feedback to the police is an important part of driving improvement, and should occur despite the pressures on CPS Areas. However, we found that feedback by the CPS to the police was not meeting the expected standard in 20 out of the 23 cases (87.0%) where the police had not complied wholly or in part. We noted, in particular, that Area lawyers rarely challenged missing items or the use of the wrong schedule.

Disclosure record sheets

6.38. Two-thirds (66.7%) of the cases in our magistrates' courts sample had a full and accurate record of disclosure actions, decisions, and reasons on CMS, and a further quarter (25.0%) had a partial record. This left two cases (8.3%) where the disclosure record sheet did not meet the required standard. The disclosure documents received into the case management system and actions taken are logged automatically, so it is unsurprising that the main failure was lack of recording the rationale for disclosure decisions.

Area training

6.39. The Area has conducted training on the standard of endorsements of disclosure schedules and of completion of the disclosure record sheet, having identified those as issues from its quality assurance work. They were also included in the magistrates' courts team action plan. In our file sample, no cases failed because of the quality of the endorsements and only two cases were assessed as not meeting the standard for DRS. Our findings indicate training has been successful in these aspects.

Does the Area address victim and witness issues appropriately?

6.40. Our assessment for this aspect of the casework theme is that the Area is **partially meeting the standard**. Overall, the score for victim and witness issues in magistrates' court cases is 67.2%.

6.41. The duties owed by the CPS to victims and witnesses are set out in paragraphs 4.46 to 4.53 above. We assessed a range of aspects to victim and witnesses, including measures to support them giving their best evidence, witness care at court, and communicating and consulting with victims.

Pre-charge

6.42. At charge, the prosecutor should actively consider relevant applications and ancillary matters to support victims and witnesses. In our file sample, we assessed 43.8% of the 16 relevant magistrates' court cases as fully meeting this expectation, 37.5% as partially meeting it, and 18.8% (three cases) as not meeting it. Those three cases featured failure to consider compensation or a restraining order at charge, and not asking the police to provide a victim personal statement or information to support an application for special measures.

After charge

Witness warning

6.43. After charge, witness were warned correctly and in a timely manner (fully meeting the standard) in 65.2% of the 23 applicable magistrates' court cases in our sample. In a further 21.7% (five cases), we assessed witness warning as partially meeting the standard, and in the remaining three, the standard was not met. The flaw when cases were marked as partially or not meeting the standard was most often late warnings, but we also saw cases where a necessary witness had not been warned or consideration was not given to summoning a reluctant witness.

Communications with witness care units

6.44. We found that the Area's handling of correspondence from the witness care units (WCU) was mixed. Our inspectors rated 40.0% of the cases as fully meeting the required standard for timely and effective actions, 40.0% as partially meeting it, and 20.0% as not meeting it. We noted one case where the Area did not respond in a timely manner to a WCU request about whether the prosecutor was going to ask the court for a witness summons, and another where there was drift and a failure to grip a case where the witness had a hospital appointment that clashed with the trial date. There were no particular difficulties or

challenging features relating to witnesses in the cases marked as fully meeting the standard, but they were handled efficiently and effectively.

6.45. The Area had identified that its responses to WCU communications were not timely. While courts were not sitting in the early days of the Covid-19 pandemic, associate prosecutors and legal trainees were checking WCU communications and responding where they could, or passing the queries to lawyers. In April 2021, there were some 180 outstanding queries, which by July the Area had reduced to 40, most of which were new queries rather than older overdue ones.

Consulting victims

6.46. In our sample of magistrates' court cases, there were 18 cases that engaged the expectation for victims to be consulted and/or witnesses to be spoken to at court (STWAC). Of those 18, we assessed five (27.8%) as fully meeting the expected standard, eight (44.4%) as partially meeting it, and five (27.8%) as not meeting it. The most common issues were not consulting victims on acceptance of pleas or restraining orders, and either not recording that STWAC had taken place or not recording the contents of the discussion. This could potentially impact on disclosure obligations.

6.47. The Area has a checklist which acts as a prompt and also as a record of the STWAC conversation, but it is not used in the magistrates' courts, where the hearing record sheet should contain the information.

Victim personal statements

6.48. Victims are entitled, if they wish, to provide a victim personal statement (VPS) and to choose whether they would like to read it at sentencing, have it read out in court on their behalf, or for the judge to read it. In most cases in our magistrates' courts sample, we found that the Area had fully (66.7%) or partially (19.0%) complied with the victim's wishes about their VPS. This left 14.3% (three cases), which we assessed as not meeting the standard. The predominant reason for assessing cases as something other than fully meeting the standard was that the record of the hearing was silent as to what had happened with the VPS at sentencing.

6.49. We note that trial hearings are often covered by external advocates (in the magistrates' courts, they are called agents). The Area has set clear expectations for them and takes feedback from the courts about where agents are not of the calibre the Area would want. The Area also monitors compliance with the obligations in respect of VPS in conjunction with the police. However, there is clearly some work to do to reinforce with agents the need to record conversations with witnesses (see paragraph 6.46) and the use made of victim personal statements.

Orders at sentencing

6.50. This is a strength in the Area. In 70.6% of our magistrates' courts sample (12 out of 17 applicable cases) 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. A further 17.6% (three) of cases were assessed as partially meeting the standard, leaving 11.8% (two cases) which we assessed as not meeting it. In most of the cases falling below the standard, there was no indication on the record that compensation had been sought. We noted, however, that restraining orders with the terms necessary to protect victims were almost always obtained where relevant.

Victim Communication and Liaison scheme letters

6.51. Victim Communication and Liaison scheme letters were sent within the set timescales in three of the ten applicable magistrates' court cases (30.0%). Letters were late, but no more than 48 hours over the target in four cases, and more than 48 hours late in one case. There were two cases where no letter was sent.

6.52. Of the eight letters sent, five (62.5%) were assessed as fully meeting the expected standard. They provided empathetic and accurate accounts of the decisions taken in a way that was easy for the recipient to understand, and avoided the use of jargon. For example, there was one where an administrative error led to the victims of criminal damage being warned for an afternoon trial when it was listed in the morning. The letter apologised for this, even though, it transpired, the victims no longer wished to attend. In another letter, the reason for discontinuing the case related to undermining intelligence information held about the complainant. The letter explained the decision with appropriate brevity, and avoided being disingenuous as a result.

6.53. A further two victim letters (25.0%) were assessed as partially meeting the expected standard, and one (12.5%) was assessed as not meeting it. The latter was a case that used jargon in the explanation of the decision, which was confusing and unhelpful. It also failed to deal with why a charge based on the victim's original statement, advised on by CPS Direct and set down for trial by the Area, was no longer capable of proof.

7. Casework quality: Crown Court casework themes

Introduction to Crown Court casework

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

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

7.2. Our findings should be seen in light of the context we set out in chapter 2, concerning the impact on the Area of Covid-19, staff and structural changes and the quality of service the Area receives from its three police forces.

7.3. As in the magistrates' courts team, the Crown Court caseload has been much higher than pre-Covid. At worst, it was 84% greater, and is still 56% higher. The workloads increase the tasks that have to be done while reducing the time to do them. The Area has also experienced much higher-than-average staff abstraction rates.

7.4. We have scored CPS North East for its Crown Court casework as follows:

Table 10: Scoring for Crown Court casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²⁴ at pre-charge decision stage	Fully meeting the standard	97.1%
The Area selects the most appropriate charge(s) at pre-charge decision	Fully meeting the standard	86.8%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	47.6%
The quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	97.5%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Partially meeting the standard	64.8%
Preparation for the plea and trial preparation hearing		
	Partially meeting the standard	62.2%
Disclosure		
	Fully meeting the standard	71.7%
Victims and witnesses		
	Partially meeting the standard	68.3%

7.5. Our assessment of Crown Court casework was that there were aspects that were done well, including Code compliance at and after charge, selection of charges and disclosure. There were other aspects that required more focus, specifically case strategy and analysis at and after charge, and preparation for the first Crown Court hearing.

²⁴ *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 discuss the process by which cases are charged, and compliance with the Code for Crown Prosecutors in chapter 4 (paragraphs 4.1 to 4.8).

7.8. We rated the Area as **fully meeting the standard** for this aspect of pre-charge decision-making, with prosecutors correctly applying the evidential and public interest stages in all but one of the 34 Area-charged Crown Court cases.

Table 11: Pre-charge Code compliance in Crown Court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	34	97.1%
Not meeting the required standard	1	2.9%

7.9. The only charging decision not to comply with the Code was a burglary where identification from poor quality CCTV stills was the only evidence to prove that the person arrested was the burglar, and there was another equally credible although unknown suspect recorded on other CCTV footage. The Area dropped the case on the day of trial.

Selecting the most appropriate charges

7.10. We discuss in paragraphs 4.9 to 4.12 the criteria and guidance that assist prosecutors in deciding which are the most appropriate charges. This is a strength in the Area.

7.11. We assessed 76.5% of cases as fully meeting the standards on selection of charges, and a further 20.6% of cases as partially meeting the standard. There was only one case (representing 2.9%) where the charge was wrong. The charging lawyer ruled out the appropriate charge of robbery, and charged an assault and theft instead. Robbery was added at the first Crown Court hearing, but the victim later declined to come to court, so pleas to affray were accepted from both defendants.

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

7.12. Our assessment for this aspect of the casework theme is that the Area is **not meeting the standard**. Overall, the score for pre-charge review in Crown Court cases is 49.6%.

7.13. We discuss in paragraphs 4.13 to 4.17 the standards expected of a pre-charge review, and what should be included in instructions to the court prosecutor.

Case analysis and strategy

7.14. When considering case analysis and strategy, we assessed 28.6% – or ten of the 35 relevant cases – as fully meeting the required standard, 31.4% (eleven cases) as partially meeting it, and 40.0% (14 cases) as not meeting the standard. The weaker cases often did not feature a proper analysis and explanation of the case theory or trial strategy, or had elements of trial strategy woven into a case analysis in an unclear manner. Usually there was a recitation of the evidence with no, or an inadequate, assessment of strengths and weaknesses of the evidence and the impact of any defence(s) raised.

7.15. Stronger examples (rated as fully meeting the required standard) are highlighted below.

- A drugs case where the police had seen the defendant throw a package out of the window of his house when they came to arrest him for breach of bail. The case was straightforward, and the lawyer delivered a proportionate charging advice, setting out a strategy and evaluating possible lines of defence. They also tackled the police on their delay in bringing the case to the Area for charging advice.
- A s.18 wounding where the police file required two action plans to build it for charge. The action plans were thorough and realistic, and the advice properly assessed the credibility of the victim and defendant, and considered common law disclosure. The final lawyer drew on the two earlier advices effectively, and the three, taken as a whole, were assessed as fully meeting the standard expected for analysis and strategy.

Case study

The defendant and victim had been in a relationship, and lived on the same street. One evening, they met by arrangement and afterwards walked home together. There was no unpleasantness until the defendant discovered that the victim had a new partner. He then became abusive, violent and controlling, including pinning the victim down so that he could use facial recognition to unlock her phone and check it.

Over a period of about five hours, he repeatedly assaulted the victim by punching and kicking her, dragging her across the room by her hair, choking her and holding a blanket over her face. At one point he held a knife to the victim's throat and threatened to kill her, and he pulled his trousers down and said he would rape her. He also punched a door, caused damage to the bathroom and wrote a derogatory term on a mirror.

The victim tried to leave but was dragged back. Her second attempt at about 6am succeeded because the defendant slipped on a wet floor. The victim fled to a friend's house and her friend called the police. The victim sustained injuries consistent with her account; the defendant was also injured, which the victim said resulted from when she tried to fight him off.

The case was originally submitted to CPS Direct who set an action plan and put it over to the Area to review the victim's video-recorded evidence. The Area lawyer properly considered and recorded their conclusions on all the relevant factors including the credibility of the victim on the recording and that injuries were visible; the 999 call and friend's account which were consistent with the victim's account; the differing degree of injury both sustained and the impact on the defendant's account of acting in self-defence; and potentially undermining material (including a statement from the defendant's mother) which the lawyer concluded was not fatal to the case.

The lawyer advised appropriate offences (criminal damage, assault occasioning actual bodily harm, false imprisonment, and threats to kill) to give the court adequate sentencing powers. The victim was well-supported during the prosecution by an independent domestic violence adviser who was kept fully updated by the prosecution team. Special measures, including a live link at court, were dealt with in a timely manner, and permission was also arranged in advance for the victim's mother to support her in the live link room.

The victim attended court on the day of trial, at which point the defendant offered pleas to criminal damage and the assault. The victim was consulted and was content with the offered pleas, which the prosecution accepted on the basis that the court would be given the full facts, so that the false imprisonment and threats could be treated as aggravating features.

The defendant received a suspended prison sentence, and was ordered to complete 20 days of rehabilitation activity and attend 30 sessions of an accredited groupwork programme for domestic abuse perpetrators. Compensation was ordered, and the court made a ten-year restraining order prohibiting him from contacting the victim.

Instructions to the court prosecutor

7.16. Few of the Crown Court cases in our sample (four cases or 11.4%) had instructions to the court prosecutor that we assessed as fully meeting the expected standard. The majority were rated as partially meeting the standard (20 cases, 57.1%) and the rest (11 or 31.4%) as not meeting the standard. We noted that better instructions referred to sentencing guidelines when dealing with venue. Almost all the weaker cases did not adequately cover custody or bail and appropriate conditions, and we also noted instances where plea acceptability was not addressed, and content was not defined for the initial disclosure of the prosecution case.

Reasonable lines of enquiry and action plans

7.17. 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 (MG3). 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.

7.18. In the Crown Court MG3s we examined, action plans were stronger than in the magistrates' court cases, but still showed some room for improvement. Those rated as fully meeting (40.0%) or partially meeting the required standard (26.7%) accounted for two-thirds of the action plans. One-third of cases were rated as not meeting the standard, given that poor action plans can lead to further requests having to be made to the police later in the case. This is not only inefficient for the police, but is also time consuming and avoidable, and the Area needs to address this weakness.

Applications and ancillary matters

7.19. Nine of the 25 relevant cases (36.0%) considered appropriate applications and ancillary matters. We rated a further seven (28.0%) as partially meeting the standard for this aspect, leaving nine (36.0%) as not meeting the standard for considering applications. Where additional information is needed from the police to support applications – such as more details of the defendant's bad character or why a victim or witness needs special measures – a timely request at charging can prevent delays in making the application. Having a special measures order made as soon as possible provides reassurance to the victim or witness. In addition, the Area expects the reviews and other documents

to provide sufficient instructions to the court advocate, and the advocate cannot be properly instructed if the review contains inadequate consideration of applications and ancillary matters.

Post-charge decision-making and reviews

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

7.20. Our assessment for this aspect of the casework theme is that the Area is **fully meeting the standard**. Overall, the score for Code compliance in Crown Court cases is 97.5%. These cases included those that were originally charged by either the police or CPS Direct.

Table 12: Post-charge Code compliance in Crown Court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	39	97.5%
Not meeting the required standard	1	2.5%

7.21. 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.

7.22. As the table above shows, there was only one wholly unreasonable decision; this was the case that had also not met the Code at charge (see paragraph 7.11 above).

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

7.23. Our assessment for this aspect of the casework theme is that the Area is **partially meeting the standard**. Overall, the score for post-charge reviews in Crown Court cases is 64.8%.

