



**HM CPSI**

HM Crown Prosecution  
Service Inspectorate

# Area inspection programme

**CPS Yorkshire and Humberside**

Baseline assessment

**April 2022**

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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 form a baseline against which the Area will be assessed again in 24 months' time in a follow-up inspection.

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

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

**1.4.** This report sets out our findings for CPS Yorkshire and Humberside.

**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.** CPS Yorkshire and Humberside experienced a significant increase in its caseload during the pandemic owing to court closures during the initial lockdown in March 2020, subsequent changes to operational procedures in the courts to ensure the safety of court users during the pandemic and an increase in the receipt of files for pre-charge decisions from the police. From April to June 2020, shortly following the initial



lockdown, there was an increase in pre-charge receipts from the police. The Area received 5,756 cases over the three casework types, which was an increase in casework of 30.0% from the same period in 2019 when 4,426 pre-charge referrals were received. CPS Yorkshire and Humberside had the highest number of pre-charge decision receipts of any CPS Area over quarters one to three of 2021-22. The pre-charge decision receipts remained at a high level until the end of 2020 but have since then dropped to a level more consistent with the pre-pandemic receipts.

**1.7.** In the magistrates' courts there was a significant increase in the number of live cases as a consequence of the pandemic. This peaked at 22,542 in quarter three of 2020-21, which was a 73.8% increase on the quarter just prior to the pandemic, quarter four of 2019-20 (January to March 2020). While the caseload is decreasing steadily from the peak in 2020, the Area still deals with significantly more live cases than pre-pandemic; in quarter two of 2021-22, the number was still 37.2% greater than pre-pandemic levels. The successful efforts to reduce these backlogs and deal with the increased number of live cases will inevitably have had an impact on staff and resources in the magistrates' courts team.

**1.8.** In the Crown Court, the impact of the pandemic on the live cases is still evident, with the caseload still increasing in the Area each quarter. The causes of the increases include the closure of courts earlier in the pandemic, the decrease in listings, the inability to use certain court rooms, jury retiring rooms and cell space as a result of social distancing, and the delays caused by the absence of staff, defendants, victims and witnesses testing positive with Covid-19. During quarter two of 2021-22, the number of live cases was 6,213. Compared to quarter four of 2019-20, just prior to the pandemic, when the Area had 4,133 live cases, there has been an increase of 50.3%. The live caseload has yet to fall.

**While the caseload is decreasing steadily from the peak in 2020, the Area still deals with significantly more live cases than pre-pandemic**

**1.9.** Increased caseloads created obvious pressures for staff who were also dealing with the impact of the pandemic on their personal lives, working remotely from home in most cases, and apart from colleagues, which was a new experience for most. They were also dealing with several changes in procedure –be it as a result of the pandemic, such as changes to the custody

time limit regulations and listing practices, or legal changes including the implementation of the revised Director's Guidance on Charging (DG6) at the close of 2020. We do not underestimate the impact that this has had on staff at a personal level, nor the importance of the Area ensuring staff wellbeing over this period.

**1.10.** We have seen many cases demonstrating the hard work and dedication shown by the casework teams under very difficult circumstances, particularly in relation to the grip on cases in the Crown Court team, which is truly impressive in the circumstances faced by the Area, and also in the treatment of victims and witnesses by the rape and serious sexual offences (RASSO) team. This is a good indicator that improvement is achievable and, in many cases, if good practices are shared between the casework teams, we are confident that improvements can be made where necessary when we revisit the Area for our follow-up inspection.

**staff shortages, movement of staff between teams and the recruitment of new staff with training requirements have had an impact on casework quality**

**1.11.** The Chief Crown Prosecutor joined the Area in May 2021 during the pandemic and while most staff were working from home. There have also been further recent changes to the senior management team and changes in the workforce generally, which at a time of increased caseloads and significant change posed challenges for the Area. Experienced staff were moved to new teams to deal with the caseloads; prosecutors were moved

from the magistrates' courts team to the Crown Court team and prosecutors from both the magistrates' courts team and the Crown Court teams moved into the RASSO team. This necessitated training by other staff who were already under significant pressure. At the same time, the Area was struggling to recruit lawyers to fill vacancies and replace people who were retiring, and even now, is well under its full complement of senior crown prosecutors. At the time of writing, the Area has 22 vacancies in its legal cadre.

**1.12.** Where the Area was able to recruit new staff, they required training and mentoring, while working remotely and not being able to form the relationships they were perhaps able to in the office. Some of the new lawyers did not come from a criminal law background, so needed even more support. The new lawyers usually started in the magistrates' courts

team, and this may help to explain why our findings show some areas of weak performance in that tranche of casework.

**1.13.** Not surprisingly, the staff shortages, movement of staff between teams and the recruitment of new staff with training requirements have had an impact on casework quality. Despite the additional burdens, it is clear that the Area management and casework teams are dedicated to delivering improvements, ensuring timely compliance with directions, and that cases are ready for trial.

**1.14.** The employee engagement index score for the Area is currently 66% as assessed by the 2021 Civil Service People Survey. Although this is slightly lower than the CPS national average, it is equal to the Civil Service average and, despite the pressures of the pandemic, has increased since 2018.

## Added value and grip

**1.15.** 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.

**1.16.** Table 1 shows our baseline assessment of CPS Yorkshire and Humberside's added value and grip.

**Table 1: Baseline assessment of CPS Yorkshire and Humberside**

CPS Yorkshire and Humberside	Added value	Grip
Magistrates' courts casework	59.1%	61.4%
Crown Court casework	56.0%	73.7%
Rape and serious sexual offences	62.9%	65.2%

**1.17.** Overall, our inspection shows that there is good grip in the Crown Court team, with cases generally progressed efficiently and effectively. In relation to rape and serious sexual offences (RASSO) and magistrates' court casework, there is room to improve on grip and how cases are progressed. There is a significant need to improve the value added across all casework types, in particular around legal analysis and case strategy.

**1.18.** The Area adds value by ensuring that the decision to charge is in accordance with the Code for Crown Prosecutors in most cases, and that the right charges are selected. Indictments are being drafted appropriately for both RASSO and Crown Court casework. Appropriate orders are also sought to protect victims, witnesses and the public in the majority of cases, adding value.

**1.19.** However, there are some aspects where improvement is called for, most notably in relation to case analysis and strategy at all stages in the case. In many cases, prosecutors failed to identify the factual basis upon which the case was to be prosecuted and how the key elements of the offence were to be proved, the issues in the case that needed to be addressed, the strengths and weaknesses, and what the trial strategy should be. There were cases where, even though it had been identified or was obvious, the defence case was not addressed. Overall, case analysis and strategy in RASSO casework was better than for magistrates' courts and Crown Court casework.

**1.20.** Compliance with disclosure obligations also needs improvement across all casework areas.

**1.21.** Good grip was apparent in the timeliness of charging decisions particularly in Crown Court and magistrates' courts casework, with all of the Crown Court decisions considered as part of the file examination having been made on time or without the delay having any material impact on the case. The timeliness is particularly commendable in light of the significant caseloads and backlogs generated by the Covid-19 pandemic, the understaffing at key grades, particularly senior crown prosecutors, and the number of new or less experienced members of teams.

**1.22.** Indictments and pre-trial preparation hearing (PTPH) forms were usually served in a timely manner for the PTPH and in Crown Court and RASSO cases there was timely compliance with Judges' orders, notably there were no Crown Court cases where Judges' orders were not complied with. Correspondence from the witness care unit, police, court and defence was generally dealt with effectively, though the performance in relation to magistrates' court cases was weaker.

**1.23.** To improve the grip scores, the Area needs to be more proactive in preparing cases for first hearings, including ensuring that appropriate instructions are given in relation to bail and acceptable pleas.

**1.24.** In the Crown Court, prosecution counsel should be chased to provide advice in accordance with the Advocate Panel members' commitment and conferences should take place in all rape cases, and other Crown Court cases where required, and at a stage so as to be effective. Ultimately, this will assist with improving casework quality in the Crown Court. The Area should ensure that the same emphasis is placed on compliance with court orders in magistrates' court cases and that these are carefully recorded. By looking at the successes in relation to grip in Crown Court cases in the Area, improvements may be made in progressing cases more efficiently and effectively in both magistrates' court and RASSO casework.

**1.25.** The Area and its staff, across all disciplines, clearly put a great deal of hard work into gripping cases, as demonstrated by increased timeliness and maintaining the processes of a range of its activities during the pandemic. The focus this clearly demonstrated may have had an unhelpful impact on added value, but it also shows the Area is capable of delivering positive changes under pressure. We are therefore confident that the Area is capable of better quality in its casework and of improving the value it adds by the time we return to follow up this baseline inspection.

## Casework themes

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

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

**1.27.** Some of the aspects for improvement we have identified could be seen simply as a matter of record keeping. We do not share this view. A consistently high standard of recorded actions, case analysis, and disclosure and other casework decisions promotes legal rigour and is

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

more likely to reveal flaws in reasoning before a decision is made, or to identify weaknesses or other issues in the case that need addressing. A good standard of reviews also reduces the need for later reworking by others and allows legal managers to understand how those they manage are arriving at their legal decisions, and thus identify development or training needs.

## **Pre-charge decisions and reviews**

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

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

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

**1.30.** In our file sample, we found that 72 cases of the Area’s 76 charging decisions<sup>2</sup> (94.7%) complied with the Code for Crown Prosecutors at the pre-charge stage. Within the different teams, the Code compliance rates were:

- magistrates’ courts cases 87.5%
- Crown Court cases 97.1%
- rape and serious sexual offences (RASSO) cases 100%.

**1.31.** While getting the initial charging decision correct is essential, a clear analysis of the material and a thoughtful case strategy are also fundamental to the efficiency and effectiveness of the subsequent stages. These elements support the initial application of the Code for Crown Prosecutors and selection of charges as the case moves through the

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

criminal justice system. A case strategy should ‘tell the story’, encompassing what the case is about, and should set out how to address potentially undermining material – such as material impugning the credibility of a victim or witness, or which supports likely lines of defence.

**1.32.** We found that the quality of pre-charge reviews across all casework types was poor. Often, prosecutors summarised the facts of the case without addressing the points to prove, the issues in the case and the strategy to deal with these at trial. Where there was unused material which met the test for disclosure, there was often a failure to address the impact of this on the prospects of conviction and to identify further lines of enquiry that needed to be explored. In many cases, there was a failure to consider the potential for applications, such as special measures, to support victims and witnesses at the pre-charge decision stage. From our file examination, the scores for the pre-charge review theme were for magistrates’ court casework, 38.9%; for Crown Court casework, 32.7%; and for RASSO casework, 50.0%. These translate into an assessment of not meeting the standard for the theme and were the lowest scores for the Area across any of the casework themes.

## **Post-charge decisions and reviews**

**1.33.** 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 85 of the Area’s 90 post-charge decisions (94.4%) complied with the Code for Crown Prosecutors. Within the different teams, the Code compliance rates were:

- magistrates’ court cases: 90.0%
- Crown Court cases: 95.0%
- RASSO cases: 100%.

**1.34.** Compared to pre-charge reviews, the reviews that took place prior to the first hearing in the magistrates’ court, or after the case had been sent to the Crown Court, were slightly better quality. Inspectors rated 40.0% of the initial reviews in the magistrates’ courts cases as fully meeting the standard, 23.3% of reviews as partially meeting the standard and 36.7% of reviews as not meeting the standard required. In Crown Court casework, fewer cases (27.5%) were rated as fully meeting the standard; 22.5% of cases were rated as partially meeting the standard and 50.0% as not meeting it. The RASSO post-sending reviews were of the highest standard in the Area, with 65.0% of the reviews fully meeting



the standard, 10.0% of reviews partially meeting the standard and 25.0% of them not meeting the standard required.

**1.35.** We found that, where reviews prior to the first hearing in the magistrates' court did not meet the required standard, they either had not been completed at all or were superficial and added little or nothing to the pre-charge decision review in circumstances where further analysis or work was clearly needed.

**1.36.** In Crown Court cases, we saw some post sending reviews where lawyers addressed weaknesses in the pre-charge decision review and rectified these, adding value. However, there were still a number of cases where the pre-charge decision review was simply copied, pasted and adopted for the post-sending review without considering if the action plan had been completed by the police, if the likely trial issues had been clarified at the first hearing, and whether any further material may have been submitted by the police post-charge. If nothing had changed between the reviews, and the pre-charge decision was of sufficient quality, then simply adopting it would be acceptable, but we found that in many cases there was further information or material requiring analysis.

**1.37.** We accept that many of these reviews would have taken place during a period of considerable pressure for prosecutors, with the increase in caseloads and other factors impacting the amount of time prosecutors had to spend on each case. However, this underlines why it is so important that real value is added at the pre-charge decision stage, so that a lighter-touch review is all that is required post-charge where there are only new issues to be addressed.

**1.38.** A greater number of post-sending reviews in RASSO cases were rated as fully meeting the standard. This followed on from more pre-charge reviews meeting the required standard, setting up the case more effectively from the outset. Inspectors noted some lawyers clearly added value in the reviews, but this was not universal. We were told that several lawyers had moved to the RASSO unit from other units and that crown advocates had been used to assist with backlogs of review work. The need to get up to speed with a new discipline could account for the inconsistencies in reviews for this type of casework.

**1.39.** Post-charge reviews should also be carried out at other stages during the case. In Crown Court cases (including RASSO cases listed before the Crown Court), a review should be conducted when the prosecution is required to serve the full evidence upon which the prosecution is to be based. This is also the deadline for service of initial



disclosure (the unused material that, at that stage, is deemed capable of either undermining the prosecution case or assisting the case of the defendant). 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.

**1.40.** Stage 1 reviews completed at the time of service were assessed as not meeting the standard required in over half the Crown Court and RASSO cases. As with the post-sending review, there was frequently a failure to consider any new information or material. This is often the final opportunity to add value in the case by ensuring that outstanding issues are raised with the police and addressed and that the trial strategy is clear. At this stage of service of the case, the issues have usually been identified if they were not known previously. We noted these were often not addressed.

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

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

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

**1.43.** Significant event reviews were not completed in all cases where required. Inspectors also found that in some cases where a decision was made to discontinue or offer no evidence, there was not a review to record the rationale for this. The performance in magistrates' courts cases was better than for the Crown Court and RASSO cases with 56.3% of significant event reviews fully meeting the standard. Conversely, in Crown Court and RASSO cases, 60.9% and 55.6% respectively were rated as not meeting the standard.

**1.44.** Inspectors noted that bail was rarely addressed at the pre-charge decision stage unless the suspect was in custody and the police were asking that the threshold test be applied. With the use of postal requisitions being common, this often left the defendant attending the first hearing without bail conditions and the advocate at court without instructions on which conditions to apply for. This is not ideal; the lawyer

giving pre-charge advice and making the decision to charge, with full knowledge of the facts and background of the case, should be considering and advising on appropriate bail conditions where necessary.

**1.45.** Despite the lack of instructions in some cases, the advocate applied for appropriate bail conditions and recorded these in most instances. There were no RASSO cases and very few Crown Court or magistrates' courts cases that were assessed as not meeting the required standard.

**1.46.** There was one RASSO case that we considered as not meeting the standard in relation to acceptance of a basis of plea. The other cases where there was a basis of plea, across all casework types, were rated as either fully or partially meeting the expected standard which is a good level of performance.

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

**1.47.** There are key tasks that the prosecution should complete 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. Completing the PTPH form is a fundamental aspect of preparing for the hearing. Full and accurate information from the prosecution and defence allows the court to manage the case effectively and make the relevant orders required to progress the case to trial.

**1.48.** The preparation for the PTPH was found to be partially meeting the standard for both Crown Court and RASSO casework for this theme, in 61.2% and 61.6% of cases, respectively. There were some real strengths apparent in this theme; the drafting of indictments was strong for the Area with 74.4% of Crown Court casework indictments and 95% of RASSO indictments fully meeting the standard. The timeliness of service of the indictments and PTPH forms prior to the hearing was also a strength, particularly as many of the processes were taking place during the pandemic when staff were under considerable pressure.

**1.49.** Sharing of hard media in the Crown Court prior to the PTPH was rated as fully meeting the standard in 66.7% of cases. However, the number of cases fully meeting the standard in the magistrates' courts

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

(21.1%) and in RASSO cases (42.1%) was not as good. The Area may wish to look at how the Crown Court team achieves a higher rating.

**1.50.** Advocates were usually instructed at least seven days prior to PTPH. Where they were not, this did not usually have a material impact on the case.

**1.51.** The duty of direct engagement (DDE) is rarely being completed in the Area. We were told that this is largely due to difficulties in contacting defence solicitors because they were furloughed during the pandemic and now have other pressures on them. When prosecutors have tried to engage, often the defence will not have been able to take instructions from their client, so little progress can be made as a result of these conversations. This is something the Area may wish to reinvigorate as recovery from the pandemic progresses.

## **Disclosure of unused material**

**1.52.** For justice to be served, it is vital that the police and CPS comply with their duties in relation to material that does not form part of the prosecution case ('unused material'). There are specific processes, rules and a wealth of guidance for disclosure, including for handling sensitive and third-party unused material. The police have duties to retain, record and reveal material to the CPS, which 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 meets the test, it is disclosable. The defence is told about all non-sensitive unused material, and is given copies of or access to material that meets the test for disclosure. This is 'initial disclosure'.

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

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

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

**Table 2: Compliance with disclosure duties**

Results	Cases
<b>Initial disclosure</b>	
Fully meeting the expected standard	26.3%
Partially meeting the expected standard	40.0%
Not meeting the expected standard	33.8%
<b>Continuing disclosure</b>	
Fully meeting the expected standard	47.7%
Partially meeting the expected standard	22.7%
Not meeting the expected standard	29.5%

**1.56.** Our findings identify that the Area needs to improve compliance with its initial disclosure obligations. In the magistrates' courts, 26.9% of cases were found to be fully meeting the standard for initial disclosure, 42.3% of cases were rated as partially meeting the standard and 30.8% did not meet the standard. Performance was similar in the Crown Court, where 25.0% of cases were found to be fully meeting the standard for initial disclosure, 44.4% of cases were assessed as partially meeting the standard and 30.6% as not meeting meet the standard. Of the RASSO cases examined, 27.8% of cases were found to be fully meeting the standard, 27.8% were rated as partially meeting the standard and 44.4% as not meeting the standard. The most common reason for cases not being rated as fully meeting the standard was the wrong decision being made about whether an item was disclosable or not.

**1.57.** Continuing disclosure was handled better than initial disclosure though improvement is still required. In the Crown Court 50.0% of relevant cases were assessed as fully meeting the standard and in RASSO, 44.4% of relevant cases were assessed as fully meeting the standard. There were no magistrates' courts cases where continuing disclosure was required.

**1.58.** The Area's performance was strong in complying with their disclosure duties in a timely manner, with 77.5% of cases fully meeting the standard at initial disclosure, and 53.5% of cases fully meeting the standard at continuing disclosure.

**1.59.** We found inconsistent performance in the handling of sensitive material. In the Crown Court cases we examined, six of the 16 relevant cases (37.5%) were assessed as fully meeting the required standard, six cases (37.5%) as partially meeting the standard and the remaining four

cases (25.0%) assessed as not meeting the standard. We examined 12 RASSO cases where sensitive material existed; four cases (33.3%) were assessed as fully meeting the standard, one case as partially meeting the standard (8.3%) and the remaining seven cases (58.3%) as not meeting it. There were three cases in the magistrates' courts sample that had sensitive material, and they were assessed as fully meeting the standard in one, partially meeting it in the second and not meeting it in the third case.

**1.60.** Having attended the casework quality board (CQB) meeting and reviewed the minutes of meetings with the Area's strategic partners, it is clear that the Area considers disclosure to be a casework priority. It is a standing item on the agenda for the CQB meeting, individual quality assessments have focused on disclosure and remedial work identified. Despite this, there is more improvement required. The overall theme ratings for handling of the disclosure of unused material were partially meeting the standard in Crown Court cases, but not meeting the standard in RASSO and magistrates' courts cases. Timeliness is good, and this may indicate an issue with some prosecutors regarding disclosure as a process that needs to be completed, rather than taking a thinking approach and really engaging with the material and the disclosure test as it applies to the issues in the case.

## **Victims and witnesses**

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

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

**1.63.** There were aspects of strength for the Area in the service it provides to victims and witnesses post-charge. These included the timely and appropriate warning of witnesses across all casework examined. We assessed 84.6% of cases as fully meeting this standard. Witness care

unit correspondence was dealt with well in RASSO cases, with 85.7% of cases rated as fully meeting the standard. The results were not as strong in the other teams, particularly the magistrates' courts team. The Area sought appropriate orders on sentencing to protect victims, witnesses, and the public in the majority of cases, and in all its RASSO cases, which is commendable.

**1.64.** Compliance with the speaking to witnesses at court (STWAC) protocol and consulting witnesses where appropriate was again very good in RASSO cases, with 92.3% of cases fully meeting the required standard. The performance on the other casework teams was not as high and the Area may want to consider if good practice can be shared between the teams to improve performance. One of the district crown prosecutors in the magistrates' courts team has been working with agents covering trials to improve their contribution to the timeliness of letters to vulnerable and intimidated victims. The Area may want to expand this to include ensuring that agents properly record STWAC conversations and any discussions with the victim at sentencing, concerning their Victim Personal Statement (VPS).

**1.65.** More emphasis should be placed on compliance with the Victim's Code during the early stages of the case. In particular, inspectors noticed that special measures to assist victims and witnesses to give their best evidence were often not addressed at the pre-charge stage. Similarly, VPSs were not mentioned at this stage. Actioning these points at pre-charge, either by providing instructions to advocates or making sure that the police know what is required of them via an action plan, can provide certainty for victims and witnesses and ensure the efficient progression of this aspect at later stages.

**1.66.** Improvements are also required in relation to the quality and timeliness of victim communication and liaison letters (VCLs). The quality of the letters in RASSO cases was better than in other casework types, but two of the letters were sent very late. None of the letters in magistrates' courts cases and one of the 11 Crown Court letters were assessed as fully meeting the expected standard for quality. We are aware that the Area has carried out quality assurance of VCLs and has recently delivered training and provided guidance for prosecutors on improving their quality. Weekly reports are now used to try and identify those cases where letters may have been missed to improve compliance and timeliness.

## 2. Context and background

## Background to the inspection

**2.1.** HMCPsi last inspected Crown Prosecution Service (CPS) Areas in the Area Assurance Programme between 2016 and 2019. At that stage, although good performance was identified in some 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 standards and what the public ought reasonably to expect.

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

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

**2.4.** This report sets out the findings of the initial baseline inspection of CPS Yorkshire and Humberside, assessing current performance against the inspection framework and deriving scores from our judgements of the

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

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

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

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

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

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



added value and grip displayed by the Area in its casework. The scoring mechanism is set out in more detail in chapter 3 and annex F.

**2.5.** A complicating factor in establishing a baseline and assessing current performance is the very real and ongoing pressure on the CPS as a result of the global Covid-19 pandemic. We were mindful of potentially adding to the burden faced by the CPS, but it is the role of HMCPSI, as a criminal justice inspectorate, to report on the effectiveness and efficiency of the agencies it inspects. This inspection programme needs to reflect the pressures and burdens being faced by the CPS, but equally has to weigh compliance with the requirement for high-quality legal decision-making and case management. This is what the public deserves.

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

## **The current landscape and the Covid-19 pandemic**

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

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

**2.9.** From June 2020, prosecutors attended many magistrates' court hearings in person to prosecute cases, including trials, as well as using

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<sup>7</sup> *CPS response to COVID-19: 16 March to 8 May 2020*; HMCPSI; June 2020.

[www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-reponse-to-covid-19-16-march-to-8-may-2020/](https://www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-reponse-to-covid-19-16-march-to-8-may-2020/)

the cloud video platform (CVP), Her Majesty's Courts and Tribunals Service's video application, to facilitate remote hearings. There has been a drive to reduce the backlogs in the magistrates' courts, which has been successful but has brought with it added pressure for the CPS to deal with an increased number of cases, within a short period of time, with the same resources.

**2.10.** In the Crown Court, at the early stage of the pandemic, most hearings were confined to administrative hearings using the CVP, with trials only starting to be listed in nine Crown Court centres. By September 2020, jury trials were being heard in 68 of the 81 Crown Court centres. Nightingale courts<sup>8</sup> were also set up as one of the measures to address the growing backlogs of Crown Court cases. In Yorkshire and Humberside, a Nightingale court was set up in Leeds to deal with civil, business and property cases with the purpose of freeing up space and decreasing footfall in the combined court centre.

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

**2.12.** Our findings need to be read in the context of the Covid-19 pandemic and the backlogs created by it, but also bearing in mind the other pressures on the Area— such as increased pre-charge decision receipts; a reduction in staff numbers due to retirement and having to recruit and train new, often inexperienced staff; staff movements between teams; and issues with police file quality – which have exacerbated the Covid-19 impact.

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

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

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

## Impact on the Area

### Staffing levels and structures

**2.13.** The Area (along with all CPS Areas) received an increase in its budget to recruit more staff, however, it has found it difficult to recruit sufficient numbers of staff during the pandemic, and also to fill shortages as a result of staff retiring. The need to recruit during this period of uncertainty, with unprecedented backlogs of work accruing, placed added pressure on the Area.

**2.14.** We were told that in May 2020, during the height of the initial lockdown, the Area had 30 fewer lawyers than required, mainly in the senior crown prosecutor (SCP) grade. Efforts were focused on recruiting SCPs to the Area, with some success. We were told that while some new lawyers were recruited from criminal defence backgrounds, others had no previous criminal law experience, so required more training and development in prosecuting criminal cases. Training and mentoring had to be adapted considerably in light of the change to remote working for all new staff. In order to mitigate the shortages, the Area temporarily promoted some crown prosecutors to SCP positions in the magistrates' court team.

**Though the Area has now recruited 31 new lawyers, ten lawyers also retired, leaving the Area still below its full complement**

**2.15.** New crown prosecutors (CPs) usually started in the magistrates' courts team, and more experienced colleagues were moved into the Crown Court team to cover some of the legal vacancies there. This resulted in CPs completing review work which ordinarily would have been handled by more experienced lawyers. It was the same situation in both the Crown

Court and RASSO teams, where they used recently appointed SCPs from the magistrates' court team to fill posts. This left both magistrates' courts and Crown Court teams with fewer long-standing colleagues to train and mentor the newer staff. Those who undertook these tasks did so while managing significant increases in their own caseloads and adjusting to new ways of working. To assist with the training and support of new starters and those lawyers moving to new teams, the Area assigned one legal manager (LM1) on the team to assist with the training and support given to each of them. This is likely to have ensured consistency, but also provided a clear point of contact should the new lawyers require assistance.

**2.16.** As a result of a change to the National Resourcing Model, the Area was allocated additional funding for five more RASSO lawyers. This additional resource was to reflect the impact of the national RASSO joint action plan. The additional RASSO lawyers were moved from other teams (the magistrates' courts team and the Crown Court team) following an expression-of-interest exercise or were recruited externally. Many lawyers were understandably nervous about moving to another team during a pandemic, with the inevitable training required and change in caseloads. The Area is making good progress in achieving a full complement of lawyers on the RASSO team, but these movements have had a knock-on effect on the other casework teams.

**2.17.** Though the Area has now recruited 31 new lawyers, ten lawyers also retired, leaving the Area still below its full complement by the full time equivalent of 22 lawyers. The Area told us that 30% of its current workforce is over the age of 55, so filling vacancies due to retirement is expected to be an issue for some time. As a result, the Area will be required to continue their efforts to recruit and train more staff, particularly lawyers, at pace.

**2.18.** The Area has made efforts to alleviate the staffing shortages by redeploying Crown Advocates to the RASSO, Crown Court and magistrates' courts teams to assist, particularly with review work, and also to provide mentoring and legal support to some of the less experienced lawyers. Crown Advocates have also assisted with Victims' Right to Review referrals (VRRs), providing second opinions where necessary. The assistance with VRRs and with legal queries removed some of the burden from the legal managers.

**2.19.** Though this redeployment assisted the Area with backlogs and training, the Area also identified that there were some training needs for Crown Advocates in the use of the case management system (CMS) for reviewing files. There was a range of skill and experience amongst the Area's Crown Advocates, with some having little trial experience. Jury trial training was held to address this skills gap and all advocates are now required to complete some trial work each month. These training needs added a further burden for the Area. With fewer barristers now at the independent bar, many of the Crown Advocates are permanently deployed at court.

**2.20.** The Area does not currently have a full complement of operational legal managers. The Area has recruited five operational legal managers (LM1) in the last year, but nine vacancies are still unfilled at this level, despite participation in the national recruitment campaign for legal

managers. This has led to the Area's LM1s having increased spans of control and a degree of inexperience at this level. These are two factors hindering the Area's ability to improve the quality of their casework.

**2.21.** Another big change for the Area during the timeframe of the cases we examined is the change in the legal management cadre. The Chief Crown Prosecutor and the Deputy Chief Crown Prosecutor for magistrates' courts casework took up their posts in the last 12 months. The Area Business Manager also took up post during the pandemic, in May 2020. The senior management team has been stable since October 2021. The changes in senior leadership during the pandemic made getting to know the staff more difficult as most staff were working from home at this time. We were told that the usual relationships which are formed in and about the office, talking to staff and discussing their work and any concerns, were not as easy to establish on a remote Teams call. It was clear that the senior management team was very keen to forge these good working relationships with staff and had used the new technology available to try to do this.

## **Caseloads and backlogs**

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

**2.23.** The volume of cases sent by the police to the Area for a pre-charge decision increased significantly in the first quarter of the pandemic, and the inflated level of receipts from the four police forces serving the Area continued right through until the end of 2020. In April to June 2020, shortly following the initial lockdown, the Area received 5,756 pre-charge advice requests over the three casework types. This was an increase of 30.0% on the number of advices requested in the same period in 2019. The pre-charge decision receipts remained at a high level until the end of 2020 but have since then dropped to a level more consistent with the pre-pandemic receipts. However, it is the case that CPS Yorkshire and Humberside has had the highest number of pre-charge decision receipts of any CPS Area over quarters one to three of 2021-22.

