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in the public interest



HM Crown Prosecution
Service Inspectorate

Getting Cases Ready for Court

**A joint review of the quality of prosecution case files
by HMIC and HMCPSI**

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Executive summary

Introduction

An efficient criminal justice system is dependent upon the effective exchange of information between all the relevant agencies. Nowhere is this exchange more important than in the context of the relationship between the police and the Crown Prosecution Service (CPS) when preparing a case for court. Effective management of the process of building a prosecution case file can improve the quality of the files, and keep the inevitable paperwork associated with the passage of a case through the criminal justice system to a minimum.

Both the CPS and the police share the objective of delivering a high-quality service to victims and witnesses, many of whom are vulnerable for various reasons. Sustained improvements in the quality both of prosecution case files, and of the procedures which support court hearings, will only be achieved through a commitment to maintain an unrelenting focus on the achievement of this common objective.

The introduction of the Director's Guidance on the Streamlined Process (DGSP) in 2008 was intended to reduce bureaucracy and enable financial savings, without having a detrimental impact on the efficiency or fairness of the overall trial process. A review of the implementation of DGSP was carried out by the National Audit Office (NAO), Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Crown Prosecution Inspectorate (HMCPPI) in May 2011.¹ This report included conclusions that:

- an inconsistent approach by individual police forces, leading to variations in the quality of case files; and
- too much unnecessary information in the case files, resulting in wasted time for both police officers and CPS staff.

In our recent report, *Stop the Drift 2*,² we examined a sample of case files in the magistrates' courts where the police had anticipated a guilty plea from the defendant. This found little evidence of any improvement since the NAO report was published.

This review builds on the work undertaken since 2011 by the National Audit Office, criminal justice inspectorates, and the joint CPS/police National Prosecution Team. It has focused on the quality of prosecution case files in respect of contested cases across six police forces (and their respective CPS areas).³

¹ *The Crown Prosecution Service: The Introduction of the Streamlined Process*, National Audit Office, HMIC and HMCPPI, November 2011. Available from www.nao.gov.uk. Referred to from hereon in as 'the NAO report'.

² *Stop the Drift 2: A Continuing Focus on 21st Century Criminal Justice*, HMIC/HMCPPI, June 2013. Available from www.hmic.gov.uk.

³ The total case file sample was 180 contested case files in the following forces (and associated CPS areas): Metropolitan Police Service; Greater Manchester Police; North Wales Police; Sussex Police; Leicestershire Police; and Wiltshire Police.

Findings

Preparing for first hearing

Getting a case file ready for the first court hearing involves the preparation of a police report, which should be checked by a supervisor before it is submitted. While the forces visited for this review used different models of case file preparation, we found that the quality of the resulting police reports in all six was generally poor. This indicates the system of supervisor checks is not effective at identifying or rectifying problems.

The review team assessed the quality of the information in three sections of the police report: the summary of evidence; the summary of interview; and 'additional information'. We found:

- the summary of evidence section was assessed as adequate in 37% of case files. Both key and non-key witnesses were listed inaccurately: the information presented in case files was not a summary, and did not set out the elements of the offence; relevant detail was often missing; and attention to detail was poor, especially in relation to vulnerable victims;
- the summary of interview section was better, with 51% deemed to be of adequate quality. However, the summaries were still too long, and often a full transcript of the questions and answers put to the defendant was supplied, rather than a précis of the interview; while
- 56% of the additional information sections of the police report were assessed as adequate.

We noted that the practice of copying and pasting information between documents was routine. This kind of shortcut generates risks, as it can introduce errors; for instance, we found examples where confidential information (such as a victim's address details) was included in the police report. This is an extremely grave error, because the information could be given to a defence team as part the advance disclosure⁴ process. This matter should be addressed as a matter of urgency.

Unnecessary information was included in case files. This is known as overbuilding,⁵ and causes additional work for both the police and the prosecution. We found many statements from police officers and staff, included in the case files, which were of no evidential value.

There was a more positive picture in relation to police requests to the CPS for charging decisions. We assessed that 76% of these case files were adequate. In addition, subsequent requests from the CPS for further investigation or information were necessary in 93% of the relevant case files.

The quality of the information about witnesses which is recorded needs to improve. For instance, case files often did not include the dates when witnesses (other than police

⁴ The police report is disclosed to the defence in advance of the first hearing. In addition, full disclosure must be made to the defence of all material held by the prosecution that either undermines its case or assists the defence case.

⁵ Overbuild is the inclusion in the case file of material or evidence that is not required by the prosecution.

witnesses) were available to attend court. We also found multiple forms in use for recording information about witnesses (many of whom were the victims of crime), which led to some inconsistent practices and duplication of effort by the police and CPS.

Findings: Police–CPS interface

The IT systems and interfaces used by the police and the CPS follow the style of previous paper forms, as opposed to being designed as a truly digital process. Most of the forces visited for this review were not able to enter data once, and then automatically populate sections of the CPS's systems.

Technical difficulties within existing IT systems and at the interface between police and CPS systems create additional burdens for staff. For example, the content of documents sent to CPS by the police cannot easily be identified from the file name, meaning that CPS staff have to open all the documents to find out what they are, and then rename them. Staff also told us that documents disappear into cyberspace, resulting in both the CPS and the police spending additional time and energy retrieving the relevant material.

Findings: Upgraded case files

The original request from the CPS to the police for upgraded case files⁶ was assessed as timely in 89% of the case files. The police provision of the upgraded case file was assessed as timely in 74% of the case files. However, we found that important information was missing from the original upgraded case file in 32% of the cases we assessed.

Requests for further information after receipt of the upgraded case file frequently happened very late in the process. This was due to the CPS practice of prioritising contested work on the basis of the next hearing date.

The review team found that issues relating to disclosure⁷ schedules provided by the police were of concern. Overall, of the 156 case files that could be read electronically, slightly more than half (52%) of the disclosure schedules were assessed as adequate. The issues across forces varied, but we commonly found excessive amounts of material listed on the schedules; exhibits incorrectly included as unused material; inadequate descriptions of the items on the list; and sensitive material incorrectly listed on non-sensitive schedules (or vice versa).

⁶ An upgraded case file is required if a not guilty plea is entered by the defendant at their first hearing. It includes further documentation and evidence collated by the police for use by the prosecution at trial.