7.24. We discuss in paragraphs 4.20 to 4.21 the standards expected of a post-charge review.

Case analysis and strategy

7.25. As with magistrates' court cases, the standard of case analysis and strategy in the Area's Crown Court casework is better in post-charge reviews than at the charging stage.

Table 13: Standard of Crown Court case analysis and strategy, pre- and post-charge

Question	Crown Court cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	28.6%
Partially meeting the required standard	31.4%
Not meeting the required standard	40.0%
Post-charge analysis and strategy	
Fully meeting the required standard	55.0%
Partially meeting the required standard	32.5%
Not meeting the required standard	12.5%

7.26. We found several examples of cases where prosecutors had carefully considered the case afresh and addressed relevant issues within the review, clearly adding value. One such case was where the suspect, a care worker, had assaulted a vulnerable care home resident. The offence chosen at charge did not properly consider possible difficulties with proving the victim in the case lacked capacity. Post-charge, the prosecutor re-considered the appropriate charge, leading to a conviction after trial.

7.27. Another case where the analysis was rated as fully meeting the standard was a domestic abuse allegation of assault occasioning actual bodily harm, of which the defendant was convicted after trial. It featured two very thorough reviews, one post-sending and one at service of the prosecution case, which both updated the case theory in light of developments and properly reviewed the position with bad character and special measures applications.

7.28. Some weaker reviews did not address missing evidence – for example, medical evidence in assault allegations, or errors in the charge, such as putting the wrong sort of burglary charge.

Linked cases

7.29. We noted several cases in our sample where checking the CPS case management system (CMS) for the suspect or complainant would have made the prosecutor aware of relevant information that either strengthened the case (bad character evidence) or weakened it (very recent proceedings against the complainant). In one case, it would have explained the lack of communication from a complainant who was incarcerated.

7.30. There is no expectation that lawyers check for matters recorded against complainants, and in discussion with the Area, they were clear that information

about other proceedings for defendant and victims ought to be supplied by the police. While that is true, the Area is also well aware of the difficulties they face in getting complete, accurate information from the police in a timely manner in a significant number of their cases, and the impact it can have on the case where they do not. CMS provides a quick link to cases registered to the same defendant, and it is not unreasonable for lawyers to conduct a brief check when reviewing a case, especially when doing so may build better cases or avoid wasting scarce resources.

Significant events

7.31. As cases progress, things can change which materially impact on the prosecution case. We discuss at paragraph 4.22 the expectations around reviews that should follow these significant events. There were 22 cases in our Crown Court sample that required a significant event review, and ten were of a high quality and addressed the development(s) in the case appropriately. In eight, we assessed the review as partially meeting the standard. In four, we recorded the review as not meeting the standard, and in three of those four, that was because the review did not take place.

Stage 1 reviews

7.32. In Crown Court contested cases, there are key stages following on from the first hearing in the Crown Court. The first of these is service of the bulk of prosecution materials, which should be accompanied by a review of the case and updates on any developments since the last review. This is a stage 1 review. In our sample, just under a third of cases (30.3%) received a review we rated as fully meeting the standard, but nearly half (45.5%) were assessed as partially meeting the standard, leaving about a quarter (24.2%) which we rated as not meeting it.

7.33. We noted many instances where the stage 1 review reiterated earlier reviews and added nothing to, or did not correct, outstanding issues. In one case, the prosecutor commented that they would be tasking the police with numerous actions to strengthen the case without setting out what the actions were and how they would accomplish the aim. One example which did add value was where the prosecutor outlined a clear strategy to deal with inconsistencies in the victim's account. This approach led to a late guilty plea.

Threshold test cases

7.34. There may be circumstances where the police do not have all the evidence needed to pass the full Code test, although they anticipate getting more, but the seriousness of the case demands an immediate charging decision. If the police intend to hold the suspect in custody, they can ask the CPS to make a threshold test charging decision. There are five conditions which must be met

before the threshold test can be applied, and a review applying the full Code test must be carried out as soon as the anticipated further evidence or material is received.

7.35. By their nature, these are usually the most serious offences and destined for the Crown Court, and if the suspect remains in custody for trial, the proceedings will be subject to custody time limits (CTLs). In our sample of Crown Court cases, we noted two instances where, after a threshold test decision at charge, there was no full Code test applied post-charge. This aligns with the Area's own findings of a review of custody time limit cases. We note that this issue has already been fed back to Area lawyers.

7.36. Since December 2020, the Area has been trialling early case planning conferences (ECPC) with Durham Constabulary for cases that are likely be threshold test cases and remanded into custody at the first hearing. The ECPC is held between the officer and an Area lawyer in the first week of the investigation, in an effort to agree the direction and nature of the work needed. It has been introduced for Crown Court and rape and serious sexual offence (RASSO) cases, although during the trial most of the cases were Crown Court cases. While there were some difficulties arranging the meetings quickly enough, the police feedback at the evaluation after the first three months was very positive. The Casework Quality Board we attended in May 2021 discussed the pilot and agreed to extend it to the Area's other two forces for RASSO cases from 1 July 2021.

Feedback on police file quality

7.37. We discuss at paragraphs 4.18 to 4.19 the agreed National File Standard (NFS) for police file submissions, and the CPS role in feeding back to the police on compliance with it. One of the measures introduced across the CPS nationally to ease pressure resulting from the pandemic was to suspend the requirement to use the national file quality feedback (NFQ) mechanism on the CPS case management system. The Area also suspended formal use of NFQ, but used its own form to capture data about compliance, which it shared with the police. Some of the files we examined will have been reviewed after the suspension of the NFQ requirement, and this will account for why there is not a higher rate of feedback in our file sample. This showed that 52.5% (21 out of 40) of the Crown Court files submitted by the police to the Area complied with NFS. The Area fed back a lack of compliance either fully or partially in 42.1% (eight cases of the 19 that were deficient).

7.38. We set out the Area's actions with the police to address file quality in chapter 12 (strategic partnerships) below.

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

7.39. Our assessment for this aspect of the casework theme is that the Area is **partially meeting the standard**. Overall, the score for preparation for the plea and trial preparation hearing (PTPH) in Crown Court cases is 62.2%.

7.40. In assessing the Area's performance in preparing for the PTPH, we considered the key tasks the prosecution are required to complete, including filling in the PTPH form for use by the Judge presiding at the hearing, carrying out direct engagement with the defence, drafting the indictment, ensuring the relevant material is uploaded to the Crown Court Digital Case System (CCDCS) prior to the hearing and ensuring an advocate is instructed in advance of the hearing, so that they have time to prepare. We have given more detail on these tasks in paragraphs 4.24 to 4.31.

7.41. In our file sample, the case was prepared properly for the PTPH, including completion of the PTPH form, fully meeting the standard in 19 of the applicable 39 cases (48.7%). The preparation was assessed as partially meeting the standard in 14 cases (35.9%) and as not meeting it in six (15.4%). There were instances of inaccuracies in PTPH forms, such as saying there was no medical evidence when the prosecution case included a statement from an A&E practitioner, or lack of clarity, such as not making clear what the prosecution position was on special measures for witnesses. In several cases, the preparation did not include the consideration of acceptable pleas. This omission prevents a much earlier conclusion of the case by way of acceptable pleas without the need for additional work by all parties, saving considerable resource and providing finality for the victim and defendant.

7.42. The police upload hard media (such as CCTV footage or body work videos) to secure online locations and send the links to the CPS. In our sample, the Area shared those links with all parties prior to the PTPH in 60.7% of applicable cases (17 out of 28). We rated a further 10.7% (three cases) as partially meeting the standard and the remaining eight (28.6%) as not meeting it. In the cases marked as falling below the standard, either some links in a case were not shared, or links were not shared with all the parties.

Direct engagement with the defence

7.43. The prosecution and defence are under a duty to engage with each other to ensure that the case progresses as effectively as possible. We explain this duty further in paragraphs 4.30 to 4.31 above. Usually, the first approach is made by the prosecution to the defence, and should be logged on a duty of direct engagement (DDE) log. The prosecution creates this on the CPS case

management system and should then share it with the court and defence by uploading it to the CCDCS.

7.44. Covid-19 has had a significant impact on the ability of the defence to respond to direct engagement approaches from the prosecution. Many defence firms furloughed employees, and their staff faced the challenges of home working, home schooling, illness and caring responsibilities that so many others have experienced during the pandemic and consequent lockdowns. This hampered the Area's efforts to engage with defence practitioners. Despite this, the Area was assessed as fully or partially meeting the standard for engagement in over three-quarters of applicable cases (76.3%). In one of the Crown Court centres, the Resident Judge prefers engagement between the defence and prosecution to be done via the comments section on the CCDCS, which the Area told us, would not necessarily be copied over to the CPS case management system. This may mean that more engagement has taken place than we could see.

7.45. Engagement was mainly by letter inviting the defence to contact the Area rather than by a telephone call, a sensible approach given the obstacles created by the pandemic.

7.46. This good work is undermined by the failure to upload the DDE log to the CCDCS in 20 of the 34 cases where a log was created. In one case, however, the DDE log was not completed or uploaded, but the reviewing lawyer did add to the CCDCS a full note for the Judge explaining the current position regarding the unrepresented defendant, and anticipating the need to prepare a paper bundle of the papers for him.

The indictment

7.47. We rated the indictment as being properly drafted in 61.5% of cases and partially meeting the expected standard in a further 28.2% of cases. We assessed four indictments (10.3%) as not meeting the standard. Examples of why indictments were rated as partially or not meeting the standard included typographical errors, omitting the Crown Court centre, including a duplicitous count, not setting out in the count(s) that the defendant was charged with another, and failing to correct an earlier error with a burglary charge.

7.48. The indictment and key evidence were served in a timely manner in 27 of the 39 applicable cases (69.2%). The evidence was served on time, but the indictment was late in six cases (15.4%) and neither were served on time in the remaining six (15.4%).

Instructing the advocate

7.49. We set out the expectations for what should be contained in instructions to the court advocate in paragraph 4.27 above. In our sample of Crown Court cases, there was only one set of instructions for the PTPH, leading to 88.5% of the sample being assessed as not meeting the standard.

7.50. The Area has no formal practice of not preparing instructions, but it is of the view that instructions are not mandated by the CPS standard operating practice (SOP). The SOP says that “where there are specific instructions for the Prosecuting Advocate then the 'Instructions to Advocate' document should be completed”. The Area expectation is that the review and prosecution advocate’s electronic bundle for the PTPH will contain sufficient information to enable the advocate to progress the case effectively. We have set out above the issues with the quality of reviews at and after charge. Where reviews fail to deal with key matters, such as bail or pleas, applications, significant developments, or the trial strategy, it follows that the advocate is not properly instructed on those aspects.

7.51. This means that special orders and other applications may be missed at the PTPH. We noted an instance where counsel contacted the Area, after the PTPH, to ask what the position was with special measures because the information as to what was needed was not set out in the documents sent to counsel. This meant the application had to be made later, missing an opportunity to provide reassurance to the victim. If other applications, such as bad character and hearsay, are not made in good time, the court could refuse to hear them, potentially weakening the prosecution case.

7.52. The absence of a formal instruction document hampered our ability to tell when the advocate was instructed. In over half our sample (52.8%), we either could not tell when counsel was instructed, or they were instructed less than seven days before the PTPH.

Does the Area fully comply with its duty of disclosure?

7.53. Our assessment for this aspect of the casework theme is that the Area is **fully meeting the standard**. Overall, the score for disclosure in Crown Court cases is 71.7%.

7.54. The duties of the police and CPS in relation to the disclosure of unused material are set out in paragraphs 4.32 to 4.45 above. We assessed the performance of the Area across a range of different aspects pertaining to disclosure, including compliance with the duty of initial disclosure and continuing disclosure, handling of sensitive and third-party material, the correct endorsement of the schedules, timeliness, recording of the decisions on the disclosure record in the CPS's case management system and feeding back to the police where necessary.

7.55. The Area has done a significant amount of work on quality assurance (which we discuss in chapter 10), including on improving the standard of disclosure. The result is that the Area is strong in most aspects of Crown Court disclosure. However, there is still some way to go in addressing the standard of initial disclosure.

Police service on disclosure

7.56. Police compliance with their disclosure obligations was assessed as fully meeting the required standard in 11 out of 30 cases (32.4%) and partially meeting it in a further 18 (52.9%), but not meeting it in the remaining five cases (14.7%). This represents a much better service to the Area than in magistrates' court cases. The most common issues were missing items off schedules and not providing a sufficiently detailed description of the items listed. The provision of unused schedules was also late in many instances.

7.57. It is important that full and appropriate feedback is provided to the police on disclosure failings so that their standard improves, and the Area receives a better service in future. However, we found that feedback took place and was accurate in under a third of applicable cases (30.4%). Feedback was assessed as partially meeting the standard in 13.0% of cases and not meeting it in 56.5% of cases. Usually this was because no feedback had been delivered.

Initial disclosure

7.58. We found that in nine of the Crown Court cases examined (out of 34 applicable cases, or 26.5%), the Area fully complied with its obligations at initial disclosure stage, and partially complied in a further 16 (47.1%). We assessed the remaining nine cases (26.5%) as not meeting the obligations. The most common reasons for marking down initial disclosure were:

- deciding that disclosable unused material was not disclosable (five cases)
- using the wrong endorsements on the schedule of non-sensitive unused material (the MG6C) (five cases)
- failing to sign or endorse a blank sensitive material schedule (the MG6D) (four cases)
- deciding that non-disclosable unused material was disclosable (three cases)
- failing to identify that obvious items of unused material had not been scheduled (three cases).

7.59. From its own assurance and assessments, the Area has identified two of the key issues that we noted (the use of the correct endorsements for disclosure schedules and failure to endorse blank MG6Ds) and has fed back to its staff. The Area now needs to pay greater attention to the substantive decisions at initial disclosure, and on identifying police scheduling errors.

7.60. In stronger cases, we found careful consideration of the impact of unused material on the prosecution case, and clear rationales for what was or was not disclosable. For example, in one instance, there was a sound decision not to disclose the victim's previous convictions because they were not relevant to an issue in the case.

Continuing disclosure

7.61. We rated continuing disclosure as fully meeting the standard in the majority of cases (71.4%), and partially meeting the standard in 7.1%. We assessed six cases as not meeting the standard. In one case, continuing disclosure was not done at all, and two cases featured unused material that had still not been scheduled. In another case, conflicting versions of the MG6C schedules at initial disclosure had not been resolved at the continuing stage.

7.62. One of the strengths of continuing disclosure was chasing the defence for the mandatory defence statement when it had not been supplied by the date set by the Judge at the plea and trial preparation hearing (PTPH). Defence

statements which were not received on time and were more than minimally late were chased in all but one applicable case (94.4%).

7.63. Another aspect of good work was the handling of the defence statement once it was received. All the defence statements in our file sample had been reviewed and/or some level of guidance was provided to the police on the further reasonable lines of enquiry indicated, adding value to the work.

7.64. We assessed the review and guidance of defence statements as fully meeting the expected standard in 73.3%, or 22 of the 30, applicable cases and as partially meeting it in the remaining 26.7%, or eight cases.

Timeliness

7.65. This is another strength for the Area. Initial disclosure was timely in almost all the relevant Crown Court cases (85.3%) in our sample. In nearly three-quarters of instances (71.4%), continuing disclosure was served on time.

7.66. We noted that in cases where it appeared likely that the prosecution would be unable to comply with the dates ordered for initial or continuing disclosure, extensions were sought from the court with information explaining why the Area was unable to meet the timetable set. In continuing disclosure, this was often because of late service of the defence statement.