**2.24.** The magistrates' courts situated in the Area held a series of blitz courts to clear trial backlogs, bringing overall live caseloads down, although still not to the pre-pandemic level. Whilst the reduction in live case numbers has helped the Area, the work involved to prepare cases for blitz courts was considerable, coming as it did at a time when the Area was still struggling to deal with the increased caseloads with fewer experienced staff. The issues with throughput in the Crown Court have led to the Area maintaining a much higher live caseload in the Crown Court team.

**2.25.** Table 3 demonstrates this. It shows the changes between Quarter 4 of 2020–21 (January to March 2020) and Quarter 2 of 2021–22 (July to September 2021) for the number of live cases the Area was carrying in the three teams at the end of each month.

**Table 3: Changes in live cases 2019–21**

Court	Q4 2019–20 (Jan-Mar 2020)	Q1 2021–22 (Apr-May 2021)	Difference	Difference (%)
Magistrates' courts	12,973	17,800	4,827	+37.2%
Crown Court	4,133	6,213	2,080	+50.3 %
RASSO	360	681	321	+89.2%

**2.26.** The Area remains significantly impacted by the substantial increase in caseload which has occurred over the past two years in all casework disciplines.

### **Magistrates' courts**

**2.27.** During quarter three of 2020-21 the number of magistrates' courts live cases hit a peak of 22,542 which was 73.8% higher than pre-pandemic levels. Since then, the number of live cases has steadily decreased each quarter as a result of the reopening of the courts and measures such as blitz courts to reduce the backlog. The 2021-22 quarter two figure was 17,800 cases, which is 37.2% above the pre-pandemic figure.

**2.28.** At the time of writing, the numbers of live magistrates' court cases continue to fall but is still higher than pre-pandemic levels.

### **Crown Court**

**2.29.** In the Crown Court the effect of the initial court closures during the first lockdown, and the later inability to use the courts to their full capacity



due to the requirements for social distancing and other factors, has resulted in a significant increase in the numbers of live cases. These numbers continue to rise as the Crown Court grapples with many issues, including for example, how to accommodate the more complex multi-defendant cases while ensuring that social distancing is possible.

**2.30.** As a result, the Area's Crown Court live caseload has increased every quarter since the pandemic began. Just prior to the first lockdown in 2019-20, the live cases in the Crown Court totalled 4,133; in quarter two of 2021-22, that had risen to 6,213, an increase of just over 50%. The number of live Crown Court cases continues to rise in the Area. Over the last quarter, the rate of increase has begun to slow but, inevitably, until the case numbers start to fall, lawyer and paralegal officer caseloads will remain high.

**2.31.** A new protocol was agreed during the pandemic with HM Courts and Tribunals Service and the defence, with the aim of looking at cases listed at the Crown Court which had the potential to be resolved early, to try to decrease the number of live cases. This involved contacting the defence and liaison with the judiciary. Unfortunately, this process was not as successful as hoped, as the defence was having difficulties taking instructions from their clients over the period of the pandemic, particularly in custody cases. As such, despite good intentions, it was difficult to reach early resolutions. Many plea and trial preparation hearings had to be adjourned because the defendant had tested positive for Covid-19, prison visits were not possible or there were issues in obtaining legal aid (for which information is needed from the client to enable the defence solicitor to make the application). It was clear that the Area had taken steps, together with other criminal justice partners, to initiate plans to reduce the number of outstanding cases, but that this was difficult for reasons which were often complex and outside their control.

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

**2.32.** There was a significant increase in pre-charge advice requests from the police in RASSO cases following the initial national lockdown. This is confirmed by the data, though due to the smaller numbers of RASSO cases, variations in percentages are harder to use to identify trends. Generally, the receipts have increased by 40-50% on pre-pandemic levels. Due to the complexity and the volume of material to be assessed in these cases, even a small increase in volumes can have a significant impact on resources on the team.

**2.33.** The Area made a request for assistance nationally at the end of 2020 to deal with the outstanding pre-charge decisions. Both CPS Thames and Chiltern, and CPS North East provided some assistance in clearing some of the backlogs. Some pre-charge decision work was also sent out to RASSO counsel, but this initiative was not as effective as hoped and has since ceased. The number of RASSO cases awaiting a charging decision decreased from 367 cases at the height of the pandemic to 217 cases, a drop of 40.9%, so the assistance provided had a positive effect on outstanding pre-charge decision (PCD) cases. As of 24 February 2022, the live RASSO pre-charge decision figure was 193 cases. This is a significant decrease from the 238 live PCD cases outstanding on 1 May 2020, towards the very start of the pandemic, as the Area started to see an increase in referrals. It is commendable that the Area was conscious of the adverse effect that the delays, resulting from the backlogs, could have on victims and witnesses and used all available resources to mitigate the problem. There has been a demonstrable improvement in the number of outstanding PCD cases as a result of the additional work completed.

**2.34.** Many RASSO cases, including the most serious and complex ones, are heard in the Crown Court. It follows that the same difficulties as featured in the Crown Court also impacted on RASSO case throughput, increasing the number of outstanding cases. There was an 89.2% increase in the RASSO live caseload over the period of the pandemic (from quarter four of 2019-2020 to quarter two of 2021-2022).

**2.35.** RASSO cases are often complex, with considerable evidential and unused material to consider, and most of the victims of rape and other sexual offending are vulnerable and/or intimidated, so any delays can have an adverse impact on their wellbeing. RASSO cases are often given priority listings, however this must be balanced with other cases which need to be dealt with expeditiously, such as those where defendants are on remand in prison where custody time limits apply. The overall increase in RASSO caseloads results in lawyers having to manage more cases and the delays, inevitably, result in an increase in victim and witness issues to be resolved.

### **Custody cases**

**2.36.** The number of days that a defendant can be held in custody, the custody time limit (CTL), was extended nationally in September 2020 as a temporary measure and in response to the pandemic effectively closing courtrooms in the early stages. CTLs returned to their pre-pandemic number of days in June 2021. Older cases with longer CTL expiry dates



remained unfinalised, while newer cases with shorter CTL expiry dates entered the system, so the number of custody cases continued to rise in the Area. This caused additional work, not only in monitoring compliance with the CTLs but also in preparing applications to extend and reviewing whether there was good reason to do so and the prosecution had acted with due diligence, as an extension requires the court to find this is the case.

**2.37.** We were told that, at one point, the Area had over 900 CTL cases on the Crown Court team. When the Crown Court was closed, the number of applications to extend CTLs drafted by lawyers increased significantly as it was not possible for trials to be listed as planned. This work had to be completed in addition to reviewing the increased pre-charge receipts and managing the ever-increasing caseloads, all while staff numbers were not at the optimum level.

**2.38.** A role was created in the Area for a casework lead for CTLs and the updated terms of reference for the casework quality board (CQB) now include a focus on CTLs. The CQB has fed back CTL issues to the national CPS team, such as issues caused by breach of bail resulting in additional offences charged, and the position where defendants are granted bail when little time is left on the custody clock. It is helpful and commendable that the Area is actively identifying potential issues and taking the appropriate action to resolve these.

## **Defence**

**2.39.** The ability to engage with the defence during the pandemic has been complicated by the fact that many defence firms furloughed staff early on in the first lockdown and faced their own pandemic pressures. Additionally, the defence has had difficulties taking instructions from their clients as they usually would because of difficulties arranging conferences at the prisons, pressures as a result of social distancing requirements and clients having to isolate. Often defence solicitors were only able to take instructions from their clients on the day of, or even during, the hearings. This has had an impact on how effective any early engagement between the prosecution and defence has been.

## **Moving forward**

**2.40.** The Area has faced significant increases in live cases throughout the pandemic and in pre-charge receipts from the police. With pre-charge receipts returning to normal levels and the live cases brought forward in the magistrates' court slowly returning to pre-charge levels, the Area hopes to start to see the benefits of its hard work. However, though the

increase in live Crown Court cases is starting to slow, the total number of cases is still increasing which inevitably places strain on all staff.

**2.41.** We were told that there had been a focus on ensuring that cases were ready for trial when they were first listed, and that this sometimes involved lawyers being pragmatic when it came to review of pre-charge decision files and perhaps not always recording their analysis and strategy as they ordinarily would. As pressures start to lift, it is hoped that the Area lawyers can start to focus more on improving the quality of their case analyses and trial strategies.

## **Police service to the Area**

**2.42.** 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.

**2.43.** The Director of Public Prosecutions issued new charging guidance (referred to as the Director's Guidance on Charging, sixth edition or DG6) in December 2020, and it came into force on 1 January 2021. It reflected, among other changes, the revisions to the Attorney General's Guidelines on Disclosure 2020 and the related Code of Practice. National reporting of police file quality data was suspended during the pandemic, and compliance with DG6 was not formally required until 1 April 2021, after a three-month introductory period. The new monitoring process for police file quality under DG6, called DG6 Assurance, was introduced nationally on 21 July 2021.

**2.44.** There are issues with police file quality across the four forces serving the Area. This was exacerbated by the changes made following the implementation of DG6. In addition to the new national file quality monitoring on the case management system, the Area is also using individual quality assessments and local case management panels to identify police file quality issues. These are then fed back at the joint performance meetings with the police, and this will continue under the newly introduced joint operational improvement meetings.

## **Performance data**

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

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

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

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

## Inspection framework

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

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

## Methodology

### File examination

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

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

**3.5.** Each case was examined by an experienced legal inspector against a set of 60 questions, with guidance to ensure a common

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<sup>10</sup> CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.

[www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf](https://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)

understanding of how to apply the questions to the cases. The work was assessed as fully meeting the expected standard, partially meeting the standard or not meeting the standard.

**3.6.** 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 Yorkshire and Humberside 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 13 October 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 casework quality board. We sent this assessment document to the Area in advance of a meeting to discuss its contents with senior managers. At the meeting, the Area was able to put the findings in context, explain more about the pandemic and other pressures it was dealing with, and supply more evidence where necessary.

### **Quality assurance**

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

**3.11.** In line with our methodology<sup>11</sup>, we held consistency exercises for our inspectors on the question set and guidance, and we invited staff from a number of Areas including CPS Yorkshire and Humberside. 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.

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

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

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

## Scoring

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

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

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

**3.17.** In reaching our assessments around added value and grip, we examined Area cases against a set of questions that we brigaded into casework themes. These are examined in detail within the report to provide a fair and transparent assessment of the Area's work across the

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

three types of volume casework assessed. Each theme received a score – recorded as a percentage and calculated in the same way as for added value and grip – which then translated into an assessment of how well the Area met the standard for that specific theme<sup>13</sup>.

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

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



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

## Pre-charge decision-making

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

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

### Complying with the Code

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

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

**4.5.** Prosecutors must be fair and objective, considering each case on its merits. It is the duty of the prosecutor to make sure that the right person is prosecuted for the right offence and to bring offenders to justice wherever possible. Prosecutors must make sure that the law is properly

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

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

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

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

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

## **Selecting the most appropriate charges**

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

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

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

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

**4.12.** Charging standards set by the CPS also help prosecutors select charges in some types of offending. One example is the charging standard for offences against the person. This standard helps to ensure a consistent approach in cases where the circumstances of an assault would fit either a charge of common assault by beating – an offence that can be tried only in the magistrates’ courts – or an assault occasioning actual bodily harm: an offence that can be tried either in the magistrates’ courts or the Crown Court, and which attracts a greater maximum sentence.

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

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

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

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

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

- It sets out a clear trial strategy demonstrating how each of the essential legal elements of the offence were to be proved (or could not be proved). In particular, where there were two suspects or more, the

prosecutor has considered the case of each one separately and applied the Code individually to all charges, including where joint enterprise was alleged.

- It identifies reasonable lines of enquiry. These can be very different from case to case but often include the need for scientific evidence or examination of communications, for example. The review 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.
- It addresses issues or defences that could reasonably arise and the prosecutor has articulated how they could be countered.
- It addresses relevant issues of admissibility, including hearsay, identification or the significance of hard media.
- The prosecutor has considered the credibility and/or reliability of key witnesses, including previous convictions and past reports to the police. Where a video-recorded interview took place, it should have been properly assessed.
- It demonstrates that relevant CPS policies were followed: for example, the domestic abuse policy.
- The prosecutor has rationally assessed the strengths and weaknesses of the case and any impact they might have, identifying a strategy for how to address any weaknesses. The review considers any ancillary applications that may strengthen the case, such as bad character evidence of the defendant.
- It considers victim and witness issues.

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

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

- the approach to be taken to bail and/or custody for all suspects, including threshold test conditions, objections to bail, any appropriate conditions of bail and whether or not an appeal against bail being granted was necessary
- which applications and/or ancillary orders were to be made at first hearing or notice given to the court and defence
- advice on representations to the court as to venue, including sentencing guidelines where appropriate
- what possible pleas may be acceptable and the rationale for the approach to be taken
- details of any material that either assists the defence case as it is known at that stage, or undermines the prosecution case, and needs to be disclosed to the defence at the first hearing under the prosecution's common law duties
- what should be included in the initial details of the prosecution case. This is the bundle of material that is served on the defendant or their legal representative before the first hearing in the magistrates' courts<sup>15</sup>.

## Post-charge decision-making and reviews

### Police file quality – the National File Standard

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

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

<sup>16</sup> The latest version of the National File Standard is contained in [the 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.

proportionality across all CPS Areas and police forces throughout England and Wales.

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

## **Post-charge reviews**

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

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

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

- whether appropriate applications – for example, bad character – were used effectively to strengthen the prosecution case.

### **Significant events**

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

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

**4.25.** We call this a significant event review.

### **Stage 1 reviews**

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

## **Preparation for the plea and trial preparation hearing**

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

- Stage 1 – for the service of the bulk of prosecution materials. This date will ordinarily be 50 days (custody cases) or 70 days (bail cases) after sending. This is in line with the timetable for the service of the prosecution case provided in the Crime and Disorder Act (Service of Prosecution Evidence) Regulations 2005. The court does not have the power to abridge this time (without consent) but does have the power to extend it.



- Stage 2 – for the service of the defence’s response, including the defence statement and standard witness table. This date will ordinarily be 28 days after stage 1, reflecting the time provided for the service of a defence statement.
- Stage 3 – for the prosecution’s response to the defence statement and other defence items. This date will ordinarily be 14 or 28 days after stage 2, depending on the anticipated date of trial.
- Stage 4 – for the defence to provide final materials or make applications that will commonly arise out of prosecution disclosure.

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

**4.29.** At the point that material is supplied, the prosecutor should review the case again in accordance with the Code, analysing all the material, confirming the case strategy and compiling the structured bundle of evidence the prosecution will rely on at trial. If it has not already been done, the prosecutor will also complete initial disclosure at this stage. This means serving any material that satisfies section three of the Criminal Procedure and Investigations Act 1996 – in that it may be considered 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.

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

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

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

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

## **The indictment**

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

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

## **Direct engagement**

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

**4.36.** Although the duty is placed on all parties, in practice the prosecution tends to take the lead in contacting the defence and providing the information to the court. The CPS case management system includes

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<sup>17</sup> Better Case Management; Courts and Tribunals Judiciary; September 2015.

[www.judiciary.uk/publications/better-case-management/](http://www.judiciary.uk/publications/better-case-management/)

a duty of direct engagement log; this should be completed by the prosecutor and then uploaded to the Digital Case System, where it can be viewed by the Judge and the defence. Good conversations with the defence at an early stage can lead to resolution of the case without the need to list and prepare for trial, which is positive for resources but also provides certainty for victims, witnesses and defendants.

## Disclosure of unused material

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

### Police duties

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

**4.39.** 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.

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

**4.41.** Where the police do not comply with their disclosure obligations, it will result in the prosecutor requesting more relevant information or further

enquiries to be made on the inadequate schedules. This often results in delays to the case while the matter is addressed.

**4.42.** The joint national disclosure improvement plans aim to drive up the quality of the handling of unused material. Despite the pressures on CPS Areas, feedback to the police about disclosure failings remains central to the effectiveness of these plans.

## **Initial disclosure**

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

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

## **Continuing disclosure**

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

**4.46.** In magistrates' court cases, the defence may serve a defence statement but it does not have to

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

**4.48.** The police should then carry out another review of the unused material and advise the prosecutor (on another MG6E) of any previously undisclosed material that now meets the disclosure test in light of the

defence statement. At that point, the prosecutor must reconsider the unused material and either disclose any further material that satisfies the disclosure test, or confirm that no other material falls to be disclosed. This 'continuing disclosure' is stage 3 of pre-trial preparation.

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

## **Sensitive material**

**4.50.** 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 in a way that does not compromise the public interest in issue; abandon the case; or make an application to the court to withhold the material on the grounds of public interest immunity.

## **Recording decisions**

### **Disclosure record sheets**

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

### **Disclosure management documents**

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

the Crown Court. The DMD is also expected to help the Judge to robustly manage disclosure in the case.

## Victims and witnesses

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

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

### Before charge

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

### After charge

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

## **Communication with witness care units**

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

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

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

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

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

## **Victim Personal Statements**

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

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



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

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

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

## **Rape and serious sexual offences**

**4.63.** Most rape and 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 in relation to Crown Court cases applies equally to most RASSO cases. There are, however, the following differences.

### **Venue**

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

### **Selection of charges**

**4.65.** In RASSO cases, the selection of charges can be complicated, with different charges 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**

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



## 5. Added value and grip

## What are added value and grip?

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

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

**5.3.** All parties are required to work together effectively. This requirement is 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 being dealt with efficiently and expeditiously.

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

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

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

## Added value

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

- the decision to charge and with what offence
- decisions about admissibility and credibility of evidence
- choosing, and clearly and correctly drafting, the 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 – which includes whether the prosecutor has, in each case:
  - analysed the material
  - identified additional lines of enquiry, including those that might point away from a prosecution, and asked the police to investigate further
  - considered any defence raised, identified ways to strengthen the case and also addressed how any weaknesses might be overcome
  - a clear strategy for trial in contested cases, by which we mean how the case will be presented at trial
- appropriate handling and decision-making around unused material throughout the case
- effective consideration and decision-making around victim and prosecution witness issues, including seeking appropriate orders to protect the victim, witnesses and the public
- robust and fair decisions about custody and bail

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

- sound use of applications to strengthen the prosecution case, such as evidence of bad character of the defendant or hearsay evidence.<sup>20</sup>

## Grip

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

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

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

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

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

## Added value and grip scoring

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

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

**5.10.** We then expressed the total points awarded as a percentage of the maximum possible points. “Not applicable” answers were excluded. There is a worked example in annex F.

**5.11.** Applying this mechanism, we have scored CPS Yorkshire and Humberside as follows.

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

CPS Yorkshire and Humberside	Added value	Grip
Magistrates’ courts casework	59.1%	61.4%
Crown Court casework	56.0%	73.7%
Rape and serious sexual offences	62.9%	65.2%

**5.12.** These findings cannot be considered in isolation due to the added pressures caused by the pandemic. The Area has seen substantial increases in live caseloads, with fewer cases being finalised in the courts and increased pre-charge receipts being submitted by the police. The increase in work occasioned by the temporary changes to the custody time limit regulations and the additional extension applications required has also added to those pressures. The number of lawyers in the Area is below the expected level and whilst new staff have been recruited, some experienced staff have retired. The additional burden of training new and inexperienced staff whilst trying to manage the other pressures brought about by the pandemic should not be underestimated.

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

### **Added value**

**5.13.** Our assessment of the value added by the Area in respect of its magistrates' court casework was 59.1%.

**5.14.** The Area added value to magistrates' courts cases by selecting the right charges in 86.4% of cases, and seeking appropriate orders on sentencing to protect victims, witnesses, and the public in 78.6% of relevant instances.

**5.15.** The Area needs to address the quality of reviews, particularly at the pre-charge stage. Four out of 24 cases (16.7%) had pre-charge reviews that were found to be fully meeting the standard, a further seven (29.2%) were found to be partially meeting the standard, and the remaining 13 cases (54.2%) were assessed as not meeting the standard. Initial reviews post-charge and those addressing significant events in the case were better, with 40.0% and 56.3% respectively assessed as fully meeting the required standard, but still require improvement. We are aware that the Area has recently devised and delivered training in relation to case analysis and strategy for lawyers. We hope to be able to assess the impact of that training when we return for the follow-up assessment in two years.

**5.16.** There is also room for the Area to demonstrate better compliance with its obligations in relation to the disclosure of unused material. We rated the handling of disclosure as fully meeting the expected standard at pre-charge in 20.8% of relevant cases and at the initial disclosure stage in 26.9% of cases. There were no cases in the magistrates' courts sample requiring continuing disclosure.

**5.17.** A more consistent thinking approach to disclosure is required, with lawyers recording their rationale for the decisions they have taken in relation to their reviews and disclosure. Often these decisions are linked, and one cannot be considered without reference to the other. The impact of material that either undermines the prosecution case or assists the defence case must be considered as part of the evidential stage of the review process. Many reviews simply included a summary of the case without adding value by providing a clear case analysis and trial strategy.

## **Grip**

**5.18.** The measure of grip by the Area in respect of its magistrates' courts casework was assessed as 61.4%.

**5.19.** Pre-charge decisions were timely in the magistrates' courts team, with 83.3% of cases fully meeting the standard for timeliness. In the remaining cases (16.7%), we assessed the Area as partially meeting the standard, meaning that any delays were minimal and did not have a material impact on progressing the case. This is commendable in light of the other pressures faced by the Area at this time.

**5.20.** The initial review after charge and any decisions to discontinue were generally timely or the delay did not have a significant impact on the case. However, the quality of preparation for the first hearing and the sharing of hard media prior to that hearing were weak. The Area was found to be fully meeting the required standard in 16.7% and 21.1% of cases, respectively. Inspectors found that the preparation for effective trial (PET) form was not always completed in advance of the first hearing. This, and not giving the defence access to the hard media, can have an impact on securing timely guilty pleas and the effective progression of the case for trial. However, often the prosecution is unaware of who the defence representatives are prior to the first hearing.

**5.21.** Compliance with court directions in the magistrates' court requires improvement, with two out of nine cases (22.2%) fully meeting the standard for timeliness; one case partially meeting the standard (11.1%) and six cases not meeting the standard (66.6%). We noted that very few completed PET forms were being returned from the magistrates' court following the first hearing, which could explain why some directions are not being recorded.

**5.22.** The Area's cases show scope to respond more efficiently to correspondence from the witness care unit (WCU), the defence and courts, and the police. Three out of the ten applicable cases (30.0%) were assessed as fully meeting the standard for a timely response to requests from the WCU, three cases (30.0%) were assessed as partially meeting the standard, and four cases (40.0%) as not meeting it. For new material from the police, we found that 38.1% of the Area's responses were effective and efficient, and for correspondence from the courts or defence, that was the case in 42.1% of relevant cases

**5.23.** Requests to the police for further information, and the use of the escalation process where necessary, showed better grip, with all but three cases (15.0%) assessed as fully or partially meeting the expected

standard. Information on the case management system relating to key events, decisions and actions was generally satisfactory, with all but three cases (10.0%) assessed as fully or partially meeting the required standard.

**5.24.** The picture presented by the data was of timely decisions at and post-charge, but this was not consistent, with grip starting to wane as some cases progressed towards trial.

**5.25.** More detail about the impact of the pandemic on our findings and the pressures faced by the Area can be found in Chapter 2.

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

### **Added value**

**5.26.** Our assessment of the value added by the Area in respect of its Crown Court casework was 56.0%.

**5.27.** The Area added value by complying with the Code for Crown Prosecutors at charge in all but one of the Crown Court cases examined (97.1%). This case was confirmed as a wholly unreasonable decision. It and another case were, post-charge, found to be not in accordance with the Code, giving a Code compliance rate of 95.0% after charge. The most appropriate charges were selected in most cases considered by inspectors, with 81.8% found to be fully meeting the required standard.

**5.28.** There is significant room for improvement in respect of the quality of legal analyses carried out by prosecutors. Inspectors rated at least half of the case reviews as not meeting the standard required at both pre- and post-charge stages in the Crown Court casework (52.9% of pre-charge reviews and 50.0% of post-charge reviews). In many cases, prosecutors did not clearly analyse the evidence or set out a cogent case strategy as to how the case would be prosecuted. Failures at charge, such as not properly analysing the evidence and the impact of unused material, or not formulating a trial strategy, were often not put right as the case progressed after charge. The Area was aware of the issues as a result of its own quality assurance and has recently devised and delivered training for lawyers specifically looking at case analysis and strategy. We hope to assess the impact of this additional training when we return for the follow-up inspection in two years.

**5.29.** Insufficient consideration was given to victim and witness issues at the pre-charge stage, for example, whether the victim or witness required special measures or some other support. In 18 of the applicable 29 cases



(62.1%), the consideration of relevant applications to support victims and witnesses was rated as not meeting the expected standard.

**5.30.** In most cases (79.1%), relevant applications – such as bad character and hearsay – were either not addressed at all at charge, or not in the appropriate detail to support a case strategy. Applications were also not used effectively to strengthen the prosecution case at a later stage. However, we noted that in almost all (91.9%) of the cases set down for trial, the Area secured the best evidence by the timely and accurate warning of witnesses. The indictment was rated as fully meeting the expected standard in most cases.

**5.31.** There was inconsistency in the Area's compliance with its disclosure duties. The weakest aspect was in initial disclosure, where we found 25.0% of relevant cases were fully meeting the required standard. This generally followed on from a lack of case analysis at earlier stages, with inspectors finding it difficult in many cases to ascertain the lawyer's rationale for disclosure decisions. Continuing disclosure was stronger, although still with room for improvement, with half the applicable cases rated as fully meeting the expected standard. At both initial and continuing disclosure, the most common error was endorsing material as disclosable when it did not meet the test for disclosure. The handling of third-party material in Crown Court cases was much better, with eight out of nine cases fully meeting the standard required.

## **Grip**

**5.32.** The measure of the grip added by the Area in respect of its Crown Court casework was 73.7%.

**5.33.** Overall, the grip shown in relation to Crown Court casework was higher than in magistrates' courts and RASSO casework.

**5.34.** The decision to charge was timely in most Crown Court cases, with one of the 34 cases examined not meeting the standard. The other cases were either reviewed in a timely manner or any delay was minimal and did not have a material impact on the case. Post-sending reviews were completed promptly in most cases, with none rated as not meeting the standard for timeliness. This suggests that deadlines are being managed well by the Crown Court unit and that the case management system (CMS) task list is being used effectively to prioritise work. Judges' orders were complied with in a timely manner in 20 of the 35 applicable cases, with the remaining 15 partially meeting the standard. This is a notable achievement in light of the pressures faced by the Area as a consequence of the Covid-19 pandemic.

**5.35.** The Area clearly has a grip of its Crown Court casework where the issue is timeliness. However, we noted that grip was not as evident where there was an element of decision-making incorporated into the activity. For example, in some cases, the preparation of cases for the Plea and Trial Preparation Hearing (PTPH) omitted actions, such as considering acceptable pleas and drafting key applications, or at least considering their use and legal foundation. This indicates that cases were being processed through the system, but there was sometimes a failure to apply a thinking approach to the requisite legal decisions in order to make real progress at the PTPH, beyond setting a timetable.

**5.36.** Indictments, key evidence and PTPH forms were served in a timely manner for the PTPH in 74.4% of cases. Correspondence from the WCU, Crown Court, defence and police was generally dealt with efficiently and in a timely way, with very few cases not meeting the expected standard. This again indicates that the Area is using CMS effectively to keep on top of deadlines, and this is helping to ensure that the grip on cases in the Crown Court team is good.

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

### **Added value**

**5.37.** Our assessment of the value added by the Area in respect of its rape and serious sexual offences (RASSO) casework was 62.9%.

**5.38.** All Area-charged cases in the RASSO sample complied with the Code for Crown Prosecutors and post-charge compliance was also 100%. Inspectors found that the most appropriate charges were selected by the prosecutor in all the RASSO cases we examined. These findings demonstrate real added value.

**5.39.** Pre-charge reviews were significantly better in RASSO casework than for magistrates' courts and Crown Court cases. In RASSO cases, we rated 11 cases (61.1%) as fully meeting the standard for case analysis and strategy, four cases (22.2%) as partially meeting the standard and three cases (16.7%) as not meeting it. However, there is room for improvement in pre-charge decisions; for example, the consideration of unused material at pre-charge was rated as fully meeting the expected standard in half the applicable 18 cases.

**5.40.** There is scope to improve the pre-charge consideration of applications and ancillary matters to support victims and witnesses, with a quarter (25%) being rated as fully meeting the expected standard, 12.5%

as partially meeting it and the remaining 62.5% as not meeting the standard. We noted instances where custody or bail, and any protective conditions which it would be right to seek, were not covered adequately. This contributed to the weaker finding for the quality of instructions to the prosecutor, where we rated 33.3% as fully meeting expectations. Where special measures are not addressed early on, or bail conditions not sought appropriately, the opportunity is missed to support and reassure victims and witnesses. In RASSO cases, victims may be particularly apprehensive or vulnerable, so it is important that these applications are carefully considered as early as possible to support and protect them, and to allay any fears they may have.

**5.41.** Post-sending reviews in RASSO cases were of a higher standard than pre-charge reviews, and reviews in the other casework types. We noted, however, that by the time of the service review there appeared to be a light-touch approach. This is appropriate where there has been a detailed earlier review and there is no new evidence, or there have been no major developments in the case, but this is not always the position. We found that in half the relevant cases there was either no review done where one was required, or the review lacked sufficient detail, analysis and strategy. In our RASSO sample, there were nine cases with a significant development triggering the need for a further review. Five of those cases (55.6%) were rated as not meeting the standard required as no review was carried out.

**5.42.** As with the other casework types, there is a need for improvement in the handling of unused material. At the initial disclosure stage, the key issues were disclosing items that did not meet the test for disclosure or not disclosing items that did. This contributed to a rating of fully meeting the standard in five of 18 applicable cases (27.8%). Continuing disclosure was rated as fully meeting the standard in eight out of the 18 cases (44.4%) with the correctness of the decision on disclosing material again being the most common issue. Sensitive material was not dealt with appropriately in seven out of 12 cases (58.3%). In all but two of the 14 relevant cases (14.3%), there was no or insufficient direction to the police about further reasonable lines of enquiry arising from the defence statement. Third-party material was dealt with better, with eight of the 14 applicable cases (57.1%) rated as fully meeting the required standard.

**5.43.** Decisions on acceptance of pleas or a basis of plea were sound in two-thirds of the applicable cases.

**5.44.** In all 11 cases (100%), where required, the prosecution sought appropriate orders to protect victims, witnesses, and the public. There

was also very good compliance with consultation duties, primarily under the speaking to witnesses at court initiative, with 92.3% of applicable cases rated as fully meeting the standard expected. The victim communication and liaison letters were of a high standard in two of the three RASSO cases where a letter was required.