⁷ The schedules list items related to the investigation that are not being used as evidence, such as the custody record of the defendant or the crime report. This evidence is referred to as unused material.

Governance

The Criminal Justice Efficiency Programme Board (which was introduced in October 2011) is the main forum for discussing the relationship between the police and the CPS at a strategic level, and is overseen by three senior staff (from the Association of Chief Police Officers, the CPS, and Her Majesty's Courts and Tribunals Service). The review team is aware of proposed activity by both the CJ Efficiency Programme Board and the CPS Refocusing Programme⁸ which is aimed at providing better IT interfaces, and more consistent practices.

The National Prosecution Team⁹ (NPT) has a key role in providing oversight of case file quality issues, and has issued helpful guidance and good practice advice.

Conclusions

We conclude that there is a considerable lack of understanding amongst frontline officers of the importance and relevance of the information they are providing for the prosecution of alleged offenders. Without this understanding, the poor practice identified in the more straightforward cases (where the defendant pleads guilty) is repeated in contested cases. As a result, with the increased demands of disclosure and other additional evidence that may be required for case files going to court, the unnecessary burden caused by this practice on both the police and the CPS grows even heavier. This is only exacerbated by the inefficiencies in the IT systems.

It is also evident that supervisors, who have the first opportunity to check the quality of case files and feed learning points back to officers, are having little impact on standards.

The guidance included in the National File Standard (NFS), which was agreed by ACPO and the CPS and provided to the police and prosecution, sets out how, when, and in what circumstances evidence and information should be gathered and presented to the court. Our findings, however, suggest that all too often this is interpreted as a requirement to comply with the completion of a particular set of forms, rather than the presentation of evidence. Annex C to the Director's Guidance, which is intended as an *aide memoire* for the preparation of case files, is presented as a checklist of documents to be completed for different categories of case files. It is not a driver for improved understanding of the police provision of information for the prosecution.

Improved IT systems will provide opportunities to remedy some of the challenges we have identified in this report; but technology alone will not solve the problems of poor quality information. A renewed focus on the quality of case file preparation, with concurrent technological advances, should bring about the improvements that are necessary to secure greater efficiency in this respect.

⁸ The CPS Refocusing Programme includes a number of significant initiatives designed to ensure that that CPS structures and working practices are more consistent and fit for purpose, taking account of changes in the criminal justice landscape

⁹ The National Prosecution Team (NPT) is a joint team of CPS and Association of Chief Police Officers/College of Policing staff, who develop guidance and plans to ensure the delivery across all CJ areas of cross-CJS change initiatives.

1. Introduction

This report sets out the findings of a review of the quality of prosecution case files conducted by Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI).

In February 2013, following stakeholder feedback (up to and including ministerial level) on the criminal justice joint inspection programme, HMIC and HMCPPI agreed to conduct a joint review of prosecution case file quality. This work focused on the key elements of quality, proportionality and timeliness and especially in respect of contested cases.

The review was completed in April 2013.

2. Background

The police are responsible for the investigation of criminal offences. The Crown Prosecution Service (CPS) is responsible for prosecuting cases. Police and prosecutors must work closely together to ensure that cases are prepared to the right standard, and at the right stage of criminal proceedings. This process is known as building¹⁰ a case file. An efficient criminal justice system is dependent upon the effective exchange of information between all the relevant agencies; and nowhere is this exchange more important than in the context of the relationship between the police and the CPS when preparing a case for court.

Getting cases to court, with the right information at the right time, enables the criminal justice system to function smoothly, and ensures that the interests of justice are properly served. If the process is managed correctly, the inevitable paperwork associated with the passage of a case through the criminal justice system is kept to a minimum, allowing police and prosecutors to concentrate on serving the public better, rather than on remedial administrative work.

Attempts have been made to reduce bureaucratic burdens on police and prosecutors by reducing the amount of information required in a case file, particularly where a defendant is likely to plead guilty in the magistrates' court. The Director's Guidance on the Streamlined Process (DGSP) was introduced in 2008, and defined the documents required for an initial case file. The revised approach was intended to reduce bureaucracy and enable financial savings, without having a detrimental impact on the efficiency or fairness of the overall trial process.

A joint value for money review on the implementation of DGSP was carried out by the National Audit Office (NAO), HMIC and HMCPSP in May 2011.¹¹ This report included conclusions that:

- an inconsistent approach by individual police forces, leading to variations in the quality of case files; and
- too much unnecessary information in the case files, resulting in wasted time for both police officers and CPS staff.

In our recent report, *Stop the Drift 2*,¹² we examined a sample of case files in anticipated guilty pleas for cases in the magistrates' courts. Our findings were similar to those of the research conducted¹³ as part of the NAO report, with little evidence of any improvement.

¹⁰ Case file 'building' refers to the process of preparing cases for different stages of the court process where more information and evidence is required as the case progresses.

¹¹ *The Crown Prosecution Service: The Introduction of the Streamlined Process*, National Audit Office, HMIC and HMCPSP, November 2011. Available from www.nao.gov.uk. Referred to from hereon in as 'the NAO report'.

¹² *Stop the Drift 2: A Continuing Focus on 21st Century Criminal Justice*, HMIC/HMCPSP, June 2013. Available from www.hmic.gov.uk.

¹³ The research conducted as part of the NAO report included a wider assessment of the case files than was eventually published. This report makes reference to that research.

There have been several revisions to the Director's Guidance, with the 2011 iteration introducing the National File Standard (NFS). The NFS provides a staged and proportionate approach to building case files. It specifies the material required for the first hearing, and identifies how the file is to be developed at appropriate stages throughout the life of the case in order to provide the prosecutor, the defence and the court with information proportionate and necessary to progress the case. A further updated version of the DGSP was published in May 2013.

National governance arrangements to oversee case file quality have changed over time. For a number of years, there was a standard process for the oversight of case file quality through a national measuring and monitoring regime. CPS staff evaluated case files on receipt, categorising them as 'fully satisfactory', 'sufficient to proceed', or 'insufficient'; timeliness was also monitored. The evaluation results were shared with police and regularly reviewed by the agencies. This led to some improvements, but not in a consistent way.