Sensitive and third-party material

7.67. Sensitive material was dealt with effectively in five of the seven cases where it featured (71.4%) and partially so in another case. There were two cases with disclosable intelligence material. In one, the information was able to be disclosed without revealing the source and in another, the intelligence was reduced to an appropriate form of words, scheduled, and disclosed, enabling the case to proceed to trial.

7.68. Third-party material was also handled well, with six of the seven applicable cases (85.7%) rated as fully meeting the required standard, and the final case partially meeting it.

Recording decisions

Disclosure management document

7.69. Disclosure management documents (DMD) were not mandated in routine Crown Court cases until 1 January 2021, a change brought about by the sixth edition of the Director's Guidance on Charging. The Crown Court cases were governed by the guidance which preceded the change, so DMDs were not obligatory in volume cases. There was one case with a DMD in our Crown Court

sample, and it was initially completed appropriately, but was not updated after additional unused material was made available by the police.

Disclosure record sheets

7.70. Disclosure record sheets were usually completed fully and accurately, with 68.6% rated as fully meeting the expected standard. We rated the disclosure record sheet (DRS) as partially meeting the standard in 11.4% of cases, leaving 20.0% where it was rated as not meeting the standard. Where the DRS was marked down, it was predominantly because the lawyer had not recorded their reasoning for disclosure decisions or actions.

Does the Area address victim and witness issues appropriately?

7.71. Our assessment for this aspect of the casework theme is that the Area is **partially meeting the standard**. Overall, the score for victim and witness issues in Crown Court cases is 68.3%.

7.72. Chapter 4 (paragraphs 4.46 to 4.53) sets out the duties owed by the prosecution to victims and witnesses, and the aspects of victim and witness care which we assessed pre-charge and after charge.

Pre-charge

7.73. In Crown Court cases, the consideration of relevant applications and ancillary matters to support victims and witnesses was worse than in the magistrates' court cases, and this impacted on the overall score for victim and witness care. The charging advice fully addressed applications and ancillary matters in a third of applicable cases (33.3%), and was rated as partially meeting the standard in 22.2%, but as not meeting the standard in 44.4% of cases. Failure to properly consider special measures at charge risks delaying any request to the police for additional information that may be needed, or delaying the application itself and the reassurance for victims and witnesses that comes from knowing they will have the benefit of appropriate measures at the trial.

After charge

Warning witnesses and communications with witness care units

7.74. This is a strength for the Area. The best possible evidence was secured by the timely and correct warning of witnesses in almost all cases (91.2% or 31 cases) with the other three cases (8.8%) rated as partially meeting the expected standard. There were no cases rated as not meeting the standard.

7.75. Where the police witness care unit had queries about or from witnesses, or needed to pass on information, the Area responded effectively and in a timely manner in almost all cases (90.9%). Last-minute witness issues were addressed promptly and there was evidence of a real drive to find solutions to issues arising from specific situations relating to the witness or as a direct result of the pandemic.

Consulting victims and speaking to witnesses at court

7.76. Victims were consulted where appropriate and witnesses spoken to at court in over half the relevant cases (54.2%). We rated consultation or discussion as partially meeting the standard in 4.2% of cases and as not meeting the standard in 41.7%. This was usually because there was no record on the hearing record sheet to indicate that either had taken place or, where required, the content of the discussions.

7.77. The Area has a checklist for Crown Court cases which acts as a prompt and also as a record of the speaking to witnesses at court (STWAC) conversation. The documents sent to us included two examples from February 2021, but we did not see any on the cases in our sample.

Victim personal statements and orders on sentencing

7.78. Lack of a proper record on hearing record sheets was also the main reason for weaker ratings for dealing properly with victim personal statements (VPS). We assessed compliance with the victim's wishes for their VPS as fully meeting the required standard in just over half the relevant cases (53.3%), as partially meeting it in a further 33.3%, and not meeting it in 13.3% of cases. This does not mean that the VPS was treated otherwise than as the victim wished; in the main we could not ascertain what had happened as the record was silent.

7.79. We were able to tell from the hearing record sheet what orders had been sought at sentencing to protect the victim, witnesses and the public. We assessed the Area's work in this respect as fully meeting the standard in 64.3% of cases (9 out of 14), with 14.3% (two cases) partially meeting the standard and 21.4% (three cases) not meeting it.

Victim Communication and Liaison scheme letters

7.80. The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge. The letter was sent as required in all but one of the 12 relevant cases in our sample, with six sent on time, two late but within 48 hours of the target timescale, and three more than 48 hours late.

7.81. In terms of the quality of the letter, three of the 11 letters sent (27.3%) were assessed as fully meeting the expected standard, five (45.5%) as partially meeting it and three (27.3%) as not meeting it. Issues with those rated as

partially or not meeting the standard included lack of empathy, use of jargon, and inadequate explanations. In one case, the letter did not tell the victim why a decision to charge the defendant over two years earlier had been overturned and the case dropped. The delay was not the fault of the Area, but the letter did not explain that either. The complainant exercised their right to a victim's review (VRR), and the response to that request is very much better: accepting of faults in the case-handling, apologetic where appropriate and very empathetic.

7.82. Most of the letters were peer reviewed before being sent, which is standard practice in the Area, and part of a considerable investment in improving victim communications, which we discuss further in chapter 9 (public confidence).

7.83. The better letters used plain English, and avoided jargon and typographical errors, in providing accurate explanations for decisions. In one particularly good example, the letter was clear and accurate, respectful and empathetic. The victim's right to review was offered appropriately and there was sufficient explanation for the decision.

8. 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?

8.1. We examined 20 rape and serious sexual offences (RASSOs) 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. We used the same scoring mechanism as for added value and grip (set out more fully in chapter 5 and annex F).

8.2. Our findings should be seen in light of the context we set out in chapter 2 concerning the impact on the Area of Covid-19, staff and structural changes and the quality of service the Area receives from its three police forces.

8.3. We have scored CPS North East for its RASSO casework as follows:

Table 14: Scoring for RASSO 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	100%
The Area selects the most appropriate charge(s) at pre-charge decision	Fully meeting the standard	97.4%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	47.7%
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	Partially meeting the standard	67.9%
Preparation for the plea and trial preparation hearing		
	Partially meeting the standard	63.3%
Disclosure		
	Fully meeting the standard	80.2%
Victims and witnesses		
	Fully meeting the standard	78.3%

8.4. Overall, RASSO was the strongest casework category for the Area. Our assessment of RASSO casework was that most aspects of it were done well, including Code compliance, selection of charges, disclosure and victim and witness care. However, some aspects required more focus, specifically case analysis and strategy pre- and post-charge, and preparation for the first Crown Court hearing. There are factors relating specifically to RASSO cases that we set out at paragraphs 4.54 to 4.57.

²⁵ *Code for Crown Prosecutors, 8th edition*; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

Pre-charge decision-making and reviews

8.5. 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

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

8.7. We rated the Area as **fully meeting the standard** for this aspect of pre-charge decision-making, with all 19 of the Area's pre-charged RASSO cases being compliant with the Code for Crown Prosecutors. One case was charged by CPS Direct.

Table 15: Pre-charge Code compliance in RASSO cases

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

Selecting the most appropriate charges

8.8. We discuss above (paragraphs 4.9 to 4.12) the criteria and guidance that assist prosecutors in deciding which are the most appropriate charges. This is a strength in the Area.

8.9. In RASSO cases the selection of charges can be complicated, with different offences being relevant depending 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. We found that all but one of the 19 cases (94.7%) had been charged correctly, **fully meeting the expected standard**. The remaining case (5.3%) was assessed as partially meeting the standard because there ought to have been an additional charge from the outset; it was added when the indictment was drafted.

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

8.10. Our assessment for this aspect of the casework theme is that the Area is **not meeting the standard**. Overall, the score for pre-charge review in RASSO cases is 47.7%.

8.11. We discuss above (paragraphs 4.13 to 4.17) the standards expected of a pre-charge review, and what should be included in instructions to the court prosecutor.

Case analysis and strategy

8.12. When considering case analysis and strategy, we assessed 15.8% or three of the 19 relevant cases as fully meeting the required standard, 47.4% (nine cases) as partially meeting it, and 36.8% (seven cases) as not meeting the standard.

8.13. In weaker cases, the lawyer's analysis of the evidence did not clearly identify the strengths and, in particular, the weaknesses of the case and what the strategy would be to address those weaknesses at trial. We noted cases where the prosecutor had not adequately taken account of possible defence strategies and how to address them. This included one where there was a potential application the defence could make on bad character, and another which did not deal fully with the defence of entrapment.

8.14. In the three cases fully meeting the expected standard, the analysis and strategy reflected and carefully weighed the material that could prove undermining. They also had detailed and clear instructions to the court prosecutor. The cases are outlined below.

- An allegation that the victim was raped by her partner: there were various items of unused material that the defence could deploy to undermine the prosecution case. The suspect was acquitted at the second trial, the first having resulted in a hung jury. However, this case nevertheless demonstrated a thinking approach to case analysis, and a correct determination that a jury should hear the evidence and decide.
- An allegation against a Catholic priest that he had raped one of his parishioners (he was acquitted).
- A case where the victim was raped while she was asleep. The defendant said the victim was awake and consented, but was convicted after trial.

Instructions to the court prosecutor

8.15. Nine of the 19 Area-charged RASSO cases in our sample (47.4%) had instructions to the court prosecutor that we assessed as fully meeting the expected standard. The rest (ten cases, or 52.6%) were rated as not meeting the standard. There were no cases assessed as partially meeting it. We noted that better instructions referred to sentencing guidelines when dealing with venue. The weaker cases often omitted reference to bail, custody, appropriate bail conditions, and acceptability of pleas. These weaknesses can lead to appropriate restrictions on bail not being sought to protect victims, witnesses and the public, and to opportunities to resolve cases efficiently being missed, which wastes resources and delays finality for the victim and defendant.

Reasonable lines of enquiry and action plans

8.16. 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 (MG3). 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.

8.17. In the RASSO MG3s we examined, action plans were stronger than in the magistrates' courts or Crown Court cases, but still showed some room for improvement. Those rated as fully meeting (27.8%) or partially meeting the required standard (55.6%) accounted for over four-fifths of the action plans. Reasonable lines of enquiry to build cases were being identified in most cases, but we noted too often that the timescales set for actions to be carried out were unrealistic.

Applications and ancillary matters

8.18. Three of the 19 relevant cases (17.6%) had MG3s which considered appropriate applications and ancillary matters. We rated a further six (35.3%) as partially meeting the standard for this aspect, leaving eight (47.1%) where we rated the MG3 as not meeting the standard for considering applications. We found instances where orders at sentencing were not properly considered, but the main issue was with bad character applications. We noted that the weaker MG3s either did not consider bad character or simply delegated the decision to external counsel. The Area told us that it considers instructing counsel to prepare bad character applications is good value in more complex cases, as it is work that attracts a fixed fee, but that lawyers would be expected to draft straightforward applications. This expectation was reinforced recently, but the Area may wish to check that lawyers are complying and also that they are not abdicating responsibility for deciding whether an application should be made at all.

Post-charge decision-making and reviews

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

8.19. 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 – that is, the evidential and public interest limbs had been properly applied. These cases included reviews of the one case that was originally charged by CPS Direct.

Table 16: Post-charge Code compliance in RASSO cases

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

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

8.20. Our assessment for this aspect of the casework theme is that the Area is **partially meeting the standard**. Overall, the score for post-charge reviews in RASSO cases is 67.9%.

8.21. We discuss above (paragraphs 4.20 to 4.21) the standards expected of a post-charge review.

Case analysis and strategy

8.22. As with magistrates' court and Crown Court cases, the standard of case analysis and strategy in the Area's RASSO casework is better in post-charge reviews than at the charging stage.

Table 17: Standard of RASSO case analysis and strategy, pre- and post-charge

Question	RASSO cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	15.8%
Partially meeting the required standard	47.4%
Not meeting the required standard	36.8%
Post-charge analysis and strategy	
Fully meeting the required standard	45.0%
Partially meeting the required standard	45.0%
Not meeting the required standard	10.0%

8.23. We assessed nine cases as fully meeting and nine as partially meeting the expected standard in RASSO cases for post-sending reviews. This left two cases rated as not meeting the standard. In most cases, the post-sending review was conducted by the same lawyer that had given pre-charge advice. In weaker cases, we noted that they did not address changes to the case since charge, including in one case a fresh charge against the defendant and in another the change in defence raised at the first hearing at the magistrates' courts. In a further two cases, applications were not adequately addressed in the review.

8.24. In stronger cases, the lawyer had often already provided a strong charging advice, and then endorsed that they had reviewed items received since, and updated the review to reflect developments or correctly noted that there had been no significant changes since charge. This is entirely proportionate.

Case study

The victim was a vulnerable female who was alcohol dependent and met the defendant online. The parties met personally on three occasions in May 2019 and had consensual sex (twice at the home of the defendant and once at the home of the victim). On the final occasion, the complainant asked the defendant, whom she only knew by a pseudonym, to leave her home because he had overstayed his welcome. Before he left, the victim fell asleep and, when she awoke, found the SIM card had been removed from her phone.

The victim obtained a new SIM card. When her phone was activated, she received messages from the defendant containing images taken from a fake profile created on a website offering sexual services. The website profile included naked photographs of the complainant and advertised sexual services, with her home address given. The profile also contained photographs of the complainant apparently sleeping whilst sexual acts were performed on her. None of the intimate images showed the face of the person who took the images, but one photograph of the defendant's face was included at the start of the sequence, in a non-intimate context. The same images were found on the defendant's phone when he was arrested. The defendant said the taking of the photos and the activities recorded in them had been consensual.

The charging advice was weak, and did not address sufficiently or at all the trial strategy, the issue of consent, bad character on the part of the defendant, the strength of the victim's account, possible undermining material which may have impacted on the victim's credibility, acceptable pleas, or orders on conviction.

Post-charge, a different lawyer had conduct of the case and carried out a series of reviews. At the first post-sending review, they addressed all the matters that had not been properly considered at charge, including bad character. The lawyer evaluated the defendant's case advanced in interview, and tasked the police with enquiries to try to prove the creation by the defendant of the fake online profile. The lawyer also gave thought to the impact on the case of undermining unused material. Later reviews addressed developments as they arose.

The post-charge reviews turned the prosecution case from a recitation of some of the relevant facts into one that was cohesive, well thought-out and strong. The defendant offered pleas to the two most serious charges (two counts of assault by penetration) and to sending a grossly indecent message. He offered a basis of plea, which the prosecution refused to accept, and was sentenced on the prosecution facts to a total of 4 years, six months' imprisonment. Indefinite restraining and sexual harm prevention orders were made.

Significant events

8.25. As cases progress, things can change which materially impact on the prosecution case. We discuss at paragraph 4.22 the expectations around reviews that should follow these significant events. There were 11 cases in our RASSO sample that required a significant event review, and eight (72.7%) were of a high quality and addressed the development(s) in the case appropriately. In one, we assessed the review as partially meeting the standard because the review did not record why the offered pleas were acceptable, and in two, we recorded the review as not meeting the standard because it did not take place.