## **Grip**

**5.45.** The measure of the grip added by the Area in respect of its RASSO casework was 65.2%.

**5.46.** The timeliness of RASSO pre-charge decisions was inconsistent, with nine of the 18 files fully meeting the standard for timeliness and the other nine files not meeting the standard. This was lower than the timeliness rating for both magistrates' court and Crown Court pre-charge decision timeliness. We note that there were staffing shortages on the RASSO team which may help explain delays, and the Area deployed Crown Advocates and sought assistance from other Areas to tackle the backlog. We were told that at the height of the pandemic the Area had 367 RASSO cases awaiting a charging decision. As of 24 February 2022, the live RASSO pre-charge decision (PCD) figure is 193 cases. This is significantly less than the 238 live PCD cases outstanding on 1 May 2020, at the very start of the pandemic, when the Area started to see an increase in referrals.

**5.47.** The post-sending review was timely in most cases (78.9%). RASSO cases also demonstrated real grip in the handling of incoming communications. Correspondence received from the witness care unit, court, and defence, and new material from the police were dealt with promptly, with most cases rated as fully meeting timeliness standards. We noted that paralegal officers in the Area had a significant positive impact on the grip, demonstrated in their reviewing and actioning of correspondence.

**5.48.** Eleven of the 20 cases (55.0%) were prepared effectively for PTPH, with four cases (20%) partially meeting the standard and five (25%) not meeting the standard for effective preparation. In seven of the 19 applicable cases (36.8%), the hard media was not shared prior to the PTPH, which can impact on the progress that can be made at the hearing. Inspectors noted that the late uploading of links for video recorded interviews was an issue in some cases.

**5.49.** Compliance with Judges' orders was assessed as fully meeting the standard in ten of the 19 applicable RASSO cases (52.6%), partially meeting the standard in seven cases (36.8%) and not meeting the

standard in two cases (10.5%). This is weaker than in the Crown Court team. There was evidence of paralegal officers applying to extend deadlines for compliance in many cases and sometimes on numerous occasions. This perhaps highlights the additional tasks occasioned by the pandemic. Often there were delays in receiving the defence statement, which had an impact on the time the prosecution had to respond, and this was not always identified. In some cases, the directions were not adequately recorded on the case management system or were incorrectly marked as complete.

**5.50.** The Area has some work to do to ensure the contribution made by counsel is effective and timely, which is of particular importance in RASSO cases. There were 14 cases where counsel had not provided the required advice on the evidence; counsel was chased by the Area in one of those 14 (7.1%). There were ten cases where a conference was required with counsel and any expert witnesses, and in five of these cases this did not take place.

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

## Introduction to magistrates' courts casework

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

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

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

**6.3.** We have scored CPS Yorkshire and Humberside for its magistrates' courts casework as follows.

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

Question	Rating	%
<b>Pre-charge decision-making and review</b>		
The Area complies with the Code for Crown Prosecutors <sup>22</sup> at pre-charge decision stage	Fully meeting the standard	87.5%
The Area selects the most appropriate charge(s) at pre-charge decision	Fully meeting the standard	90.9%
The Area's pre-charge decisions contain a clear analysis of the case and sets out a cogent case strategy	Not meeting the standard	38.9%
<b>The quality of post-charge reviews and decision-making</b>		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	90.0%

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

Question	Rating	%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy, including custody and/or bail	Not meeting the standard	58.6%
<b>Disclosure</b>		
The Area fully complies with its duty of disclosure throughout its magistrates' courts casework	Not meeting the standard	47.1%
<b>Victims and witnesses</b>		
The Area addresses victim and witness issues appropriately throughout its magistrates' court casework	Partially meeting the standard	62.8%

**6.4.** Our assessment of magistrates' courts casework was that there were aspects of casework that were done well, including selecting appropriate charges that reflect the nature and extent of the offending. There were other aspects that require improvement, in particular, the quality of legal analysis and trial strategy, and disclosure decisions

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

**6.5.** As the following table shows, the overall quality of legal analysis and trial strategy was higher after charge than at the pre-charge stage. However, at the post-charge stage there remained more than a third of cases rated as not meeting the required standard for analysis and strategy.

**Table 6: Standard of magistrates' courts case analysis and strategy, pre- and post-charge**

Question	Magistrates' courts cases
<b>Pre-charge case analysis and strategy</b>	
Fully meeting the required standard	16.7%
Partially meeting the required standard	29.2%
Not meeting the required standard	54.2%
<b>Post-charge analysis and strategy</b>	
Fully meeting the required standard	40.0%
Partially meeting the required standard	23.3%
Not meeting the required standard	36.7%



## Pre-charge decision-making and review

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

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

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

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

**6.8.** We rated the Area as fully meeting the standard for this aspect of pre-charge decision-making, with 87.5% of the Area charged magistrates' courts 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	21	87.5%
Not meeting the required standard	3	12.5%

**6.9.** Inspectors found three of the charging decisions examined (12.5%) resulted in decisions that no reasonable prosecutor could have made and were therefore wholly unreasonable decisions.

**6.10.** All decisions found to be wholly unreasonable arose from the failure to consider the elements of the offence(s) that needed to be proved for there to be a realistic prospect of conviction. One case involved charging the wrong defendant with offences, another related to a failure to consider if there was sufficient evidence to prove dishonesty in a theft case, and the third to a case where there was a lack of admissible evidence to prove the bank card the defendant used was actually a stolen card. This failure to address elements of the offence that need to be proved, with reference to the evidence available, is something we have identified across casework themes.

## Selecting the most appropriate charges

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

**6.12.** Our assessment for this aspect of the casework theme is that the Area is fully meeting the standard. The theme score for selection of the most appropriate charges at the pre-charge stage in magistrates' courts cases was 90.9%.

**6.13.** We found that prosecutors were selecting the appropriate charges in most cases, with 19 cases (86.4%) fully meeting the expected standard, two cases (9.1%) partially meeting it, and one case (4.5%) not meeting it. In the cases fully meeting the standard, the Area selected charges that reflected the gravity of the alleged offending and gave the court sufficient powers to sentence appropriately on conviction, including to make orders for the protection of the victim and the public.

**6.14.** We noted that at the Casework Quality Board (CQB) we attended, the Area discussed charging in stalking and harassment cases and reviewed the quality of prosecutors' often complex choice of charges in these matters. This is indicative of the work being undertaken to ensure that the Area adds value in the selection of charges.

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

**6.15.** Our assessment for this aspect of the casework theme is that the Area is **not meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in magistrates' court cases is 38.9%.

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

**6.17.** Pre-charge decisions were timely in 20 of the 24 Area-charged cases, and there was minimal delay with no impact on progressing the case in the remaining four. There is an agreed 21-day target for charging advice requested by South Yorkshire Police as part of a national pilot scheme. To ensure a consistent process across the Area, files from the other three forces are subject to the same 21-day timescale. The Area is therefore delivering advice earlier than is strictly required in the cases that otherwise would have had a 28-day target.

**6.18.** The contrast between lower quality reviews and high rates of timeliness in charging suggests a stronger focus on process than on quality. This can be explained in the context of the pressures and charging backlogs brought about by the pandemic. The Area is aware from its own quality assurance work that the quality of legal reviews needs to improve and has delivered training aimed at improving casework quality.

### **Case analysis and strategy**

**6.19.** We assessed four out of the 24 Area-charged cases (16.7%) as having case analyses and strategies fully meeting the expected standard. A further seven (29.2%) were found to be partially meeting the standard, and the remaining 13 cases (54.2%) were assessed as not meeting the standard.

**6.20.** In many of the weaker cases, there was a tendency to describe the evidence rather than analyse it and weigh it in a coherent and structured way. We noted that these cases lacked a strategy demonstrating how each of the essential elements of the proposed offence was to be proved and how weaknesses in the evidence, or likely lines of defence, were to be countered. For example, we examined an allegation that a workman on a building site stole off-cuts of copper wiring worth £10, items which were destined for the skip. The workman had already been given permission by a foreman to take other unwanted items of greater value. The pre-charge review did not address how dishonesty was to be proved. The prosecution offered no evidence on the day of trial when the site manager failed to attend.

**6.21.** We also saw examples of cases where there was no trial strategy set out by the charging prosecutor or, if there was one, it was confined to which witnesses to call without further addressing how the case would be proved or weaknesses overcome. The evidence we found suggests that there is a need to improve Area prosecutors' ability to recognise what a strategy looks like and to develop one that is tailored to the individual case.

**6.22.** We are conscious of the additional pressures faced by the magistrates' court team as a result of a greater number of new and inexperienced staff joining the team and having to train and mentor these staff remotely. Pressure was also increased due to the blitz courts used to reduce the number of cases awaiting trial. Although these additional courts have been successful in reducing the backlogs in the magistrates' court to some extent, the additional work required to prepare these cases,

particularly at short notice, should not be underestimated and will inevitably have had an effect on casework quality.

### **Case study**

The defendant, who was intoxicated, attended a local supermarket and was asked to leave by the security guard when he began to bother other customers. He became racially abusive to the security guard saying, "I don't like Muslims", and "You are a terrorist". The defendant then hit the security guard, quickly, twice on his face. Another member of staff witnessed the abusive language uttered by the defendant and saw her colleague's head move backwards when he was hit. Police attended and the defendant was found on the floor outside the supermarket. He was arrested.

The store CCTV did not record sound, and the assault, which occurred just outside the store, was not captured. CCTV did show the defendant coming and going from the store and the lead-up to the assault. In his interview, the defendant said he could not recall what had happened and accepted that he had been drinking. He said that he was a Muslim, would not be racially abusive and was not a violent person. He also said, "I think I am the one who got hit". The defendant had numerous previous convictions for offences of violence and for racially aggravated offences.

The pre-charge advice rehearsed the facts of the case and proposed a charge of racially aggravated assault by beating. The advice did not consider whether a religiously aggravated charge would be more appropriate. The legal guidance on racist and religious crime was not followed, particularly in relation to additional steps to be taken to protect and assist witnesses in these cases, for example, by offering special measures.

The issues raised in interview by the defendant were not addressed, and the advice did not set out the strengths of the prosecution case and the weaknesses in the defence case. The complainant was of previous good character and there was a witness to support his account, the offender was so drunk he could not remember what had happened and his criminal record, which was likely to be admissible as bad character evidence, contradicted what he said in interview.

The police manual of guidance form 3 (MG3) said that bad character was relevant, but not on what bases it may be admissible, or how it strengthened the prosecution case.

The lawyer did not provide sufficient detail of the content of the CCTV, which they had watched. This resulted in the CCTV being watched again by another lawyer on further review, duplicating work. The CCTV showed that there were other employees present who were potential witnesses and also that a woman with children was present and too scared to leave the store due to the defendant's behaviour. The fact that children were present would be an aggravating feature for sentence, but this was not identified.

Reasonable lines of enquiry were not followed at the pre-charge stage: no enquiries were made to check if the defendant had any injuries (which could have supported his account) and no steps were taken to secure evidence from the other employees who witnessed the assault.

At the first hearing, the prosecution advocate applied to adduce the bad character evidence. The offender was convicted after legal argument over whether the words used amounted to racially aggravated as opposed to religiously aggravated language.

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

**6.23.** We found that most cases did not contain adequate instructions to the court prosecutor. We assessed two cases of 24 (8.3%) as fully meeting the expected standard, 15 cases (62.5%) as partially meeting the standard, and seven (29.2%) as not meeting the standard. Recurring themes included: a lack of reasoned argument on venue, with no reference to sentencing guidelines where applicable; no guidance as to whether alternative or lesser pleas would be acceptable; and the MG3 being silent as to what stance the prosecution should take in respect of bail and appropriate conditions that should be sought.

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

**6.24.** Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan, which is a specific section of the MG3. 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.

**6.25.** In five of the applicable 22 cases (22.7%), we rated action plans as fully meeting the standard, seven (31.8%) as partially meeting the standard, and ten cases (45.5%) as not meeting the standard. We noted that the weaker ratings were often because there was no action plan set, or the actions did not include material needed for applications post-charge. The omissions in the action plans could often be linked directly to

failures in the case analysis and strategy. We also noted some cases where actions were listed in the body of the MG3 rather than in the bespoke section of the MG3. Because of the way the CPS and police case systems work, this hampers the ability of officers to see what is required and of operational delivery staff in the Area to check completion of the actions and escalate where necessary.

### **Applications and ancillary matters**

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

**6.27.** We assessed the consideration of relevant applications and ancillary matters to strengthen the prosecution case, such as bad character or hearsay evidence, as fully meeting the expected standard in five out of 17 cases (29.4%), as partially meeting it in seven cases (41.2%), and as not meeting the standard in five cases (29.4%). The cases partially meeting or not meeting the standard mostly related to bad character applications where insufficient action was taken to progress them, or they were not identified at all. The Area identified this issue and that it related particularly to deficiencies with the lawyer induction. They have devised a more detailed and practical package for all new starters, which is currently being delivered. The package is more focused on drafting and legal argument.

**6.28.** We assessed the consideration of relevant applications and ancillary matters to support victims and witnesses, for example special measures, compensation or restraining orders, as fully meeting the required standard in four out of 20 relevant cases (20%), partially meeting it in ten cases (50%) and not meeting the standard in six cases (30%).

**6.29.** We noted that some prosecutors are not proactive in considering potential applications, such as special measures. In one case involving two 18-year-old males (17 at the time of the incident) who had been threatened with a knife by the defendant in a park, the charging advice simply recorded on the MG3 that special measures were to be considered for all civilian witnesses. The police had included on the file the requisite forms setting out the detailed reasons why the victims required special measures, and which measures were being requested. That being so, there was no reason why there could not have been a more thorough

approach taken to progress the applications by instructing the advocate to make an oral application for special measures at the first hearing or drafting the written applications in readiness.

**6.30.** Where it is anticipated that there will only be a light-touch review of a case after charge, it is vitally important that all applications are fully addressed at the pre-charge stage so that the appropriate applications can be made at the first hearing. This ensures effective progression of the case at the first hearing, prevents duplication of work, and provides victims and witnesses with reassurance that their needs are being considered and addressed from the outset.

**6.31.** It is perhaps not surprising that the quality of pre-charge reviews in magistrates' courts cases requires improvement. The Area has been under resourced in its legal cadre and recruitment has led to staff movement. New crown prosecutors (CPs) were placed in the magistrates' court teams, some with no criminal background. These prosecutors required more training and development to enable them to effectively prosecute criminal cases. As new prosecutors have been recruited, more experienced magistrates' court prosecutors were moved into the Crown Court teams to address shortages and high caseloads there. This resulted in CPs completing review work which ordinarily would have been handled by more experienced lawyers.

**6.32.** The Area continues to recruit to address the resource shortage.



## Post-charge decision-making and reviews

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

**6.33.** Our assessment that the Area is fully meeting the standard for this sub-theme of post-charge decision-making. Overall, the score for Code compliance in magistrates' court cases is 90%. These cases included those that were originally charged by either the police or CPS Direct.

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

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

**6.34.** 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.

**6.35.** As Table 8 shows, 27 of the 30 post-charge reviews complied with the Code for Crown Prosecutors. The evidential and public interest stages of the Full Code Test were properly applied and the decision to prosecute was reasonable. These cases included Area reviews of cases that were originally charged by either the police or CPS Direct. The three cases identified as wholly unreasonable decisions at charge proceeded to the first hearing without the fundamental flaws in the case being identified by an Area prosecutor after charge but before that hearing. All three cases also progressed to trial without the fatal flaws being identified.

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

**6.36.** Our assessment is that the Area is not meeting the standard for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in magistrates' court cases was 58.6%.

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

**6.38.** While magistrates' courts prosecutors are mostly correctly applying the Code when reviewing cases, the quality of the reviews conducted at



the post-charge stage varied in quality. Overall, however, we found that the quality of post-charge reviews was better than those at the pre-charge stage.

### **Case analysis and strategy**

**6.39.** In certain circumstances, the Area is required to carry out a post-charge review before the first hearing where a not guilty plea is anticipated. Those circumstances include where CPS Direct or the police charged the case, where key steps (such as identifying the contents of the initial bundle to be served on the defence, or completing the streamlined disclosure certificate and/or preparation for effective trial form) were not undertaken at charge, or where additional information had been received since the charging decision.

**6.40.** We found that the overall quality of reviews improved after charge, although some of the issues identified in pre-charge reviews also featured at this stage. We rated 12 out of 30 initial post-charge reviews (40%) as fully meeting the standard, with a further seven (23.3%) partially meeting it. We assessed 11 (36.7%) as not meeting the standard. The additional pressures faced by the magistrates' court team, as outlined at 6.22, in relation to staffing and issues caused by the pandemic more generally, would have had an impact on the quality of post-charge reviews in much the same way as pre-charge reviews.

### **Case study**

The victim was buying items from her local shop in April 2020. Defendant one (D1) entered the store but failed to observe the social distancing requirements and words were exchanged between the two. D1 became abusive and insulting towards the victim who left the store. As she did so, D1 shouted to his partner (D2), who was waiting in the car, to "sort her out". D2 then confronted the victim and spat in her face. There was a scuffle between the victim and D2 before the two defendants got in their car and left the scene. The victim provided a statement to the police supporting the prosecution, and several eyewitnesses provided statements corroborating the victim's account. In interview, D1 denied being abusive to the victim. D2 claimed she was acting in self-defence.

The police charged D1 with an offence of threatening behaviour and D2 with an offence of common assault and identified the case as an anticipated not guilty case (NGAP). The prosecutor completed a review prior to the first hearing. The evidence was summarised appropriately, and a clear trial strategy was established. The strengths and weaknesses were described, and the corroborating evidence was considered and

given due weight to support the prosecutor's conclusion that there was a realistic prospect of convictions on the basis that the defendants' accounts could be rebutted to the necessary standard with the evidence available.

The CCTV evidence consisted of footage from several different camera angles. The reviewer summarised each and ensured the material was ready for service at the first hearing. All evidence was collated in the initial details of the prosecution case (IDPC) bundle and served on the court and defence by the first hearing.

The prosecutor noted that the police charge of common assault was incorrect as D2 had made physical contact with the victim, and therefore drafted a new charge of assault by beating, which was sent with the NGAP papers prior to the first hearing. The prosecutor provided clear instructions to the advocate at the first hearing to ensure that this new charge was formally laid, and the original charge withdrawn. Initial disclosure was also completed.

As a result of the thorough review and careful preparation, the prosecution was trial ready at the first hearing.

Faced with this, D1 entered a guilty plea at the first hearing. D2 pleaded not guilty, and a trial date was set. Owing to the pre-first hearing work and high quality of the first review, very little work had to be completed on this case to prepare for trial, which eased the pressure on the reviewing lawyer. D2 was convicted after trial, the court having rejected her claim to have been acting in self-defence.

**6.41.** For those cases assessed as partially or not meeting the standard, common themes were reviews not being carried out where required, or superficial reviews that did not fill gaps left in the charging advice or consider further material or information received post-charge. In the three cases where we found the decision to charge to have been wholly unreasonable, the evidential deficiencies were not identified until the day of trial. All had post-charge reviews where we would have expected the deficiencies to have been addressed. In two of the cases, the initial and/or upgrade file review had been duplicated from the pre-charge decision and, therefore, the evidence was not reconsidered and the issues were not identified.

### **Significant events**

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

**6.43.** Significant event reviews were required in 16 of the 30 magistrates' courts cases we examined. Nine out of the 16 cases (56.3%) had a review which we found to be fully meeting the standard, with a further two (12.5%) partially meeting the standard. Of the remaining five cases (31.3%), there was no review undertaken in one, and the other four were of poor quality, leading to us assessing them as not meeting the standard.

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

**6.44.** We discuss the agreed National File Standard (NFS) for police file submissions, and the CPS's role in feeding back to the police on compliance with it, in paragraphs 4.19 and 4.20. One of the measures introduced across the CPS nationally to ease pressure resulting from the pandemic was to suspend the requirement to use the national file quality (NFQ) feedback mechanism on the CPS case management system. Some of the files we examined will have been reviewed after the suspension of the NFQ requirement, and this may account for why there is not a higher rate of feedback in our file sample.

**6.45.** Within our file examination, almost half – 14 cases (46.7%) – of the magistrates' courts files submitted by the police to the CPS did not meet the requirements set out in the NFS. Four of those cases fell within the period of suspension of NFQ. In the remaining ten cases, we found that the Area had used the NFQ tool within CMS to feed back the deficiencies in four cases, but had not provided any feedback in six. As a result, we assessed them as not meeting the standard. We rated the feedback as fully meeting the required standard in two of the four cases where feedback was given, but the other two NFQ assessments were rated as partially meeting the standard because they did not address all the failings with the police file.

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

**6.46.** Our assessment is that the Area is not meeting the standard for this casework theme. Overall, the score for disclosure in magistrates' court cases is 47.1%.

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

### **Police service on disclosure**

**6.48.** Police compliance with their disclosure obligations was assessed as fully meeting the required standard in eight out of the 29 applicable cases and partially meeting it in a further 13 cases. There were eight cases where police compliance was marked as not meeting the standard. In the cases falling below the standard, the flaws included relevant items missing from the schedules, descriptions that were inadequate, or the wrong schedule being used. The requirement to feed back deficiencies to the police creates additional work for CPS prosecutors at a time when they already face significant pressures. Police compliance issues also result in delays to service of initial disclosure and duplication of work when prosecutors must reconsider cases after further material is provided, which should have been available with the initial file.

**6.49.** Feedback to the police is an important part of driving improvement, and should occur, despite the pressures on CPS Areas, so that the Area receives a better service in future. In our sample, feedback to the police was found to be fully meeting the expected standard in three out of the 21 cases (14.3%) with police failings. Feedback was found to be partially meeting the standard in a further seven cases (33.3%), but was either wholly inadequate or there was no feedback in the remaining 11 cases (52.4%). The Casework Quality Board (CQB) minutes demonstrated that police compliance with their disclosure obligations was something that had been considered by the CQB and, as a result, disclosure training had been given to the police in the summer of 2021. The Area and the local forces have consistently discussed disclosure issues at the prosecution team performance management meetings. It is hoped that the renewed focus of the joint operational improvement meetings – to be held between the CPS and police – and the reporting on the police compliance with their duties under the Director's Guidance on Charging 6<sup>th</sup> edition (DG6) will result in improvements.

**6.50.** The Area's casework quality board reviews police compliance with DG6. It is of note that one of the forces within the CPS Area has the highest rejection rate of DG6 files in the country and another is not far

behind in terms of performance. This will of course impact on the Area in terms of triage and rejections of pre-charge decision files.

## **Initial disclosure**

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

**6.52.** The common theme that we identified in those cases fully meeting the standard was that the prosecutor adopted a thinking approach to disclosure. For example, in a robbery case, the prosecutor correctly identified and disclosed unused material that may have assisted the defence in cross examining the victim as to the correctness of his identification of the defendant as the assailant.

**6.53.** For those cases not fully meeting the standard, the most prevalent issues were that the prosecutor decided that disclosable unused material was not disclosable (four cases) or failed to identify that obvious items of unused material were missing from the schedule (three cases). We also found two examples where the prosecutor had not identified reasonable lines of inquiry, and two examples where material that did not meet the disclosure test was assessed as meeting it.

**6.54.** One example was in a prosecution for harassment. The complainant's father had been involved in a legal dispute with the defendant and the complainant alleged that he had been followed by the defendant and threatened on several occasions. When carrying out initial disclosure, the prosecutor assessed two police occurrence logs as clearly not disclosable. Both logs contained first accounts from the complainant of two incidents that formed part of the harassment charge. These accounts differed in significant ways from the account he gave in his later witness statement and, therefore, should have been assessed as disclosable. The defendant was eventually acquitted after the accounts in the logs were admitted at trial.

**6.55.** A failure by prosecutors to adopt a thinking approach to disclosure can have a serious effect on the fairness of trials. However, none of the failures in the cases we assessed led, in our judgment, to a miscarriage of justice.

**6.56.** We assessed the timeliness of initial disclosure obligations as fully meeting the required standard in 13 out of 26 cases (50%). Four cases (15.4%) were assessed as partially meeting the standard. In those cases,

although the deadline was missed, the delay was minimal in the context of the case as a whole and there was no discernible impact on effective case progression. Nine cases (34.6%) were assessed as not meeting the standard for timeliness of disclosure.

**6.57.** One example of late compliance was a case involving a youth charged with wounding another young person. The incident, a stabbing, occurred in April 2019 and was referred to the CPS for a charging decision in May 2020. Further enquiries were required, after which the advice to charge was given in September 2020. The defendant pleaded not guilty in the youth court on 16 November 2020, which triggered the requirement for the prosecution to serve initial disclosure within 28 days. Initial disclosure was served on the defence on 5 February 2021, 53 days late and 19 days before the trial date. Fortunately, the trial did not proceed on that date for other reasons. It was adjourned until June and the matter was ultimately proved in the defendant's absence.

### **Sensitive material**

**6.58.** There were three cases in the magistrates' court file sample that featured sensitive material. The handling of the material by the Area was found to be fully meeting the standard in one of these cases, partially meeting it in one, and not meeting the standard in the third. In that case, there was a sensitive unused schedule (police manual of guidance form 6D [MG6D]) that contained one entry, a phone extraction report. There was no evidence that this item had been considered by a prosecutor, or a decision made as to its status and whether it met the test for disclosure.

### **Disclosure records**

**6.59.** In all magistrates' court cases, prosecutors should complete a disclosure record on the CPS case management system. This provides an audit trail for the receipt and service of the streamlined disclosure certificate and any sensitive unused material schedules, decisions made, and actions taken, and the legal reasons for those decisions and actions.

**6.60.** Completion of the disclosure record was assessed as fully meeting the standard in eight out of 26 cases (30.8%), with the record being fully completed throughout the life of the case and clearly documenting the decisions made concerning unused material. A further nine cases (34.6%) were assessed as partially meeting the standard and the remaining nine were found to be not meeting the standard.

## Area training and assurance

**6.61.** There was a national pause on individual quality assessments (IQAs) because of the pressures of the pandemic. However, the Area continued conducting IQAs solely relating to disclosure. This was partly to satisfy the CQB's requirement for casework assurance reports and updates on disclosure at each board meeting. The Area also has a disclosure champion who reports to the CQB. As a result of the issues identified from the IQAs and the CQB, the Area has distributed to staff user guides on new systems or digital processes relating to disclosure, including guides on how to complete initial disclosure tasks. The Area now also produces a monthly disclosure newsletter for staff, which includes updates from the CQB and addresses issues identified during IQAs.

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

**6.62.** Our assessment is that the Area is partially meeting the standard for this casework theme. Overall, the score for victim and witness issues in magistrates' court cases is 62.8%.

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

### Pre-charge

**6.64.** At charge, the prosecutor should actively consider relevant applications and ancillary matters to support victims and witnesses. We found that a fifth of cases, four out of 20 (20%), were assessed as fully meeting the standard for pre-charge consideration of applications and ancillary orders to support victims and witnesses. Half were assessed as partially meeting the standard and the other six as not meeting the standard. Further analysis in relation to these findings is provided under pre-charge decision making at paragraphs 6.26 to 6.30.



## **After charge**

### **Witness warning**

Warning of victims and witnesses was timely and accurate in most cases (19 out of 23 cases). We assessed the remaining four cases as partially meeting the standard expected.

### **Communications with witness care units**

**6.65.** The appropriate and prompt handling of witness care unit correspondence was assessed as fully meeting the standard in three cases out of the applicable ten (30.0%), and partially meeting the standard in a further three, with the remaining four cases not meeting the standard. Where inspectors marked this question as partially meeting or not meeting the standard, the witness care correspondence was dealt with late or not at all. In two of the cases not meeting the standard, the witness issues resulted in the prosecution having to offer no evidence at trial. If these issues had been resolved sooner the matters could have been discontinued in advance of the trial date, allowing the trial date to be used for another case.

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

**6.66.** Victims are entitled to be consulted at key stages throughout the prosecution, including at trial, as part of the speaking to witnesses at court (STWAC) initiative. We rated ten out of 23 cases (43.5%) as fully meeting the standard for consultation, six cases (26.1%) as partially meeting the standard and seven cases (30.4%) as not meeting the standard. Most hearing record sheets for trials correctly noted that victims and witnesses had been spoken to and the note was sufficient to confirm that the STWAC guidance had been followed. However, we noted that victims were not always consulted about a basis of plea, pleas to lesser offences, or discontinuance.

### **Victim Personal Statements**

**6.67.** 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. The handling of the VPS was rated as fully meeting the required standard in 11 of the 22 applicable cases (50.0%), as partially meeting the standard in six cases (27.3%), and as not meeting it in five cases (22.7%). The main reasons for assessing cases as partially or not meeting the standard were that the victim's views had not been complied with, or there was no information on the victim's preference and the Area had not been asked. In some cases, the hearing record sheet was silent



as to whether or not the VPS had been read to the court as part of the sentencing exercise.

### **Orders at sentencing**

**6.68.** In 11 cases of the 14 relevant cases (78.6%), the Area sought appropriate orders on sentencing to protect the victim, witnesses, and the public. This is a strength for the Area. In a case involving domestic abuse, the lawyer identified at the pre-charge stage that a restraining order should be requested and gave appropriate instructions. The defendant entered a guilty plea to an offence of battery but failed to attend court for sentence. When the offender attended court after a warrant was executed for his arrest, the advocate had instructions to apply for a restraining order, because this had been addressed at the outset, and the application was made and granted for a period of two years, thereby protecting the victim.

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

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

**6.70.** In our sample of cases, eight victim communication and liaison letters (VCLs) were required, of which seven were sent. Three of these were timely. Of the seven letters sent, we assessed the letter as partially meeting the expected standard for quality in five and as not meeting the standard in the remaining two. The reasons for the letters being rated as partially meeting or not meeting the standard included explanations that were inaccurate or confusing, a lack of empathy, and inappropriate use of legal jargon.

**6.71.** The Area has changed some of its systems to improve compliance with CPS time limits for VCL letters, and workshops have been held for legal staff to improve the quality of letters sent.