In 2005 (when the CPS assumed responsibility for charging decisions in a specific range of cases), the Prosecution Team Performance Management (PTPM) regime was established to provide a new measure of national oversight. This work was overseen strategically by the joint National Prosecution Team, which comprises senior police and CPS staff. PTPM meetings, however, became the forum for driving forward issues relating to the quality of case files.

In February 2013, following stakeholder feedback, up to and including ministerial level, on the criminal justice joint inspection programme, HMIC and HMCPSI agreed to conduct a joint review of prosecution case file quality. This work focussed on the key elements of quality, proportionality and timeliness and especially in respect of contested cases.

We are extremely grateful for the support and cooperation that we received from all the forces and CPS areas visited during this review.

3. Methodology

The central component of our review was a joint assessment of 180 case files taken from six police forces across England and Wales, and their corresponding CPS areas.¹⁴ The forces selected were:

- Metropolitan Police (CPS London);
- Greater Manchester Police (CPS North West);
- North Wales Police (CPS Cymru/Wales);
- Sussex Police (CPS Southeast);
- Leicestershire Police (CPS East Midlands); and
- Wiltshire Police¹⁵ (CPS Wessex).

Forces were selected in order to obtain a mix of urban and rural forces, and because they allowed us to examine the effectiveness of different police computer systems (the CPS has a single computer system across England and Wales). In order to provide a body of comparable evidence, we deliberately did not return to forces which were visited as part of the NAO report or *Stop the Drift 2*.

The selected case file sample targeted completed volume¹⁶ crime cases, with an even split between cases concluded in the magistrates' courts and in the Crown Court. All the magistrates' courts cases had been listed for trial. The Crown Court sample, however, included a small proportion of cases listed for an early guilty plea (EGP) hearing. This allowed the review team to consider the implementation of the Crown Court EGP scheme¹⁷ in the CPS areas we visited. We were able to assess the police report (also known as the MG5) provided for the first magistrates' court hearings in all the case files in the sample.

In examining the case file sample, the review team focused on:

- the quality of the police report and other key documents;
- the quality of supervision;
- the proportionality of the documentation provided by police or requested by the CPS;
- the methods and timeliness of communication between agencies;

¹⁴ The Crown Prosecution Service has headquarters in London and York, and operates in a structure of 13 areas across England and Wales. Each CPS area includes more than one police force area.

¹⁵ The order of forces listed here does not correspond with subsequent data tables or charts.

¹⁶ Volume crime is the majority of offences committed in England and Wales and includes street robbery; burglary; theft (including shoplifting); theft of; and from vehicles; criminal damage; certain drug offences; and assaults (including domestic violence).

¹⁷ See the glossary for more detail on the EGP scheme.

- how far pre-charge decisions and action plans complied with guidance; and
- the quality and accuracy of witness lists.

In order to ensure the files were assessed fairly, the inspection team drew up standard criteria (available at Annex A), using the same approach as employed in both the NAO report and *Stop the Drift 2* review, to ensure consistency and to enable comparisons to be drawn.

In order to minimise the burden on the police forces and CPS areas, the case files were assessed by accessing electronic records.

As well as examining case files, interviews were conducted with a range of CPS staff and police officers and personnel, with a view to gaining a better understanding of local issues, methods of supervision, and arrangements for the preparation of a case file. We also looked at the arrangements for managing performance, and for governance of the process for building case files.

4. Findings: Preparing for first hearing

The police report

As part of the review, we assessed 180 case files across the six forces. A summary of the results is shown below in the table below.

	Sections of the report		
	Summary of evidence	Summary of interview	Additional information
Percentage of case files assessed as adequate ¹⁸	37%	51%	56%

Summary of evidence section

We assessed that 66 (37%) of the 177¹⁹ case files were of adequate quality in this regard. However, there was a marked variation across the six forces, as Figure 1 shows.

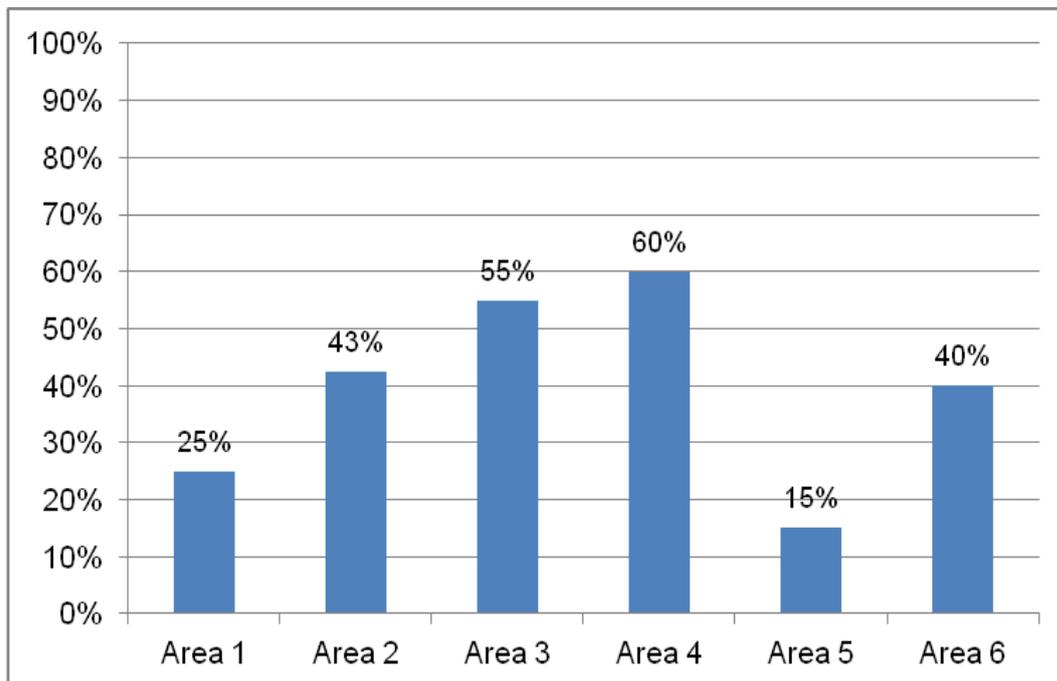


Figure 1: Percentage of summary of evidence sections in police reports (MG 5) assessed as adequate

¹⁸ The criteria for adequacy are outlined at Annex A.