Stage 1 reviews

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

8.27. Stage 1 reviews were conducted less frequently or to a lower standard, than other reviews, and this contributed to the low overall score for this theme. We rated three of the 18 relevant cases (16.7%) as fully meeting the standard, five (27.8%) as partially meeting it and ten (55.6%) as not meeting the standard. There appears to be a practice that where the same lawyer provided charging advice and serves the case at stage 1, the review needed only be a precis or refer back to the charging advice. We noted that lawyers took this approach even where new material had arrived or other events had occurred, which needed to be reflected in the review. In our sample, just under a third of cases (30.3%) received a review that we rated as fully meeting the standard, but nearly half (45.5%) were assessed as partially meeting the standard, leaving about a quarter (24.2%) that we rated as not meeting it.

Feedback on police file quality

8.28. We discuss at paragraphs 4.18 to 4.19 the agreed National File Standard (NFS) for police file submissions, and the CPS role in feeding back to the police on compliance with it. One of the measures introduced across the CPS nationally to ease pressure resulting from the pandemic was to suspend the requirement to use the national file quality feedback (NFQ) mechanism on the CPS case management system. The Area also suspended formal use of NFQ, but used its own form to capture data about compliance, which it shared with the police. Some of the files we examined will have been reviewed after the suspension of the NFQ requirement, and this will account for why there is not a higher rate of feedback in our file sample. This showed that 55.0% (11 out of 20) of the RASSO files submitted by the police to the Area complied with NFS. The

Area fed back lack of compliance either fully or partially in 22.2% (two of the nine submissions that were deficient).

8.29. We set out the Area's actions with the police to address file quality in chapter 12 (strategic partnerships) below.

Conferences with counsel

8.30. There is a further opportunity to review cases presented by the conference with counsel, the officer in the case and any expert witness which should be held in allegations of rape or penetrative assaults. There were 13 such cases in our RASSO sample, and we found evidence that a conference had taken place in six. In the other seven, there was nothing on the case management system to indicate a conference had been held. This is a missed opportunity for the case team to come together to discuss the trial strategy, the strengths and weaknesses of the case, and if any further actions are needed. Where experts are involved it is also an opportunity for the expert to help the trial advocate understand better the relevant material, how to present it to a jury, and what possible areas of agreement and conflict there may be between the prosecution and defence expert evidence.

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

8.31. Our assessment for this aspect of the casework theme is that the Area is **partially meeting the standard**. Overall, the score for preparation for the plea and trial preparation hearing (PTPH) in RASSO cases is 63.3%.

8.32. In assessing the Area's performance in preparing for the PTPH, we considered the key tasks the prosecution are required to complete. This includes filling in the PTPH form for use by the Judge presiding at the hearing, carrying out direct engagement with the defence, drafting the indictment, ensuring the relevant material is uploaded to the Crown Court Digital Case System (CCDCS) prior to the hearing and ensuring an advocate is instructed in advance of the hearing, so that they have time to prepare. We have given more detail of these tasks in paragraphs 4.24 to 4.31 above.

8.33. In our file sample, the case was prepared properly for the PTPH, including completion of the PTPH form, and rated as fully meeting the standard in ten of the applicable 19 cases (52.6%). The preparation was assessed as not meeting the standard in the remaining nine cases (47.4%). In most cases that fell below the required standard, the acceptability of pleas was not addressed, meaning that there were reduced opportunities to conclude the case without the

need for additional work by all parties, saving considerable resource, and providing finality for the victim and defendant.

8.34. The police upload hard media (such as CCTV footage or body work videos) to secure online locations and send the links to the CPS. In our RASSO sample, the Area shared those links with all parties prior to the PTPH in 63.2% of applicable cases (12 out of 19), with a further 10.5% (two cases) being rated as partially meeting the standard and the remaining five (26.3%) as not meeting it. In the cases marked as falling below the standard, either some links in a case were not shared, or links were not shared with all the parties.

8.35. The Area practice is to request the unedited transcript of the victim's video-recorded evidence after charge so that it is ready for the PTPH. This is sensible and enables an earlier discussion between the defence and prosecution as to what editing needs to take place.

Direct engagement with the defence

8.36. The prosecution and defence are under a duty to engage with each other to ensure that the case progresses as effectively as possible. We explain this duty further in paragraphs 4.30 to 4.31 above. Usually, the first approach is made by the prosecution to the defence, and should be logged on a duty of direct engagement (DDE) log, which the prosecution should then share with the court and defence by uploading it to the CCDCS.

8.37. We discuss the impact of Covid-19 on this aspect of work in the section on Crown Court engagement above (paragraph 7.44) and the same factors hampered the Area's efforts to engage with defence practitioners in RASSO cases. The Area engaged slightly less in RASSO cases than in Crown Court cases. It was assessed as fully or partially meeting the standard in 63.2% of cases and not meeting it in 36.8%. Engagement was mainly by letter inviting the defence to contact the Area rather than by a telephone call, a sensible approach given the obstacles created by the pandemic.

8.38. There was an engagement log in 12 cases, but less than half (five) were uploaded to the CCDCS.

The indictment

8.39. RASSO cases present specific challenges when drafting indictments, particularly where the victim is a child, or the allegations are not recent. It is, therefore, a strength for the Area that the indictment was assessed as being properly drafted and fully meeting the standard in 73.7% of cases and partially meeting the expected standard in a further 21.1%. There was one case (5.3%)

which we assessed as not meeting the standard because the ages of the child and the dates were incorrect; they were amended belatedly.

8.40. The indictment and key evidence were served in a timely manner in 14 of the 19 applicable cases (73.7%). The evidence was served on time, but the indictment was late in four cases (21.1%) and neither were served on time in the remaining one (5.3%).

Instructing the advocate

8.41. We set out the expectations for what should be contained in instructions to the court advocate in paragraph 4.27 above. In our sample of RASSO cases, there were two sets of instructions for the PTPH, both of which we rated as partially meeting the expected standard, leading to 87.5% of the sample being assessed as not meeting the standard.

8.42. As we noted in relation to Crown Court cases (paragraph 7.50), the Area expectation is that the review and prosecution advocate's electronic bundle for the PTPH will contain sufficient information to enable the advocate to progress the case effectively. Again, concerns about the quality of reviews means that in too many cases, the advocate was not properly instructed. In one example, details of special measures requested for the victim (on a form MG2) were supplied to the Area three weeks before the PTPH. A review the day before the PTPH included a note that the application should be made at the hearing. Because neither the review nor the MG2 were enclosed in the advocate's bundle, counsel was unaware the application needed to be made, or the grounds for it, resulting in counsel raising a query about special measures after the PTPH. This is inefficient and also does not provide the victim with assurance at the earliest stage that they will have the measures in place to help them give their best evidence.

8.43. The absence of a formal instruction document hampered our ability to tell when the advocate was instructed. In over half our sample (52.9%), either we could not tell when counsel was instructed, or they were instructed less than seven days before the PTPH.

Does the Area fully comply with its duty of disclosure?

8.44. 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 80.2%.

8.45. The duties of the police and CPS in relation to the disclosure of unused material are set out in paragraphs 4.32 to 4.45 above. We assessed the performance of the Area across a range of different aspects pertaining to disclosure, including compliance with the duty of initial disclosure and continuing disclosure, handling of sensitive and third-party material, the correct endorsement of the schedules, timeliness, recording of the decisions on the disclosure record in the CPS's case management system and feeding back to the police where necessary.

8.46. In chapter 10 we discuss the significant amount of work on quality assurance carried out by the Area, including on handling unused material, and RASSO cases show strength in this regard. As with Crown Court cases, initial disclosure is the main aspect where improvement is needed.

Police service on disclosure

8.47. Police compliance with their disclosure obligations was assessed as fully meeting the required standard in seven out of 18 cases (38.9%) and partially meeting it in a further five (27.8%), but not meeting it in the remaining six (33.3%). This is a more mixed service to the Area than in Crown Court cases. The most common issue was missing items off schedules, but we also noted the addition of items that should not have been on the non-sensitive schedule, such as legally privileged material and the charging advice relating to another case.

8.48. Prosecutors identified and fed issues back fully in five out of the eleven cases with failings. They fed back partially in a further four (36.4%) and did not provide feedback in four cases (36.4%).

Initial disclosure

8.49. We rated eight of the 18 applicable cases (44.4%) as meeting the required standard and seven (38.9%) as partially meeting the standard, with the remaining three (16.7%) assessed as not meeting it. In those cases we rated as partially or not meeting the standard, the main reasons were not identifying items of unused material that were missing from schedules and not endorsing or signing a blank sensitive unused material schedule (MG6D). We also noted one case where the wrong endorsements were used and one where relevant reasonable lines of enquiry were not raised.

8.50. We noted in the chapter on Crown Court cases that the Area has identified, from its own assurance and assessments, two of the key issues that we noted (the use of the correct endorsements for disclosure schedules and failure to endorse blank MG6Ds) and has fed back to Area staff.

Continuing disclosure

8.51. The Area's compliance with its duties at continuing disclosure were much stronger, with 15 out of 18 cases (87.5%) fully meeting the standard, one (6.3%) partially meeting it and one case (6.3%) not meeting it. In the case assessed as partially meeting the standard, there was confusion as to what should be on the sensitive and non-sensitive schedules, which the prosecutor did not resolve. In the case marked as not meeting the standard, continuing disclosure was not done.

8.52. As with Crown Court cases, one of the strengths of continuing disclosure was chasing the defence for the mandatory defence statement when it had not been supplied by the date set by the Judge at the PTPH. Defence statements which were not received on time and which were more than minimally late were chased in five out of the seven applicable cases (71.4%). The only inadequate defence statement in our sample was properly challenged by the prosecutor.

8.53. Once the defence statement was received, ten out of the 13 (76.9%) were reviewed and/or some level of guidance was provided to the police on the further reasonable lines of enquiry indicated, adding value to the work. Three cases were assessed as not meeting the standard, with either no guidance provided, or no indication that the prosecutor had reviewed it.

8.54. There were two applications to the court by the defence for further disclosure, both of which the Area dealt with appropriately and robustly.

Timeliness

8.55. This is another strength for the Area. Initial disclosure was timely in almost all the relevant RASSO cases (83.3%) in our sample. In nearly three-quarters of instances (75.0%), continuing disclosure was served on time. As in the Crown Court sample, extensions were sought where needed.

Sensitive and third-party material

8.56. Sensitive material was dealt with effectively in eight of the ten cases where it featured (71.4%) and partially so in the ninth. In the one case rated as not meeting the standard, the schedule listed ten items that could have been redacted and listed as non-sensitive, and only one genuinely sensitive

document, which was not disclosable. The schedule was not endorsed or signed by the prosecutor.

8.57. Third-party material was a real strength, with all eleven applicable cases rated as fully meeting the required standard. Requests for third-party material were proportionate, with none made unnecessarily. The resulting material was reviewed, its impact evaluated, and items disclosed where the test was met.

Recording decisions

Disclosure management document

8.58. There is a strength for the Area. Disclosure management documents (DMDs) were created in all but one of the 19 applicable RASSO cases (94.7%). In one case, there was no DMD started at the outset of the case. The DMDs were completed properly, updated as necessary, and shared with the defence and court, thus fully meeting the standard in 17 out of the 19 cases (89.5%).

Disclosure record sheets

8.59. Disclosure record sheets (DRS) were completed fully and accurately in 38.9% of cases. The majority of DRS, however, were rated as partially meeting the standard (55.6%), usually because updating the record tailed off after initial disclosure. One DRS was rated as not meeting the standard because it contained no decisions on disclosure. There was a review on the classic version of the case management system (CMS) which included the lawyer's decision on unused material at initial disclosure. However, this was not copied over to the DRS, held on the modern version of CMS, and there was no other disclosure reasoning or decisions recorded in reviews, or on the DRS.

Does the Area address victim and witness issues appropriately?

8.60. Our assessment for this aspect of the casework theme is that the Area is **fully meeting the standard**. Overall, the score for victim and witness issues in RASSO cases is 78.3%.

8.61. Chapter 4 (paragraphs 4.46 to 4.53) sets out the duties owed by the prosecution to victims and witnesses, and the aspects of victim and witness care, which we assessed pre-charge and after charge.

Pre-charge

8.62. The consideration of relevant applications and ancillary matters to support victims and witnesses is one of the few aspects of the Area's performance in relation to victims and witnesses that requires significant improvement. The charging advice addressed applications and ancillary matters fully in two of the 15 applicable cases, partially in six, and was rated as not meeting the standard in seven. The issues we noted were inadequate consideration of the type of special measures that would best support the victim and not considering a restraining order alongside other preventative orders, such as sexual harm prevention orders.

After charge

Warning witnesses and communications with witness care units

8.63. Although consideration of special measures before charge was weak, after charge there was much more thought given to what was needed. Our sample showed that special measures were sought appropriately in 16 of the 18 relevant cases (88.9%), with the remaining two cases (11.1%) assessed as partially meeting the required standard. In one case, there was good work by the prosecution team to set up for the trial a video link on a police laptop at the home of a rape victim who was shielding during the Covid-19 pandemic.

8.64. In all the relevant cases in our RASSO sample (100%), the right witnesses were warned and in good time.

8.65. Where the police witness care unit had queries about or from witnesses, or needed to pass on information, the Area responded effectively and in a timely manner in all but one case (92.9%), ensuring that issues were addressed and resolved quickly. We noted that witness case officers appeared to be proactive and effective, which contributes to this very good joint working.

Consulting victims and speaking to witnesses at court

8.66. Victims were consulted where appropriate and witnesses spoken to at court more often in RASSO cases than other types of casework. We rated RASSO cases as fully meeting this standard in 64.3% of cases, as partially meeting the standard in 14.3%, and as not meeting it in 21.4%. As with Crown Court cases, where we marked cases down, it was usually because there was no record on the hearing record sheet to indicate that either had taken place or, where required, the content of the discussions.

8.67. The Area has noted that the engagement between the prosecution and RASSO victims' independent sexual violence advisers (ISVA) is primarily with counsel at the trial, rather than the Area lawyer. The Area identified this from

quality assurance work, discussed it at the Casework Quality Board meeting that we attended in May 2021, and is now encouraging its lawyers to make more direct contact with ISVAs in order to better support victims.

8.68. The Area has also very recently introduced a memorandum of understanding with ISVAs with objectives to:

- provide a line of communication between CPS prosecutor, ISVAs and their clients to discuss their case soon after a decision to charge the case has been made
- ensure victims can understand the role of the CPS and other criminal justice agencies and to help prepare them to give evidence if this becomes necessary
- explain the various options available to victims in providing their evidence in terms of special measures and pre-recorded cross examination, where they apply
- ensure CPS is fully aware of the victim's needs for the purposes of providing evidence
- reduce victim attrition rate arising through lack of victim engagement, whether this is through delay or other factors.

Victim personal statements and orders on sentencing

8.69. Lack of a proper record on hearing record sheets was the main reason for weaker ratings for dealing properly with victim personal statements (VPS). We assessed compliance with the victim's wishes for their VPS as fully meeting the required standard in 40.0% of the relevant cases, as partially meeting it in a further 33.3%, and not meeting it in 26.7%. This does not mean that the VPS was treated other than as the victim wished; in the main we could not ascertain what had happened as the record was silent.

8.70. We were able to tell from the hearing record sheet what orders had been sought at sentencing to protect the victim, witnesses and the public. We assessed the Area's work in this respect as fully meeting the standard in all but one of the 11 applicable cases (90.9%), with one case not meeting the standard. In that case, it would have been appropriate to apply for forfeiture of the electronic equipment used by the defendant to attempt to incite a child to engage in penetrative sexual activity, but there was nothing to indicate that an application was made.

Victim Communication and Liaison scheme letters

8.71. The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge. The letter was sent as required in all five applicable RASSO cases in our sample, with three sent on time, and two late but within 48 hours of the target timescale.