**6.72.** VCL assurance panels are held in the Area and feedback is given to legal managers so that this can be fed back directly to lawyers to improve performance. Though the panels were suspended during the pandemic, monthly quality assurance was continued by both the Victim Liaison Unit (VLU) manager and the Area business manager. The Area has also very recently set up a victim and witness forum, with terms of reference agreed in January 2022. It is intended that the forum will also consider letters and make suggestions for improvement. We will review the impact of this in our follow-up inspection.

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

## Introduction to Crown Court casework

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

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

**7.2.** Our findings should be seen in light of the context we set out in chapter 2, concerning the impact on the Area of Covid-19, particularly the significant rise in Crown Court caseloads, staffing challenges and the increase in charging advice requests from the police.

**7.3.** We have scored CPS Yorkshire and Humberside for its Crown Court casework as follows.

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

Question	Rating	%
<b>Pre-charge decision-making and review</b>		
The Area complies with the Code for Crown Prosecutors <sup>23</sup> at pre-charge decision stage	Fully meeting the standard	97.1%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	84.8%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	32.7%
<b>The quality of post-charge reviews and decision-making</b>		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	95.0%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	45.4%

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

Question	Rating	%
<b>Preparation for the Plea and Trial Preparation Hearing</b>		
The Area prepares its cases effectively for the plea and trial preparation hearing in the Crown Court to ensure progress is made	Partially meeting the standard	61.2%
<b>Disclosure</b>		
The Area fully complies with its duty of disclosure throughout its Crown Court casework	Partially meeting the standard	61.5%
<b>Victims and witnesses</b>		
The Area addresses victim and witness issues appropriately throughout its Crown Court casework	Partially meeting the standard	63.1%

**7.4.** Our assessment of Crown Court casework was that there were aspects that were done well, including compliance with the Code for Crown Prosecutors, and the selection of appropriate charges in most cases. Timeliness was generally a strength for the Area, particularly in relation to pre-charge decision-making, initial disclosure and warning witnesses. There were other aspects that required more focus, particularly in relation to the quality of legal reviews.

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

**Table 10: Standard of Crown Court case analysis and strategy, pre- and post-charge**

Question	Crown Court cases
<b>Pre-charge case analysis and strategy</b>	
Fully meeting the required standard	11.8%
Partially meeting the required standard	35.3%
Not meeting the required standard	52.9%
<b>Post-sending review analysis and strategy</b>	
Fully meeting the required standard	27.5%
Partially meeting the required standard	22.5%
Not meeting the required standard	50.0%

**7.5.** As Table 10 shows, the overall quality of legal analyses and trial strategies was higher after charge than at the pre-charge stage, with more cases assessed as fully meeting the standard. However, at the

post-charge stage, half of legal analyses were still assessed as not meeting the required standard.

## Pre-charge decision-making and reviews

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

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

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

**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 97.1% 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	33	97.1%
Not meeting the required standard	1	2.9%

**7.9.** The Code for Crown Prosecutors was correctly applied in all but one of the cases we examined. In that one case, three suspects were charged with being concerned in the supply of cannabis and cocaine. There was no evidence to implicate one of them other than her presence in the house where cannabis and cocaine were discovered. The second suspect was said to be linked to the third by drug-dealing messages, but there was no evidence to show that the person being messaged was actually the second suspect. In any event, the messages related to dealing cannabis, not cocaine. Failure to analyse the evidence against

each suspect was at the root of the wholly unreasonable decision. The Code decisions were maintained post-charge. The case was dropped against the first suspect after the Plea and Trial Preparation Hearing (PTPH), and a plea taken to the cannabis offence for the second suspect, also after the PTPH, with the cocaine charge being dropped. The third suspect pleaded guilty to both charges at the PTPH.

## **Selecting the most appropriate charges**

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

**7.11.** We rated the Area as fully meeting the standard for selecting the most appropriate charges at the pre-charge stage. Overall, the score for pre-charge selection of the most appropriate charges at the pre-charge stage in Crown Court cases was 84.8%.

**7.12.** We assessed 81.8% of cases as fully meeting the expected standard for selection of charges, 6.1% as partially meeting the standard and 12.1% as not meeting the standard. This was generally a strength for Area; where there were errors these were often a lack of attention to detail rather than more fundamental flaws in the choice of charge.

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

**7.13.** Our assessment that the Area is not meeting the standard for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in Crown Court cases is 32.7%.

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

**7.15.** We found that the timeliness of the pre-charge decisions we examined was generally good. As with the magistrates' court cases, the Area has adopted across all its cases the 21-day target for charging advice in use during the pilot involving South Yorkshire Police. In our sample, there were 34 Area-charged cases, and we rated 27 of them as fully meeting the 21-day target, and a further six as partially meeting the standard, with one case not meeting the standard. This means that there was only one case where the delay in pre-charge decision-making was significant or had a material impact on the case. This is a strength for the

Area, particularly when considering the pandemic and other pressures the Area was under at the time.

### **Case analysis and strategy**

**7.16.** Eighteen of 34 cases (52.9%) of the Crown Court pre-charge decisions we examined were assessed as not meeting the standard for case analysis and strategy. Four cases (11.8%) were assessed as fully meeting the standard and 12 (35.3%) as partially meeting the standard. Inspectors found several common issues in the weaker cases including:

- The analysis did not adequately assess the legal points to prove, the strengths and weaknesses of the evidence or consider the defence(s) raised. There was often a recitation of the facts of the case without adopting a 'thinking' approach and, therefore, a failure to add value. This included not identifying reasonable lines of enquiry arising from the accused's account that may point away from a prosecution, and not setting out how any defence would be overcome within the trial strategy. In one case, involving an allegation of assault occasioning actual bodily harm, the credibility and reliability of the key witnesses was not addressed, the issue of self-defence was not explored, and no enquiries were made about the suspect's account that he had been bitten, including whether his injuries were consistent with this. There had also been previous incidents and there was no request to the police for further information about these. The prosecutor indicated that the case should not be dealt with as a hate crime despite the complainant indicating that they felt there was a homophobic motivation and that the defendant had used a homophobic insult during the incident.
- Case strategies were often limited to which witnesses to call and did not adequately address how any undermining aspects of the case might be overcome. For example, not analysing the impact of negative forensic evidence on the prosecution case or how the case should be presented in light of this. Under the case strategy heading in one pre-charge advice the prosecutor simply recorded, "will see what the defence statement says".
- Bad character evidence was not considered as part of the case strategy in a number of cases, in particular how and when it could be used to strengthen the prosecution case, the gateways for admissibility and what further information was required about the bad character to support the application.

- Unused material was not handled appropriately in many cases; 55.9% of the cases were assessed as not meeting the required standard. In one case, a drugs production matter, it was clear that intelligence had led to a search warrant being granted for the address. The lawyer did not identify that there was likely to be sensitive unused material because of this, nor did they make the relevant enquiries or give appropriate instructions.

### **Case study**

The case involved allegations of assault occasioning actual bodily harm (ABH), criminal damage, and aggravated arson.

The complainant lived in a house which had been converted into several separate flats; she occupied a flat on the ground floor next to the front door. The defendant (D), with whom the complainant had been having a relationship, attended uninvited and assaulted her by kicking her, causing bruising. When D left the premises, the complainant heard the sound of glass smashing and realised that her window had been broken. She telephoned D who admitted having caused the damage.

Four days later, CCTV recorded a person driving into the complainant's street, taking something from the vehicle, and driving away. Around five minutes later, the complainant was alerted to the fact that the front door of the premises had been set alight. She identified D as the driver of the vehicle from the CCTV footage. Cell site evidence showed D to be in the vicinity of the complainant's address at the time of the fire.

An independent witness saw the door on fire and a cloth on the door handle which was also alight. He removed the cloth and extinguished the fire.

A report by the fire service concluded that: "If the fire had not been extinguished it would have grown in size and the front door would have become fully engulfed in fire. The fire would have broken through the front door and flames, heat and dense black smoke would have entered the communal areas of the building. In my opinion the fire would have reached the window directly above the front door and caused the glass to break allowing even more flames, heat and smoke into the building."

During interview, D made no comment to all questions.

The pre-charge advice contained no meaningful case analysis or trial strategy. The case involved a reluctant complainant and an action plan had been set in the first charging advice for a background report and risk



assessment to determine how her evidence was to be adduced. The prosecutor who made the decision to charge made no reference to the background check and failed to address what should happen if the complainant refused to attend court, whether the case could proceed without her or whether a summons or a hearsay application was appropriate.

The complainant's injuries amounted to no more than bruising which, ordinarily, would have been charged as assault by beating. However, as the injuries were occasioned by kicking, CPS guidance says that a charge of ABH may sometimes be justified. There was no record that the CPS charging standards in relation to offences against the person had been considered and no justification for why it was appropriate to charge ABH as opposed to battery.

There was also no consideration of CPS charging standards or case law in relation to the arson charge, although some analysis of the evidence to justify the decision to charge an offence of arson with intent to endanger life, as opposed to simple arson, or arson being reckless as to whether life would be endangered, was clearly required. When the charging decision was made, the key witness statements were available together with a comprehensive report from the fire service. The report was relevant to the issue of D's intent; the fire officer commenting on the mechanism by which the fire started and how it was likely to progress had it not been extinguished by the independent witness. This was not addressed. No reference was made to the adverse inferences that could be drawn from the defendant's no comment interview.

At the PTPH, D pleaded guilty to the criminal damage offence. On the day of trial, the prosecution accepted a plea of guilty to arson being reckless as to whether life was endangered. The prosecution decided not to proceed with the assault count and the Judge directed that this be left to lie on the file.

The acceptability of pleas was not dealt with in any of the reviews despite the indictment including a count of arson being reckless as to whether life was endangered. There was no rationale for including this alternative count, although it was correct to do so. There was also no clear rationale for the acceptance of the pleas on the trial date, and no review. The only detail of the decision was found in the letter to the complainant in which the explanation was inaccurate and lacking in empathy.

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

**7.17.** The instructions in three cases out of the 34 Area-charged cases (8.8%) were found to be fully meeting the standard, with 20 cases (58.8%) partially meeting the standard and 11 cases (32.4%) not meeting the standard. In the weaker cases, there was rarely reference to bail or custody, and to the acceptability of pleas. Allocation guidance often simply detailed the appropriate venue without reference to the sentencing guidelines or any rationale to support the conclusion. Providing insufficient instructions for court prosecutors risks losing opportunities to progress or clarify matters at an early stage. It also results in duplication of work for the advocate who is usually dealing with a busy court and numerous other cases.

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

**7.18.** 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. This allows for actions to be prioritised and timescales set to make sure that all appropriate avenues of investigation have been completed, including those that may point away from a prosecution. Though some of the items often requested will not be required to advise on charge, they will be required post charge for the efficient progression of cases, and particularly for any oral applications to be made at the PTPH or in the event the defendant enters a guilty plea at PTPH and is to be sentenced.

**7.19.** We assessed six out of the 33 cases (18.2%) requiring action plans as fully meeting the standard, with a further 13 cases (39.4%) partially meeting the standard, and the remaining 14 cases (42.4%) not meeting it. The most common issue, accounting for nine of the 14 cases not meeting the required standard, was the absence of an action plan when one was required. Other issues included not asking for relevant material to address reasonable lines of enquiry, and not requesting additional information for bad character, special measures, compensation or restraining orders. Some action plans also featured unrealistic timescales.

### **Applications and ancillary matters**

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

**7.21.** We assessed the consideration of relevant applications and ancillary matters to strengthen the prosecution case as fully meeting the standard in five out of the 24 applicable cases (20.8%), as partially meeting it in five cases (20.8%), and as not meeting the standard in 14 cases (58.3%). There was often a failure to grasp the fact that these ancillary applications are often an integral part of the trial strategy, and that instructions need to be given in relation to them at an early stage. There are various routes by which bad character and hearsay evidence may be admitted and, in the weaker cases, the most appropriate route – and whether it was likely that the evidence would be admitted – were not addressed.

**7.22.** We assessed the pre-charge consideration of relevant applications and ancillary matters to support victims and witnesses – for example special measures, compensation or restraining orders – as fully meeting the standard in three out of 29 relevant cases (10.3%), partially meeting it in eight cases (27.6%), and not meeting the standard in 18 cases (62.1%).

**7.23.** Most commonly, in those cases not meeting the standard, the charging lawyers failed to consider special measures where they could assist witnesses to give their best evidence and/or failed to identify the actions to progress these applications. In a serious assault, involving attacks on two women in their home, one of the victims suffered a broken vertebra and other serious injuries. There was no mention in the charging advice of any applications and ancillary orders to support the victims. Even where a complainant or witness is automatically entitled to special measures, it is important to ascertain what measures would assist them to give their best evidence and why, and assumptions should not be made. To ensure that such applications can be made as early as possible, affording the victim or witness certainty about the support they can expect at court, consideration should be given to the potential for special measures applications at the pre-charge review with actions set out to progress where appropriate.

**7.24.** We were told that the Area has, since we examined the files, identified that the national induction package for new prosecutors only contains introductory training about special measures and ancillary orders at a basic level. The Area had not appreciated this previously and has now devised for new starters and inexperienced Crown Court lawyers an addendum package more focused on drafting and legal argument. This is currently being delivered. We are conscious that there have been a number of new recruits to the Area who have required additional training.

We will assess if this additional training has been successful in improving performance when we return for the follow-up inspection.

**7.25.** Given what we were told about staffing in the Area, with many new prosecutors joining the Crown Court teams from the magistrates' court teams and experienced Crown Court prosecutors moving into the rape and serious sexual offences (RASSO) teams, our findings on the quality of some reviews and the specific issues we identified are not unexpected. Caseloads were higher than the Area would have liked for the newer prosecutors in the team and those who had remained in the team had to deal with more complex work while mentoring and developing their newer colleagues.

**7.26.** The Area redeployed Crown Advocates to carry out review work in the Crown Court teams. This redeployment assisted the Area with backlogs, but the impact was mitigated as many Crown Advocates needed to be trained in the use of the case management system (CMS) for reviewing files.

## Post-charge decision-making and reviews

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

**7.27.** Our assessment is that the Area is fully meeting the standard for this sub-theme of post-charge decision-making. Overall, the score for Code compliance in Crown Court cases is 95%. These cases included those that were originally charged by either the police or CPS Direct. The rating includes post-sending reviews, reviews conducted when the prosecution case was served, and any significant event reviews.

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

Rating	Number of cases	Percentage
Fully meeting the required standard	38	95.0%
Not meeting the required standard	2	5.0%

**7.28.** 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.

**7.29.** As Table 12 shows, compliance with the Code is a strength for the Area in Crown Court cases, with two of 40 cases identified as wholly unreasonable decisions at the post-sending review stage. One of these cases is the same case identified as a wholly unreasonable decision at the pre-charge stage, which was allowed to continue following the post-charge review. In the other case, the lawyer at the post-sending review decided to add further charges which did not have a proper evidential basis, and which were then dropped at the PTPH.

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

**7.30.** Our assessment is that the Area is not meeting the standard for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in Crown Court cases is 45.4%.

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

### **Case analysis and strategy**

**7.32.** Inspectors found that, in general, prosecutors correctly applied the Code and selected appropriate charges, but often they did not clearly analyse the evidence and set out by way of a cogent case strategy how the case would be prosecuted. Just over a quarter of all post-sending pre-PTPH reviews, 11 out of the 40 cases examined, (27.5%), were rated as fully meeting the standard required of a proportionate review. A further nine cases (22.5%) were rated by inspectors as partially meeting the standard, with 20 cases (50.0%) rated as not meeting the standard.

**7.33.** We found some examples of cases where prosecutors had carefully considered the case afresh and addressed relevant issues within the review, clearly adding value. In these instances, the case had been properly checked for new evidence, further details of defences had been considered, and the original pre-charge decision was analysed to ensure it was correct and that issues that had been overlooked were now addressed.

### **Case study**

The victims attempted to apprehend the defendants after finding them with metal detectors on their land.

As the victims were detaining defendant one (D1), defendant two (D2) got into his car and drove at them twice, causing a significant injury to one of the complainants.

The defendants were identified after their blood was found at the scene. D2 was interviewed and denied the assault, claiming to have been acting in self-defence and in defence of another (D1).

D2 was charged with causing bodily injury by wanton and furious driving, the lawyer having concluded that that charge was easier to prove than an attempt to cause grievous bodily harm. There was no reference to CPS policy on prosecuting offences involving the use of a vehicle as a weapon. CPS charging practice is that prosecutors should only prosecute for an offence of wanton and furious driving when it is not possible to prosecute for an offence under the Road Traffic Act 1988, such as careless or dangerous driving. When a vehicle is deliberately used as a weapon to cause injury, as the evidence suggested was the case here, prosecutors should normally prosecute for an offence of dangerous driving and/or a specific assault.

The lawyer who reviewed the case at the post-sending stage correctly applied CPS policy and replaced the wanton and furious driving charge with charges of dangerous driving and attempting to cause grievous bodily harm. They also drafted a further action plan to address outstanding lines of enquiry and other information required. They demonstrated a thinking approach to the prosecution case and evidence, adding real value. The charges selected better reflected the criminality involved and the harm caused to the victims, as well as providing the court with a greater range of sentencing powers.

On the day of trial, D2 offered pleas to going equipped for theft, dangerous driving and assault occasioning actual bodily harm, which were accepted as the victim had already been consulted.

**7.34.** Our assessment of the case analysis in the Crown Court led us to identify common issues in the weaker cases we read.

- Failure to address or understand points of law and the elements of offences to be proved. For example, the two ‘wholly unreasonable decision’ cases both related to being concerned in or possession with intent to supply drugs. In both cases there was a failure to critically assess whether the elements of the offences could be proved against co-defendants who were simply present at the location or linked to only some of the offending. For an allegation of permitting the use of premises for the supply of drugs offence, the lawyer failed to address what evidence was available to prove that the defendant knew that the co-defendant was concerned in the supply of drugs and that they had permitted the premises to be used for that purpose.
- Prosecutors reproducing (cutting and pasting) the charging advice, adding no further review and therefore no added value in cases where key aspects had not previously been addressed. There appears, in some cases, to be an over reliance on an assumption that the pre-charge decision is comprehensive and correct, without this being adequately checked. While the pre-charge decision should be complete, our file examination findings suggest there are often omissions which need to be addressed post charge.
- Not addressing additional evidence or information, such as where the defence had identified the issue in the case at the first hearing when this had not been clear at the pre-charge stage.
- Acceptability of pleas not being addressed.
- Not considering police compliance with previous action plans and escalating non-compliance.
- Not seeking further information needed to progress applications to strengthen the prosecution case. Of the 16 cases where applications were appropriate, three cases (18.8%) were rated as fully meeting the standard and five cases (31.3%) as partially meeting the standard, with eight cases (50%) not meeting the standard. We identified a particular issue with the quality of the applications made in relation to bad character evidence. These often failed to contain any legal argument, and the gateways to admissibility, particularly where there had been an attack on another’s character, were overlooked. There were also examples of the notices being served late.



- There was sometimes a failure to show that unused material deemed disclosable was being considered with reference to its potential impact on the strength of the evidence. In some instances, prosecutors failed to record a strategy to deal with undermining material or explain why the case still complied with the Code despite the material.

### **Stage 1 reviews**

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

**7.36.** In our sample, five cases out of 35 (14.3%) had a review meeting the required standard and adding value at stage one. A further 12 cases (34.3%) were assessed as partially meeting the standard, and 18 cases (51.4%) were rated as not meeting the standard. All the cases assessed as not meeting the standard were ones where a review was required to address outstanding issues or material not previously considered, including where fresh information had been provided by the defence.

### **Significant events**

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

**7.38.** Inspectors found limited evidence of significant-event reviews taking place in Crown Court cases. Seven out of the 23 relevant cases were rated as fully meeting the standard, and two cases were assessed as partially meeting the standard. The remaining 14 cases were assessed as not meeting the standard because we found little or no evidence to support any decision-making around the progress of the case as a result of the significant event. For example, in a case involving an allegation of an assault, an offer of a plea to affray was made on behalf of the defendants. There was no formal review of the offer, although the lawyer indicated in a note to counsel that they were “not enthusiastic”. Three months later, the plea was offered again and accepted, but there was no review recording the decision, what had changed since the lawyer took the view it was not acceptable, whether the plea provided sufficient sentencing powers and if it was acceptable to the complainant.



**7.39.** Of the ten cases in which a basis of plea or a lesser plea was accepted, three were rated as fully meeting the standard and seven were rated as partially meeting the standard. The issue in the latter cases was most often the absence of a clear record giving the rationale for accepting the basis or plea.

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

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

**7.41.** Within our sample of 40 Crown Court cases, 18 of the files (45.0%) submitted by the police did not meet the requirements set out in the NFS. We rated 22 files (55.0%) as fully meeting the NFS.

**7.42.** We found that the Area used the NFQ tool within the case management system (CMS) to feed back the deficiencies for nine out of the 18 files that had not met the NFS. In the remaining nine files, there was no feedback given, which may be because of the suspension of NFQ. Where feedback was given, we rated it as fully meeting the required standard in four instances, and as partially meeting the standard in five, usually because the feedback addressed only some of the failings in the police file.

**7.43.** The issues we discuss in paragraphs 7.25 and 7.26 around inexperience, pressures and high caseloads impacting on casework quality at the pre-charge stage, also clearly impacted on the quality of review and decisions post-charge.

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

**7.44.** Our assessment is that the Area is partially meeting the standard for this casework theme. Overall, the score for preparation for the Plea and Trial Preparation Hearing (PTPH) in Crown Court cases is 61.2%.

**7.45.** In assessing the Area's performance when 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; making sure the relevant material is uploaded to the Crown Court Digital Case System (CS) before the hearing; and making sure an advocate is instructed in advance of the hearing, so that they have time to prepare. There is more detail on these tasks in chapter 4 (paragraphs 4.27 to 4.36).

**7.46.** Preparation for the PTPH hearing was found to be fully meeting the standard in 16 out of the 39 applicable cases (41.0%). We rated a further 18 cases (46.2%) as partially meeting the standard, with five cases (12.8%) not meeting the standard. The ratings were largely positive, with PTPH forms being uploaded in a timely manner in most cases. The most common reason for a rating of partially meeting was because the prosecutor had not addressed or drafted necessary applications, such as bad character or special measures.

**7.47.** The police upload hard media (such as CCTV footage or body worn videos) to secure online locations and send the links to the CPS. We found that in two-thirds of the relevant cases (66.7%) the Area shared hard media with all parties prior to the PTPH. We rated two cases (8.3%) as partially meeting the standard and six cases (25.0%) as not meeting the standard. The timely service of media evidence ensures that the defence is able to take appropriate instructions and advise their clients appropriately, and that the PTPH is as effective as possible.

## **Direct engagement with the defence**

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

**7.49.** Covid-19 has had a significant impact on the defence's ability to respond to direct engagement approaches from the prosecution. Many defence firms furloughed employees, and their staff faced the challenges of home working, home schooling, illness and caring responsibilities that so many others have experienced during the pandemic and consequent lockdowns. This hampered Areas' efforts to engage with defence practitioners. It was also difficult for the defence to take instructions from clients prior to the PTPH because clients were ill or had other responsibilities, or in custody cases, it was very difficult to get

appointments for legal visits in prisons. This meant that even in cases where engagement was attempted, it had very little impact as the defence was not in a position to discuss the case with the prosecution. We were told that this can be demoralising for prosecutors who feel that the process is unlikely to have a positive impact on the progression of the case and this can be seen in the limited attempts to engage with the defence in the cases we examined.

**7.50.** There were very few attempts to engage with the defence in the cases we considered, with one case of 37 (2.7%) fully meeting the standard and three cases (8.1%) partially meeting the standard. There was no evidence of any defence engagement carried out by the prosecution in the other 33 cases (89.2%). We found two DDE logs that had been uploaded to CCDCS out of the four cases where any engagement had begun. The Area may wish to reinvigorate this as the pressures ease.

## **The indictment**

**7.51.** Indictments were properly drafted in 29 of the 39 cases (74.4%) in which one was required, with a further nine cases (23.1%) partially meeting the standard, and one case (2.6%) not meeting it. This is a good result. Generally, indictments were legally correct and contained an appropriate number of counts to adequately reflect the criminality involved. The timeliness of service of the draft indictment and evidence was generally good, with 74.4% of cases assessed as fully meeting the standard; in this case that was uploading it to the CCDCS seven days before the PTPH.

## **Instructing the advocate**

**7.52.** We set out the expectations for what should be contained in instructions to the court advocate in paragraphs 4.31 and 4.32.

**7.53.** The Area's instructions to the PTPH advocate need to be improved. We assessed three cases (10.3%) as fully meeting the required standard, and eight cases (27.6%) as partially meeting the standard. In the remaining 18 cases (62.1%) there was either no instruction document at all, or it was silent on most, or all, of the key issues – particularly around acceptability of pleas and applications such as special measures and bad character, which would impact on the advocate's effectiveness at

the hearing<sup>24</sup>. We assessed these as not meeting the required standard. For example, where applications for special measures are required and have not been drafted in advance of the PTPH, there should be an instruction to the advocate detailing which measures are required and that an oral application should be made at the hearing.

**7.54.** We found that in 31 cases (81.5%), the advocate was instructed by being sent the case papers electronically at least seven days before the PTPH or, if not, in sufficient time for them to prepare the case effectively. These cases attracted ratings of fully and partially meeting the standard. Once again, the Area's timeliness is a strong aspect of its casework.

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

**7.55.** Our assessment is that the Area is partially meeting the standard for this casework theme. Overall, the score for disclosure in Crown Court cases is 61.5%.

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

### Police service on disclosure

**7.57.** Where the police do not comply with their disclosure obligations it may result in the prosecutor asking the disclosure officer to complete further work on inadequate schedules, to provide more relevant information or to complete further enquiries. This can often result in delays to the case while these matters are addressed.

**7.58.** Of the 38 cases where disclosure schedules had been provided to the Area, 14 (36.8%) were rated as fully meeting the required standard,

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<sup>24</sup> The file examination results for the quality of instructions to advocate do not contribute to the scoring for added value or grip or the other casework themes. This decision was taken as a result of different approaches taken by Areas where a Crown Advocate appears at the PTPH.

with a further 14 (36.8%) partially meeting it. In ten cases (26.3%) the schedules were rated as not meeting the required standard. The main issues were inadequate descriptions of items on the disclosure schedules, failing to include items of unused material on the schedules and failing to include material that met the disclosure test on the police manual of guidance form 6E (MG6E) used by the disclosure officer to identify disclosable items.

**7.59.** Feedback to the police is an important part of driving improvement, and should occur despite the pressures on CPS Areas, so that the Area receives a better service in future. Although, at a strategic level, we found evidence of a proactive approach by the Area to working with the police to improve the quality of schedules, feedback by prosecutors on individual cases remains an important strand of efforts to achieve long-term improvement. However, we found a failure to challenge police disclosure non-compliance, either partially or wholly, in three-quarters of the 24 applicable cases (75.0%).

## **Initial disclosure**

**7.60.** We assessed initial disclosure in the Crown Court as fully meeting the required standard in nine of the 36 applicable cases (25.0%). Another 16 cases (44.4%) were assessed as partially meeting the standard and 11 cases (30.6%) as not meeting the standard.

**7.61.** The most common issues that led to cases being assessed as partially or not meeting the standard were prosecutors saying that non-disclosable unused material was disclosable (eight out of 27 cases), or prosecutors assessing disclosable unused material as not disclosable (five cases). We concluded that this was a consequence of the prosecutor not grasping the finer details of the case and trial strategy, and therefore not being able to properly determine how unused material impacted on them. We also noted the incorrect use of the mandated endorsements in some cases, suggesting a lack of understanding of the relevant guidance. This may be a training issue.

**7.62.** In other cases, schedules were not endorsed with the reasoning for disclosure decisions when they should have been. In a case involving a series of robberies, the lawyer marked two items on the schedule relating to paperwork from negative identification parades, where the complainants failed to identify the defendant, as clearly not disclosable. There was no explanation for this decision and the lawyer simply marked everything on the schedule in the same way without proper consideration of each item or description. There also appeared to be routine disclosure

of witness police national computer prints, in cases where they clearly did not undermine the prosecution or assist the defence.

## **Continuing disclosure**

**7.63.** We rated the Area's compliance with its duties of continuing disclosure as fully meeting the expected standard in 13 out of the 26 relevant cases (50.0%), which is significantly better than compliance at the initial disclosure stage. This suggests that Area prosecutors are adopting a more considered approach to disclosure when they have a defence case statement to give them a focus on the issues in the case. We rated continuing disclosure as partially meeting the standard in six cases (23.1%) and not meeting the standard in seven cases (26.9%).

**7.64.** There were a variety of reasons for cases being rated as partially and not meeting the standard, but the most common reasons were assessing non-disclosable unused material as disclosable and not endorsing decisions on newly revealed items. In one case, there was no formal response to the defence statement and instead an e-mail was sent to the defence regarding the complainant's medical condition. The rationale for disclosing this information was not recorded on the disclosure record, nor was a review completed covering how this undermining material impacted on the prosecution case. The police views on disclosure, contained on an MG6E form (which should not be disclosed), were also sent to the defence. There were also instances where items were incorrectly marked for the defence to inspect them. Endorsement failings, as with initial disclosure, could indicate gaps in some lawyers' knowledge.

**7.65.** No cases were assessed as presenting a risk of a miscarriage of justice as a result of disclosure failings identified.

**7.66.** We found that defence statements were reviewed by prosecutors with directions being given to the police in most cases. Of the 25 relevant cases, 16 (64.0%) were rated as fully meeting the standard, five cases (20.0%) were rated as partially meeting the standard and four cases (16.0%) as not meeting the standard. Where we rated cases as partially or not meeting the standard, the most common issue was the defence statement being forwarded to the police (by both paralegal officers and lawyers) with no guidance at all, whether or not the prosecutor had reviewed the statement.

**7.67.** There were four defence statements that were found to be inadequate. In two of the four cases, the issues were identified by the

prosecutor, but no action was taken, leading to an assessment of partially meeting the expected standard. In the other two, rated as not meeting the standard, there was no evidence that the prosecutor had identified the failings, for example, by challenging the defence or notifying the court of the inadequacy of the document.

## **Timeliness**

**7.68.** Timeliness of Crown Court disclosure of unused material is a strength for the Area. We assessed initial disclosure as timely, therefore fully meeting the standard, in 91.7% of cases, and late but with no material impact on the case – therefore partially meeting the standard – in the remaining 8.3% of cases. This means that there were no cases demonstrating a significant delay to service of initial disclosure, which could have impacted on case progression.