¹⁹ Three of the summaries of evidence in the police reports could not be assessed.

The main reasons for assessing the summary of evidence section as inadequate were as follows:

- key-witnesses²⁰ and non-key witnesses were routinely listed incorrectly;
- the evidence was presented as a narrative of the incident, rather than addressing the 'points to prove'²¹ (which is a necessary pre-requisite to demonstrate that a particular offence has been committed);
- the summary was often too long, and routinely included a copy and paste from the statement of the victim or police officer, rather than being a précis of the evidence;
- attention to detail was poor, especially in relation to vulnerable people. For example, in one case of domestic-related common assault, the victim was hit in the head by her step-father. The summary stated that this was a minor assault and that there were no visible injuries. The victim's statement, however, indicated that she suffered from a brain condition, which required fluid to drain from her brain through a shunt. Her statement also indicated that this violence had occurred on many previous occasions. This information is an aggravating feature of the case, but was not included in the summary, or anywhere else in the case file; and
- relevant information was not included. For example, in one case there was evidence in witness statements of an attempt to pervert the course of justice, but this was not mentioned in the summary of evidence.

In this review, as in the two earlier pieces of work, it is the summary of evidence section that is in greatest need of improvement. In the 2011 NAO report, we assessed that 47% of the summaries of evidence in our case file quality were adequate. This had declined to 7.5% for *Stop the Drift 2* (which focussed on anticipated guilty case files only). In this review, with a focus on contested case files, less than 40% were deemed adequate.

Summary of interview section

We assessed that 88 of the 173²² case files (51%) were of adequate quality in this regard. Although this is an improvement on the findings for the summary of evidence section, we again found a marked variation across the six forces, as Figure 2 shows.

²⁰ Key witnesses provide evidence that establishes the elements of the offence(s) to be charged.

²¹ The 'points to prove' refers to the individual elements of each offence.

²² Seven of the interview summaries in the police reports could not be assessed.

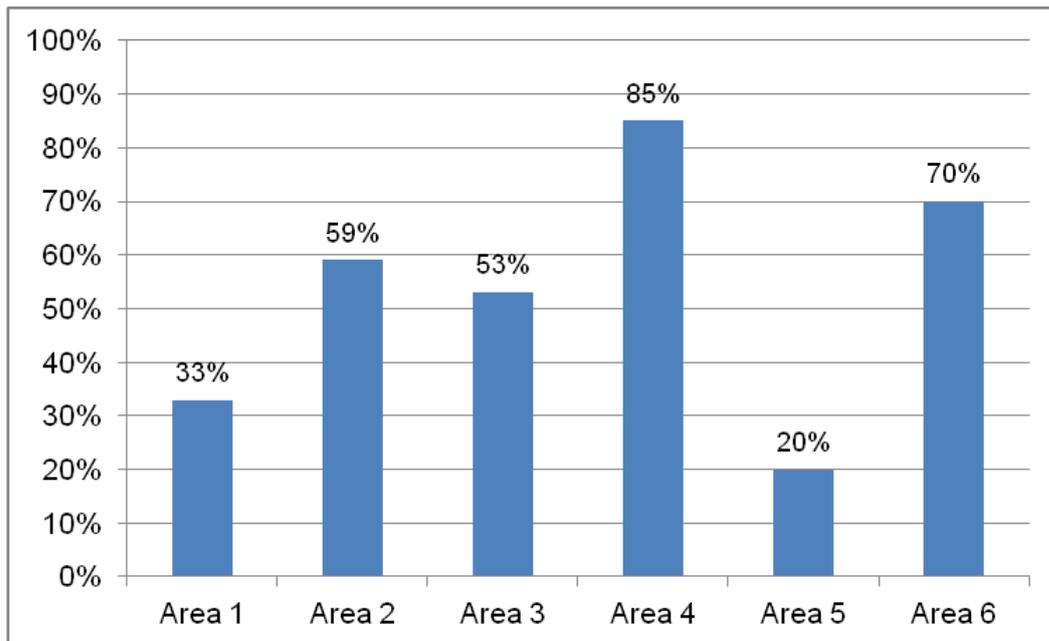


Figure 2: Percentage of summary of interview sections in police reports (MG 5) assessed as adequate

The main reasons for assessing the summary of interview section to be inadequate were as follows:

- the summary was too long and often more than a page, and frequently included a transcript of questions and answers put to the defendant, rather than a summary of the interview;
- the use of templates and drop-down boxes made it unclear whether any CCTV evidence had been shown to the defendant during the interview;
- out-of-date forms were being used, which did not have sections for summary of interviews or additional information; and
- where defendants choose not to answer police questions during an interview, the police are required to summarise the key questions asked. Similarly, any prepared statement offered by the defendant to explain his account of the matter under investigation must be summarised. These summaries were frequently omitted (or, if included, inadequate).

In the 2011 NAO report, we assessed that 80% of the summaries of interview sections in our case file sample were adequate. This had declined to 48% for *Stop the Drift 2* (which focussed on anticipated guilty case files only). In this review, with a focus on contested case files, slightly more than half were deemed adequate.

Additional information section

Overall, the additional information section of the police report was better than the other two sections. We assessed that 96 of the 172²³ case files (56%) were of adequate quality in this regard, although we once again found a marked variation across the six forces, as Figure 3 shows.