8.72. The standard of letters in RASSO cases is better than in other casework and it appears that peer review is more robust and effective. Four out of the five letters sent were assessed as fully meeting the expected standard, and one as not meeting it. The latter is detailed in the case study below.

Case study

Good work was done in this case in post-charge reviews, and the case was built to the point where the defendant pleaded guilty to three of the five counts, including the two most serious, which were penetrative assaults. The victim was particularly vulnerable and in need of support.

Having taken pleas to some but not all of the offences alleged, the prosecution was obliged to write to the victim explaining the decision not to proceed on the other two charges. The victim had not been consulted about the offer of pleas, so the letter was the first opportunity they had to understand why they had been accepted. The explanation was: "Those pleas were acceptable to the prosecution and to the police." The letter was impersonal; it did not display any empathy or recognise what a traumatic event the victim had experienced. It also did not explain that the pleas accepted involved the defendant admitting the most serious aspects of what he had done to the victim.

The letter was checked by a legal manager and peer-reviewed by the manager of the victim liaison unit before being sent.

The prosecution arranged for the letter to be delivered to the victim in person by an officer, but this was not sufficient to redress the lack of an adequate explanation.

8.73. The good letters used plain English, and avoided jargon and typographical errors in providing accurate explanations for decisions. There was one particularly good example, in a non-recent child abuse allegation, where the main reason for the discontinuance related to offences alleged (post charge) against the complainant. The letter gave an honest account of the rationale without blaming the victim, and maintained empathy.

9. Public confidence

9.1. One of the five aims of the CPS 2025 strategy²⁶ is to improve public confidence by “[working] with partners to serve victims and witnesses and uphold the rights of defendants in a way that is fair and understood by all communities”. In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of Area performance relating to public confidence with a specific focus on the impact on casework quality.

Correspondence with victims

Expectations

9.2. 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 scheme 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.

9.3. 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.

9.4. 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.

9.5. 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 should be directed to sources of support and other help.

²⁶ 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

Compliance with the Victim Communication and Liaison scheme

9.6. The Area monitors compliance with the VCL scheme and it is apparent from the documents we received that, where issues are identified, remedial action is taken. To assist in ensuring letters are sent, paralegal assistants email hearing record sheets to the Victim Liaison Unit (VLU) when the need for a VCL is triggered. However, the VLU reported difficulties meeting the one-day limit for vulnerable and intimidated victims (the enhanced service), in part because hearing records sheets were not being received in time to meet the deadline, and this was borne out by our findings. The Area therefore tasked paralegal staff in the Crown Court team to notify the VLU when any triggering event occurred in courts they were covering.

9.7. Our sample of 90 Area cases included 27 where a Victim Communication and Liaison scheme letter (VCL) was required. A VCL was sent within the required timescale in 12 cases (44.4%), and sent late but within 48 hours of the target date in eight cases (29.6%). This bears out what the Area told us about the issues with compliance in enhanced service cases. Letters sent more than 48 hours late and those instances where a letter was not sent at all were rated as not meeting the standard. The VCL was sent more than 48 hours late in four cases (14.8%), and there were three cases (11.1%) where no letter was sent.

Quality of Victim Communication and Liaison scheme letters

9.8. We assessed the quality of the 24 letters sent as set out in the table below. The standard of letters was best in rape and serious sexual offence (RASSO) cases, and weakest in volume Crown Court cases.

Table 18: Quality of Victim Communication and Liaison scheme letters

Casework type	Magistrates' courts	Crown Court	RASSO	All cases
Number of letters sent	8	11	5	24
Fully meeting the standard	62.5%	27.3%	80.0%	50.0%
Partially meeting the standard	25.0%	45.5%	0.0%	29.2%
Not meeting the standard	12.5%	27.3%	20.0%	20.8%

9.9. The Area has in the past noted lack of quality in some VLU communications with victims. The VLU uses bespoke paragraphs written by prosecutors, combining them with the standard templates to craft letters to victims. Victim Communication and Liaison scheme letters are peer-reviewed by

the Area's VLU manager, and a note made on the case management system (CMS) to show that the peer review has taken place. We found that most of the letters in our sample had been peer-reviewed.

9.10. A VCL panel reviews ten letters each month, and the return from February 2021 was included in the documents sent to us. The panel includes narrative on each letter, which is useful, but there is no overview or identification of themes, and no comparison with data from previous panel reviews. All the letters reviewed in February had accurate details and had been peer-reviewed. However, half the letters were noted as not being written in sufficiently plain English, and six of the ten lacked empathy. We saw some of the feedback given to the victim liaison officers and lawyers whose letters had been reviewed, including positive examples and where there were failings identified.

9.11. Feedback from other sources has been more positive, for example the Hate Crime scrutiny panel held in February fed back very positively on the standard of letters and commented that it was good to see their feedback from earlier panel meetings being taken on board. More recently, the Casework Quality Board we attended in May 2021 discussed feedback from the local scrutiny and involvement panel (LSIP), which was also positive about VCL letters.

Complaint and Victims' Right to Review responses

9.12. There were no instances in our file sample where the letter to a victim did not refer to the right to review when warranted. We note that the VCL panel report in February also recorded that all the letters reviewed that month offered Victims' Right to Review (VRR) where appropriate.

9.13. The Area maintains a weekly log of VRR and complaints, through which it monitors compliance with the timescales, including use of a traffic light rating to indicate how close the target date is. The VLU manager provides a report to the Area's casework quality board (CQB) which identifies themes and any learning or good practice, and where action is indicated, it is taken through the CQB. The Area also quality assures letters sent in response to victims' requests for reviews. The examples we saw dated back to August and September 2020, and identified similar issues to those we saw in VCLs, including lack of empathy and explanations that lacked sufficient detail or were confusing.

9.14. The manager of the VLU dip-samples correspondence sent to victims under duties imposed by the Victim's Code of Practice (VCoP), and reports on timeliness and quality to the relevant sub-groups of the local criminal justice boards, who monitor VCoP compliance. We discuss joint criminal justice work further in chapter 12 below (strategic partnerships).

9.15. The Area maintains a log of cases where the bereaved family scheme is engaged, which includes dates of key hearings, the lawyer, paralegal and counsel involved, and brief comments on communications. The log, which goes back to 2014, shows a higher degree of completion for earlier entries than later ones. It is updated every week, but the Area accepts that the entries could be more detailed and should include dates, and they have put in place a more robust process for the log's completion.

Victims' Code and Witness Charter

Expectations

9.16. The expectation is that 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, Victim Communication and Liaison scheme letters (discussed above), offering meetings, and compliance with the speaking to witnesses at court (STWAC) protocol.

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

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

Consulting victims and speaking to witnesses at court

9.19. We assessed the consultation with victims and STWAC as fully meeting the standard in nearly half the applicable instances (48.2%) and as partially meeting it in 19.6%, with 32.1% rated as not meeting it. The most common issues were not consulting victims on acceptance of pleas or restraining orders, not recording that STWAC had taken place or not noting the contents of the discussion. The Area has a checklist for recording STWAC in the Crown Court, and we were given two examples, but did not see any in our file sample. The checklists are not used in the magistrates' courts.

Victim personal statements

9.20. There were 66 cases with a victim personal statement in our sample. In just over half (54.5%), the victim's wishes regarding their VPS were complied with, fully meeting the standard expected. In 28.8%, we rated the VPS handling as partially meeting the standard, and in 16.7%, as not meeting it. The predominant reason for assessing cases as something other than fully meeting the standard was that the record of the hearing was silent as to what had happened with the VPS at sentencing.

9.21. We note that trial hearings are often covered by external advocates (in the magistrates' courts, they are called agents, and in the Crown Court, counsel). The Area has set clear expectations for agents and counsel. It takes feedback from the courts about where advocates are not of the calibre the Area would want, and has removed agents and counsel from its lists of approved advocates where necessary. However, there is clearly still some work to do to reinforce with them the need to record conversations with witnesses (see paragraph 9.19 above) and the use made of victim personal statements.

Offering meetings in all appropriate cases

9.22. The Area monitors compliance with the bereaved family scheme and the Victim's Code, both of which give certain victims the opportunity to meet the prosecutor (or trial advocate in the case of bereaved families).

Community engagement

9.23. The Area conducts appropriate engagement with the community to build public confidence. Key messages from engagement are taken forward through management and team meetings and also covered in the Chief Crown Prosecutor's regular newsletters. The Area has adapted to hold many of its community engagement events virtually during the pandemic lockdown.

9.24. There is extensive engagement on domestic abuse, RASSO and hate crime through local scrutiny and involvement panels, and listening conference calls are held for these three sensitive case categories. The scrutiny is themed around relevant topics such as victim attrition, cases where no further action was taken, child victims, stalking and harassment, and elder abuse. The Area also holds conversations with relevant sections of the community it serves, including: religious groups; black and minority ethnic communities; lesbian, gay, bisexual, transgender, intersex + groups; and representatives of those with a disability. The Area also has a focus on engaging with young people under its social mobility strand of activity.

The Area has adapted to hold many of its community engagement events virtually during the pandemic lockdown

9.25. There is an independent sexual violence adviser (ISVA) forum set up by the Area which met monthly at the outset, but which is now once every two months. One of the ISVA meetings prompted a cross agency meeting in February 2021 to deal with the ISVAs' feedback that the CPS seemed "faceless" to them and to consider the possibility of victims meeting the prosecutor after a charging decision had been

made. Lawyers in the RASSO team are also being encouraged to engage with the ISVAs supporting the victims in their cases.

9.26. The inclusion and community engagement manager (ICEM) reports monthly on public confidence activity to the Area's Casework Quality Board and Area Strategic Board, with actions that show who is to take forward the work identified. The feedback is shared via virtual team briefings and meetings. The ICEM also produces an annual report, and provided the Boards with a PowerPoint presentation for the six months' activity to the end of 2020-21.

9.27. The Area, with the ICEM, ran events celebrating black lives matter, hate crime awareness week and talking awareness week, and also held a black and minority ethnic staff forum. The Area participated in the pilot of quality assurance of inclusion and community engagement, with quarterly reports prepared, and we were provided with reports for two quarters, which showed, as well as media reports of the Area's work, an extensive programme of events carried out in both

quarters. The report evidences a two-way dialogue, with the Area updating communities on future plans, such as an action plan it is developing under the auspices of the national RASSO 2025 strategy, and comments from communities on aspects where work was done well or could be done better, for the Area to take forward.

10. CPS people

10.1. One of the five aims of the CPS 2025 strategy²⁷ is to support the success and well-being of its people, to enable everyone to thrive. In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of Area performance relating to CPS people, with a specific focus on the impact on casework quality.

Recruitment and induction, staff moves and succession planning

Expectations

10.2. 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

10.3. In January 2021, the Area was almost exactly at the expected numbers of legal staff that the national resourcing model calculated was required (which is called the "should take" figure). With recent recruitment, by March 2021, the Area was forecast to have a total of 137.38 (full time equivalent) legal staff at Senior Crown Prosecutor level.

²⁷ 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

10.4. The Area has benefited from average caseloads per prosecutor that, while high, for the most part have not increased as much as the national average during the pandemic. However, it has also experienced abstraction rates that are much worse than the national average. The documents supplied to us, including staff forum notes, convey real concern about the caseloads staff were carrying, especially SCPs in the Crown Court team.

10.5. The table below shows the increase in staff since March 2019 when the additional funding for prosecutors was announced:

Table 19: Legal staff in post (full-time equivalent)

	LM1	LM2	SCP	CP	Total
At 31 March 2019	10.86	3.00	66.65	5.19	107.37
At 31 December 2020	133.30	3.00	74.86	9.00	120.18

10.6. The Area uses bespoke induction plans for new starters, and we saw examples of plans for a range of staff which have review dates and are revisited. These are used not only for new starters, but also when staff move to a different role. They included paralegals, legal trainees and apprentices, new crown prosecutors, senior crown prosecutors and crown advocates. The Area has taken advantage of the availability of national support for managers of apprentices.

10.7. The induction plan for crown prosecutors is detailed, with clear expectations and key activities for the first 12 weeks of the plan, and setting out when reviews should be conducted, and the next steps planned. We also saw thorough plans for when lawyers moved into the RASSO team. A structured induction is particularly important here because of the nature of the work. There was also a bespoke induction when a new prosecutor with no criminal law background started in the Crown Court team.

10.8. There are handovers done between line managers when staff transfer to a new team. The examples we saw included all the relevant information the new manager would need, and are a good example of the Area working to ensure line managers are as well informed and supported as they can be.

Succession planning

10.9. Succession planning is addressed in an Area strategy, which has strands covering all the relevant aspects of the business. Not all the teams were keen to get involved in the Area strategy, and the Area struggled to engage some of the operational delivery staff in particular. Despite this, a session on succession planning at a staff development day garnered positive feedback from attendees. The Area also aims to use succession planning to move the Area staff demographic closer to the communities they represent.

Staff engagement

10.10. The Area's engagement strategy identified several themes to improve engagement, many of which centred around health and well-being, which has been more important than ever during the Covid-19 pandemic. The plan included the identification of learning and development needs during performance reviews, use of individual learning accounts and ensuring that good-quality career conversations take place.

10.11. Staff engagement in the most recent Civil Service People Survey in 2020 was good and had improved ten points from 2019, moving from 58% to 68%, putting the Area above the national average. While the overall score for employee engagement is stronger in the magistrates' courts and RASSO teams, all teams' engagement has improved since 2019.

10.12. The Area's business plan for 2021-22 included aspects of engagement, including issuing staff and leadership charters and engagement with staff via all-staff calls. These are held twice a week and cover some engagement activity, as well as casework themes, business matters and any relevant issues from the police, for example changes to Northumbria Police's digital case file.

10.13. The Area also has a strategy for well-being which includes monitoring the number of staff leaving the Area and average working days lost (AWDL), which has improved from 6.8 in quarter 4 of 2019-20 to 5.2 in the same quarter in 2020-21.

10.14. Staff are given positive feedback in various ways and good casework is recognised. This includes feedback to individuals (including from a District Judge in one case), use of "simply thanks", staff award nominations and citations, and mentions in the Chief Crown Prosecutor's (CCP) weekly newsletters. The newsletters also cover meetings she has attended both internally with other managers and externally, for example with Resident Judges or local community groups.

10.15. In 2020-21, the Area made 79 local nominations for staff recognition, twice as many as the year before. A commendation by the Director of Public Prosecutions (DPP) was secured for a team of senior crown prosecutors (SCPs) in January 2021 for case progression, and in March another team was nominated for winning a “better health at work” award. In May 2021, the DPP commended an Area SCP and a paralegal officer for their work on an extremely complex case involving a Serious Organised Crime and Police Act 2005 agreement²⁸. The case is believed to have been the most successful use of such a witness in England and Wales.

Learning and development

Expectations

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

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

Training plans

10.17. The Area has a training plan and a training forum. The plan has an extensive list of training activities, including various casework themes such as homicide, Victim Communication and Liaison scheme letters (VCL) training, youth specialism, Proceeds of Crime Act 2002, criminal law update, forensics, third-party material, and forensics. Alongside, there are IT courses, for example on use of the CPS case management system and the prosecutor app, which magistrates’ courts prosecutors use to access case files. The Area also holds training days and staff development days.

10.18. Records are kept of attendance at training, and there is some evaluation carried out, as evidenced by feedback by attendees at a training event on victim trauma. However, the Area recognises it has more to do to embed structured evaluation.