**7.69.** Timeliness for continuing disclosure was rated as fully meeting the expected standard in 50% of cases and partially meeting the standard in 34.6% cases. There were four cases (15.4%) which did not meet the timeliness standards for continuing disclosure.

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

**7.70.** Sensitive unused material was relevant in 16 of the Crown Court cases we examined. Of these, we found six cases (37.5%) to be fully meeting the standard, six cases (37.5%) partially meeting the standard and four cases (25%) not meeting the standard. There were cases involving drug supply with a clear indication that there was intelligence leading to the search, but where nothing was listed on the sensitive material schedule. This was not questioned by the reviewing lawyer.

**7.71.** There was one case where disclosable automatic numberplate recognition data was listed on the sensitive material schedule. No attempt was made to redact the sensitive data or disclose it to the defence in such a way as to separate the sensitive and non-sensitive parts of the document. Ultimately, this did not impact on the case because of other evidence, but it indicates a lack of understanding of what amounts to sensitive material.

**7.72.** Third-party material was correctly dealt with in nearly all the cases where it was relevant (88.9%). Generally, in our file sample, the third-party material related to medical records, and these were dealt with appropriately in all but one instance. This is a strength in Crown Court casework. In one case involving an alleged assault by a teaching



assistant on a pupil, the prosecutor was proactive in ensuring that consent had been obtained from the Local Authority to disclose school records at the earliest stage of the case, showing grip and preventing possible delay later on.

## **Recording decisions**

### **Disclosure management document**

**7.73.** Disclosure management documents (DMDs) were not mandated in routine Crown Court cases until 1 January 2021, a change brought about by the release of the sixth edition of the Director's Guidance on Charging. Of the Crown Court cases in our sample, 30 were governed by the guidance which preceded the change, so DMDs were not obligatory in those volume cases. In one case of the ten requiring a DMD, it was not done. There were nine cases where DMDs were completed, and we rated five of the documents (55.6%) as fully meeting the standard, one (11.1%) as partially meeting the standard, and three (33.3%) as not meeting it.

### **Disclosure records**

**7.74.** The completion of the disclosure record on modern CMS was assessed as fully meeting the standard in 15 out of 36 applicable cases (41.7%), with a further eight cases (22.2%) rated as partially meeting the standard, and 13 cases (36.1%) not meeting the standard. We found that the main issue where disclosure records were rated as partially meeting or not meeting the standard was because they lacked detail around the decisions and actions taken, and/or the rationale for decisions was not recorded.

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

**7.75.** Our assessment is that the Area is partially meeting the standard for this casework theme. Overall, the score for victim and witness issues in Crown Court cases is 63.1%.

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



## **Pre-charge**

**7.77.** Failure to properly consider special measures at charge risks delaying any request to the police for additional information, or delaying the application itself and with it, the reassurance for victims and witnesses that comes from knowing they will have the benefit of appropriate measures at the trial.

**7.78.** We noted that pre-charge advices often did not address special measures and witness requirements, which was a significant contributor to our finding that 18 out of the 29 Area pre-charge reviews (62.1%) were not meeting the standard for the consideration of applications and ancillary matters to support victims and witnesses. We rated three out of 29 relevant cases (10.3%) as fully meeting the standard, and eight cases (27.6%) as partially meeting the standard. Further detail can be found at 7.22 to 7.24.

**7.79.** Inspectors examined several cases where potential special measures applications were not identified at the earliest opportunity, even in cases where it was highly likely that an application would be required. For example, in a case involving rival gangs, there was no consideration of special measures for the witnesses in the early stages of the case. There was also a failure in some cases to ask for an MG2 (special measures form) from the police where this was clearly going to be needed. This resulted in applications being made later than they should have been.

**7.80.** The two other main contributors to our pre-charge findings were failures to consider at charge, applications for restraining orders to protect victims and the public, and applications for compensation.

## **After charge**

### **Special measures**

**7.81.** The steps taken post-charge to achieve best evidence by making applications for special measures were rated as fully meeting the standard in seven of 25 cases (28.0%), partially meeting the standard in 11 cases (44.0%) and not meeting the standard in seven cases (28%). In the cases partially or not meeting the standard, there was a lack of proactivity by prosecutors asking the police for the views of the witness and making timely applications.

**7.82.** In one robbery case involving a complainant with schizophrenia who rarely left his house, there was no consideration of special measures

at all. The complainant did attend court, but without being afforded support to give his best evidence and reduce the stress of the experience.

### **Communications with witness care units**

**7.83.** The correct and timely warning of witnesses occurred in 91.9% of relevant cases, which is a real strength for Area. Witness care unit (WCU) correspondence was also handled well and in a timely manner in 18 of 27 cases (66.7%). In 25.9% of cases, the handling of WCU communication was assessed as partially meeting the standard due to delays that, although not adversely impacting the effectiveness of the trial, potentially left the witness without a resolution to issues for longer than necessary. In two cases (7.4%), the responses to the WCU were neither timely nor effective and were therefore assessed as not meeting the required standard.

**7.84.** We saw good examples of proactive management of witness issues. For example, in one case the WCU notified the CPS that an officer could not attend trial. The communication was actioned by the CPS the same day and a letter sent to the court advising them of the issue. The prosecutor considered the case and resolved the issue by calling another officer who was present at the incident, ensuring that the trial could proceed.

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

**7.85.** Consultation with victims and witnesses was found to be fully meeting the standard in 11 out of 26 relevant cases examined (42.3%), partially meeting it in nine cases (38.5%), and not meeting the standard in six cases (19.2%). The CPS case management system (CMS) includes a document entitled "Record conversation(s) with witnesses" and where this was completed, it generally included sufficient detail, resulting in a rating of fully meeting the standard for this question.

**7.86.** Victim and witness consultation was more likely to be assessed as partially meeting or not meeting the standard in cases where the decision was taken to discontinue or offer no evidence. Consultation was more common, although not universal, where the victim was required to give evidence at trial and the speaking to witnesses at court (STWAC) initiative was followed.

**7.87.** We were told that performance had been affected by the pandemic because paralegal officers, who usually record the STWAC conversations, were not always present in the courtroom. The paralegal officers also had to prioritise recording the conversations where the trials

were effective as this was more likely to have an impact on disclosure. This would explain why inspectors saw fewer records of STWAC conversations in cases where the trial did not proceed.

### **Victim personal statements and orders on sentencing**

**7.88.** Appropriate orders were sought on sentence, thus were rated as fully meeting the expected standard, in nine out of 12 cases (75.0%), with three cases (25.0%) partially meeting the standard. There was good performance in this area of work, with none of the cases considered to not be meeting the standard. Where appropriate, the Area seeks appropriate orders on sentencing to protect the victim, witnesses or the public.

**7.89.** We found Area was fully meeting the standard for complying with the victim's wishes in respect of Victim Personal Statements (VPS) in ten out of 24 cases (41.7%). We rated a further 11 cases as partially meeting the standard, and three cases (12.5%) as not meeting it. In those cases not meeting the standard, the VPS was not addressed at any stage. In those cases rated as partially meeting the standard, either the victim had not been asked how their statement should be presented to the court, the police had not communicated this to the CPS and this was not followed up, or there was no indication on CMS that the VPS had been read to or by the Judge during the sentencing exercise.

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

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

**7.91.** There is room to improve the timeliness and quality of victim communication and liaison scheme letters (VCLs). Five of the 12 VCLs required (41.7%) were assessed as timely, three letters (25%) were assessed as partially meeting the standard for timeliness – where the letter was late, but the delay was minimal – and the remaining four letters (33.3%) did not meet the timeliness standard. In one of those cases, no letter was sent at all.

**7.92.** Of the eleven cases where VCL letters were sent, one was rated as fully meeting the standard, five as partially meeting the standard and five as not meeting the standard. In one letter, assessed as not meeting the standard, where there were identification issues in an assault case, the letter could be interpreted as appearing to blame the complainant for having to offer no evidence because he had given inconsistent descriptions of his attackers. English was not the complainant's first language and another complainant in the case, who was also sent a letter

containing a similar explanation, felt that it had been racist to say that the description had been inconsistent, and complained. This complaint could have been avoided had the original letter been written more carefully and empathetically.

## **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 offences (RASSO) prosecutions by making sure the right person is prosecuted for the right offences, cases are progressed in a timely manner and cases are dealt with effectively?**

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

**8.2.** Our findings should be seen in light of the context we set out in chapter 2, concerning the impact on the Area of Covid-19, the movements of staff inexperienced in RASSO casework to the team and the increased pre charge receipts from the police.

**8.3.** We have scored CPS Yorkshire and Humberside for its RASSO casework as follows.

**Table 13: Scoring for RASSO casework**

Question	Rating	%
<b>Pre-charge decision-making and review</b>		
The Area complies with the Code for Crown Prosecutors <sup>25</sup> 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	100%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	50%
<b>Quality of post-charge reviews and decision-making</b>		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	100%

<sup>25</sup> *Code for Crown Prosecutors, 8th edition*; CPS; October 2018.  
[www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors)

Question	Rating	%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Partially meeting the standard	60.3%
<b>Preparation for the Plea and Trial Preparation Hearing</b>		
The Area prepares its cases effectively for the Plea and Trial Preparation Hearing (PTPH) in the Crown Court to ensure progress is made	Partially meeting the standard	61.6%
<b>Disclosure</b>		
The Area fully complies with its duty of disclosure throughout its RASSO casework	Not meeting the standard	49.2%
<b>Victims and witnesses</b>		
The Area addresses victim and witness issues appropriately throughout its RASSO casework	Fully meeting the standard	70.5%

**8.4.** Our assessment of RASSO casework was that there were aspects that were done well, including complying with the Code for Crown Prosecutors when making decisions to prosecute, selecting appropriate charges, and addressing victim and witness issues. There were other aspects that require more focus, specifically the quality of case analyses and trial strategies in pre- and post-charge reviews, and compliance with disclosure duties.

**8.5.** There are factors relating specifically to RASSO casework, which we cover in paragraphs 4.63 to 4.66.

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

**Table 14: Standard of RASSO case analysis and strategy, pre- and post-charge**

Question	RASSO cases
<b>Pre-charge case analysis and strategy</b>	
Fully meeting the required standard	61.1%
Partially meeting the required standard	22.2%
Not meeting the required standard	16.7%
<b>Post-sending review analysis and strategy</b>	
Fully meeting the required standard	65.0%
Partially meeting the required standard	10.0%

Question	RASSO cases
Not meeting the required standard	25.0%

**8.6.** As Table 14 shows, the overall quality of legal analysis and trial strategy in the Area's RASSO cases is higher than those we found when examining non-RASSO magistrates' courts and Crown Court cases. One area for improvement, however, relates to post-charge reviews, where we found one in four pre-PTPH reviews not to be meeting the standard. The issue with reviews not meeting the standard post-charge was primarily a failure to address new material or issues which arose post-charge.

## Pre-charge decision-making and reviews

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

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

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

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

**8.9.** We rated the Area as fully meeting the standard for this sub-theme of pre-charge decision-making, with all of the Area's 18 RASSO charging advices being compliant with the Code for Crown Prosecutors. The high-level decision making in relation to RASSO casework is excellent.

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

Rating	Number of cases	Percentage
Fully meeting the required standard	18	100%
Not meeting the required standard	0	0.0%



## Selecting the most appropriate charges

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

**8.11.** In RASSO cases, the selection of charges can be complicated, with different charges 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.

**8.12.** We found that the Area is fully meeting the expected standard for this aspect of the casework theme. In all 18 of the Area-charged cases (100%), the prosecutor selected the most appropriate charges. This is a real strength, particularly given the complexities referred to in the preceding paragraph.

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

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

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

**8.15.** All RASSO cases were assessed against a 21-day timescale as that is what has been adopted across the Area following the inclusion of one of the Area's police forces in the pilot of the national charging model. We found timeliness of the pre-charge decisions we examined to be mixed, with nine out of 18 cases (50.0%) fully meeting the standard and the remaining nine cases (50.0%) not meeting the standard. This is a weakness in relation to RASSO casework, where delays can have significant impact on victims and witness. We note, however, the increase in pre-charge receipts over this period and that the Area was having to utilise Crown Advocates and assistance from other Areas to assist with RASSO pre-charge decision-making, and this inevitably impacted on timeliness.

## Case analysis and strategy

**8.16.** In relation to case strategy and analysis at the pre-charge stage, 11 out of 18 cases (61.1%) were assessed as fully meeting the standard,

four (22.2%) as partially meeting the standard and three (16.7%) as not meeting the standard.

**8.17.** For those cases assessed as fully meeting the standard, inspectors found prosecutors mastering the evidence and unused material at an early stage and adopting an inquisitive and proactive approach.

### **Case study**

The victim, a child, was in the changing rooms at a leisure centre. The defendant, who was also in the changing rooms, exposed himself and began to touch himself whilst beckoning the victim over. The defendant followed the victim into the urinals, continued to touch himself and then gestured for the victim to perform a sex act upon him, inciting him to engage in sexual activity.

Later that evening, after he returned home, the victim told a family member about what had happened. The defendant was identified from the CCTV and a membership pass he had used to enter the swimming pool. An identity parade was set up a couple of days later and the victim positively identified the defendant.

In interview the defendant admitted that he was present in the changing rooms at the time but denied any inappropriate sexual behaviour towards the victim. He later said it was a mistaken identification.

At the pre-charge decision stage, the reviewing lawyer carefully analysed the evidence against the defendant and the account given by him in interview. The lawyer noted that the identification procedure was significant as, when the victim watched the compilation of images for the first time, he became distraught when the defendant's image was shown to him and had to be comforted by the family member accompanying him before making the formal identification. This recording would not normally be adduced at trial, but the lawyer recognised that the victim's immediate reaction to seeing the defendant for the first time since the incident would be compelling evidence which would strengthen the prosecution case.

The lawyer clearly set out the strengths and weaknesses of the case and the points to prove for the offences of inciting a child to engage in sexual activity and engaging in sexual activity in the presence of a child. Clear instructions were given on acceptable pleas, a note was made that this was a case where the victim's cross examination could be pre-recorded and a comprehensive post-charge action plan was completed for the

police to seek further evidence to rebut the defendant's account of why he was in the changing rooms in the first place.

The proactive approach of the prosecutor in this case, in considering how the case could be strengthened and presented to the jury, demonstrated how a thinking approach resulted in clear and concise case analysis and a robust trial strategy; significant value was added in this case.

The defendant was convicted after trial.

**8.18.** Where the analysis and strategy were assessed as partially or not meeting the standard, we found that, although the correct charges were selected, the analysis of the evidence did not always clearly record the lawyer's thinking and reasoning, nor was proper consideration given to defences raised. For example, in more than one case involving attempted offences, there was no analysis regarding how the actions were more than merely preparatory.

**8.19.** Addressing the unused material is of importance when deciding on whether to charge or not. In nine of 18 cases (50.0%) the charging advice was rated as fully meeting the standard for dealing appropriately with unused material, in three of 18 cases (16.7%) as partially meeting it and in the remaining six cases, as not meeting the standard. The main reasons for the partially meeting and not meeting ratings were that lawyer failed to analyse how the unused material impacted on the prosecution case and how this could be addressed in the trial strategy, and/or failed to provide instructions on whether to disclose an item (or not) and why.

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

**8.20.** Instructions to court prosecutors to assist them at the first hearing in court need improvement. We assessed six of the 18 relevant cases (33.3%) as fully meeting the standard. We assessed instructions as partially meeting the standard in seven cases (38.9%) and as not meeting the standard in five cases (27.8%).

**8.21.** Instructions as to bail were missing in several cases, particularly when the cases were commenced by way of postal requisition. Not considering appropriate conditions to attach to a defendant's bail can have a significant impact on the victims of this sort of offending and we found that sometimes conditions were not imposed in appropriate cases until the PTPH.

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

**8.22.** 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 make sure that all appropriate avenues of investigation have been completed, including those that may point away from a prosecution.

**8.23.** Action plans were assessed as fully meeting the standard in five out of 17 cases (29.4%), partially meeting the standard in a further five cases (29.4%) and not meeting the standard in seven cases (41.2%). Inspectors noted that the action plan was included in the body of the MG3 in some cases and that the deadlines for providing evidence were sometimes unrealistic. For example, in one case, 28 days was given for all actions including telephone evidence. In other cases, reasonable lines of enquiry, particularly regarding potential evidence which could be used for the presentation of a strong case, were missed.

## **Applications and ancillary matters**

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

**8.25.** We found a mixed approach to ancillary matters and applications to strengthen the prosecution case, such as bad character or hearsay evidence. We rated five out of 15 cases (33.3%) as fully meeting the standard, with a further one case (6.7%) partially meeting it, and nine (60.0%) not meeting the standard. We found that prosecutors often failed to recognise or adequately consider the relevance of bad character evidence and to use it to support the trial strategy.

**8.26.** The approach to consideration of relevant applications and ancillary matters to support victims and witnesses pre-charge was also inconsistent. We assessed four out of 16 cases as fully meeting the standard, two as partially meeting the standard and, the majority, ten, as not meeting the standard. Inspectors found that the procedures for requesting special measures were being applied inconsistently. Special measures were rarely explored pre-charge and further information from the police to support applications (on the MG2 form) was not sought in cases where the police ought to have sent it.

**8.27.** There was also a failure to consider what the witness wanted by way of special measures. Although in many RASSO cases, a victim or witness is automatically entitled to special measures, they should still be consulted about which measure they feel would help them to give their best evidence.

## Post-charge decision-making and reviews

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

**8.28.** Our assessment is that the Area is fully meeting the standard for this sub-theme of pre-charge decision-making, with all of the 20 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 two cases that were originally charged by either the police or CPS Direct. The rating includes, for cases in the Crown Court, post-sending pre-PTPH reviews, reviews conducted when the prosecution case is served after the PTPH, and any significant event reviews. For any RASSO cases not heard in the Crown Court (such as those involving youth defendants), we assessed the initial review post-charge.

**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	0.0%

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

**8.29.** Our assessment is that the Area is partially meeting the standard for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in RASSO cases is 60.3%.

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

### **Case analysis and strategy**

**8.31.** Slightly more post-sending pre-PTPH reviews were assessed as fully meeting the standard for case analysis and strategy than at the pre-charge stage. Inspectors rated 13 of 20 cases (65%) as fully meeting the required standard, two cases (10%) as partially meeting the standard, and the remaining five cases (25%) as not meeting it.

**8.32.** In one case, which had been charged by CPS Direct, the reviewing lawyer completed a very full and detailed review, carefully analysing the video-recorded interview with the complainant, the CCTV and the evidence of other witnesses. There was a thorough consideration of the trial strategy, which reflected the forensic science and medical evidence, which was still awaited, and a previous complaint against the same defendant which did not proceed to prosecution. The lawyer added value over and above the initial CPS Direct review and took ownership of the case.

**8.33.** The post-sending reviews were assessed as not meeting the required standard in those instances where outstanding issues were not addressed, and actions were not followed up with the police. These were generally where there was no fresh consideration of the case. However, we assessed post sending reviews as fully meeting the standard in most cases. We are conscious that a number of less experienced staff have recently moved to the RASSO team and this, together with the pressure of dealing with increased pre- charge receipts and the backlog of cases, could help explain those cases that did not fully meet the standard.

### **Significant events**

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

**8.35.** We found that significant event reviews were not always completed when they should be. Of the nine cases in which a significant event necessitated a review, five cases were rated as not meeting the standard (55.6%) as no review was completed. These included cases where there were decisions to discontinue or otherwise not proceed with the case. In two cases (22.2%), significant event reviews were assessed as fully meeting the standard and in a further two cases (22.2%) they were rated as partially meeting the standard.

### **Stage 1 reviews**

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

**8.37.** We found in the RASSO cases that stage 1 reviews were not always being completed or, where they were, they often referred to the pre-charge advice without adding any further value. We rated seven of the 18 applicable cases (38.9%) as fully meeting the standard for a review at this stage, two as partially meeting the standard (11.1%) and nine (50%) as not meeting the standard. In these cases, a review was required to address outstanding issues or new material that had not previously been considered.

### **Threshold test cases**

**8.38.** 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 extra evidence or material is received.

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

**8.40.** Inspectors noted that, in two cases charged by CPSD under the threshold test, no full Code test review was recorded across the life of the case. Though there was clearly sufficient evidence for a realistic prospect of conviction, and it was in the public interest to prosecute in these cases, it is important for the prosecutor to record that the important step of applying the full Code test has been completed, and the reasoning for proceeding.

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

**8.41.** We discuss the agreed National File Standard (NFS) for police file submissions, and the CPS's role in feeding back to the police on compliance with it, in paragraphs 4.19 and 4.20. One of the measures introduced across the CPS nationally to ease pressure resulting from the



pandemic was to suspend the requirement to use the national file quality (NFQ) feedback mechanism on the CPS case management system.

**8.42.** Within our sample of 20 RASSO cases, 12 (60.0%) of the police files submitted were assessed as fully meeting the requirements set out in the national file standard (NFS). We rated the other eight (40.0%) as not meeting the standard.

**8.43.** We found that the Area used the NFQ tool within the CPS case management system, to feed back the deficiencies for one of those eight files that had not met the NFS. In the remaining seven files, there was no feedback given.

**8.44.** We are aware that nationally one of the measures introduced to ease pressure on CPS Areas resulting from the pandemic was to suspend the requirement to use the NFQ feedback system. Some of the files we examined will have been reviewed after the suspension of the NFQ requirement, and this will have contributed to our findings.

#### **Conferences with counsel**

**8.45.** In cases with allegations of rape or penetrative assault, a conference should be held between counsel, the officer in the case and any expert witness. This conference presents another opportunity to review cases.

**8.46.** It is a chance 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 to better understand the relevant material, how to present it to a jury, and what possible areas of agreement and conflict there may be between the prosecution and defence expert evidence.

**8.47.** Conferences with the trial advocate were rated as fully meeting the standard in two out of ten cases, with the conference held sufficiently early so that any additional enquiries could be completed prior to trial. In three cases, although a conference took place, it was so close to the trial date as to create a risk that the trial would be ineffective. In the remaining five cases, there was no conference at all where one was required. We were told that counsel availability is often a difficulty, and this is why conferences are often held close to trial or not at all. Inspectors noted that conferences with counsel, and the decisions or actions arising from counsel's conversations with the police and defence, were rarely recorded on the case management system. Counsel faced the same pressures



during the pandemic, including abstraction through illness or other commitments. Some barristers did not return to criminal work after the courts reopened, so the Area has had more difficulty finding counsel. This has impacted on late returns and the ease of booking conferences.

**8.48.** Where there was no advice on the evidence from counsel, it was chased in one of the 14 applicable cases. There is evidence from the adverse outcome reports provided to us that the Area is aware of last-minute preparation by counsel and that good quality advice is required from counsel at an early stage.

**8.49.** Inspectors were told that there is only a small pool of suitably experienced counsel to deal with RASSO cases in the Area. This results in the late return of briefs in some cases and the Area having to search further afield to instruct appropriate counsel. We were told that on one occasion the Area has had to instruct Queen's Counsel rather than grade four rape specialist counsel to prosecute a RASSO case due to the shortages. RASSO Crown Advocates are being used as much as possible but, as a result of the backlog of trials and the number of barristers leaving the criminal bar, this issue is likely to persist.

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

**8.50.** Our assessment is that the Area is partially meeting the standard for this casework theme. Overall, the score for preparation for the Plea and Trial Preparation Hearing (PTPH) in RASSO cases is 61.6%.

**8.51.** In assessing the Area's performance when 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; making sure the relevant material is uploaded to the Crown Court Digital Case System (DCS) before the hearing; and making sure an advocate is instructed in advance of the hearing, so that they have time to prepare. There is more detail about these tasks in chapter 4 (paragraphs 4.31 to 4.36).

**8.52.** We found preparation for the first hearing, including completion of the plea and trial preparation form, was variable with 11 out of 20 cases (55.0%), fully meeting the standard. A further four cases (20.0%) were found to be partially meeting the standard, and the remaining five cases (25.0%) were rated as not meeting the standard. The main reasons for

cases partially or not meeting the standard were that acceptable pleas were not addressed, and that applications had not been drafted and/or instructions given to counsel to apply for them orally at the hearing or draft them in advance of the PTPH, where appropriate.

**8.53.** The police upload hard media (such as CCTV footage or body worn videos) to secure online locations and send the links to the CPS. Hard media was correctly shared pre-PTPH in eight out of the 19 relevant cases in our sample (42.1%), with four cases partially meeting the standard (21.1%) and the remaining seven cases (36.8%) not meeting the standard, potentially resulting in lost opportunities to resolve or progress the case effectively at the first Crown Court hearing. Inspectors noted that late uploading of video recorded interviews was an issue.

### **Direct engagement with the defence**

**8.54.** The prosecution and defence are under a duty to engage with each other to make sure that the case progresses as effectively as possible. We explain more about this duty in chapter 4 (paragraph 4.351 and 4.36). Usually, the prosecution makes the first approach to the defence, and this should be logged on a duty of direct engagement (DDE) log. The prosecution creates this on the CPS case management system and should then share it with the court and defence by uploading it to the DCS.

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

**8.56.** Duty of direct engagement (DDE) was rarely conducted in the RASSO cases we examined; evidence of direct engagement with the defence was found in one case and the log was not uploaded to CCDCS.

### **The indictment**

**8.57.** RASSO cases present specific challenges when drafting indictments, particularly where the victim is a child, or the allegations are not recent. In our sample, we found that indictments were well drafted, with 95.0% rated as fully meeting the standard and 5.0% partially meeting the standard. This is a real strength for the Area.

**8.58.** Timeliness was generally good, with 70.0% of indictments and key evidence being uploaded to the CCDCS in a timely fashion. A further 10.0% of cases were rated as partially meeting this standard and 20.0% of cases were rated as not meeting the timeliness standard.

### **Instructing the advocate**

**8.59.** We set out the expectations for what should be contained in instructions to the court advocate in paragraph 4.31. It is particularly important that good quality instructions are provided to counsel in RASSO cases where there are often vulnerable victims and witnesses, complex indictments, additional applications, and important factors to be considered in relation to bail.

**8.60.** We found that clear instructions to Crown Court advocates were provided and rated as fully meeting the standard in five out of the 18 relevant cases (27.8%), partially meeting the standard in a further seven cases (38.9%) and not meeting the standard in six cases (33.3%). In most cases rated as not meeting the standard, there were no instructions to counsel at all.

**8.61.** Advocates were instructed at least seven days before PTPH in 60% of cases. Inspectors noted that in most of the cases where the instructions were sent out late, the PTPH was while the pandemic pressures on caseloads in the Crown Court were very high.

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

**8.62.** Our assessment is that the Area is not meeting the standard for this casework theme. Overall, the score for disclosure in RASSO cases is 49.2%. We have already discussed the impact of the pandemic, the influx of less experienced lawyers into the RASSO team, and increased caseloads, and it is inevitable that these factors will have impacted on the quality of disclosure in RASSO casework.

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

## Police service on disclosure

**8.64.** We found police compliance with their disclosure obligations to be fully meeting the expected standard in eight out of the 18 applicable RASSO cases, partially meeting it in eight cases, and not meeting the standard in two cases. Prosecutors fed back issues in one out of the ten cases, which were assessed as partially or not meeting quality expectations. However, during the pandemic, the national monitoring of police file quality was suspended for some time.

**8.65.** The introduction of the latest edition of the Director's Guidance on Charging (DG6) has brought with it a change in police disclosure duties at charge and a new national assurance mechanism for checking police compliance with its requirements. The Area informed us that issues regarding file quality, including police compliance with their disclosure duties in all cases, including RASSO, are addressed through the Area Disclosure Board and joint operational meetings with the police. We were told that police file quality will continue to be a focus of the joint operational improvement meetings (JOIMs) which have replaced the joint prosecution team performance management (PTPM) meetings.

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

## Initial disclosure

**8.67.** We assessed initial disclosure in RASSO cases as fully meeting the required standard in five of the 18 relevant cases (27.8%), as partially meeting the standard in another five cases (27.8%) and as not meeting the standard in eight cases (44.4%). The main reasons identified in those cases we rated as either partially or not meeting the standard were decisions that disclosable unused material was not disclosable, and that non disclosable unused material was disclosable.

**8.68.** For example, in a kidnap case a media appeal resulted in another name being put forward as the person who had committed the offence. Although the police could rule out this person being involved, the fact that another name had been given was clearly disclosable and was not disclosed until after the PTPH, counsel having advised on the issue. This was material that the lawyer was aware of at the pre-charge stage and clear instructions should have been given about disclosure at that stage.

## Continuing disclosure

**8.69.** The quality of continuing disclosure also showed room for improvement. We assessed the Area as fully meeting the standard in eight out of 18 cases (44.4%), partially meeting it in four cases (22.2%), and not meeting the standard in six cases (33.3%). The main reasons for the partially and not meeting ratings were not endorsing decisions on newly revealed items and using the wrong endorsements. There were also cases with disclosure failings at initial disclosure, which were not rectified at the continuing disclosure stage. None of the failings identified in the cases we examined resulted in a miscarriage of justice in our judgment.

**8.70.** Late defence statements were not always chased; action was taken in respect of three of the ten late defence statements. In the remaining seven cases, the defence statement was not chased. This failure is likely to also have impacted on the RASSO team's ability to comply with Judges' orders in relation to continuing disclosure.

**8.71.** We noted that the Area's review of defence statements and provision of guidance to the police on further reasonable lines of enquiry show room for significant improvement. Two of the 14 cases with defence statements (14.3%) were assessed as fully meeting the standard, but the remaining 12 (85.7%) were rated as not meeting the standard. In the majority of cases, prosecutors had not reviewed the defence statements before they were sent to the police. Given the police's standard of compliance with disclosure duties, it is important that the Area takes the opportunity to guide the police on what enquiries might be indicated by the defence statement, and what additional unused material the prosecutor anticipates may be revealed.

**8.72.** Where the defence statement was inadequate (as they were in three cases) these were not challenged by the prosecutor.

### Case study

The defendant contacted a female called 'Jade' on a social media application. 'Jade' purported to be a 14-year-old girl, but the account was in fact run by an online child abuse activist group in order to uncover or catch alleged paedophiles.