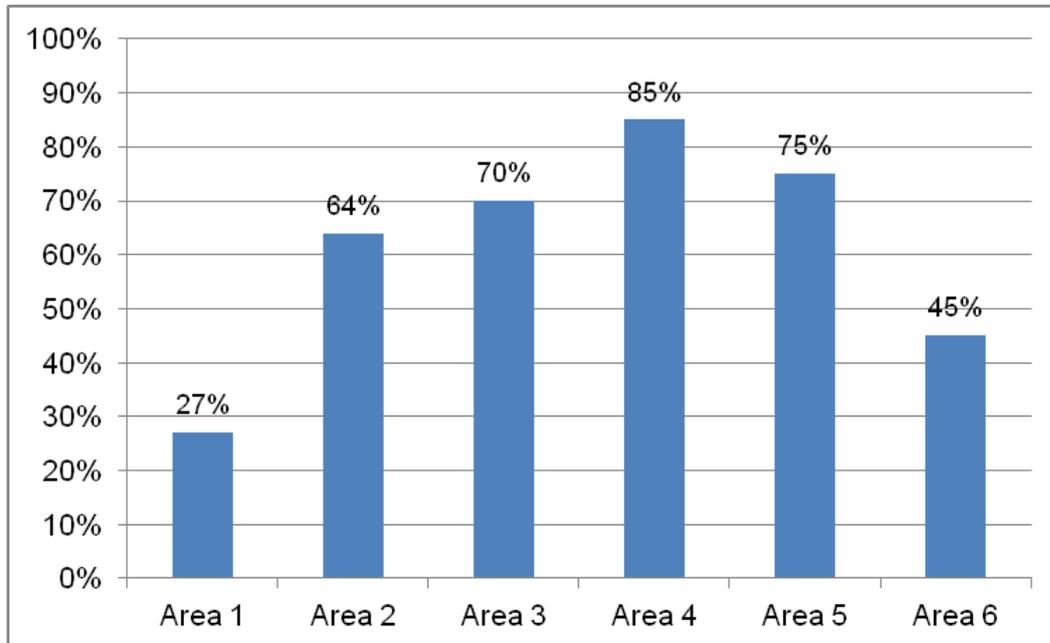


Figure 3: Percentage of additional information sections in police reports (MG 5) assessed as adequate

The main reasons for assessing the additional information section to be inadequate were as follows:

- visually recorded evidence (VRE) was not adequately explained, particularly in relation to CCTV. The point in time when the evidence is visible on VRE was often not included. This meant that the prosecutor would have to watch the entire CCTV footage provided, rather than being able to forward directly to the time interval when the offence took place;
- there was a lack of detail in relation to victims' injuries; for example, whether they had attended hospital, and whether any photographs had been taken of those injuries; and
- in cases of burglary, theft or damage to property, there was a lack of detail about the damage or value of compensation that could be awarded to the victim by the defendant.

²³ Eight of the additional information sections in the police reports could not be assessed.

In the 2011 NAO report, we assessed that 77% of the additional information sections in our case file sample were adequate. This had declined to 31% in *Stop the Drift 2* (which focussed on anticipated guilty case files only) and, in this review, nearly 56% were deemed adequate.

Supervision

At the time of completion of the NAO report in 2011, the quality of the police reports for anticipated guilty pleas and not guilty pleas were more-or-less the same. As set out above, *Stop the Drift 2* and this report both suggest that the quality of the police report has declined across both case file types since May 2011, and that the decline has been more dramatic in relation to anticipated guilty plea cases.

This is a concern, as it indicates that the current level of supervision is not providing an effective quality assurance check. In the NAO report, 77% of police reports had been certified²⁴ by a supervisor; but even when this had happened, we found that this resulted in little overall improvement to the quality of the summary of evidence in the reports. The findings were similar in *Stop the Drift 2*, where we found that 67% of the police reports had been certified by a supervisor and of those certified reports, only 11% of the evidence summaries were adequate.

In an effort to improve quality assurance in this area, one force had introduced three quality assurance forms:

- a 'tick box' form, which is completed by the officer in the case;
- a second, similar form, which is completed by the supervisor; and
- a third form, which is completed by a case assessor in the force's central case file preparation unit.

This approach was considered by the review team – and by the force itself – as labour intensive, and the quality of the police reports in this force was no better than elsewhere. The unintended consequence of this approach was that officers were including as much information as possible, in order to overcome the QA process. For example, there were multiple examples of cases where there were in excess of 40 items listed on the schedule of unused material.²⁵ Half of these items were in fact exhibits in the case, and therefore should not have been included in the schedule; while others were not relevant material at all. The officer had clearly spent considerable time and effort to put this list together, even though the information was not required.

²⁴ Upon completion, the police report must be signed by a supervisor to certify that the information on the report is an accurate summary of the available evidence and complies with the Director's guidance on Streamlined Process (DGSP).

²⁵ This is material relevant to an investigation but not being used as evidence, such as the custody record of the defendant or the crime report.

Responsibility for the preparation of case files varied across forces. In the four forces visited as part of *Stop the Drift 2*, all but one made use of prisoner-handling teams.²⁶ In this review, of the six forces visited, only one used a prisoner-handling team. The others placed more responsibility for the initial case file submission on the frontline officer, with support from supervisors, some of whom worked in specialist case file building units.

It is unclear which model for case file preparation is most effective, as the results were inconclusive. During this review it became clear that some forces are moving away from experienced, centralised case file supervision to frontline supervisors, some of whom have limited recent experience of completing and reviewing case files. This may go some way to explain the decline in quality.

Proportionality

In line with findings from our earlier reports, we found evidence of overbuilding²⁷ case files in all forces visited (to varying degrees). We found numerous statements from continuity witnesses,²⁸ most commonly:

- statements from police officers which only say that they arrested a person for an offence, but did not witness it;
- statements from police officers who conveyed the suspect without incident from the place of arrest to the police custody unit;
- statements from police officers or staff saying that they interviewed the defendant in relation to the offence;
- statements from police officers or staff saying that they charged the defendant;
- statements from police officers or staff saying that they took a photograph of the defendant for use in an identification procedure;
- statements from police officers or staff saying that they downloaded the relevant CCTV footage or tapes of 999 calls onto discs, and that they can produce them in court as exhibits; and
- statements from police staff saying that they typed up records of taped interviews and can produce them in court as exhibits.

²⁶ A prisoner-handling team is normally made up of police officers and staff who take on the follow-up enquiries from the arresting officer and submit the case file to the CPS. The model varies across forces, but is intended to return officers back to their operational duties as soon as possible.

²⁷ 'Overbuild' is the inclusion in the case file of material or evidence that is not required by the prosecution.

²⁸ A continuity witness is a person who can prove that there has been no interference with evidence, and that it is not in a substantially different state from the time it was seized. As this is often a mechanical process (e.g. downloading CCTV), continuity statements are not routinely required, and would most likely be agreed by the defence in any case.