²⁸ A SOCPA agreement is an arrangement made between the CPS and a defendant willing to provide assistance to them with a view to securing immunity against prosecution or a heavily discounted sentence.

10.19. We saw evidence that the Area actively discusses with staff and plans for their career progression and development. Personal development reviews were completed for 98% of Area staff, one of the highest rates in the CPS.

10.20. The training forum discusses the training needs for staff in all grades, most of which are covered in the training plan. However, the plan does not record who attended the training listed or what evaluation took place to determine the effectiveness of the training in improving quality of casework. As a result, it is difficult to assess what impact the resource put into training is having. The HR advisor (who had access to staff's performance assessments and could identify training needs from them) and the training manager both left during the pandemic. The Area has replaced the training manager, but has still not got a new HR advisor. In their absence, the forum was able to take training matters to senior managers.

Personal development reviews were completed for 98% of Area staff, one of the highest rates in the CPS

10.21. Legal staff raised concerns in the national Civil Service People Survey about the impact of learning and development activity on casework pressures. New prosecutors in the magistrates' courts team also said in listening sessions with senior managers that they found it hard to make time for learning. In response, the Area proposed a half-day a month be set aside to allow staff to complete individual

learning and development, catch up on emails and carry out administrative tasks such as updating time sheets. The sessions were timetabled and could not be converted to flexi or leave. The trial started in March 2021 with court-facing staff, and is to be evaluated to see how best to take it forward. In the meantime, the Area is encouraging staff to make time for their own development.

10.22. Some training needs have been identified from the Area's quality assurance and analysis of data. These include, from domestic abuse assurance, the need for better understanding of victims' experience of crime and avoiding stereotypes, which led to the Area organising training on the impact of trauma on victims and their evidence. The feedback on the training was very positive. The Area conducted follow-up checks and discovered that it had landed well with the Crown Court team, but had been less effective in the magistrates' courts team. Work is now being undertaken with individuals by their managers to build more understanding and better application.

10.23. The Area has also identified, from domestic abuse data and analysis, the need for more development in prosecuting without the victim. One of the lawyers

has delivered training via a podcast on the use of res gestae²⁹, and the Area was developing another for evidence-led prosecutions generally. The Area checked who viewed the res gestae podcast to understand take-up and the need for further work.

Quality assurance

Expectations

10.24. 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 (IQA) and internal assurance to identify individual and wider good practice or performance, and weaknesses in casework quality, and to drive improvement.
- the analysis of IQA to identify specific training and interventions and implement them to drive improvement in casework quality
- casework quality assurance boards (CQAB) to drive actions and improvements in casework quality, including wider assurance work, in accordance with the CPS's quality standards for charging, case progression, disclosure, and advocacy.

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

Quality assurance activity

10.26. The Area has a range of internal assurance processes which are giving the Area a good understanding of issues with casework quality. These include:

- IQAs of lawyers' casework by their managers
- one-to-ones between managers and staff
- dip-sampling by legal managers to ensure compliance with the Director's Guidance on Charging
- quarterly reviews of adverse case outcomes

²⁹ Res gestae refers to things said in the course of an event, which the court is told about by someone other than the person who said them. This would normally be inadmissible, but in certain circumstances, the evidence may be heard by the court.

- reviews of Victim Communication and Liaison scheme letters (VCLs) by the victim liaison unit (VLU) manager
- monthly casework quality board (CQB) meetings.

10.27. The outcomes from the Area's assurance work generally aligned with the findings of our file examination. Some of the issues identified by the Area in 2020-21 and by this inspection include:

- proper use of the MG3 template to cover all aspects of charging advice
- special measures and bail not included in the instructions to the court prosecutor
- consideration of the strengths and weaknesses and case strategy in reviews
- not using s.10 admissions effectively
- not considering the victim personal statement properly
- use of the correct endorsements for disclosure schedules, not updating the disclosure record sheet and failure to endorse blank sensitive material schedules
- lack of empathy in rape and serious sexual offence (RASSO) VCLs and some victim-blaming
- feedback to police on file quality.

10.28. The Casework Quality Board (CQB) meeting we attended in May 2021 demonstrated a commitment to detailed evaluation of a range of issues impacting on casework across the three casework teams. The agenda includes embedded reports for adverse cases and IQAs.

10.29. There is good evidence that the Area uses IQA to target specific casework issues with a thematic approach, and that the Area is trying to improve casework quality via these assessments. We have seen examples of activities that resulted from IQAs, including training, individual feedback, and follow-up activity by managers.

10.30. During the pandemic, the CPS nationally determined that Areas could reduce the number of IQAs they carried out or stop them entirely, if the pressures the Area faced made that necessary. CPS North East continued to carry out IQAs, and used themes to focus the activity on higher-risk aspects of casework, such as hate crime in quarter 3 of 2020-21. Disclosure was identified as carrying risk, and the IQAs in quarter 4 of 2020-21 were focused on it to

evaluate the impact of earlier training and development activity, with some improvement seen.

10.31. The Area VLU manager was tasked in October 2020 with reviewing VCLs, and any that were considered sub-standard were passed to the relevant District Crown Prosecutors. The Area also invited independent sexual violence advisers to feed back to the Senior District Crown Prosecutor on issues with letters to victims from the RASSO team, and to give a presentation to lawyers on the impact letters can have on victims. Our file examination (albeit based on small numbers) showed that RASSO VCLs were better than those from other teams, which suggests that the work done has had an impact.

10.32. We were sent minutes of various team meetings, and emails and other communications to staff, which show that the key messages from casework quality assurance are being fed back to legal and operational delivery staff on a regular basis. Good work is also recognised, as we have discussed above (paragraphs 10.14 to 10.15). The Chief Crown Prosecutor's newsletters cite various aspects of good work, such as unduly lenient submissions resulting in longer sentences, or operational delivery staff driving down the volume of tasks on the casework management system.

11. Digital capability

11.1. One of the five aims of the of the CPS 2025 strategy³⁰ is to ensure that “our investment in digital capability helps us adapt to the rapidly changing nature of crime and improve the way justice is done”. In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of Area performance relating to digital capability, with a specific focus on the impact on casework quality.

Data analysis

Expectations

11.2. 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 – is analysed effectively, shared with staff, and used by managers to drive improvements within the CPS and externally with stakeholders.

Our findings

11.3. The Area documents we reviewed showed that the Area collects and produces data on a range of issues underpinning casework quality, including hate crime. There is also evidence from the Area Strategy Board (ASB) minutes that the Area understands its budget, structures, and issues within the Area. The actions from ASBs are clearly set out, detailed, and assigned at what appears to be the correct level. At the Casework Quality Board (CQB), we also noted a thorough approach to data from a variety of sources, including unit reports, dip-sampling, individual quality assessments (IQA) and management and performance data.

11.4. There is evidence the Area considers whether the information it uses is adequate. The CQB reviewed a rape and serious sexual offences (RASSO) report at the meeting we attended in May 2021 and, as part of that, it discussed what other performance measures it would be appropriate to deploy in meetings with the police.

11.5. In the documents supplied we have seen examples of where performance information and tools have been used to manage casework loads and quality. For example, the Area uses the 21-day charging tool effectively to prioritise charging submissions that have been waiting 21 days for a decision.

³⁰ 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

The Area performance manager supplies the data daily and the list is sent to those who may be available to do charging as a priority email.

11.6. Compliance with the sixth edition of the Director's Guidance on Charging (DG6) is monitored by the police and Area, broken down by police force, Area unit, and individual lawyers. Feedback to be delivered is noted on the lawyer compliance log, and the name of the line manager is included to facilitate this. In one example we saw, the compliance monitoring led to a further training need being identified for a lawyer.

11.7. More general charging data is tracked by each unit and compiled into a weekly Area-wide return for pre-charge decisions (PCD) and custody time limits (CTL). The charging data includes caseloads, cases awaiting charging decisions for each police force and how long they have been waiting, the number of action plans with the police and how long they have been awaiting a reply, and the number of cases charged. The PCD and CTL weekly reports also set out DG6 compliance and monitoring, and the number of outstanding letters that need to be sent to victims.

In one example we saw, the compliance monitoring led to a further training need being identified for a lawyer

11.8. Legal managers provide weekly assurance reports which cover a range of compliance issues, such as CTLs, resource efficiency model (REM) completion rates, compliance with checks of no further action cases, IQA, victim's right to review and complaints responses, and the PCD priority list. Task management and adverse outcomes are also included on a monthly basis.

11.9. Casework and performance data, and the issues identified are discussed at a range of management meetings, including the Area Strategy Board, CQB, and team management and staff meetings. Aspects of sensitive casework, such as domestic abuse and other hate crimes, are reported on and discussed at management meetings. Actions are assigned and followed up, and we noted from the May CQB that all but one of the actions set from the previous CQB had been completed in advance of the May meeting. Performance data is shared with teams via mechanisms such as team meetings and the Chief Crown Prosecutor's newsletter.

11.10. We saw some evidence of the Area using comparators. For example, the magistrates' courts meeting noted when monitoring of compliance on initial disclosure of the prosecution case (IDPC) had improved sufficiently to be in line with the national average for service within five days. This is also an example of where an issue was identified, work done to tackle it and improvement resulted.

From October 2020 to January 2021, the timely service of IDPC in not guilty anticipated plea cases moved from 34.2% to 75.8%.

11.11. Another example of the use of comparators was checking lawyers' completion of their resource and efficiency activity logs against national averages. This led to two actions being raised at the RASSO management team meeting. The action log showed that they were completed, and further analysis of the data had been done. However, this was an instance where it was not apparent from the documents supplied what improvement had resulted.

11.12. In the RASSO team, staff are able to note on an issues log any failings in the police file submission. Lawyers provide the information via an online form, which is a good tool for structured collation of data that aims to drive improvement.

11.13. The adverse case reports are considered within the Area at the CQB. We noted from the minutes and from attending the CQB in May 2021 that witness non-attendance was the primary reason for unsuccessful outcomes, and that the majority of these are domestic abuse (DA) cases. This is an issue that the CQB has focused on as an aspect for improvement, and work has been underway for some time, including setting up a DA channel on Teams, to collate material. Feedback has also been taken from local scrutiny involvement panels (LSIPs), and this highlighted that the hearing record sheets do not always record what steps were taken to contact the victim if they failed to attend, and whether proceeding without them (what is known as an evidence-led prosecution) was considered. The LSIPs also identified the quality of the DA checklists from the police as an aspect for improvement.

11.14. Data on charging and on advices to take no further advice (NFA) from national DA measures have also led the Area to identify issues with NFAs increasing. The analysis undertaken has included reviewing NFAs and dip-sampling charging advices. The work showed issues with stereotyping and not understanding victim behaviour so, as we discuss at paragraph 10.23, specific training was developed and delivered.

11.15. The Area uses performance data, case results and dip-sampling to feed back to police partners on file quality and other issues. We discuss work with partners in chapter 12 below.

Digital tools and skills

Expectations

11.16. The Area ensures that their people have the tools and skills they need to operate effectively in an increasingly digital environment. The Area includes digital skills audits within the training plan and delivers general and bespoke training to staff to enable them to effectively use the CPS case management system (CMS), Egress, digital case lines, court store and cloud video platform³¹.

Our findings

11.17. 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 the use of the cloud video platform (CVP) to conduct virtual or remote hearings. The Area delivered training on the use of Microsoft Teams at one of its staff development days.

11.18. The Area has carefully considered digital capability, and this is reflected in the teams' delivery plans. The Crown Court team delivery plan, for example, included the unit's preparation for the rollout of the CVP in Crown Court centres. It was updated later to show that crown advocates and paralegal officers were using CVP regularly, so it had become business as usual. Other actions in the magistrates' courts and rape and serious sexual offences (RASSO) team plans included training staff on using the common platform³², supporting use of the modern version of the case management system, and identifying single points of contact for the various elements of digital change. IT and digital skills are also included in induction checklists.

³¹ 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.

³² The common platform is a digital case management system, allowing all parties involved in criminal cases to access case information.

12. Strategic partnerships

12.1. One of the five aims of the CPS 2025 strategy³³ is to ensure that “the CPS is a leading voice in cross-government strategies and international cooperation to transform the criminal justice system”. In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of Area performance relating to strategic partnerships, with a specific focus on the impact on casework quality.

Strategic partnerships with the police

Expectations

12.2. 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 the following:

- national file standard (NFS)
- the Director’s Guidance on Charging, 6th edition (DG6)
- the Disclosure Manual, Criminal Procedure and Investigations Act 1996 (CPIA) and relevant codes of practice.

Our findings

12.3. There is evidence that the Area has good relationships at a senior level with the police and other criminal justice system partners, and there is a desire to work collaboratively to improve performance and standards of service. Some issues have proved more resistant to sustained and significant improvement, most notably police file quality.

12.4. The Area has trusted and mature relationships at a senior level with the police. The Chief Crown Prosecutor engages with Chief Constables via meetings and correspondence. Performance data is shared with police partners around issues such as compliance with the DG6 and the provision and standard of disclosure schedules.

12.5. Strategic prosecution team performance meetings (PTPMs) are held monthly and are well-attended by CPS and police. There is a PTPM for each of

³³ 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

the three police forces aligned to the Area, which are chaired by the CPS. In the case of the police delegates, they are what the Area considers to be the right personnel to effect change. There are regular discussions around conviction rates, guilty plea at first hearing, charging performance, file quality, disclosure, and other casework issues.

12.6. Our file examination considered issues with police file quality, which are discussed at these strategic meetings. The high-level relationships are good, but file examination data reveals that police file quality remains a challenge. Police compliance with the National File Standard was 51.1% (or 46 out of 90 cases rated as fully meeting the standard), and police compliance with their disclosure obligations was rated as fully meeting the standard in 30.5% of cases (25 out of 82).

12.7. There is evidence of the Area working with the police to try to increase police compliance with DG6. This was undertaken in part by using the national file quality (NFQ) data, but was supplemented by dip-sampling magistrates and Crown Court file submissions on a fortnightly basis and discussing the findings with the three forces.

12.8. Northumbria Police, which continues to be the least effective force for DG6 compliance, now has a Detective Sergeant seconded to the DG6 team, and the Area is highlighting weak and strong examples to them. These examples are also being used in police DG6 training. The force has very recently signed up to providing gatekeepers to check cases before they are submitted to the CPS. The Area is also working to tackle the impact of the police's problems with its IT.

12.9. A common issue is the lack of disclosure schedules being provided by police. The quality of schedules provided is also a theme that has been identified via the dip-samples and fed back to police. The Area's NFQ data shows some signs of improvement in police file quality, but from a low base.

12.10. Sensitive case data is also shared with the police. The Area's hate crime coordinator carried out a dip-sample of hate crime cases that had been subject to police decisions to take no further action and found that in some cases police had closed down investigations prematurely. The police agreed with the CPS analysis and planned to improve investigative standards with mandatory training for officers.

12.11. The Area has trialled early case planning conferences (ECPC) with Durham Police for Crown Court and rape and serious sexual offences cases that are likely be threshold test cases and remanded into custody at the first hearing. We discuss these further at paragraph 7.36 above.

12.12. The Area has shown a willingness to participate in police training, for example, one of the Area's district crown prosecutors created and delivered a training package on the Northumbria Police Apprenticeship Course, and the Area trained senior investigating officers on DG6 in January 2021. The Area has also invited the police to attend the prosecutors' DG6 training locally, which has been well received.