The conversation quickly turned sexual with the defendant asking 'Jade' to come to his address and share his bed with him. The defendant went to a train station to meet 'Jade' where he was met by two members of the

activist group; they filmed and live streamed the meeting until the police arrived and arrested the defendant.

The defendant answered “no comment” to questions in a police interview.

At the pre-charge decision stage, disclosure was not considered in any detail. The only comment made in the charging advice was that the suspect’s phone download was awaited. No consideration was given to the credibility of the witnesses. The prosecutor also failed to consider the profile of ‘Jade’ or ask the police to obtain further details of this. The phones of the child abuse activist group were not seized.

The CPS has legal guidance to assist prosecutors and identify common issues in cases involving witnesses from online child abuse activist groups. This guidance was not followed at the pre-charge stage or at the other points of review.

The defence quickly identified the issues, indicating that ‘Jade’ had sent the defendant pictures and that the defendant believed that she was 20 years old from the date of birth on her profile and because the website was for adults only. He said that the references to ‘Jade’ being 14 years’ old in the chat he thought were just fantasy as he already knew she was older than this. After a copy of the profile for ‘Jade’ was obtained by the police, it became clear that it showed her year of birth as 2000 as indicated by the defendant. It was a reasonable line of enquiry to obtain the profile prior to charge, but this was not undertaken.

The characters of the witnesses from the child abuse activist group were not considered until much later in the case, although they had previous convictions recorded, including for dishonesty. The police did not list these previous convictions on the MG6C non-sensitive disclosure schedule, but on the MG6D sensitive material schedule. The police ought to have redacted any sensitive material within the documents and listed the edited versions on the non-sensitive MG6C schedule to ensure that the defence was made aware of their existence. The disclosure officer did not identify the convictions as items that could undermine the prosecution case or assist the defence. The prosecutor did not feed back on any of the disclosure failings to the police. Once the profile details of ‘Jade’ became available, the prosecution offered no evidence as there was no longer a realistic prospect of conviction. Had the prosecutor clearly considered disclosure, in particular, the reasonable lines of enquiry, and followed the legal guidance in cases such as this, it is likely that the case would not have been charged.

## Timeliness

**8.73.** The timeliness of service of initial disclosure was very good, with 16 out of the 18 cases (88.9%) fully meeting the standard. Of the remaining cases, one was assessed as partially meeting the standard and the other as not meeting the standard. We have a concern that the focus in the Area rests on timeliness and process, at the expense of quality. It is commendable that the timeliness of disclosure is fully meeting the standard in most cases, but if further time is required to ensure that full and accurate disclosure is completed, an extension to the deadline should be requested to enable this to happen, rather than endorsing inadequate schedules to meet a deadline.

**8.74.** Timeliness for continuing disclosure requires some improvement. It was assessed as fully meeting the standard in ten out of 17 cases (58.8%), partially meeting the standard in one case (5.9%) and not meeting the standard in the remaining six cases (35.3%). In some cases, there was a failure to request an extension to respond to the defence statement after it was served late by the defence.

## Sensitive and third-party material

**8.75.** There were 12 RASSO cases with sensitive material in our file sample. Of those 12, four (33.3%) were assessed as fully meeting the standard for the handling of the sensitive material, one (8.3%) as partially meeting the standard and seven (58.3%) as not meeting the standard. The most common failings were not endorsing or considering schedules which listed items of sensitive material, or not asking the police to correct the schedules when the items on the sensitive schedule were not, in fact, sensitive.

**8.76.** Third-party material was generally handled adequately. Eight of the 14 files with third-party material (57.1%) were assessed as fully meeting the standard, two (14.3%) as partially meeting the standard and four (28.6%) as not meeting the standard. In one case, involving child sexual abuse, the social services records had been obtained with relevant consents for disclosure from the local authority prior to stage 1 service, which demonstrated good grip.

## Recording decisions

### Disclosure management document

**8.77.** Disclosure management documents (DMD) were completed in the majority of cases where they were required, with six of the 18 relevant cases (33.3%) rated as fully meeting the standard, ten cases (55.6%) as



partially meeting the standard and two cases (11.1%) as not meeting it. The two cases rated as not meeting the standard were where no DMD was produced. We assessed seven of the 16 cases with DMDs (43.8%) as fully meeting the standard for their accuracy and completeness, a further five DMDs (31.3%) as partially meeting the standard and the remaining four cases (25.0%) as not meeting the standard. Inspectors noted that in weaker cases, DMDs were not always being updated throughout the life of the case as required.

**8.78.** The minutes from the Casework Quality Board (CQB) demonstrated that disclosure has been considered in detail by the Area's senior management team, with particular regard to the completion of DMDs. Good practice is also demonstrated by the disclosure newsletter, sent to staff in August 2021, which covered the use of DMDs in each unit. These are short, concise and useful newsletters setting out in clear and simple terms key and topical issues around disclosure. We will be interested to see in two years' time if there has been improvement as a result of the Area's training.

### **Disclosure records**

**8.79.** The issue of completion of disclosure records shows room for improvement. Five out of the 18 relevant cases examined (27.8%) were assessed as fully meeting the expected standard, four cases (22.2%) as partially meeting the standard, with the remaining nine cases (50%) not meeting the standard. We noted that disclosure records on the updated version of the case management system (CMS) often did not have a full log of the prosecutors' reasoning, decisions and actions, and that they consisted primarily of the automatic entries made upon the receipt into and dispatch of documents from the CMS. These are similar to the findings in respect of the Crown Court cases and may partially be explained by the pressures facing prosecutors dealing with significantly increased workloads.

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

**8.80.** Our assessment is that the Area is fully meeting the standard for this casework theme. Overall, the score for victim and witness issues in RASSO cases is 70.5%.

**8.81.** The duties owed by the CPS to victims and witnesses are set out in chapter 4, paragraphs 4.53 to 4.62. We assessed a range of aspects related to victims and witnesses, including measures to support them to



give their best evidence, witness care at court, and communicating and consulting with victims.

## **Pre-charge**

**8.82.** Failure to properly consider special measures at charge risks delaying any request to the police for additional information, or delaying the application itself and with it, the reassurance for victims and witnesses that comes from knowing they will have the benefit of appropriate measures at the trial.

**8.83.** The consideration at charge of relevant applications and ancillary matters to support victims and witnesses, most commonly with special measures, compensation and restraining orders, was not as good as the post-charge standard of victim and witness care in the Area. We assessed four out of 16 cases (25.0%) as fully meeting the standard, two cases (12.5%) as partially meeting the standard and ten cases (62.5%) as not meeting the standard. Further analysis in relation to these findings is provided under pre-charge decision making at 8.26 and 8.27 above.

## **After charge**

**8.84.** Steps taken to achieve best evidence by making appropriate applications for special measures (including drafting the application where required) were also weak after charge. Inspectors assessed eight of the 17 applicable cases (47.1%) as fully meeting the standard expected, two cases (11.8%) as partially meeting the standard and seven cases (41.2%) as not meeting it. It is important that vulnerable or intimidated witnesses know what measures have been granted as soon as possible, to provide them with some level of reassurance, but the Area's approach to applications is inconsistent, with some being left until the day of trial, which results in uncertainty for victims and witnesses, and increases the possibility of them disengaging.

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

**8.85.** In 13 out of 18 cases, the correct witnesses were warned in a timely manner. There were three cases where the correct and timely warning of witnesses was rated as partially meeting the expected standard and two cases rated as not meeting the standard.

**8.86.** Witness Care Unit correspondence was dealt with appropriately and in a timely manner in 12 out of 14 relevant cases (85.7%), with one case partially meeting the standard and one case not meeting the standard. This is good performance.

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

**8.87.** Consultation with victims and witnesses was also good with all but one case (92.3%) found to be fully meeting the standard. The performance here was particularly high.

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

**8.88.** The prosecution's obligations in dealing with Victims Personal Statements (VPS) were carried out fully in nine out of the 17 relevant cases (52.9%) and partially in a further five (29.4%). The remaining three cases (17.6%) were assessed as not meeting the standard. In those cases rated as partially meeting the standard, either the victim had not been asked how they wanted their statement to be presented to the court, or the police had not communicated this to the Area and the Area had not followed up to find out. In some of those cases not meeting the standard, there was no reference to the VPS at all in hearing record sheets, so we could not ascertain what had happened during the sentencing exercise.

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

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

**8.90.** In our sample of RASSO cases, there were three cases that required a victim communication and liaison scheme letter (VCL). In all three cases a letter was sent, with one letter fully meeting the standard for both timeliness and quality. The other two letters were both sent in cases involving child sexual abuse and were sent very late. All three cases were rated as fully or partially meeting the expected quality standard. In one example, individual letters were sent to the separated mother and father of a child abuse victim, which is good practice. The letters contained sufficient detail to explain what had happened, while avoiding specifics about the nature of the alleged offending. This demonstrated real empathy and care and avoided causing unnecessary additional distress to the parents in trying circumstances.

## 9. Public confidence

**9.1.** One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy<sup>26</sup> is to improve public confidence by "[working] with partners to serve victims and witnesses and uphold the rights of defendants in a way that is fair and understood by all communities".

**9.2.** In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area's performance related to public confidence – with a specific focus on the impact on casework quality.

## Correspondence with victims

### Expectations

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

**9.4.** A VCL letter should include a referral to the Victims' Right to Review (VRR) scheme if applicable. This is a scheme where a victim can ask the prosecution to reconsider a decision to drop or substantially alter a case. In certain circumstances, the VCL letter should also offer a meeting.

**9.5.** The CPS may also communicate with someone who has made a complaint about the service they have received, or with bereaved families after an unlawful killing.

**9.6.** All communications in writing with victims, complainants and bereaved families should use plain English, be translated where necessary, be grammatically correct, and avoid the use of legal jargon. They should include a clear, understandable, and accurate explanation of the decision or action being discussed. Where appropriate, empathy

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<sup>26</sup> CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.

[www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf](https://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)

should be expressed, and the recipient should be directed to sources of support and other help.

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

### **Compliance with the Victim Communication and Liaison scheme**

**9.7.** In our examination of 90 cases, 21 VCL letters were sent by the Area; seven in magistrates' courts cases, eleven in Crown Court cases and three in RASSO cases. There were two cases in which letters were not sent when they should have been; one of these was a magistrates' courts case and one was a Crown Court case.

**9.8.** Of the 21 letters sent, nine were sent in accordance with the prescribed timescales, five letters were sent late but the delay was minimal, and in the remaining seven cases, the letter was sent at least 48 hours after the target date. We were told that many of the magistrates' courts trials are covered by agents because of the need to have in-house lawyers reviewing and preparing the increased number of live cases. One of the district crown prosecutors in the magistrates' courts team works closely with agents and has been giving feedback to them on the need to provide the hearing record sheet in a timely manner to ensure that VCLs can be sent within the tight deadlines.

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

**9.9.** We assessed the quality of the 21 letters sent as set out in Table 17. The standard of letters was variable; no letters in the magistrates' courts cases were assessed as fully meeting the standard for quality, but all the letters in RASSO cases were rated as either fully meeting or partially meeting the standard. There were two cases where letters should have been sent and were not and others which lacked empathy or contained too much legal jargon. Even in those cases where the quality was acceptable there were sometimes delays.

**Table 17: Quality of Victim Communication and Liaison scheme letters**

<b>Casework type</b>	<b>Magist-rates' courts</b>	<b>Crown Court</b>	<b>RASSO</b>	<b>All cases</b>
Number of letters sent	7	11	3	21
Fully meeting the standard	0.0%	9.1%	66.7%	14.3%

Casework type	Magistrates' courts	Crown Court	RASSO	All cases
Partially meeting the standard	71.4%	45.5%	33.3%	52.4%
Not meeting the standard	28.6%	45.5%	0.0%	33.3%

**9.10.** The Area completes quality assurance monitoring of victim letters, and this includes consideration of the use of plain English and correct grammar, and whether explanations are clear and avoid legal jargon. The monitoring used to take the form of dip-sampling of letters by the Victim Liaison Unit (VLU) panel, which consisted of staff from across various grades reading the letter as if they were receiving it as a lay person. That was a national initiative which ceased as part of the response to the pandemic, but the VLU manager has maintained oversight of VCL letters with a monthly quality assurance check, and quality assures complaint and VRR responses. After the VCL panels were suspended, the Area Business Manager (ABM) also continued to carry out a monthly check on letters. The continuation of these additional checks by the ABM personally, demonstrates the importance the Area has placed on ensuring improvements in the quality of VCL letters.

**9.11.** Feedback on the quality of the letters from the VLU panel, and latterly the from the VLU manager and ABM, is given to the line manager of the lawyer who drafted the letter, so that appropriate individual feedback can be provided. The Area also keeps records of missing referrals to VLU; these are cases not referred to the VLU for a VCL letter, but should have been. The VLU panels are due to restart in the new financial year.

**9.12.** The timeliness data for letters sent to vulnerable and intimidated victims suggests that the Area has historically performed below the national average for this measure. We note that the Area has recently re-introduced weekly checks for out-of-time letters following a decline in performance. From the more recent data we have seen, these checks and new procedures appear to have had a positive impact on performance in respect of timeliness.

**9.13.** Training events took place in March 2021 in relation to drafting victim letters and the processes involved. A presentation was also prepared for the training covering the key national guidance in relation to VCL letters. Guidance in the form of an aide memoire, covering when cases should be referred to the VLU, has been supplied to advocates and

the review teams. The Area has also prepared useful documents covering how to convey empathy in letters, and guidance was sent via e-mail from the Deputy Chief Crown Prosecutor asking prosecutors to refrain from using the term “word on word” in victim letters, with suggestions for alternatives.

**9.14.** The measures the Area has put in place ought to deliver improvements in the quality and timeliness of VCL letters to victims from the current baseline. We shall be able to assess this when we carry out follow-up activity in the Area.

### **Complaint and Victims’ Right to Review responses**

**9.15.** The Area has systems and processes in place to manage the timeliness of responses to complaints and requests made under the VRR scheme. The Area is using the new national contact application to manage these, and record keeping appears to be full and up to date. From the data provided to us, it would appear that the responses to complaints and VRRs are usually timely. As this is a relatively new application, we will consider how the Area is using the data recorded to improve performance as part of the follow-up inspection.

**9.16.** Following a dip sample of the quality of complaint and VRR responses, the Area concluded that decisions were not always being explained as clearly as they could be. New letter templates have been prepared to ensure that the right level of detail is provided in the letter.

**9.17.** The RASSO scrutiny panel considers cases with VRRs, including looking back to the initial VCL letter to see if lessons can be learned. We were told that every time the Area receives a VRR or complaint, they too reconsider the VCL. The Area considers that if the initial VCL letter is of good quality, this can assure the victim to the extent that they do not need to invoke the VRR process.

**9.18.** A review of a sample of domestic abuse related victim letters took place during domestic abuse scrutiny panel meetings. The panel identified that the leaflet relating to the VRR scheme on the CPS website did not include some of the exceptions to eligibility for the scheme. As a result, the Area was able to feed this back to the national team. The guidance on the public website now includes a full explanation of which decisions fall within the VRR scheme and which do not.

## **Victims' Code and Witness Charter**

### **Expectations**

**9.19.** The expectation is that the Area complies with its responsibilities defined in the Code of Practice for Victims of Crime ('the Victims' Code') and the Witness Charter in respect of Victim Personal Statements, Victim Communication and Liaison scheme letters, offering meetings, and the speaking to witnesses at court (STWAC) protocol.

**9.20.** Prosecutors at trials are tasked with speaking to witnesses at court to explain what will happen. The CPS STWAC guidance emphasises the need to make sure that witnesses are properly assisted and know more about what to expect before they give their evidence. The guidance also reminds prosecutors of their important role in reducing a witness's apprehension about going to court, familiarising them with the processes and procedures – which may seem alien and intimidating – and managing their expectations on what will happen while they are at court.

**9.21.** The advocate should make an entry on the hearing record sheet that they have had this discussion with witnesses and record anything of note.

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

**9.23.** The hearing record sheet 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**

**9.24.** We assessed the consultation with victims and STWAC as fully meeting the standard in 53.2% of applicable cases, partially meeting the standard in 25.8% of cases, and not meeting the standard in 21.0% of cases. Our findings were very positive in respect of consultation with victims and witnesses in RASSO cases, where 12 out of 13 cases fully met the standard for victim and witness consultation, but less so in the Crown Court and magistrates' courts cases.



**9.25.** We were told that in the Crown Court over the period of the pandemic, owing to social distancing and other pandemic pressures, there had been a shortage of paralegal officers available to record the conversations and this may have contributed to our findings for that strand of casework. In addition, the witness waiting rooms are often very small and only a limited number of witnesses could be accommodated within the social distancing rules. Advocates were not always allowed to enter the witness waiting rooms due to footfall restrictions. There were limited numbers of interview rooms available to complete the conversations and it was difficult to have private and confidential conversations with witnesses in other areas of the court owing to the two-metre social distancing rule. Witnesses were also encouraged to attend at staggered times just before the trials started and leave straight away afterwards. All of these factors made consulting victims and speaking to witnesses at court more difficult than previously.

### **Victim personal statements**

**9.26.** Inspectors found that there is still work to do in the Area to ensure that the victim's wishes regarding a VPS are first ascertained, and secondly, complied with consistently. There were weaknesses across all casework types in this aspect of casework. RASSO cases had the greatest level of compliance with 52.9% of cases fully meeting the standard. In the Crown Court, 50.0% of cases were rated as fully meeting the standard and in the magistrates' courts 41.7% were assessed as fully meeting the standard. As we have previously highlighted, VPSs were not always considered at the pre-charge stage. There was also often very little evidence that the victim had been consulted about providing a statement in the early stages of the case or, if they had been, that they had been asked how they would like this presented to the court.

**9.27.** We were told that discussions take place at court between the victim and the prosecution advocate as to how the VPS will be presented, but we could not support this from the hearing records we examined. A more proactive approach needs to be taken to obtaining the victim's views and recording what their preference is, so that compliance with the Victim's Code, which is designed to improve victims' experience of the criminal justice system, can be assured. Many magistrates' courts trials are covered by agents. We were told that one of the team's district crown prosecutors is working with agents to improve the timeliness of VCLs, and the Area may wish to extend this work to cover proper recording on the hearing record sheet as to whether the VPS had been presented to the court at sentence, and on recording STWAC conversations. Some

assurance work on VPSs may also assist to ensure that all in-house advocates and paralegal officers are familiar with the requirements.

### **Offering meetings in all appropriate cases**

**9.28.** The bereaved family scheme and the Victims' Code both give certain victims the opportunity to meet the prosecutor (or trial advocate in the case of bereaved families). We were told that the VLU manager carries out dip sampling to ensure that meetings are offered in appropriate cases. It is not clear from the VCL quality assurance logs that checks are being made to ensure meetings are offered, and the Area may wish to add this assurance check.

## **Community engagement**

**9.29.** The Area attends several groups focusing on the service provided to victims and witnesses in the police forces it serves, under the umbrella of the Local Criminal Justice Boards (LCJBs). A significant part of the meetings has understandably been focused on the backlog of cases caused by the pandemic and how to reduce court backlogs through joint work with the courts. Our file examination findings suggest that there have been significant delays in progressing cases in the Area, some of which pre-date the pandemic. These delays appear to occur at every stage of the prosecution process and will clearly be having an impact on victims and witnesses.

**9.30.** During the LCJB subgroup meetings, measures are discussed to improve contact with victims and witnesses. We were told that the public confidence board has recently set up a victim and witness forum. Terms of reference have been identified and one of the tasks of this group will be to consider VCL letters.

**9.31.** The Humberside victim and witness group identified an action to review VPSs in relation to quality, regardless of offence type. This demonstrates good practice.

## 10. CPS people

**10.1.** One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy<sup>27</sup> is to support the success and well-being of its people, to enable everyone to thrive.

**10.2.** In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area's performance related to CPS people, with a specific focus on the impact on casework quality.

## **Recruitment and induction, staff moves and succession planning**

### **Expectations**

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

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

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<sup>27</sup> CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.

[www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf](https://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)

## Staff induction

**10.4.** Table 18 shows the increase in legal staff since March 2019, when the additional funding for prosecutors was announced.

**Table 18: Legal staff in post (full-time equivalent)**

	LM1	LM2	SCP	CP	Total
At 31 March 2019	17.68	5.88	100.23	13.03	181.60
At 31 December 2020	20.53	6.88	117.58	19.35	217.15

**10.5.** Despite the increase in numbers shown in Table 18, the Area remains under resourced for lawyers and has unfilled vacancies. We were told that additional funding for five lawyers on the RASSO team was ringfenced and, in order to fill the positions on that team, Area prosecutors were invited to express an interest in RASSO work. Those who were successful were moved from the other teams. As a result, the shortfall of lawyers, in particular, senior crown prosecutors (SCPs) is now most acute in the Crown Court team. The Area's ability to deliver quality casework has undoubtedly been impacted by the effect of the pandemic combined with the resources shortfall.

**10.6.** The Area has found it difficult to recruit sufficient numbers of staff during the pandemic. We were told that in May 2020, during the height of the initial lockdown, the Area had 30 fewer lawyers, mainly at the SCP grade, than required. The need to recruit during this period of uncertainty, and to induct and train new staff, while also managing the unprecedented backlogs of work, placed added pressure on the Area.

**10.7.** The Area has managed to recruit 31 new lawyers, but ten lawyers have retired, leaving the Area still under its full complement. We were told that the Area is now under complement by some 22 lawyers, and 30% of the current workforce is over the age of 55. As a consequence, the Area will need to continue their efforts to recruit more staff, particularly lawyers, at pace.

**10.8.** While there will be long-term gains from recruiting new staff, in the short term there are added pressures on existing staff to induct, train and mentor these new starters. Some SCPs were recruited from criminal defence backgrounds, but others had no previous criminal law experience, so required more training and development in prosecuting criminal cases.

**10.9.** Experienced staff on the magistrates' courts and Crown Court teams were asked to train and mentor colleagues who were new to the Area or to their role. The Area has also, where possible, used Crown Advocates to provide mentoring and legal support to some of the less experienced lawyers. Experienced lawyers who were training and mentoring new staff were doing so while managing significant increases in their own caseloads and adjusting to new ways of working. Training and mentoring had to be adapted considerably in light of the change to remote working for all new staff.

**10.10.** The Area has also had to balance the number of SCPs and crown prosecutors (CPs). The shortage of SCPs resulted in CPs completing review work which ordinarily would have been handled by more experienced lawyers. These CPs also needed more support than would have been required for SCPs doing the same work.

**10.11.** Another significant change for the Area during the timeframe of the cases we examined was the change in the legal management cadre. The Chief Crown Prosecutor, and the Deputy Chief Crown Prosecutor for magistrates' courts casework, both took up their posts in the last 12 months. The Area Business Manager also started in the role during the pandemic, in May 2020.

**10.12.** The Area is also carrying a number of Legal Manager (LM1) vacancies across all teams. There are currently nine vacancies at this level, which is an improvement, with five LM1s having been recruited in the last year. Recruiting LM1s has been difficult for the Area and it continues to participate in the national LM1 recruitment campaigns. The LM2 cadre is experienced in the Crown Court and RASSO units, and the second line legal manager (LM2) for the magistrates' court team took up post during the pandemic. It is of note that the DCCP on that team also left in June 2021 with the new DCCP not taking up their position until Autumn 2021.

**10.13.** The Area has an induction checklist for all new members of staff for all disciplines and roles. The formal induction covers 12 weeks and requires both the manager and the new member of staff to confirm that all aspects, including e-learning, have been covered and completed. To assist induction, the Area has set up a PowerPoint presentation, again for all new staff, whatever discipline they are joining. The presentation introduces new starters to the senior management, explains the CPS, and the structure of the Area and its composite units. It also covers the financial responsibilities of staff and introduces them to the specialist units within the Area. It is a comprehensive introduction for incoming staff.

**10.14.** We also saw that individual teams across the Area have induction plans for members of staff. From what we have seen it is unclear how the Area expects these induction plans to be applied. Allowing individual units to have specific induction plans tailored to cover the specific unit's needs is seen as a positive approach, but across the Area some appear to run alongside the general induction checklist and others seem to be applied instead of it.

**10.15.** We were told that the induction process is not working as efficiently as the Area would like while staff are working from home. Where staff lack confidence in certain aspects of the job this is not always easily identified, and they cannot just turn to a colleague to ask for advice. Staff are also not learning by osmosis, by listening to all the conversations that they would overhear in an office environment, and which add to experience and general tradecraft.

**10.16.** The Area has staff who lead on certain key aspects of work, for example digital working, disclosure or redaction. These leads are there to advise staff if they have a question in relation to these specific issues. As part of the induction process, new staff are told who the leads are. Each unit also has Teams chat channels, one where the managers are included in the chat and another where they are not. This is a good approach to facilitating open dialogue.

## **Succession planning**

**10.17.** The Area has a strong focus on succession planning and launched a local initiative in September 2020 with a number of clearly defined aims. The project is seen as a long-term initiative to suitably equip staff to move into key roles as positions become available. It is designed to identify those staff with the potential to assume greater responsibility and provide them with the skills and experience to support and facilitate their development. The initiative covers a range of roles within the Area, both legal and business, including community engagement, finance, business and performance managers, and district and senior district crown prosecutors. The programme enhances buy-in from participants through requiring from them a definitive time commitment and, in turn, the Area provides a clear upskilling opportunity. The current level of success of this project is yet unknown but the long-term approach of internal upskilling and providing a career path for staff is seen as a positive initiative. The Area has another initiative in place for anyone wishing to deputise for line managers.

**10.18.** One example of clearly defined succession planning can be seen in relation to the LM1 management role where the Area has had recruitment difficulties. Temporary promotion to LM1 is available to SCPs who wish to increase their skills and experience in a management role before applying for a permanent LM1 post. We were told that three of the five recent LM1 appointments were made following this process. This also helps with the current shortage of LM1s and the management spans of control.

## Staff engagement

**10.19.** Staff engagement in the most recent Civil Service People Survey in 2021 was 66%. Although this is slightly lower than the CPS national average, it is equal to the Civil Service average.

**10.20.** The figure has dropped very slightly from the 2020 employee engagement figure, which was 67%. Maintaining staff engagement at a similar level, despite the pressures of the pandemic, is impressive.

**10.21.** The Area recognises good work and we have seen evidence of staff being nominated for Director of Public Prosecutions commendations, as well as the national “simply thanks” scheme and local staff awards being used to good effect to reward staff. The Chief Crown Prosecutor awards a “Chief Crown Prosecutor commendation” on a monthly basis, which is celebrated during the all-staff call. External praise has also been given to members of staff for their excellent work from the judiciary, the police and prosecution counsel. Examples we saw included positive feedback:

- from a Crown Court Judge to the lawyer in a difficult homicide case
- from a District Judge to an in-house advocate regarding their work on a fatal road traffic prosecution
- from the police to a lawyer who delivered an excellent presentation to domestic abuse specialist officers on building cases and file submissions
- a “simply thanks” award to the paralegal officer in a long-running RASSO operation
- a “simply thanks” award to a member of the operational delivery team for streamlining, thus saving the time taken to deal with various actions after a case has been in court.



## Learning and development

### Expectations

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

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

### Training plans

**10.23.** The Area systematically monitors training across the Area through a training group, which holds bi-monthly meetings. The group has clear objectives designed to co-ordinate and align the training provision to the Area business plan and develop staff in line with the plan. The terms of reference are to ensure that employees have the right skills for the job (supporting the DPP's priority), that employees are developed to build the capability needed in the future (which dovetails with the succession planning discussed above), and that employees are positively engaged with their own development to improve individual and team performance. Examples of topics covered at the group's meetings include training updates, the Area training schedule (picking up key training required), non-attendance on courses, and individual learning account spend.

**10.24.** The training group reports to the senior management team (SMT), and learning and development is a standing item on the SMT agenda. However, the group does not have, within its terms of reference, any measures of success or how it will capture and report on improvements made as a result of training. We did, however, see an example of feedback from participants at a training event highlighting how successful they thought the course had been, what could be done better, and whether the training would improve their on-the-job performance.

**10.25.** The Area maintains a comprehensive learning log identifying the required and recommended learning for staff.

## Coaching and mentoring

**10.26.** Many of the induction plans in the units feature forms of coaching and mentoring. The Area has a set induction programme for its Crown Court SCP cadre, which covers key learning points and processes. The checklist also requires the assignment of a mentor and has set requirements for both the mentor and person being mentored.

**10.27.** There is a standard RASSO induction plan for lawyers joining the team, which includes a two-day induction course and e-learning, a visit to a Sexual Assault Referral Centre, and court observations. New joiners have their casework supervised for at least three months as part of their induction, and record some of the cases they have worked on as part of reflecting on their practice. The example we saw also included individual quality assessments carried out on the lawyer's disclosure work, and a full end-of-induction review. This is good practice.

**10.28.** The Area magistrates' courts CP and SCP induction and probation plans identify key requirements for job shadowing and observing to assist in case presentation in the magistrates' courts. The operational development unit's new-starter checklist and induction plan also includes the identification and allocation of a mentor/buddy for the new starters.

## Quality assurance

### Expectations

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

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

**10.30.** 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**

**10.31.** We have seen evidence in various documents, such as adverse outcome reports, that feedback on performance has been given to staff. Area legal managers are conducting one IQA per quarter for each prosecutor, in accordance with the recently refreshed national process, and each of these will lead to a conversation about quality between the manager and their team member.

**10.32.** We had the benefit of observing a casework quality board (CQB) on 13 October 2021. The permanent members of this board are the CCP, DCCPs, SDCPs and legal leads. The CQB considered several important issues impacting on casework quality. Understandably, disclosure was considered in detail with, particular regard to the completion of disclosure management documents (DMDs), which we and the Area have identified as an aspect for improvement. Good practice was demonstrated by the disclosure newsletter, which was sent to staff in August 2021 and which covered the use of DMDs in each unit. IQAs were considered in the CQB, and lessons and themes were being taken from these assessments and from non-conviction reports for the Crown Court team and the RASSO team. Throughout the meeting, a note was made of any points to be referred to the Area training group. This demonstrates that the Area is trying to ensure that, when issues are identified during the board meetings, appropriate training is provided in response.

**10.33.** During the pandemic, CPS headquarters 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. The Area continued to undertake IQAs for disclosure aspects only and, in quarter 4 of 2020-21 and quarter 1 of 2021-22, it completed 136 of them. It also conducted dip checks of IQAs by senior managers.