All of these witnesses are likely to be categorised as non-key, and as such their statements are not required as part of the initial case file. Including these statements causes additional work both for police officers and for the prosecutor at court, who must establish as early as possible what evidence may be challenged by the defence, in order to provide the police with an accurate and proportionate request for an upgraded²⁹ case file. Listing non-key witnesses incorrectly in the police report also creates the risk that they may be required to attend court unnecessarily.

In one force, the problem of overbuilding case files was significant, and was compounded by confusion amongst officers of the difference between a key and non-key witness. For example, we found a case of a domestic burglary where 15 witnesses were listed by the officer in the case. In this electronic case file, in excess of 50 statements appeared, as a result of multiple statements being taken from the same witness as the case progressed, or duplicate statements being included in the system. Most of those listed were non-key witnesses, and their statements were of no evidential value. One statement included on the case file was from a member of staff who took the photo of the suspect for later use in an electronic identification procedure. This statement was not required and provided no evidence of the offence.

Paper documents are routinely electronically scanned for inclusion in electronic case files (as we also found to be the case in the NAO report, and *Stop the Drift 2*). To some extent, the scanning of documents (such as handwritten notes) or exhibits (such as photos taken at an incident) may always be necessary; but there was evidence that the current practice is burdensome.

For example, any previous convictions of the defendant are available electronically from the Police National Computer (PNC) and can be uploaded into force IT systems, and transferred across to the CPS. In contrast, in all forces visited, the custody records, incident logs, and crime reports were already available electronically, but could not be similarly transferred to the CPS, due to limitations in the existing force IT system. This meant that these electronic documents had to be printed out and scanned back into the system in order to be uploaded, saved onto the IT system and then transferred across to the CPS.

Forces differed in how they dealt with the process of scanning material. One force had a member of police staff whose primary duty was to scan documents into their IT system, in order to reduce the impact on frontline officers. Another force had recognised that excessive scanning of material would be a burden on officers and staff, and had decided to provide paper copies to the CPS instead. A third force was making a conscious effort to avoid excessive scanning, and was negotiating with the CPS at the time of our visit around reducing the demand for this material.

In three of the forces visited, unused material was routinely provided to the CPS even though it was not required under current guidance. This practice had evolved over time, as a

²⁹ An upgraded case file is required if a not guilty plea is entered by the defendant at their first hearing. It includes further documentation and evidence collated by the police for use by the prosecution at trial.

result of a mixture of formal agreements or local arrangements. In some forces, this practice had developed as a response to a demand from the CPS for this information; in others, the police had decided to provide the information voluntarily. Regardless of how the practice evolved, the impact was considerable, and created unnecessary additional work for both agencies. We found very limited evidence of either the police or the CPS challenging this practice.

Pre-charge decisions

As part of our case file examination, the review team assessed the quality and content of the police requests to the CPS for a charging decision in accordance with the Director's Guidance.³⁰ The police request should contain essential details of the suspect; a summary of the facts of the case and any other relevant information that will enable a prosecutor to take a decision on whether the suspect should be charged.

Before submitting the request, a police supervisor is required to certify that the case is appropriate and ready for a CPS decision to be sought. The Director's Guidance clearly sets out the division of responsibility between the CPS and police for charging decisions, according to the category of offence and the anticipated method of disposal. However, the review team identified several cases where the police had not complied with the guidance, so that decisions that ought to have been reserved for prosecutors were in fact made by police officers. This is a concern, as there is a greater risk of an incorrect charging decision.

Of the 180 case files examined, there were 121 where a charging decision request had been completed by the police and were available to the review team for assessment. The police requests were assessed as adequate in 76% of these. The results are shown by force in Figure 4.

³⁰ *The Director's Guidance on Charging 2013 - fifth edition, May 2013 (revised arrangements)*, CPS, May 2013. Available from <http://www.cps.gov.uk>.

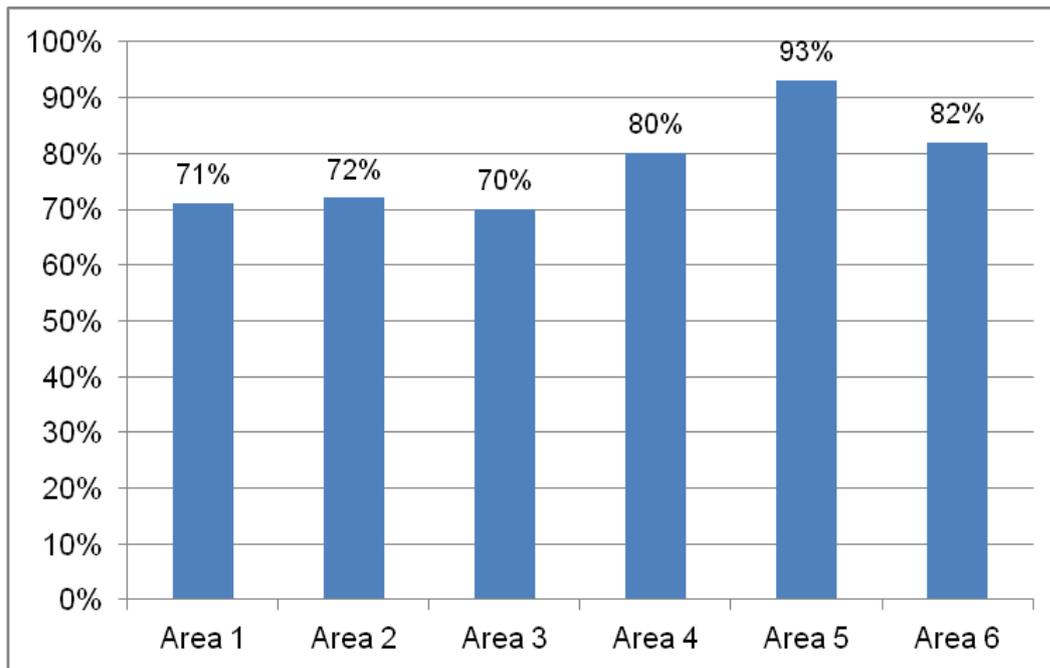


Figure 4: Percentage of police requests for pre-charge decisions that met the required standard

The police prepare both the police report and the police request for a charging decision, which are then submitted to the CPS. Frequently, both these documents contain largely the same information; so it is perhaps unsurprising that we found officers routinely copy and paste text from one form to the other. As well as wasting time, this practice has led to information which is of a sensitive nature, and should only be revealed to the prosecutor, being included on documents which are eventually disclosed to the defence.³¹ We found examples of confidential information concerning previous incidents of a domestic relationship being included in the police report, and one instance when the address of a witness to a domestic burglary was not removed from the summary of the facts. This is an extremely grave error, as potentially serious consequences may result if such sensitive information is passed on to the defence. This practice should be addressed by both the CPS and police at national level as a matter of urgency.