Strategic partnerships with the criminal justice system

Expectations

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

Our findings

Criminal justice partners

12.14. The quarterly local criminal justice boards (LCJBs) are attended by the Area at an appropriate level. Members of the senior management team engage with the Police and Crime Commissioner, members of the judiciary, senior police officers, defence representatives and third-sector agencies. The Deputy Chief Crown Prosecutor chairs the performance sub-groups for the LCJBs and there is a data-sharing agreement that ensures a comprehensive data pack can be shared among all participants. This is evidence of reliable and good relationships in place with criminal justice partners across the Area.

12.15. A concern that has been regularly raised at these meetings is the reduction in the rate of early guilty pleas at first hearings. In response to this, the CPS undertook an assessment of why defendants do not plead at first hearing. This included prosecutors providing reports on issues they faced at court. The CPS also increased the level of feedback on file quality at the prosecution team performance meetings (PTPMs) in the Crown Court. One of the issues highlighted was incorrect police identification of whether a magistrate's case will be an anticipated guilty or not-guilty plea. This has an effect on the level of preparation put into a file and the material served on the defence, which will influence the likelihood of obtaining a plea at first hearings.

12.16. All three LCJBs have victim and witness sub-groups, with plans for effective engagement with victims and witnesses. We were sent the plan for the Northumbria sub-group as an example. It has multi-agency actions and data where applicable, such as police compliance with the need to update victims on

key events. There is no evidence that CPS data is shared formally in the sub-group, although updates are given by each of the agencies at meetings, particularly around the impact of Covid-19.

12.17. In Northumbria, victim and witness care has been available from two sources: a charity called Victim First (set up under the auspices of the Police and Crime Commissioner) and the witness care units (WCU) run by the police. The competing services risked diluting the support available. In addition, the charity's support required victims to opt in (compared to the proactive approach made to victims by the WCU), and take-up was not as hoped. There has since been a victim service review, the two provisions have merged and a three-stage plan has been put in place, with the intention that all the services are in place by 2022.

12.18. There has been cooperative engagement and joint working with other criminal justice system agencies on issues relating to the pandemic that have been raised via the regional recovery group. This confirmed that the use of the cloud video platform (CVP) was to be encouraged wherever it is in the interests of justice to do so. There have also been steps taken to reduce the Crown Court backlog by, for example, the courts increasing trial capacity. We note the good work done with HM Courts and Tribunals Service in relation to backlogs in the magistrates' courts, the formation of Covid-19 holding courts, and the work done by the Area to carry out case progression checks to ensure that trials could be heard as soon as possible in the circumstances.

Self-employed barristers (counsel)

12.19. The Chief Crown Prosecutor (CCP) holds regular meetings with the individual heads of counsel's chambers and there are liaison meetings with counsel which are attended by the CCP and senior management from the Area. These meetings are an opportunity to discuss developments and issues as they arise. We saw examples of this in the minutes provided, such as the use of disclosure management documents (DMDs) in all Crown court cases. Counsel were asked to feedback to the Area on the quality of DMDs and any reasonable lines of enquiry that had been missed.

12.20. The importance of calculating and agreeing custody time limits at court is an issue that has been discussed and guidance was sent to chambers. The Area also discussed and went on to draft a memorandum of understanding which outlines the level of service the CPS expects from counsel and what counsel can expect from the CPS.

12.21. In our file sample of 60 cases from the Crown Court and rape and serious sexual offence (RASSO) units, there were 26 instances where a timely advice on evidence was not delivered. In the one Crown Court case where we

concluded that the Code for Crown Prosecutors was not met, counsel covered the plea and trial preparation hearing (PTPH) and a case management hearing, but did not supply an advice on the evidence until three days before trial, when the issues with identification were apparent from the outset. The Area was aware of the issue with timely advices, and we noted that in February 2021 there was an entry in the log of actions from meetings with heads of chambers that bar standard advices were discussed.

12.22. The Area will be a RASSO pathfinder, so is looking to expand its awareness of what happens at court, and also assure itself that counsel are providing value for money. From June 2021, legal managers have been attending PTPHs virtually to observe the performance of counsel, and the Deputy CCP also reviews counsel as part of her involvement in their applications to move to a higher grading. Feedback is also provided by the very experienced paralegals who attend the Crown Court, and by crown advocates.

Other engagement

12.23. The Area regularly engages with local scrutiny panels for hate crime, domestic abuse, and rape and serious sexual offences (RASSO). It engages with local schools and community groups, and participates in a forum for independent sexual violence advisers, with whom it has a memorandum of understanding. These are covered in more detail in chapter 9 above (public confidence).

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' courts 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' courts casework decisions are timely and of good quality.
- The Area fully complies with its duty of disclosure throughout its magistrates' courts casework.
- The Area addresses victim and witness issues appropriately throughout its magistrates' courts casework.
- The Area progresses its magistrates' courts casework effectively and efficiently.
- The Area exercises sound judgement and adds value in its magistrates' courts casework.
- The Area has a clear grip of its magistrates' courts casework.

Crown Court casework

- The Area exercises sound judgement and adds value in its pre-charge decision-making in Crown Court cases.
- The Area's reviews and other Crown Court casework decisions are timely and of good quality.
- The Area fully complies with its duty of disclosure throughout its Crown Court casework.

- The Area addresses victim and witness issues appropriately throughout its Crown Court casework.
- The Area prepares its Crown Court cases effectively for the plea and trial preparation hearing in the Crown Court to ensure progress is made.
- The Area progresses its Crown Court casework effectively and efficiently.
- The Area exercises sound judgement and adds value in its Crown Court casework.
- The Area has a clear grip of its Crown Court casework.

Rape and serious sexual offence (RASSO) casework

- The Area exercises sound judgement and adds value in its pre-charge decision-making in RASSO cases.
- The Area's reviews and other RASSO casework decisions are timely and of good quality.
- The Area fully complies with its duty of disclosure throughout its RASSO casework.
- The Area addresses victim and witness issues appropriately throughout its RASSO casework.
- The Area prepares its RASSO cases effectively for the plea and trial preparation hearing in the Crown Court, or first hearing in the youth court, to ensure progress is made.
- The Area progresses its RASSO casework effectively and efficiently.
- The Area exercises sound judgement and adds value in its RASSO casework.
- The Area has a clear grip of its RASSO casework.

Evidence will be drawn from:

- Baseline file examination
- Charging dashboard (timeliness)
- Adverse outcome reports
- Disclosure Board minutes

- Local Case Management Panel minutes (volume casework)
- Self-assessment meeting with Area CPS

B. Public confidence

Does the CPS provide a fair experience for victims and witnesses?

All correspondence with victims is accurate, timely and empathetic.

- Communications in writing with victims use plain English (translated where necessary), are grammatically correct, have clear explanations and avoid the use of legal jargon.
- The Area complies with the timescales for Victim Correspondence and Liaison (VCL) letters.
- The Area complies with the timescales for complaints and Victims' Right to Review (VRRs).
- The Area conducts internal quality assurance of all victim communication (VCL, BFS complaints and VRR).

The Area complies with its responsibilities defined in the Code of Practice for Victims of Crime and The Witness Charter in respect of Victim Personal Statements, VCLs, meetings and compliance with the speaking to witnesses at court protocol.

- VPS are chased, and the victim's wishes sought around the reading of any VPS in court. Those wishes are adhered to at sentence, whether at first hearing or following trial.
- The Area conducts assurance internally to ensure that VCLs are sent on all appropriate cases pre- and post-charge.
- Meetings are offered to victims in all appropriate cases.
- The Area complies with the speaking to witnesses at court protocol.

Evidence will be drawn from:

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

- Quality assurance reports internally – monthly or one-off – in relation to the Code of Practice for Victims of Crime/Witness Charter, VCL, VPS, BFS, complaints and VRRs
- VCL performance data
- Advocacy Individual Quality Assessment (IQA) data for STWAC compliance
- Complaints and VRR performance data
- Witness Care Unit meeting minutes
- Scrutiny Panel minutes, actions and any associated learning
- Complaints log
- VRR log, including volume and detail of any overturned decisions
- Self-assessment meeting with Area CPS

C. CPS people

Does the Area support their people with the skills and tools they need to succeed and develop?

The Area has a clear strategy for recruitment, induction, succession planning, development and retention.

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

The Area has a continuous learning approach that is effective in improving casework outcomes.

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

The Area uses internal assurance to improve casework quality.

- The Area uses internal assurance (including IQA where applicable) effectively to identify individual and wider good practice/performance and weaknesses in casework quality to drive improvement.
- The Area uses the analysis of IQA (where applicable) or other internal findings effectively to identify specific training and interventions, and implements them to improve casework quality.
- The Area's casework quality assurance board (CQAB) drives actions and improvements in casework quality, including wider assurance work, in accordance with CPS quality standards around the following:
 - Charging
 - Case progression
 - Disclosure
 - Advocacy (we are not assessing advocacy in this inspection programme, but we will include how the Area develops advocates to improve casework quality)

Evidence will be drawn from:

- Area business plan
- Workforce planning models
- Staff in post figures, current and at 1 April 2019
- People strategy/area succession planning documents
- Minutes of meetings to discuss team composition and resources
- Casework Quality Assurance Board (CQAB) minutes
- Training plan

- Induction plans – new starters, movement between teams and new managers
- Minutes or other notes of coaching and/or development conversations
- Civil Service People Survey results at Area and team level
- CQAB observation
- IQA assurance records including numbers, timeliness, dip checks and any resulting management reports,
- Internal assurance reports on charging, case progression or disclosure
- Recent examples of 'Simply Thanks' or other acknowledgements of good work in the field of casework or victim and witness (V&W) care by individuals or teams (suitably anonymised)
- Any commendations or other recognition by stakeholders of excellent casework or V&W care
- Minutes of Area meetings of magistrates' courts, Crown Court or RASSO boards, or any other business board addressing casework quality issues (joint board minutes are requested under section E below).
- Self-assessment meeting with Area CPS

D. Digital capability

Does the CPS use data to drive change to improve casework quality?

The Area collects and analyses data to deliver improvement in casework quality.

- Performance in key aspects including CPS high-weighted measures. National File Standard compliance rates and the charging dashboard are analysed effectively, shared with staff and used by managers to drive improvements within the CPS and externally with stakeholders.

The Area ensures that their people have the tools and skills they need to operate effectively in an increasingly digital environment.

- The Area includes a digital skills audit in the training plan and delivers general and bespoke training to staff to enable them to effectively use CMS, Egress, digital case lines, court store and the cloud video platform.

Evidence will be drawn from:

- Area performance reports and analysis

- Baseline file examination
- Training plan – digital tools and skills
- Performance meeting minutes – team and Area level
- Communications to staff about performance
- PTPM Minutes
- TSJ/BCM meetings
- LCJB and subgroup meeting minutes.
- Self-assessment meeting with Area CPS

E. Strategic partnerships

Does the CPS influence change through trusted partnerships to improve casework quality across the criminal justice system?

The Area influences change through trusted partnerships with the police at all levels to improve casework quality.

- The Area has trusted and mature relationships with the police at all levels and influences change through negotiation, persuasion and compromise to improve casework quality, particularly in relation to compliance with the following:
 - National File Standard (NFS)
 - The Director’s Guidance on Charging 6th Edition (DG6)
 - The Disclosure Manual, CPIA and relevant Codes of Practice.

The Area influences change through trusted partnerships within the criminal justice system at all levels to improve casework quality.

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

Evidence will be drawn from:

- NFS data
- PTPM minutes (operational and strategic)
- Regional disclosure working group minutes

- NDIP reports
- CJB minutes
- PTPM performance reports
- Joint TSJ / BCM board meeting minutes
- TSJ/BCM performance reports
- Minutes of meetings with CCs/PCCs/RJ/Presider/HMCTS/Chambers
- Letters/emails demonstrating escalation at strategic level – to presider or CC/PCC, for example
- Joint performance plans or strategy documents

Self-assessment meeting with Area CPS

Annex B

File examination findings

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

Magistrates' courts

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Partially met Not met	83.3% 16.7%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	79.2% 8.3% 12.5%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	62.5% 29.2% 8.3%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	25.0% 20.8% 54.2%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	25.0% 16.7% 58.3%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	47.1% 23.5% 29.4%
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	45.8% 41.7% 12.5%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	36.4% 22.7% 40.9%
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	46.7% 53.3%
10	Police file submission was timely.	Fully met Not met	63.3% 36.7%
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	25.0% 12.5% 62.5%

No.	Question	Answers	Result
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	90.0% 10.0%
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	43.3% 30.0% 26.7%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	37.0% 14.8% 48.1%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	44.4% 11.1% 44.4%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	50.0% 25.0% 25.0%
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	50.0% 20.0% 30.0%
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high-quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met	50.0% 25.0% 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	40.0% 43.3% 16.7%
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	56.7% 13.3% 30.0%

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	52.6% 5.3% 42.1%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	18.8% 18.8% 62.5%
32	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	13.3% 40.0% 46.7%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	65.2% 21.7% 13.0%
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	40.0% 40.0% 20.0%
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	12.5% 12.5% 75.0%
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	38.5% 30.8% 30.8%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	26.3% 21.1% 52.6%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	63.3% 20.0% 16.7%
Disclosure of unused material			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	23.3% 43.3% 33.3%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	22.2% 40.7% 37.0%

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 Did not endorse any decisions on the MG6C Did not identify reasonable lines of enquiry Failed to endorse or sign a blank MG6D Failed to identify that other obvious items of unused material were not scheduled Other Said DUM was not disclosable Set out the wrong test for disclosure (e.g. courtesy disclosure)	14.3% 4.8% 9.5% 4.8% 23.8% 4.8% 33.3% 4.8%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	45.8% 8.3% 45.8%
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%
53	The disclosure record on modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	66.7% 25.0% 8.3%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	8.7% 4.3% 87.0%

No.	Question	Answers	Result
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	27.8% 44.4% 27.8%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	66.7% 19.0% 14.3%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	70.6% 17.6% 11.8%
58	There was a timely VCL when required.	Fully met Partially met Not met	30.0% 40.0% 30.0%
59	The VCL was of a high standard.	Fully met Partially met Not met	62.5% 25.0% 12.5%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	43.8% 37.5% 18.8%

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	97.1% 2.9%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	45.7% 34.3% 20.0%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	76.5% 20.6% 2.9%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	28.6% 31.4% 40.0%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	40.0% 28.6% 31.4%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	36.0% 28.0% 36.0%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	11.4% 57.1% 31.4%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	40.0% 26.7% 33.3%
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	52.5% 47.5%
10	Police file submission was timely.	Fully met Not met	80.0% 20.0%
11	The CPS used the NFQ Assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	36.8% 5.3% 57.9%
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	97.5% 2.5%

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	55.0% 32.5% 12.5%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	41.0% 53.8% 5.1%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	64.3% 14.3% 21.4%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	61.5% 30.8% 7.7%
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	45.0% 20.0% 35.0%
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	30.3% 45.5% 24.2%
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	45.5% 36.4% 18.2%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	52.5% 25.0% 22.5%
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	48.7% 35.9% 15.4%