**10.34.** We note that the IQA findings for the four quarters of 2020-21 show a much stronger performance for review and disclosure than our file examination would indicate. The Area's IQA results for case progression show a decline in quality over the four quarters, and now bear a much closer resemblance to our findings. The Area may wish to assure itself that IQAs are being conducted with an appropriate degree of robustness.

## 11. Digital capability

**11.1.** One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy<sup>28</sup> is to make sure that "our investment in digital capability helps us adapt to the rapidly changing nature of crime and improve the way justice is done".

**11.2.** In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area's performance related to digital capability, with a specific focus on the impact on casework quality.

## Data analysis

### Expectations

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

### Our findings

**11.4.** We saw evidence of high-level and detailed performance reports produced for all types of casework. The Area ensures that the weekly performance dashboard (sent out from CPS headquarters) is routinely distributed to managers in the Area. Using this information, the Area's performance manager also provides a high-level summary of key statistics in relation to pre-charge decisions (PCD), and for magistrates' courts and Crown Court performance.

**11.5.** The Area distributes the nationally provided monthly scorecards to managers, along with the performance manager's high-level summary of the Area's performance on the CPS's high-weighted performance measures.

**11.6.** A copy of the weekly dashboard is stored in a dedicated performance data folder, accessible to managers in the Area. The monthly scorecards are also stored on the CPS Yorkshire and

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<sup>28</sup> CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.

[www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf](https://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)

Humberside managers' performance data channel on Teams. We saw an example of a summary of performance being fed back to the magistrates' courts team, which highlighted where there were signs of recovery and the contribution of the team to achieving better performance.

**11.7.** The Area recognises that the quality of information recorded is crucial in helping achieve and maintain good quality casework. The Area's performance team carries out monthly checks of the validity of the data on the case management system (CMS), and reports back to managers with the results. The checks include the accuracy of finalisation codes, whether cases have been appropriately flagged (for example as domestic abuse and other sensitive categories, or not guilty anticipated pleas) and the accuracy of the principal offence category noted at pre-charge. Managers are provided with the spreadsheet of cases so they can ensure corrections are made and feedback is provided to their team.

**11.8.** As well as ensuring that key casework and performance information provided by headquarters is distributed to managers, the Area also routinely distributes to Area managers in all units the reports from the case management system (CMS). These show the total number of tasks outstanding, both due and overdue, and from the management information system (MIS). The data is discussed and analysed at the monthly performance meetings and the Area-wide performance and compliance meeting.

**11.9.** The Area was carrying high levels of outstanding tasks, so it instigated a review of Crown Court lawyer tasks and how they were managed. This identified a lack of understanding by some staff of how tasks operated and showed that the right guidance and training had not been consistently delivered or embedded. Further guidance and training have since been provided. The review of tasks also made it apparent that there were insufficient resources to deal with all the tasks as the team was then deployed.

**11.10.** The Area introduced a one-team approach to the duty lawyer role, so that the duty lawyers now take on responsibility for all duty lawyer tasks across the Area. The change was combined with clarification of the responsibilities of the duty lawyer, and of their managers in monitoring task completion, with the SDCP giving clear instructions. This is a good example of the Area using performance data to identify aspects for improvement and implementing remedial action as a result of the reviews it has carried out. We were told that this work has had a positive impact, although managers are still conscious of the difficulties faced by their staff in managing tasks while caseloads remain high and there are staff

shortages in the main lawyer grade in the Crown Court team. The Area has a weekly tasking assurance system in place. Any issues the teams are having are communicated to the Area Business Manager (ABM) and there is an action plan to address the three highest task categories.

**11.11.** The Area takes a robust approach to the national databank data. The Area uses it to identify issues and fully engage with the quarterly performance review (QPR) process. For example, the QPR minutes from June 2021 identified actions aimed at improving the timeliness of administrative triage, which resulted in better results being reported in subsequent quarters.

**11.12.** There was also a focus on performance and accountability in relation to several high-weighted measures, namely: cases dropped at the third court hearing; charging; hearings per case; and guilty pleas at first hearing. These were challenged through the QPR process, and actions taken by the Area appear to have had some positive impact. For example, as discussed at 11.11, there were concerns over administrative triage timeliness. The Area implemented an enhanced triage in summer 2020, using legal trainees to assess and provide feedback to forces on the quality of PCD submissions. A three-day triage target was introduced and there was a review of operational delivery staff resource, triage prioritisation and daily monitoring. All these processes – implemented largely as a result of the Area’s desire to improve performance, assisted by the quarterly performance review process – resulted in a significant improvement. The administrative triage timeliness dropped from 5.67 days in quarter two 2020-21 to 2.03 days in quarter three 2021-22.

## Digital tools and skills

### Expectations

**11.13.** The Area makes sure that its people have the tools and skills they need to operate effectively in an increasingly digital environment. The Area includes digital skills audits within the training plan and delivers general and bespoke training to staff to enable them to effectively use the CPS case management system (CMS), Egress, digital case lines, the court store and the cloud video platform (CVP)<sup>29</sup>.

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<sup>29</sup> Egress, digital case lines, the court store and the cloud video platform are digital tools to store case material or host remote hearings. They are explained further in the glossary in annex C.

## Our findings

**11.14.** The criminal justice system has had to adapt rapidly to new digital technology to continue working throughout the pandemic, including using Microsoft Teams to hold meetings, one-to-ones and conferences, and the CVP to conduct virtual or remote hearings.

**11.15.** The Area set up a Change and Digital Board (CDB) in October 2021. This group, which meets quarterly, has representation from key parts of the Area, including the change and assurance manager, the HR business partner, the senior operational business manager, and digital leads from the operational delivery and legal teams. The CDB is chaired by the head of the area business centre and reports directly to the Area Strategy Board (ASB). The CDB's purpose is to ensure that it provides the ASB with appropriate assurance on all change and digital initiatives. Its aims are to value and develop staff at all levels, foster a culture of continuous improvement by sharing good practice, ensure fairness, and take action to implement change well. Its overall aims are to review the Area change and digital programmes and ensure delivery, and to review progress and delivery of the common platform. The Board will be taking forward digital training needs identified by the training forum's needs analysis, which was carried out via a staff survey, and which is discussed in paragraph 11.17.

**11.16.** The Area uses a digital learning record (DLR) to identify the required and recommended learning across all grades. The record also identifies the time requirements of the training and the dates training was undertaken.

**11.17.** There have been many staffing changes across operational delivery (OD), and difficulties in training staff caused by the pandemic. The Area therefore decided to conduct a training needs analysis of the level of knowledge and skills within the OD teams, using a staff survey. The survey and analysis focused on OD processes and procedures, with the case management system making up one element of this. The resulting learning needs assessment was sent out to staff in late August. This was designed to support the training forum in determining what training is most needed for individuals. During the height of the pressures of the pandemic, the training forum was focused on delivering nationally mandated training, such as on redaction of documents prior to service on the defence and court, and was not able to invest in wider upskilling.

**11.18.** The Area has made a positive effort to help staff understand new processes and applications, including distributing user guides to enable



staff to understand what is required of them, and how to ensure the systems work as intended. For example, guides have been distributed for the common platform, the Crown Court digital case system, initial disclosure tasks, and the process for dealing with defence statements.

## **12. Strategic partnerships**

**12.1.** One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy<sup>30</sup> is to make sure that "the CPS is a leading voice in cross-government strategies and international cooperation to transform the criminal justice system".

**12.2.** In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area's performance related to strategic partnerships, with a specific focus on the impact on casework quality.

## Strategic partnerships with the police

### Expectations

**12.3.** The Area influences change through trusted partnerships with the police at all levels to improve casework quality. The Area has trusted and mature relationships with the police at all levels and influences change through negotiation, persuasion and compromise to improve casework quality, particularly in relation to compliance with:

- the National File Standard (NFS)
- the Director's Guidance on Charging
- the Disclosure Manual, Criminal Procedure and Investigations Act 1996 (CPIA) and relevant codes of practice.

### Our findings

**12.4.** The evidence we have read, and the information provided at the Area assessment meeting suggests that the Area has constructive relationships at senior level with the four local police forces.

**12.5.** We have seen minutes of meetings that the Chief Crown Prosecutor (CCP) held with each of the chief constables in mid-2021. These revealed an honest and frank exchange of views about issues such as the implementation of the revised Director's Guidance on Charging (DG6), the problems surrounding proper redaction of documents to avoid data breaches, the quality and proportionality of

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<sup>30</sup> CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.

[www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf](https://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)

some action plans provided to investigators, and the impact of the pandemic on the police, the CPS and the wider criminal justice system.

**12.6.** There is a clearly defined Area-wide escalation process in place for use by police and CPS legal and operational staff to resolve issues relating to timeliness of responses or whether a request made of the police is reasonable and proportionate.

**12.7.** We were provided with minutes from the Prosecution Team Performance Management (PTPM) meetings that the Area has with each of its forces. The terms of reference for these meetings include the aim of providing effective oversight of performance through the regular review of relevant performance data, the identification of trends and issues, and the instigation of actions required in relation to key areas where the police and CPS interface. The meetings are chaired on a rotation basis, either by one of the Area's senior district crown prosecutors (SDCP) or by a police superintendent.

**12.8.** We are conscious that the CPS and National Police Chiefs' Council have recently agreed to replace PTPMs with Joint Operational Improvement Meetings (JOIMs) as the primary local operational improvement mechanism. This decision was taken following a national review of the effectiveness of PTPMs. The report found that there was strong support for effective, locally led joint working between CPS Areas and police forces. However, there was also a need for the existing process of regular PTPM meetings in each Area to be refreshed and restructured to improve relationships and encourage innovation and problem solving between the police and CPS. The purpose of the new JOIMs is to identify joint priority areas for focused activity to drive improvement in disclosure, effective case progression and other areas. It is also anticipated that the JOIMs will share good practice and adapt to local casework trends and issues.

**12.9.** During the period covered by our file sample, PTPM meetings were held regularly with each force, and we could see that key aspects of casework and performance were discussed, such as charging data, disclosure, case file quality, the quality of CPS action plans and early guilty plea rates. Inevitably, the impact of the pandemic and the strategies to recover from it also featured heavily in these discussions.

**12.10.** At the assessment meeting, in the light of our mixed file examination findings – in relation to issues such as case file quality, the quality of action plans and compliance with disclosure obligations – we asked the Area for its views on how effective these joint meetings have

been, what improvements have been seen as a result, and what plans there are to ensure that joint meetings are effective at an operational level in the future.

**12.11.** We were told that there have been some benefits from PTPM discussions and actions, such as an agreement by the four local forces to introduce gatekeeping units to provide a more robust quality assurance process before a file is submitted to the CPS. However, it was also the Area's view that too much time has been spent at these meetings on discussing the accuracy of file quality data, rather than on focusing on how to improve important casework issues, such as overall compliance with DG6 and the national file standard, the quality of unused material schedules, and prosecutors' action plans.

**12.12.** We found some optimism within the Area's senior management team that the refreshed approach to joint performance meetings (the new JOIMs). will improve their effectiveness in problem solving and raising standards. These meetings will include oversight by a joint strategic oversight board consisting of assistant chief constables from each of the four forces in Yorkshire and Humberside and senior CPS Area representation

**12.13.** We hope that some of this report's findings will assist the Area in deciding on what the joint priority issues for focused activity should be in the JOIMs. We will take a particular interest, in two years' time, in assessing the evidence of any concrete improvements that have been achieved by this new approach.

**12.14.** All forces have a RASSO gatekeeper at inspector level. Each force uses a different model for the gatekeeper role. In one force, it is quality assuring the entire pre-charge decision (PCD) submission, others are looking simply at the MG3 and reasonable lines of enquiry, and the final force, which historically used the gatekeeper as a single point of contact only, is starting to complete more quality assurance work. The gatekeepers also act as a single point of contact for escalation following non-compliance with action plans, managing the number of action plans and training officers. Quarterly meetings take place between the RASSO unit managers and the gatekeepers to discuss issues and identify solutions to problems identified as a result of this quality assurance and closer working relationship.

**12.15.** Although charging performance featured at PTPMs, we note that the Area is in the process of setting up a Charging Board. The terms of reference for the board will be to review and improve charging

performance and the management of pre-charge workloads across the Area. The Charging Board will provide assurance about charging performance to the Area Strategic Board. Its aim will be to build strong and effective relationships with all Yorkshire and Humberside forces to improve charging performance.

**12.16.** We were provided with records of meetings and returns relating to charging performance. These included:

- a South Yorkshire Local Implementation Team agenda and minutes
- the minutes of a charging transformation working group, consisting of CPS and police representatives, which was set up to work through the practicalities of developing a risk-based charging model
- two weeks of charging returns for magistrates' and Crown Court work, as well as RASSO work.

**12.17.** For example, the charging transformation working group makes recommendations on issues such as the number of charging decisions coming through late afternoon or evening, which can impact on who, CPSP or Area, is able to deal with the decision, or the fact that the number of action plans required on cases from South Yorkshire Police are significantly higher than the national average. The working group looks into these issues and can make recommendations. This sort of joint working to identify and solve issues is commendable.

**12.18.** We also read documents relating to the Area's joint work with its forces on disclosure. The Area Disclosure Board (ADB) is responsible for delivering improvements in the handling of disclosure of unused material. This responsibility includes implementing the recommendations of the joint inspection report on disclosure, ensuring that lessons are learned from disclosure failures and that good practice is shared and promulgated, and resolving disclosure issues escalated from local liaison meetings (including PTPMs).

**12.19.** We saw evidence in the most recent ADB minutes provided (May 2021) that constructive and meaningful discussions were held on key charging issues. These included:

- implementation and performance in relation to the updated Director's Guidance on Charging (DG6)
- the quality of police file submissions

- the quality of information management documents (IMDs) provided by police to assist prosecutors with creating disclosure management documents (DMDs), now mandatory in all Crown Court cases
- progress against the National Disclosure Improvement Plan 2
- other casework issues.

**12.20.** We were told that the ADB is chaired by the CPS Area disclosure champion, who also chairs the Area's internal disclosure board. Police representation at these meetings includes the heads of criminal justice, detective superintendents and detective inspectors. The discussions and actions from these meetings help inform the disclosure newsletter that the Area circulates to its staff as part of its strategy to improve performance in this priority area.

**12.21.** All the activity above must be seen in the context of our file examination findings relating to the national file standard and disclosure. For example, we found the following.:

- Four out of ten police files for the first substantive hearing across the three casework themes did not meet the national file standard.
- Almost one in four files did not meet the standard for police compliance with their disclosure duties, with just over 40% partially meeting the standard.
- Just over four out of ten CPS action plans did not meet the standard.
- Half of the Area-charged cases did not meet the standard for dealing appropriately with unused material at the pre-charge stage.

**12.22.** The majority of the files we examined pre-dated the introduction of DG6. We will also look in two years' time at how successful the Area has been in working jointly with its police partners to ensure compliance with the requirements of DG6, which will inevitably incorporate the issues identified above.

## Strategic partnerships with the criminal justice system

### Expectations

**12.23.** 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

**12.24.** We saw evidence of proactive joint working across the criminal justice agencies. For example, we were provided with minutes of Local Criminal Justice Board meetings across the four force areas. The purpose of these boards is to deliver effective, efficient, and fair justice to the local communities.

**12.25.** The minutes we read demonstrated a willingness among the board members to work collaboratively to cope with, and recover from, the significant pressures and backlogs caused by the pandemic. We also saw evidence of local recovery group meetings being held across the Area, chaired by HM Courts and Tribunals Service (HMCTS), and attended by the Area.

**12.26.** We saw that the CCP, after joining the Area, had introductory meetings with Resident Judges during the summer of 2021, with the minutes suggesting a positive and constructive approach from both parties. The CCP and another member of the senior management team have continued these meetings on a quarterly basis, and the Area's performance data is used to inform the discussions. We were told that these meetings are proving to be constructive and that the Judges are listening to the CPS's perspective and taking this into account when introducing new practices. For example, a recent fast-track domestic abuse pilot in one of the Crown Courts was not implemented until the CPS had been consulted and invited to provide its views.

**12.27.** The CCP and her counterpart from CPS North East attend the quarterly meeting of the North East circuit's advocate liaison committee (CALC). This provides an opportunity to discuss court issues with the leader of the circuit. The two CCPs have also been invited to attend quarterly meetings that the leader of the North East circuit has with the region's Resident Judges.



**12.28.** Shortly after the outbreak of the pandemic, a multi-agency bronze meeting was convened with meetings taking place daily, then twice weekly and then weekly. The meetings were attended by representatives from all four police forces, witness care units, HMCTS and HM Probation. The meetings were chaired by a deputy chief crown prosecutor. Issues considered during these meetings included court utilisation, outstanding case volumes and future demand, Transforming Summary Justice (TSJ) recovery and performance, and trial delays/backlogs and recovery options. These meetings demonstrate the efforts made by the CJS partners in the Area to try and deal with the issues resulting from the global pandemic.

### **Self-employed barristers (counsel)**

**12.29.** Our examination of the Area's Crown Court and RASSO files has revealed three main areas related to its relations with the external bar where there is room for improvement, namely:

- the quality and timeliness of instructions to counsel for the Plea and Trial Preparation Hearing (PTPH)
- the provision of counsel's advice to the CPS after receiving their instructions
- in RASSO cases, the holding of a conference with trial counsel (and expert witnesses if relevant).

**12.30.** We saw limited evidence of recent work with chambers to ensure value for money and the quality of service in non-RASSO volume crime. However, we were provided with evidence that before the pandemic, senior managers had met heads of chambers within the Area to discuss issues such as the completion and provision of hearing record sheets to the CPS, compliance with directions and hate crime.

**12.31.** Undoubtedly the effects of the pandemic have made holding regular meetings with heads of chambers more difficult, although we were told that these meetings have now resumed and will take place every six months. We were also told that the Area's clerking team continues to communicate regularly with chambers regarding recurring issues with the quality of service, such as the late returns of briefs.

**12.32.** While accepting our findings in relation to the infrequency of counsel providing written advice in Crown Court cases, the Area told us that its prosecutors do discuss cases with counsel over the phone, and there is a duty prosecutor scheme so that counsel can contact a prosecutor to

discuss a case or provide verbal advice if the allocated prosecutor is not available. We note that if these conversations are happening regularly and verbal advice is being provided, prosecutors should ensure that a proper record of what was discussed and any actions arising is made on CMS. We saw little evidence of this during our file examination.

**12.33.** In respect of RASSO casework, the Area has encountered difficulties with arranging case conferences because of its small pool of rape ticketed counsel and their heavy commitments. It has also had to deal with a number of late returns in RASSO cases because trials are lasting longer, sometimes causing difficulties for specialist counsel to fulfil all of their diary commitments. These difficulties are likely to continue while the Crown Court live caseloads remain significantly higher than before the pandemic.

**12.34.** The Area has therefore focused on holding early case planning conferences in rape cases that are complex or where the threshold test was applied at charge. These conferences are attended by the reviewing lawyer, instructed counsel and the officer in the case.

**12.35.** Bearing in mind the three issues we highlight at 12.28 above, and the likelihood that the pressures brought about by the pandemic will by then have eased, we will be interested to examine where performance levels are when we return to follow up this baseline assessment.

**12.36.** The mature relationships that exist between the Area and its strategic partners are a firm foundation from which to build and should deliver further improvements in casework quality.

# **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 making sure the right person is prosecuted for the right offence, cases are progressed in a timely manner and cases are dealt with effectively?

#### **Magistrates' court casework**

- The Area exercises sound judgement and adds value in its pre-charge decision-making in magistrates' court cases.
- The Area's reviews and other magistrates' court casework decisions are timely and of good quality.
- The Area fully complies with its duty of disclosure throughout its magistrates' court casework.
- The Area addresses victim and witness issues appropriately throughout its magistrates' court casework.
- The Area progresses its magistrates' court casework effectively and efficiently.
- The Area exercises sound judgement and adds value in its magistrates' court casework.
- The Area has a clear grip of its magistrates' court casework.

#### **Crown Court casework**

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

- The Area addresses victim and witness issues appropriately throughout its Crown Court casework.
- The Area prepares its Crown Court cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to make sure progress is made.
- The Area progresses its Crown Court casework effectively and efficiently.
- The Area exercises sound judgement and adds value in its Crown Court casework.
- The Area has a clear grip of its Crown Court casework.

### **Rape and serious sexual offences (RASSO) casework**

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

### **Evidence will be drawn from:**

- baseline file examination
- charging dashboard (timeliness)
- adverse outcome reports

- Disclosure Board minutes
- Local Case Management Panel minutes (volume casework)
- self-assessment meeting with CPS Area.

## **B. Public confidence**

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

### **All correspondence with victims is accurate, timely and empathetic.**

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

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

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

### **Evidence will be drawn from:**

- baseline file examination – specific questions include STWAC and VCL
- Victim and Witness Criminal Justice Board sub-group minutes

- third sector meeting minutes (where they encompass casework quality learning and actions)
- internal quality assurance reports – monthly or one-off – related to the Code of Practice for Victims of Crime/Witness Charter, VCL letters, VPSs, BFS complaints and VRR requests
- VCL performance data
- advocacy individual quality assessment (IQA) data for STWAC compliance
- complaints and VRR performance data
- witness care unit meeting minutes
- Scrutiny Panel minutes, actions and any associated learning
- complaints log
- VRR log, including volume and detail of any overturned decisions
- self-assessment meeting with CPS Area.

### **C. CPS people**

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

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

- The Area has effective bespoke induction plans for new prosecutors, for when prosecutors move between teams and for when new lawyer managers are appointed, to support their development.
- The Area has effective bespoke induction plans for new paralegal and operational delivery staff, for when paralegal and operational delivery staff move between teams and for when operational delivery and paralegal managers are appointed, to support their development.
- The Area has an awareness of the legal cadre, including their current strengths and weaknesses and future capability (particularly around specialisms and capacity to deal with complex or sensitive casework) and this awareness informs recruitment, succession planning and development.

- Staff allocation and movement between teams is based on clearly documented rationales for decisions, which include the impact on the Area's casework quality in terms of capacity, capability and succession planning.

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

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

**The Area uses internal assurance to improve casework quality.**

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

**Evidence will be drawn from:**

- Area business plan
- workforce planning models
- staff in post figures, current and at 1 April 2019
- people strategy/Area succession planning documents
- minutes of meetings to discuss team composition and resources



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

## **D. Digital capability**

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

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

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

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

- The Area includes a digital skills audit in the training plan and delivers general and bespoke training to staff to enable them to effectively use

CMS, Egress, digital case lines, the court store and the cloud video platform.

**Evidence will be drawn from:**

- Area performance reports and analysis
- baseline file examination
- training plan – digital tools and skills
- performance meeting minutes – team and Area level
- communications to staff about performance
- Prosecution Team Performance Meeting (PTPM) minutes
- Transforming Summary Justice (TSJ)/Better Case Management (BCM) meetings
- Local Criminal Justice Board and sub-group meeting minutes
- self-assessment meeting with CPS Area.

**E. Strategic partnerships**

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

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

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

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

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

**Evidence will be drawn from:**

- NFS data
- PTPM minutes (operational and strategic)
- regional disclosure working group minutes
- National Disclosure Improvement Plan reports
- Criminal Justice Board minutes
- PTPM performance reports
- Joint TSJ/BCM board meeting minutes
- TSJ/BCM performance reports
- minutes of meetings with Chief Constables, Police and Crime Commissioners, Resident Judges, presiders, HM Courts and Tribunals Service, and Chambers
- letters/emails demonstrating escalation at strategic level – to presider, Chief Constable or Police and Crime Commissioner, for example
- joint performance plans or strategy documents
- self-assessment meeting with CPS Area.

# **Annex B**

## **File examination findings**

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

## Magistrates' courts

No.	Question	Answers	Result
<b>Pre-charge decision</b>			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	87.5% 12.5%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	83.3% 16.7%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	86.4% 9.1% 4.5%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	16.7% 29.2% 54.2%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	20.8% 25.0% 54.2%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	29.4% 41.2% 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	8.3% 62.5% 29.2%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	22.7% 31.8% 45.5%
<b>Police initial file submission post-charge</b>			
9	The police file submission complied with National File Standard for the type of case.	Fully met Not met	53.3% 46.7%
10	The police file submission was timely.	Fully met Not met	86.7% 13.3%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	20.0% 20.0% 60.0%

No.	Question	Answers	Result
<b>Post-charge reviews and decisions</b>			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	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	40.0% 23.3% 36.7%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	48.0% 40.0% 12.0%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	58.3% 25.0% 16.7%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	25.0% 75.0%
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% 40.0% 10.0%
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	56.3% 12.5% 31.3%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	40.0% 53.3% 6.7%
<b>Post-charge case progression</b>			

No.	Question	Answers	Result
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	16.7% 56.7% 26.7%
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	21.1% 15.8% 63.2%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	22.2% 11.1% 66.7%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	28.6% 28.6% 42.9%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	82.6% 17.4%
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	30.0% 30.0% 40.0%
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	38.1% 38.1% 23.8%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	42.1% 36.8% 21.1%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	55.0% 30.0% 15.0%

No.	Question	Answers	Result
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	66.7% 23.3% 10.0%
<b>Disclosure of unused material</b>			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	27.6% 44.8% 27.6%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	26.9% 42.3% 30.8%
43	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on the MG6C Did not identify reasonable lines of enquiry Failed to identify that other obvious items of unused material were not scheduled Other Said DUM was not disclosable Said NDUM was disclosable	5.6% 11.1% 16.7% 33.3% 22.2% 11.1%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	50.0% 15.4% 34.6%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	33.3% 33.3% 33.3%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	30.8% 34.6% 34.6%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	14.3% 33.3% 52.4%



No.	Question	Answers	Result
<b>Victims and witnesses</b>			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	43.5% 26.1% 30.4%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	50.0% 27.3% 22.7%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	78.6% 21.4%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	37.5% 25.0% 37.5%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	71.4% 28.6%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	20.0% 50.0% 30.0%

## Crown Court

No.	Question	Answers	Result
<b>Pre-charge decision</b>			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	97.1% 2.9%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	79.4% 17.6% 2.9%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	81.8% 6.1% 12.1%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	11.8% 35.3% 52.9%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	23.5% 20.6% 55.9%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	20.8% 20.8% 58.3%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	8.8% 58.8% 32.4%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	18.2% 39.4% 42.4%
<b>Police initial file submission post-charge</b>			
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met	55.0% 45.0%
10	The police file submission was timely.	Fully met Not met	75.0% 25.0%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	22.2% 27.8% 50.0%
<b>Post-charge reviews and decisions</b>			

No.	Question	Answers	Result
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	95.0% 5.0%
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	27.5% 22.5% 50.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	78.9% 21.1%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	57.1% 35.7% 7.1%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	30.0% 70.0%
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	28.0% 44.0% 28.0%
18	In CC cases (including RASSO cases before the CC), there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Fully met Partially met Not met	14.3% 34.3% 51.4%
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met	30.4% 8.7% 60.9%
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% 35.0% 12.5%

#### Post-charge case progression

No.	Question	Answers	Result
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	41.0% 46.2% 12.8%
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	66.7% 8.3% 25.0%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	74.4% 23.1% 2.6%
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence were served in a timely manner for the PTPH.	Fully met Partially met Not met	74.4% 12.8% 12.8%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	10.3% 27.6% 62.1%
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Fully met Partially met Not met	52.6% 28.9% 18.4%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	2.7% 8.1% 89.2%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	50.0% 50.0% 50.0%
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	Fully met Partially met Not met	3.6% 7.1% 89.3%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	57.1% 42.9% 57.1%

No.	Question	Answers	Result
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	18.8% 31.3% 50.0%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	91.9% 5.4% 2.7%
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	66.7% 25.9% 7.4%
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	69.4% 25.0% 5.6%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	76.9% 19.2% 3.8%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	56.8% 35.1% 8.1%
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	57.5% 30.0% 12.5%
<b>Disclosure of unused material</b>			
39	In relevant cases a DMD was completed.	Fully met Partially met Not met	40.0% 50.0% 10.0%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	55.6% 11.1% 33.3%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	36.8% 36.8% 26.3%

No.	Question	Answers	Result
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	25.0% 44.4% 30.6%
43	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on a non-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 Set out the wrong test for disclosure (eg courtesy disclosure) Used the wrong endorsements	3.7% 7.4% 18.5% 18.5% 29.6% 7.4% 14.8%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	91.7% 8.3%
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met Partially met Not met	50.0% 23.1% 26.9%

No.	Question	Answers	Result
46	If Q44 is PM or NM, the most significant failing was:	Did not carry out continuous disclosure at all Did not endorse any decisions on newly revealed items Failed to identify that other obvious items of unused material were not scheduled Other Said DUM was not disclosable Said NDUM was disclosable Set out the wrong test for disclosure (eg courtesy disclosure)	15.4% 15.4% 7.7% 7.7% 15.4% 23.1% 15.4%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	50.0% 34.6% 15.4%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	37.5% 37.5% 25.0%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	88.9% 11.1%
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met	48.0% 20.0% 32.0%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	50.0% 50.0%
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	64.0% 20.0% 16.0%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	41.7% 22.2% 36.1%

No.	Question	Answers	Result
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	25.0% 4.2% 70.8%
<b>Victims and witnesses</b>			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	42.3% 38.5% 19.2%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	41.7% 45.8% 12.5%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	75.0% 25.0%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	41.7% 25.0% 33.3%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	9.1% 45.5% 45.5%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	10.3% 27.6% 62.1%



## RASSO

No.	Question	Answers	Result
<b>Pre-charge decision</b>			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	100%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	50.0% 50.0%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	100%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	61.1% 22.2% 16.7%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	50.0% 16.7% 33.3%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	33.3% 6.7% 60.0%
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	33.3% 38.9% 27.8%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	29.4% 29.4% 41.2%
<b>Police initial file submission post-charge</b>			
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met	60.0% 40.0%
10	The police file submission was timely.	Fully met Not met	95.0% 5.0%
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	12.5% 87.5%
<b>Post-charge reviews and decisions</b>			

No.	Question	Answers	Result
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	100%
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met	65.0% 10.0% 25.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	78.9% 10.5% 10.5%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	33.3% 33.3% 33.3%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	66.7% 16.7% 16.7%
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	47.1% 11.8% 41.2%
18	In CC cases (including RASSO cases before the CC), there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Fully met Partially met Not met	38.9% 11.1% 50.0%
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	22.2% 22.2% 55.6%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	40.0% 60.0%

### Post-charge case progression

No.	Question	Answers	Result
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	55.0% 20.0% 25.0%
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	42.1% 21.1% 36.8%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	95.0% 5.0%
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence was served in a timely manner for the PTPH.	Fully met Partially met Not met	70.0% 10.0% 20.0%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	27.8% 38.9% 33.3%
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Fully met Partially met Not met	60.0% 5.0% 35.0%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	5.6% 94.4%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	100%
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	Fully met Partially met Not met	7.1% 92.9%
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met	20.0% 30.0% 50.0%

No.	Question	Answers	Result
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	52.6% 36.8% 10.5%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	60.0% 20.0% 20.0%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	72.7% 16.7% 11.1%
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	85.7% 7.1% 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	73.7% 26.3%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	70.6% 17.6% 11.8%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	57.9% 36.8% 5.3%
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	35.0% 40.0% 25.0%
<b>Disclosure of unused material</b>			
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met	33.3% 55.6% 11.1%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	43.8% 31.3% 25.0%

No.	Question	Answers	Result
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	44.4% 44.4% 11.1%
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	27.8% 27.8% 44.4%
43	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on a non-blank MG6D Did not endorse any decisions on the MG6C Did not identify reasonable lines of enquiry Failed to 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	7.7% 7.7% 7.7% 7.7% 7.7% 23.1% 23.1% 15.4%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	88.9% 5.6% 5.6%
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met Partially met Not met	44.4% 22.2% 33.3%

No.	Question	Answers	Result
46	If Q42 is PM or NM, the most significant failing was:	Did not carry out continuous disclosure at all Did not endorse any decisions on newly revealed items Did not identify reasonable lines of enquiry Other Said NDUM was disclosable Set out the wrong test for disclosure (eg courtesy disclosure) Used the wrong endorsements	10.0% 20.0% 10.0% 20.0% 10.0% 10.0% 20.0%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	58.8% 5.9% 35.3%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	33.3% 8.3% 58.3%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	57.1% 14.3% 28.6%
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met	30.0% 70.0%
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	14.3% 85.7%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	27.8% 22.2% 50.0%

No.	Question	Answers	Result
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	10.0% 90.0%
<b>Victims and witnesses</b>			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	92.3% 7.7%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	52.9% 29.4% 17.6%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	100%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	33.3% 66.6%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	66.7% 33.3%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	25.0% 12.5% 62.5%

# **Annex C**

## **Glossary**



### **Achieving Best Evidence (ABE)**

Guidance from the Ministry of Justice on interviewing victims and witnesses and using special measures. When the police video-record the account of the victim or a witness rather than taking a written statement from them, the recording can be played at trial instead of the victim or witness giving evidence if permission is granted by the court; this is one of a range of special measures. These recordings are known as “Achieving Best Evidence recordings”, or “ABEs”, after the guidance.