After considering the police request for a charging decision and any other information submitted, the prosecutor may (in addition to making a decision on whether to charge the suspect) ask the police to gather additional evidence. The CPS routinely provided these requests in a format known as an 'Action Plan'. The review team assessed these Action Plans to determine whether the actions requested of the police were justified, taking account of the NFS and any agreed protocols between the police and the CPS.

The results of CPS performance are shown by force in Figure 5.

³¹ This is because the police report is shared with the defence as part of the initial disclosure of the prosecution case.

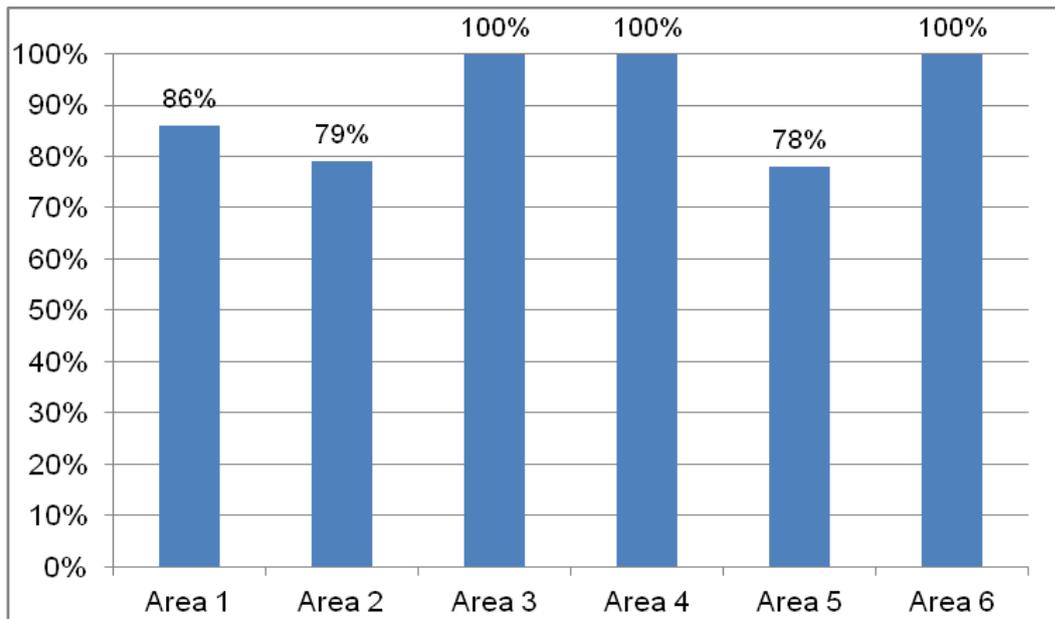


Figure 5: Percentage of cases where specified actions were necessary

The review team assess that in 93% of the cases, the actions requested of the police by the CPS were necessary. This indicates that the CPS is adopting a proportionate approach to case file building at the pre-charge stage. Whilst the incidence of unnecessary requests for information was low in our case file sample, the consequences in terms of time (and sometimes cost) can be significant for individual cases. We observed a case whereby a firearms report was requested unnecessarily in relation to a cigarette lighter, which resembled a gun, but was clearly not a firearm. There were also examples of the CPS asking for statements dealing with purely administrative issues.

Witnesses

In addition to the lists of key and non-key witnesses included on the police report, the NFS requires police officers to complete two other documents relating to witnesses:

- a complete list of witnesses, with address and telephone contact details; and
- a separate document identifying dates when the witnesses are available to attend court.

This information is important for the effective administration of witness care.

When the police officer first takes the statement from the witness, he or she is also supposed to record witness availability dates on the reverse of witness statements, so this can be taken into consideration when the court schedules the trial. However, as this information is transcribed and repeated between documents, there are multiple opportunities for mistakes to be made.

In addition, in forces where there is a delay in identifying a date of trial (and in one force, there was a six-month wait for a magistrates' court trial date to be allocated), the available

dates initially recorded by the officer are unlikely to still be correct. As a result, each of the witness related documents will need to be updated as the case progresses; perhaps as more witnesses come forward or if there are changes to the dates when they are available to attend court. It is arguable whether this is an effective use of police officers' time.

We assessed 137 of the 167 (82%) available witness lists included in case files as being adequately completed (i.e. all the witnesses listed in the police report were included in the overall witness list). There was some variation across the forces, as is shown in Figure 6.