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	60.7% 10.7% 28.6%
23	In CC (including RASSO cases before the CC) cases, a properly drafted indictment was prepared.	Fully met Partially met Not met	61.5% 28.2% 10.3%
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	69.2% 15.4% 15.4%
25	In CC and RASSO cases a clear instruction to advocate document was prepared.	Fully met Partially met Not met	3.9% 7.7% 88.5%
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	30.6% 16.7% 52.8%
27	In CC (including RASSO cases before the CC) cases, the duty of direct engagement was carried out.	Fully met Partially met Not met	63.2% 13.2% 23.7%
28	In CC (including RASSO cases before the CC) cases, the DDE was uploaded to CCDCS.	Fully met Partially met Not met	41.2% 58.8%
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	41.2% 11.8% 47.1%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	67.6% 26.5% 5.9%
32	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	47.1% 35.3% 17.6%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	91.2% 8.8%
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	90.9% 9.1%

No.	Question	Answers	Result
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	80.6% 12.9% 6.5%
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	77.8% 18.5% 3.7%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	60.6% 30.3% 9.1%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	60.0% 35.0% 5.0%
Disclosure of unused material			
39	In relevant cases a DMD was completed.	Fully met Partially met Not met	100%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	100%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	32.4% 52.9% 14.7%
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	26.5% 47.1% 26.5%

No.	Question	Answers	Result
43	If PM or NM, the most significant failing was: see list of options in drop-down box	Did not endorse any decisions on a non-blank MG6D Did not identify reasonable lines of enquiry Failed to endorse or sign a blank MG6D Failed to identify that other obvious items of unused material were not scheduled Other Said DUM was not disclosable Said NDUM was disclosable Used the wrong endorsements	4.0% 4.0% 16.0% 12.0% 12.0% 20.0% 12.0% 20.0%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	85.3% 5.9% 8.8%
45	The prosecutor complied with the duty of continuing disclosure, (but not including timeliness of disclosure).	Fully met Partially met Not met	71.4% 7.1% 21.4%
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 Failed to identify that other obvious items of unused material were not scheduled Other Set out the wrong test for disclosure (e.g. courtesy disclosure)	12.5% 25.0% 50.0% 12.5%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	71.4% 3.6% 25.0%

No.	Question	Answers	Result
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	71.4% 14.3% 14.3%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	85.7% 14.3% 0%
50	In CC (including RASSO cases before the CC) cases, late defence statements were chased.	Fully met Partially met Not met	72.2% 22.2% 5.6%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	0% 0% 100%
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Fully met Partially met Not met	73.3% 26.7% 0%
53	The disclosure record on modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	68.6% 11.4% 20.0%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	30.4% 13.0% 56.5%

Victims and witnesses

55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	54.2% 4.2% 41.7%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	53.3% 33.3% 13.3%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	64.3% 14.3% 21.4%
58	There was a timely VCL when required.	Fully met Partially met Not met	50.0% 16.7% 33.3%
59	The VCL was of a high standard.	Fully met Partially met Not met	27.3% 45.5% 27.3%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	33.3% 22.2% 44.4%

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	57.9% 26.3% 15.8%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	94.7% 5.3%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	15.8% 47.4% 36.8%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	57.9% 26.3% 15.8%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	17.6% 35.3% 47.1%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	47.4% 52.6%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	27.8% 55.6% 16.7%
Police initial file submission post-charge			
9	The police file submission complied with National File Standard for the type of case.	Fully met Not met	55.0% 45.0%
10	Police file submission was timely.	Fully met Not met	70.0% 30.0%
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	11.1% 11.1% 77.8%
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	45.0% 45.0% 10.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	20.0% 75.0% 5.0%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	100%
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	88.9% 11.1%
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	16.7% 27.8% 55.6%
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	72.7% 9.1% 18.2%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	60.0% 40.0%
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	52.6% 47.4%

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	63.2% 10.5% 26.3%
23	In CC (including RASSO cases before the CC) cases, a properly drafted indictment was prepared.	Fully met Partially met Not met	73.7% 21.1% 5.3%
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	73.7% 21.1% 5.3%
25	In CC and RASSO cases a clear instruction to advocate document was prepared.	Fully met Partially met Not met	12.5% 87.5%
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	47.1% 52.9%
27	In CC (including RASSO cases before the CC) cases, the duty of direct engagement was carried out.	Fully met Partially met Not met	57.9% 5.3% 36.8%
28	In CC (including RASSO cases before the CC) cases, the DDE was uploaded to CCDCS.	Fully met Partially met Not met	41.7% 58.3%
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	66.7% 33.3%
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met	46.2% 53.9%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	77.8% 22.2%
32	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	87.5% 12.5%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	100%

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	92.9% 7.1%
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	94.4% 5.6%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions undertaken in response.	Fully met Partially met Not met	77.8% 16.7% 5.6%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	88.9% 5.6% 5.6%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	65.0% 25.0% 10.0%
Disclosure of unused material			
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met	94.7% 5.3%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	89.5% 10.5%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	38.9% 27.8% 33.3%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	44.4% 38.9% 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 identify reasonable lines of enquiry Failed to endorse or sign a blank MG6D Failed to identify that other obvious items of unused material were not scheduled Other Used the wrong endorsements	10.0% 20.0% 20.0% 40.0% 10.0%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	83.3% 11.1% 5.6%
45	The prosecutor complied with the duty of continuing disclosure, (but not including timeliness of disclosure).	Fully met Partially met Not met	87.5% 6.3% 6.3%
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 Other	50% 50%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	75.0% 12.5% 12.5%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	80.0% 10.0% 10.0%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	100%
50	In CC (including RASSO cases before the CC) cases, late defence statements were chased.	Fully met Partially met Not met	71.4% 28.6%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	100%
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Fully met Partially met Not met	46.2% 30.8% 23.1%

No.	Question	Answers	Result
53	The disclosure record on modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	38.9% 55.6% 5.6%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	27.3% 36.4% 36.4%

Victims and witnesses

55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	64.3% 14.3% 21.4%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	40.0% 33.3% 26.7%
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	60.0% 40.0%
59	The VCL was of a high standard.	Fully met Partially met Not met	80.0% 20.0%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	13.3% 40.0% 46.7%

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' courts 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' courts. CPs can progress to become senior crown prosecutors.

Custody time limit (CTL)

The length of time that a defendant can be kept in custody awaiting trial. It can be extended by the court in certain circumstances.

Custody time limit failure

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' courts) 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' courts, the defendant can choose to have the case sent to the Crown Court, where it will be heard by a jury. If the defendant agrees. The trial will be heard in the magistrates' courts.

Full Code test (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' courts to enable the defendant and the court to take an informed view on plea, where the case should be heard, case management and sentencing. The IDPC must include a summary of the circumstances of the offence and the defendant's charge sheet. Where the defendant is expected to plead not guilty, key statements and exhibits (such as CCTV evidence) must be included.

Intermediary

A professional who facilitates communication between, on the one hand, a victim or witness, and on the other hand, the police, prosecution, defence, and/or 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' courts. The defendant is expected to enter a plea to the offence(s) with which they have been charged. If the defendant pleads guilty, the court may be able to sentence them immediately, but if not, or if the defendant has pleaded not guilty, the court will set the next hearing date, and for trials, will also set out a timetable for management of the case.

Postal requisition

A legal document notifying a person that they are to be prosecuted for a criminal offence, and are required to attend the magistrates' courts to answer the allegation

Rape and serious sexual offences (RASSO)

Allegations of rape and other serious sexual offences perpetrated against men, women or children. In the CPS, the prosecution of RASSO cases is undertaken separately from other cases, in RASSO units or teams.

Restraining order (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' courts. 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 reinstituted.

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

VAWG includes boys and men as victims but reflects the gendered nature of the majority of VAWG offending. It covers a wide range of criminal conduct, including domestic abuse, controlling and coercive behaviour, sexual offences, harassment, forced marriage, so-called honour-based violence, and slavery and trafficking. The aim of the Government's VAWGS is to increase support for victims and survivors, increase the number of perpetrators brought to justice, and reduce the prevalence of violence against women and girls in the long term.

Vulnerable and/or intimidated witnesses

Those witnesses who require particular help to give evidence in court such as children, victims of sexual offences and the most serious crimes, persistently targeted victims, and those with communication difficulties.

Witness Care Unit (WCU)

A unit responsible for managing the care of victims and prosecution witnesses from when a case is charged to the conclusion of the case. It is staffed by witness care officers and other support workers whose role is to keep witnesses informed of the progress of their case. Almost all WCUs are police-staffed and managed teams.

Witness summons

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

Annex D

File examination question set

No.	Question	Possible answers
Pre-charge decision		
1	The CPS decision to charge was compliant with the Code Test.	Fully met Partially met Not met Not applicable (NA)
2	The CPS decision to charge was timely.	Fully met Partially met Not met NA
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met NA
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met NA
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met NA
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met NA
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met NA
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met NA
Police initial file submission post-charge		
9	The police file submission complied with National File Standard for the type of case.	Fully met Not met
10	Police file submission was timely.	Fully met Not met
11	The CPS used the NFQ Assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met NA

No.	Question	Possible answers
Post-charge reviews and decisions		
12	All review decisions post-charge applied the Code correctly.	Fully met Not met
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met NA
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met NA
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met NA
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Fully met Partially met Not met NA
18	In CC (including RASSO cases before the CC) cases, there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Fully met Partially met Not met NA
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high-quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met NA
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met

No.	Question	Possible answers
Post-charge case progression		
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s), which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases and in the CC the PTPH, to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, completion of PET/PTPH forms.	Fully met Partially met Not met NA
22	Any hard media was shared via Egress with all parties prior to the NGAP hearing or PTPH.	Fully met Partially met Not met NA
23	In CC (including RASSO cases before the CC) cases, a properly drafted indictment was prepared.	Fully met Partially met Not met NA
24	In CC (including RASSO cases before the CC) cases, the draft indictment and key evidence was served in a timely manner for PTPH.	Fully met Partially met Not met NA
25	In CC and RASSO cases a clear instruction to advocate document was prepared.	Fully met Partially met Not met NA
26	In CC (including RASSO cases before the CC) cases, the advocate was instructed at least seven days before PTPH.	Fully met Partially met Not met NA
27	In CC (including RASSO cases before the CC) cases, the duty of direct engagement was carried out.	Fully met Partially met Not met NA
28	In CC (including RASSO cases before the CC) cases, the DDE was uploaded to CCDCS.	Fully met Partially met Not met NA
29	In CC (including RASSO cases before the CC and the youth court where counsel is instructed), if there was no advice on evidence covering all necessary issues, this was chased.	Fully met Partially met Not met NA

No.	Question	Possible answers
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met NA
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met NA
32	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met NA
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met NA
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met NA
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met NA
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions undertaken in response.	Fully met Partially met Not met NA
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met NA
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met
Disclosure of unused material		
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met NA

No.	Question	Possible answers
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met NA
41	The police complied with their disclosure obligations.	Fully met Partially met Not met NA
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met NA
43	If PM or NM, the most significant failing was: see list of options in drop-down box	
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met NA
45	The prosecutor complied with the duty of continuing disclosure, (but not including timeliness of disclosure).	Fully met Partially met Not met NA
46	If PM or NM, the most significant failing was: see list of options in drop-down box	
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met NA
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met NA
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met NA
50	In CC (including RASSO cases before the CC) cases, late defence statements were chased.	Fully met Partially met Not met NA

No.	Question	Possible answers
51	Inadequate defence statements were challenged.	Fully met Partially met Not met NA
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Fully met Partially met Not met NA
53	The disclosure record on modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met NA
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met NA
Victims and witnesses		
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met NA
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met NA
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met NA
58	There was a timely VCL when required.	Fully met Partially met Not met NA
59	The VCL was of a high standard.	Fully met Partially met Not met NA
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met NA

Annex E

File sample composition

Breakdown of the standard file sample

The number of files examined from each Area was determined, in consultation with the CPS, as 90. There were 30 magistrates' court cases, 40 Crown Court cases and 20 rape and serious sexual offences (RASSO) cases.

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

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

All magistrates' court (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 before the PTPH. Homicide cases were excluded for two reasons: firstly, because they are frequently investigated by specialist police teams so are not representative of an Area's volume work; secondly, because they are harder for HMCPsI to assess, as some of the information in the case is often stored off the CMS and not accessible to inspectors. Fatal road traffic collision cases were not excluded.

RASSO files included offences involving child victims, but all domestic abuse RASSO cases had adult victims. No more than two cases were possession of indecent images, and no more than two cases were ones involving a non-police decoy or child sex abuse vigilante in child-grooming or meeting cases.

Table 20: File sample structure

Outcome	Magistrates' courts	Crown Court	RASSO	Total
Late guilty plea	6 (20%)	10 (25%)	5 (25%)	21
Guilty plea at NGAP hearing	3 (10%)	4 (10%)	2 (10%)	9
Conviction after trial	7 (23%)	8 (20%)	4 (20%)	19
Discontinued/JOA	6 (20%)	7 (17%)	3 (15%)	16
No case to answer/Judge directed acquittal	1 (3%)	2 (5%)	1 (5%)	4
Acquittal after trial	4 (13%)	5 (12%)	3 (15%)	12
Live cases	3 (10%)	4 (10%)	2 (10%)	9
Total	30	40	20	90
<i>Police charged</i>	2 (max)	0	0	
<i>CPS Direct charged</i>	4 (max)	6 (max)	2 (max)	
<i>Youth cases</i>	3			

The categories in italics in Table 20 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 21 sets out the mandatory minimum number of sensitive case types included in our MC and CC samples. As far as possible, they were evenly split between successful and unsuccessful outcomes. Occasionally, it may have been necessary to exceed the minimum numbers in certain categories of sensitive casework to avoid selecting older cases, but this was at the discretion of the lead inspector.

Table 21: Minimum sensitive case types in sample

Case type	Magistrates' courts (30)	Crown Court (40)	RASSO (20)	Total (90)
Domestic abuse	3	4	2	9
Racially or religiously aggravated (RARA)	1	1	0	2
Homophobic/elder/disability	1	1	0	2
Sexual offence (non-RASSO)	1	2	0	3
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 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 22) to convert the percentage into a finding of fully, partially, or not meeting the expected standard for the theme or sub-theme overall.

Table 22: 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 23.

Table 23: Worked example scores

Question	Answer	All cases
Q17: Steps were taken to achieve best evidence by making appropriate applications for special measures	Fully meeting	13
	Partially meeting	7
	Not meeting	5
	Not applicable	5
Q33: Steps were taken to secure best evidence by correct and timely warning of witnesses	Fully meeting	23
	Partially meeting	5
	Not meeting	1
	Not applicable	1
Q34: Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions	Fully meeting	8
	Partially meeting	10
	Not meeting	9
	Not applicable	3
Q55: The prosecutor consulted victims and witnesses where appropriate (includes STWAC)	Fully meeting	3
	Partially meeting	4
	Not meeting	3
	Not applicable	20
Q56: The victim's wishes regarding VPS were complied with	Fully meeting	17
	Partially meeting	3
	Not meeting	4
	Not applicable	6
Q57: The prosecution sought appropriate orders to protect the victim, witnesses, and the public	Fully meeting	16
	Partially meeting	5
	Not meeting	4
	Not applicable	5
Q58: There was a timely VCL when required	Fully meeting	5
	Partially meeting	4
	Not meeting	4
	Not applicable	17
Q59: The VCL was of a high standard	Fully meeting	3
	Partially meeting	3
	Not meeting	3
	Not applicable	21
Q60: The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses	Fully meeting	11
	Partially meeting	7
	Not meeting	5
	Not applicable	7
Total for all above questions	Fully meeting	99
	Partially meeting	48
	Not meeting	38
	Not applicable	85

Excluding the not applicable answers leaves 185 answers. The maximum score possible would therefore be 370 points if all answers 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 24: 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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