### **Agent**

A lawyer from outside the CPS who is employed when required to prosecute cases at court on behalf of the CPS. They cannot make decisions about cases under the Code for Crown Prosecutors and must take instructions from the CPS.

### **Ancillary order**

Orders that the Judge or magistrates may impose on a defendant as well as imposing a sentence, such as a compensation order requiring a defendant to pay a sum of money to the victim.

### **Area Business Manager (ABM)**

The most senior non-legal manager at CPS Area level. They are responsible for the business aspects in an Area, such as managing the budget, and work with the Chief Crown Prosecutor to run the Area effectively and efficiently.

### **Area Champion**

A CPS lawyer with specialist knowledge or expertise in a legal area, such as disclosure. They act as a source of information and support for colleagues and deliver training.

### **Associate Prosecutor (AP)**

A non-lawyer employed by the CPS who conducts uncontested (guilty plea) cases at the magistrates’ courts on behalf of the prosecution. With additional training, APs can also conduct contested (not guilty) hearings.

### **Attorney General (AG)**

The main legal advisor to the Government. Also superintends the CPS.

### **Bad character**

Evidence of previous bad behaviour, including convictions for earlier criminal offences. Normally, bad character cannot be included as part of

the evidence in a criminal trial. To be allowed, either the prosecution and defence must agree it can be used, or an application must be made to the court, based on specific reasons set out by law.

### **Barrister/Counsel**

A lawyer with the necessary qualifications to appear in the Crown Court and other criminal courts, who is paid by the CPS to prosecute cases at court, or by the representative of someone accused of a crime to defend them.

### **Basis of plea**

Sets out the basis upon which a defendant pleads guilty to an offence.

### **Better Case Management (BCM)**

The national process for case management in the Crown Court to improve the way cases are processed through the system, for the benefit of all concerned in the criminal justice system.

### **Case management system (CMS)**

The IT system used by the CPS for case management.

### **Casework Quality Standards (CQS)**

Issued by the Director of Public Prosecutions, these standards set out the benchmarks of quality that the CPS strives to deliver when prosecuting crime on behalf of the public. They include the CPS's responsibilities to victims, witnesses and communities, legal decision-making and the preparation and presentation of cases.

### **Charging decision**

A decision by the CPS (or the police in certain circumstances) whether there is sufficient evidence, and whether it is in the public interest, to charge a suspect with a particular offence. The process is governed by the Director's Guidance on Charging.

### **Chief Crown Prosecutor (CCP)**

Each of the 14 CPS Areas has a CCP who runs the Area with the Area Business Manager. The CCP is responsible for the legal aspects in the Area, such as the quality of legal decision-making, case progression, and working with stakeholders, communities, and the public to deliver quality casework.

**Cloud video platform (CVP)**

A video communication system that enables court hearings to be carried out remotely and securely.

**Code for Crown Prosecutors (the Code)**

A public document, issued by the Director of Public Prosecutions, that sets out the general principles CPS lawyers should follow when they make charging decisions. Cases should proceed to charge only if there is sufficient evidence against a defendant to provide a realistic prospect of conviction and it is in the public interest to prosecute.

**Common platform**

A digital case management system which allows all parties involved in criminal cases to access case information.

**Complex Casework Unit (CCU)**

Units responsible for some of the most serious and complicated casework the CPS prosecutes, such as large-scale international cases.

**Contested case**

Where a defendant pleads not guilty or declines to enter any plea at all, and the case proceeds to trial.

**Court order/direction**

An instruction from the court requiring the prosecution or defence to carry out an action (such as sending a particular document or some information to the other party or the court) in preparation for trial.

**CPS Direct (CPSD)**

A service operated by CPS lawyers which provides charging decisions. It deals with many priority cases and much of its work is out of hours, enabling the CPS to provide charging decisions 24 hours a day, 365 days a year.

**Cracked trial**

A case which ends on the day of trial either because of a guilty plea by the defendant or because the prosecution decides to stop the case.

**Criminal Procedure Rules (CPR)**

Rules which give criminal courts powers to manage criminal cases waiting to be heard effectively. The main aim of the CPR is to progress cases fairly and quickly.

### **Crown advocate (CA)**

A lawyer employed by the CPS who is qualified to appear in the Crown Court.

### **Crown Court**

The court which deals with graver allegations of criminal offences, such as murder, rape, and serious assaults. Some allegations can be heard at either the Crown Court or the magistrates' courts (see Either-way offence).

### **Crown prosecutor (CP)**

A lawyer employed by the CPS whose role includes reviewing and preparing cases for court and prosecuting cases at the magistrates' courts. CPs can progress to become senior crown prosecutors.

### **Custody time limit (CTL)**

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

### **Custody time limit failure**

When the court refuses to extend a CTL on the grounds that the prosecution has not acted with the necessary due diligence and expedition, or when no valid application is made to extend the CTL before its expiry date.

### **Defendant**

Someone accused of and charged with a criminal offence.

### **Defence statement**

A written statement setting out the nature of the defendant's defence. Service of the defence statement is part of the process of preparing for trial, and is meant to help the prosecution understand the defence case better so they can decide if there is any more unused material than ought to be disclosed (see Disclosure).

### **Deputy Chief Crown Prosecutor (DCCP)**

Second-in-command in a CPS Area, after the Chief Crown Prosecutor, for legal aspects of managing the Area.

### **Digital Case System (DCS)**

A computer system for storing and managing cases in the Crown Court, to which the defence, prosecution, court staff and the Judge all have access.

### **Direct defence engagement log (DDE)**

A written record of discussions with the defence about a case. The prosecution and defence are obliged by the Criminal Procedure Rules to engage and identify the issues for trial so that court time is not wasted hearing live evidence about matters that can be agreed.

### **Director's Guidance on Charging**

Guidance issued by the Director of Public Prosecutions in relation to charging decisions. It sets out guidance for the police and CPS about how to prepare a file so that it is ready for charging, who can make the charging decision, and what factors should influence the decision. It also sets out the requirements for a suspect whom the police will ask the court to keep in custody to be charged before all the evidence is available, which is called the threshold test. The latest edition (the sixth, also called "DG6") came into effect on 31 December 2020.

### **Director of Public Prosecutions (DPP)**

The head of the CPS, with responsibility for its staff and the prosecutions it undertakes every year. In certain cases, the personal consent of the DPP is required for prosecutions to proceed.

### **Disclosure/unused material**

The police have a duty to record, retain and review material collected during an investigation which is relevant but is not being used as prosecution evidence, and to reveal it to the prosecutor. The prosecutor has a duty to provide the defence with copies of, or access to, all material that is capable of undermining the prosecution case and/or assisting the defendant's case.

### **Disclosure management document (DMD)**

Used for rape and other Crown Court cases, the DMD sets out the approach of the police and CPS to the disclosure of unused material in a case. It may, for example, explain the parameters used by the police to search data held on a mobile phone or other digital device (such as the dates used, or key words) or what actions the police are and are not taking in relation to possible avenues of investigation. The DMD is shared with the defence and court so that everyone is aware of the approach being taken. This enables the defence to make representations if they do not agree with that approach (for example, if they think different search terms should be used). It also helps ensure that disclosure is undertaken efficiently and fairly.

### **Disclosure record sheet (DRS)**

Sets out the chronology of all disclosure actions and decisions, and the reasons for those decisions. It is an internal CPS document that is not shared with the defence or court.

### **Discontinuance**

Where the prosecution stops the case because there is insufficient evidence to carry on, or it is not in the public interest to do so.

### **District Crown Prosecutor (DCP)**

A lawyer who leads and manages the day to day activities of prosecutors and advocates.

### **Domestic abuse**

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members, regardless of gender or sexuality.

### **Effective trial**

Where a case proceeds to a full trial on the date that it is meant to.

### **Either-way offence**

An offence that can be prosecuted in the magistrates' courts or the Crown Court. The prosecution makes representations to the court on where the case should be heard. The magistrates or a District Judge (who sits alone in the magistrates' courts) can decide if the allegation is serious enough that it must go to the Crown Court. If they decide it can be heard in the magistrates' courts, the defendant can choose to have the case sent to the Crown Court, where it will be heard by a jury. If the defendant agrees, the trial will be heard in the magistrates' courts.

### **Full Code test**

A method by which a prosecutor decides whether or not to bring a prosecution, based on the Code for Crown Prosecutors. A prosecution must only start or continue when the case has passed both stages of the full Code test: the evidential stage, followed by the public interest stage. The full Code test should be applied when all outstanding reasonable lines of inquiry have been pursued – or before the investigation being completed, if the prosecutor is satisfied that any further evidence or material is unlikely to affect the application of the full Code test, whether in favour of or against a prosecution.

### **Graduated fee scheme (GFS)**

The scheme by which lawyers are paid for Crown Court cases. For Counsel appearing on behalf of defendants who qualify for assistance (or legal aid), the GFS is set and managed by the Legal Aid Agency. For Counsel appearing for the prosecution, the rates are determined by the CPS GFS, and the CPS pays Counsel.

### **Guilty anticipated plea (GAP)**

Where the defendant is expected to admit the offence at court, based on an assessment of the available evidence and any admissions made during interview.

### **Hate crime**

Any offence where the defendant has been motivated by or demonstrated hostility towards the victim based on what the defendant thinks is their race, disability, gender identity or sexual orientation. Targeting older people is not (at the time of writing) recognised in law as a hate crime, but the CPS monitors crimes against older people in a similar way.

### **Hearing record sheet (HRS)**

A CPS electronic record of what has happened in the case during the course of a court hearing, and any actions that need to be carried out afterwards.

### **Her Majesty's Courts and Tribunals Service (HMCTS)**

An organisation responsible for the administration of criminal, civil and family courts and tribunals in England and Wales.

### **Honour based violence (HBV)**

A collection of practices which are used to control behaviour within families or other social groups to protect perceived cultural and religious beliefs and/or honour. It can take the form of domestic abuse and/or sexual violence.

### **Inclusion and community engagement strategy**

Sets out the CPS's commitment to promoting fairness, equality, diversity and inclusion across the criminal justice system by engaging with community groups and those at risk of exclusion.

### **Indictable-only offence**

An offence triable only in the Crown Court.

### **Indictment**

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

### **Individual Learning Account (ILA)**

An allowance of £350 per person, per year, which CPS employees can access for professional development.

### **Individual quality assessment (IQA)**

An assessment of a piece of work done by a CPS member of staff – usually a prosecutor, but some Areas also carry out IQAs for some operational delivery staff. The assessment is carried out by a manager, and feedback on the assessment given to the member of staff. Areas also use IQAs to identify areas for improvement and training needs across a team or the whole Area.

### **Ineffective trial**

A case that does not proceed to trial on the date that it is meant to. This can be owing to a variety of possible reasons, including non-attendance of witnesses, non-compliance with a court order by the prosecution or defence, or lack of court time.

### **Initial details of the prosecution case (IDPC)**

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

### **Intermediary**

A professional who facilitates communication between, on the one hand, a victim or witness, and on the other hand, the police, prosecution, defence, and/or court. Their role is to make sure the witness understands what they are being asked, can give an answer, and can have that answer understood. To do this, they will assess what is needed, provide a detailed report on how to achieve that, and aid the witness in court. An intermediary may be available at trial, subject to the court agreeing it is appropriate, for defence or prosecution witnesses who are eligible for special measures on the grounds of age or incapacity, or for vulnerable defendants.



### **Local Criminal Justice Boards (LCJBs)**

Groups made up of representatives of the CPS, police, HMCTS and others, whose purpose is to work in partnership to improve the efficiency and effectiveness of the criminal justice system and to improve the experience of the victims and witnesses. LCJBs were originally set up in all 43 police force areas by central government and received central funding. They now operate as voluntary partnerships in most counties in England.

### **Local Scrutiny Involvement Panels (LSIPs)**

Groups made up of representatives of the local community and voluntary sector, especially those representing minority, marginalised or at-risk groups. They meet regularly with their local CPS Area to discuss issues of local concern and provide feedback on the service the Area provides, with a view to improving the delivery of justice at a local level and to better supporting victims and witnesses.

### **Manual of Guidance Form 3 (MG3)**

One of a number of template forms contained in a manual of guidance for the police and CPS on putting together prosecution files. The MG3 is where the police summarise the evidence and other information when asking the CPS to decide whether a suspect should be charged with a criminal offence, and the CPS then records its decision.

### **National File Standard (NFS)**

A national system that sets out how the police should prepare criminal case files. It allows investigators to build only as much of the file as is needed at any given stage – whether that is for advice from the CPS, the first appearance at court or the trial. The latest version was published in December 2020.

### **Newton hearing**

A hearing in criminal proceedings required when a defendant pleads guilty to an offence but there is disagreement with the prosecution as to the facts of the offence.

### **Not guilty anticipated plea (NGAP)**

Where the defendant is expected to plead not guilty at court, based on an assessment of the available evidence and any defence(s) put forward during interview.

### **Offer no evidence (ONE)**

Where the prosecution stops the case, after the defendant has pleaded not guilty, by offering no evidence. A finding of not guilty is then recorded by the court.

### **Paralegal officer**

A CPS employee who provides support and casework assistance to CPS lawyers and attends court to take notes of hearings and assist advocates.

### **Personal Development Review (PDR)**

A twice yearly review of a CPS employee's performance against a set of objectives specific to their role.

### **Plea and Trial Preparation Hearing (PTPH)**

The first hearing at the Crown Court after the case has been sent from the magistrates' courts. The defendant is expected to enter a plea to the offence(s) with which they have been charged. If the defendant pleads guilty, the court may be able to sentence them immediately, but if not, or if the defendant has pleaded not guilty, the court will set the next hearing date and, for trials, will also set out a timetable for management of the case.

### **Postal requisition**

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

### **Rape and serious sexual offences (RASSO)**

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

### **Restraining order**

A type of court order made as part of the sentencing procedure to protect the person(s) named in it from harassment or conduct that will put them in fear of violence. They are often made in cases involving domestic abuse, harassment, stalking or sexual assault. The order is intended to be preventative and protective, and usually includes restrictions on contact by the defendant towards the victim; it may also include an exclusion zone around the victim's home or workplace. A restraining order can also be made after a defendant has been acquitted if the court thinks it is necessary to protect the person from harassment.

## **Review**

The process whereby a CPS prosecutor determines that a case received from the police satisfies, or continues to satisfy, the legal test for prosecution in the Code for Crown Prosecutors. This is one of the most important functions of the CPS.

## **Section 28 Youth Justice and Criminal Evidence Act 1999**

Legislation that provides the option to pre-record the cross-examination evidence in advance of a trial for vulnerable victims and witnesses.

## **Senior Crown Prosecutor (SCP)**

A lawyer employed by the CPS with the necessary skills and experience to progress to a more senior legal role, which includes the functions of a crown prosecutor but also includes advising the police on charge. It is not a role that includes managing staff.

## **Sensitive material**

Any unused material (see Disclosure/unused material) which it would not be in the public interest to disclose during the criminal proceedings. If it meets the test for disclosure, the prosecution must either stop the case or apply to the court for an order allowing them to withhold the sensitive material.

## **Speaking to witnesses at court (STWAC)**

An initiative stating that prosecutors should speak to witnesses at or before court to make sure they are properly assisted and know what to expect before they give their evidence.

## **Special measures**

The Youth Justice and Criminal Evidence Act 1999 provides for a range of special measures to enable vulnerable or intimidated witnesses in a criminal trial to give their most accurate and complete account of what happened. Measures include giving evidence via a live TV link to the court, giving evidence from behind screens in the courtroom and using intermediaries. A special measures application is made to the court within set time limits and can be made by the prosecution or defence.

## **Standard Operating Practice (SOP)**

Instructions setting out how to complete a particular task or action and cover legal and business aspects of the running of the CPS. The CPS has a range of SOPs which are standard across the organisation and seek to apply consistency to business practices and key steps needed in all

prosecutions. Examples include: how to register a new charging request from the police on the case management system; how to record charging advice; how to prepare for the first hearing; and how to deal with incoming communications.

### **Summary offence**

An offence that is normally dealt with in the magistrates' courts. In certain circumstances, and when there is a connected case that will be heard by the Crown Court, the Crown Court may deal with a summary offence as well.

### **Third party material**

Material held by someone other than the investigator and/or prosecutor, such as medical or school records, or documents held by social services departments.

### **Threshold test**

See Director's Guidance on Charging.

### **Transforming Summary Justice (TSJ)**

An initiative led by HMCTS and involving the CPS and the police, designed to deliver justice in summary cases in the most efficient way by reducing the number of court hearings and the volume of case papers. The process involves designating bail cases coming into the magistrates' courts for their first hearing as guilty-anticipated plea (GAP) cases or not guilty-anticipated plea (NGAP) cases. GAP and NGAP cases are listed in separate courtrooms, so that each can be dealt with more efficiently.

### **Uncontested case**

Where a defendant pleads guilty and the case proceeds to sentence.

### **Unsuccessful outcome**

A prosecution which does not result in a conviction is recorded in CPS data as an unsuccessful outcome. If the outcome is unsuccessful because the prosecution has been dropped (discontinued, withdrawn or no evidence offered) or the court has ordered that it cannot proceed, it is also known as an adverse outcome. Acquittals are not adverse outcomes.

### **Victim Communication and Liaison scheme (VCL)**

A CPS scheme to inform victims of crime of a decision to stop, or alter substantially, any of the charges in a case. Vulnerable or intimidated victims must be notified within one working day and all other victims within five working days. In certain cases, victims will be offered a meeting to

explain the decision and/or the right to ask for the decision to be reviewed.

### **Victim Liaison Unit (VLU)**

The team of CPS staff in an Area responsible for communicating with victims under the Victim Communication and Liaison scheme and the Victims' Right to Review, and for responding to complaints and overseeing the service to bereaved families.

### **Victim Personal Statement (VPS)**

When a victim explains to the court how a crime has affected them. If a defendant is found guilty, the court will take the VPS into account, along with all the other evidence, when deciding on an appropriate sentence.

### **Victims' Code**

Sets out a victim's rights and the minimum standards of service that organisations must provide to victims of crime. Its aim is to improve victims' experience of the criminal justice system by providing them with the support and information they need. It was published in October 2013 and last updated on 21 April 2021.

### **Victims' Right to Review scheme (VRR)**

This scheme provides victims of crime with a specifically designed process to exercise their right to review certain CPS decisions not to start a prosecution, or to stop a prosecution. If a new decision is required, it may be appropriate to institute or reinstitute criminal proceedings. The right to request a review of a decision not to prosecute under the VRR scheme applies to decisions that have the effect of being final made by any crown prosecutor, regardless of their grade or position in the organisation. It is important to note that the "right" referred to in the context of the VRR scheme is the right to request a review of a final decision. It is not a guarantee that proceedings will be instituted or reinstituted.

### **Violence against women and girls (VAWG)**

A category of offending that covers a wide range of criminal conduct, including domestic abuse, controlling and coercive behaviour, sexual offences, harassment, forced marriage, so-called honour-based violence, and slavery and trafficking. VAWG includes boys and men as victims but reflects the gendered nature of the majority of VAWG offending.

### **Violence against women and girls strategy (VAWGS)**

A government strategy that aims to increase support for victims and survivors of VAWG, increase the number of perpetrators brought to justice, and reduce the prevalence of violence against women and girls in the long term.

### **Vulnerable and/or intimidated witnesses**

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

### **Witness care unit (WCU)**

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

### **Witness summons**

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

# **Annex D**

## **File examination question set**

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



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

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

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

No.	Question	Possible answers
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met NA
41	The police complied with their disclosure obligations.	Fully met Partially met Not met NA
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met NA
43	If Q42 is PM or NM, the most significant failing was:	
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met NA
45	The prosecutor complied with the duty of continuing disclosure, (but not including timeliness of disclosure).	Fully met Partially met Not met NA
46	If Q44 is PM or NM, the most significant failing was:	
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met NA
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met NA
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met NA
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met NA

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



# **Annex E**

## **File sample composition**

## Breakdown of the standard file sample

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

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

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

All magistrates' court files were drawn from NGAP cases to capture the review and preparation required before the NGAP hearing. The magistrates' court sample included three youth cases; the remainder were adult cases. Minor motoring cases were excluded from the magistrates' court file sample.

All Crown Court files were chosen from those set down for trial or that had had a PTPH, to capture the post-sending review and pre-PTPH preparation (save for discontinuances, where the decision to discontinue may have been made before the PTPH). Homicide cases were excluded for two reasons: first, because they are frequently investigated by specialist police teams so are not representative of an Area's volume work; second, because they are harder for HMCPSI to assess, as some of the information in the case is often stored off the case management system and not accessible to inspectors. Fatal road traffic collision cases were not excluded.

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



**Table 19: File sample structure**

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

The categories in italics in Table 19 were not additional files but contributed to the total volume of cases. Where there were no Judge directed acquittal or no case to answer outcomes finalised during the quarter preceding the file examination, acquittals after trial were substituted in order to maintain the balance between successful and unsuccessful cases.

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

## Sensitive/non-sensitive split

Of the standard magistrates' court and Crown Court file samples, 20% were sensitive cases and half of these were domestic abuse allegations.

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

**Table 20: Minimum sensitive case types in sample**

Case type	Magistrates' courts (30)	Crown Court (40)	RASSO (20)	Total (90)
Domestic abuse	3	4	2	9
Racially or religiously aggravated (RARA)	1	1	0	2
Homophobic/elder/disability	1	1	0	2
Sexual offence (non-RASSO)	1	2	0	3
<b>Total</b>	<b>6 (20%)</b>	<b>8 (20%)</b>	<b>2 (10%)</b>	<b>16 (17%)</b>

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

# **Annex F**

## **Scoring methodology**

The scores in this inspection are derived solely from our examination of the casework quality of 90 Area files: 30 magistrates' court cases, 40 Crown Court cases and 20 rape and serious sexual offences (RASSO) cases.

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

We used our file examination data to give scores for added value and grip, which are set out as percentages. They were obtained by taking the questions that feed into each aspect<sup>31</sup> and allocating:

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

We then expressed the total points awarded as a percentage of the maximum possible points. Not applicable answers were excluded.

To help evaluate added value and grip, we also scored the five casework themes and sub-themes in each of the three casework types (magistrates' court cases, Crown Court cases, and RASSO cases):

- pre-charge decisions and reviews
  - compliance with the Code at pre-charge
  - selection of charge(s)
  - case analysis and strategy
- post-charge decisions and reviews
  - compliance with the Code post-charge

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<sup>31</sup> See annex G for which questions contributed to each of the casework themes.

- 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 theme. We allocated:

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

We then expressed the total points awarded as a percentage of the maximum possible points. Not applicable answers were excluded.

For the casework themes and sub-themes, we have reported the percentages, but have also used a range of percentages (see Table 21) to convert the percentage into a finding of fully, partially, or not meeting the expected standard for the theme or sub-theme overall.

**Table 21: Conversion of percentages into ratings**

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

## A worked example

### Relevant questions

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

- Q17: Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application is required).
- Q33: Steps were taken to secure best evidence by correct and timely warning of witnesses.
- Q34: Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.
- Q55: The prosecutor consulted victims and witnesses where appropriate (includes STWAC).
- Q56: The victim's wishes regarding VPS were complied with.
- Q57: The prosecution sought appropriate orders to protect the victim, witnesses and the public.
- Q58: There was a timely VCL letter when required.
- Q59: The VCL letter was of a high standard.
- Q60: The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses.

### File examination results

This data is fictitious and used only to demonstrate the scoring mechanism. For the 30 magistrates' court files, we scored the relevant questions as set out in Table 22.

**Table 22: Worked example scores**

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

Excluding the not applicable answers leaves 185 answers. The maximum score possible would therefore be 370 points (185 answers × 2 points per answer) if all answers were “fully meeting the standard”.

The score for this fictitious Area is calculated as follows:

- Two points for each case assessed as fully meeting the expected standard = 198 points
- One point for each case assessed as partially meeting the standard = 48 points
- Total (198 + 48) = 246 points
- Expressed as a percentage of 370 available points, this gives the score as 66.5%. When the ranges are applied, 66.5% (60% to 69.99%) gives an overall rating of partially meeting the required standard for this casework theme.



# **Annex G**

## **Casework themes**

**Table 23: Casework themes**

No.	Question	Casework theme	Included in added value or grip?
1	The CPS decision to charge was compliant with the Code test.	Pre-charge: Code compliance	Added value
2	The CPS decision to charge was timely.	Not applicable (NA)	Grip
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Pre-charge: Selection of appropriate charges	Added value
4	The CPS MG3 included proper case analysis and case strategy.	Pre-charge	Added value
5	The CPS MG3 dealt appropriately with unused material.	Pre-charge	Added value
6	The CPS MG3 referred to relevant applications and ancillary matters.	Pre-charge	Added value
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Pre-charge	NA
8	The action plan was proportionate and met a satisfactory standard.	Pre-charge	Added value
9	The police file submission complied with the National File Standard for the type of case.	NA	NA
10	The police file submission was timely.	NA	NA
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	NA	NA
12	All review decisions post-charge applied the Code correctly.	Post-charge: Code compliance	Added value

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.	Post-charge: Case strategy	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.	Post-charge: Case strategy	Added value
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Victims and witnesses	Added value
18	In CC cases (including RASSO cases before the CC), there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Post-charge: Case strategy (CC and RASSO only)	Added value
19	In all cases (MC, CC and RASSO), any reviews addressing significant developments that represented a major change in case strategy (and additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Post-charge: Case strategy	Added value
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Post-charge: Case strategy	Added value

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, and completed the PET/PTPH forms.	Preparation for PTPH	Grip
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	NA	Grip
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Preparation for PTPH	Added value
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence was served in a timely manner for the PTPH.	Preparation for PTPH	Grip
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	NA <sup>32</sup>	No
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Preparation for PTPH	No
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Preparation for PTPH	No
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Preparation for PTPH	No

<sup>32</sup> We are not able to differentiate between crown advocates and Counsel in many casefiles.

No.	Question	Casework theme	Included in added value or grip?
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	NA	Grip
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	NA	Grip
31	There was timely compliance with court directions or Judges' Orders.	NA	Grip
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Post-charge: Case strategy	Added value
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Victims and witnesses	No
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Victims and witnesses	Grip
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	NA	Grip
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	NA	Grip
37	Requests to the police for additional material or editing of material were timely, and were escalated where appropriate.	NA	Grip
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	NA	Grip

No.	Question	Casework theme	Included in added value or grip?
39	In relevant cases, a DMD was completed.	Disclosure	No
40	The DMD was completed accurately and fully in accordance with the guidance.	Disclosure	Added value (RASSO only)
41	The police complied with their disclosure obligations.	NA	NA
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Disclosure	Added value
43	If Q42 is PM or NM, the most significant failing was:	NA	No
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Disclosure	No
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Disclosure	Added value
46	If Q44 is PM or NM, the most significant failing was:	NA	No
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Disclosure	No
48	Sensitive unused material was dealt with appropriately.	Disclosure	Added value
49	Third-party material was dealt with appropriately.	Disclosure	Added value
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Disclosure	No
51	Inadequate defence statements were challenged.	Disclosure	Added value

No.	Question	Casework theme	Included in added value or grip?
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Disclosure	Added value
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Disclosure	No
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Disclosure	No
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Victims and witnesses	No
56	The victim's wishes regarding VPS were complied with.	Victims and witnesses	No
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Victims and witnesses	Added value
58	There was a timely VCL letter when required.	Victims and witnesses	No
59	The VCL letter was of a high standard.	Victims and witnesses	Added value
60	The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses.	Pre-charge Victims and witnesses	Added value

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