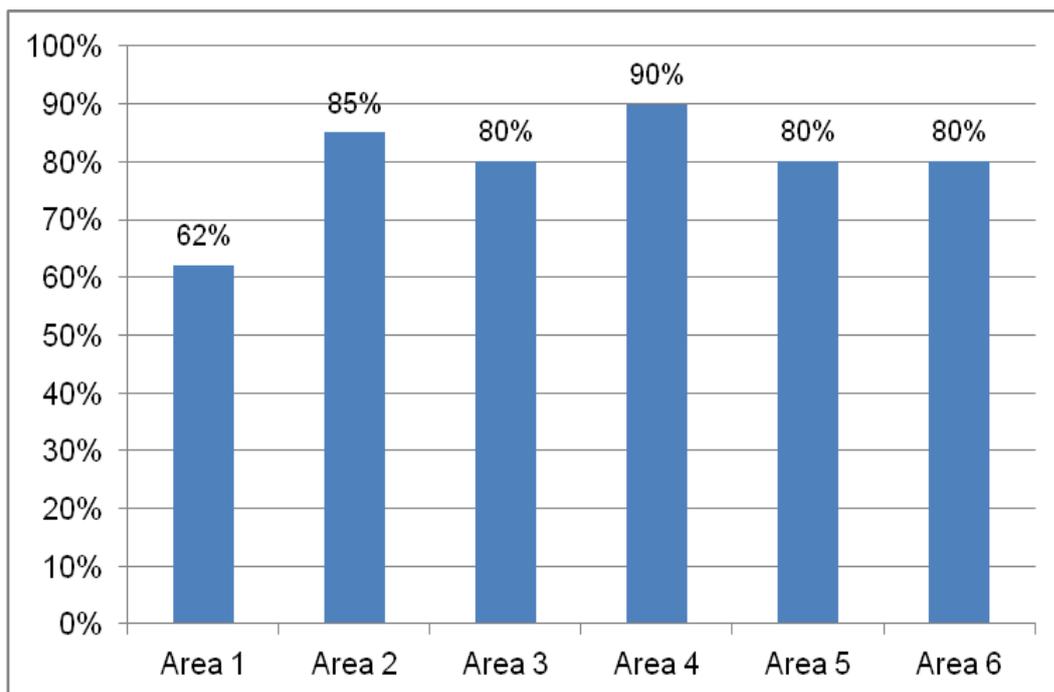


Figure 6: Percentage of case files where witness lists were adequate

Following the review of the case file, the prosecutor must decide which witnesses should be called to attend the trial. However, we were told that prosecutors rarely rely on the information provided on the witness list prepared by the police. Following the CPS review of the case, prosecutors formulate their own witness lists. This raises the question of why this information needs to be supplied separately.

While the completion of witness lists was generally good, in contrast, witness availability documents were wholly inadequate. This is perhaps unsurprising, given the multiple times that witness information is required to be transferred between documents. We found witness availability documents were completed correctly in 15% of our case file sample. In more than a quarter of case files, we were unable to find any witness availability on the case file at all.

There is clearly a requirement to manage witness care sympathetically and efficiently as the case progresses; but the current use of witness forms by police officers is not effective.

We found examples where forces had adopted different approaches to deal with these issues:

- in Leicestershire, from March 2013 onwards, and for all cases, the witness care team make contact directly with witnesses, to establish their availability and advise the CPS before the first court hearing. Police officers do not complete a witness list or witness non-availability form for the victim or other witnesses at all; while
- in North Wales there was little use of the standard witness availability forms. In these forces, officers routinely included a simple electronic download of their shifts from their force rota system.

5. Findings: Police–CPS interface

Effectiveness of IT systems

The introduction of digital working was expected to bring benefits in terms of the timeliness and quality of case files. This review considered whether digitisation was assisting in making the process of building case files more effective.

There is no common police IT system to manage criminal cases, and currently no plan to move towards a single system. It is recognised, however, that this would have benefits in terms of designing a single interface with the CPS case management system (CMS) and with court IT systems. The CMS contract expires in 2016 and the CPS and courts are developing a joint IT system, called ‘a single common platform’. This will allow different access rights for users (based on their particular needs).

The most significant issue was, in general, that the IT systems and interfaces used by the Police and the CPS are based on replicating the previous paper forms; it was not designed as a truly digital process. Benefits such as the automatic-population of each other’s systems from a single data entry were not being achieved on a widespread basis, in most sites.

The latest version of the NFS outlines how evidence should be presented, but continues to require compliance based on completion of a particular set of forms. This approach has contributed to variations and inconsistencies between forces, and resulted in police IT systems based on template forms rather than data entry. It is arguable whether such an approach is fit for the delivery of 21st century criminal justice.

The Integrated Custody Information System (ICIS) system, locally developed by Greater Manchester Police, is better, because it requires users to enter data into specific fields rather than complete template forms. This system allows officers to select the type of case file (for example, an anticipated guilty plea), and enter the information into particular data fields. ICIS then automatically populates the relevant parts of the case management system. Although the output from ICIS is still based on the forms required by the NFS, the force has made a conscious decision in developing this system to avoid the use of templates.

ICIS is also structured so that updates to case file information³² which are inputted onto the system using the same form can be easily identified, and chronologically listed on the police system.

Although we did not complete a full analysis of the other IT systems in place in the forces we visited, we have identified a number of recurring problems:

- template forms used on the NICHE³³ and NSPIS³⁴ systems were sometimes found to be out of date, and those with the most up-to-date information were difficult to identify;

³² Updates to case file information may arise as the case progresses and additional evidence is obtained.

³³ This is a police record management system used by a number of police forces.

- CPS staff had difficulty identifying on CMS which documents had been provided by the police once it arrived via the interface – and this resulted in extra work. This is sometimes caused by the police failing to comply with the naming convention required by the system, but as also a consequence of the difficulties in the computer interface. Even in Greater Manchester, where they have the benefit of a two-way interface,³⁵ multiple documents were identified in the CPS system under the generic label of ‘other prosecution documents’. This meant that staff had to open all the documents to find out what had been sent, and then rename each document. This is inefficient;
- as a consequence, the police were often asked to provide documents that they had already sent. Whilst this in itself is inefficient, when a duplicate is sent, both the copy and the original remain in the CPS system, because there are significant problems in removing documents from CMS. This causes confusion;
- staff raised concerns that documents sent by either agency had not been received by the other, and had ‘disappeared into cyberspace’. They cited examples such as Hearing Record Sheets³⁶ (HRS) and Case Action Plans that were sent by lawyers from the court not being received by police. As a result, requests for upgraded³⁷ case files had not been initiated. CPS staff gave a number of examples of documents which they could not trace, but the police stated had been sent. For example, in one CPS area, a case was observed where the CPS thought evidential material was missing from the case file. This resulted in reminders to the police, followed by an escalation of the matter between agencies, and an extended date for the submission of the case file papers. Eventually it was established that this information had been already been sent by the police as part of the upgraded case file, but could no longer be traced;
- all CPS areas visited had experienced difficulties when transferring PDF documents to the CMS. This was caused by the format, and by the size of PDF documents which often exceeded the maximum size capable of being received on CMS.³⁸ This led to the provision of duplicate copies in an alternative format, or paper back-ups; and

³⁴ NSPIS stands for the National Strategy for Police Information Systems, and is another IT system used by police forces.

³⁵ The two-way interface allows all CPS case file memos, action plans and charging decisions to be returned directly into the police case file system, eliminating the need for further manual data entry.

³⁶ A record by the prosecutor of what happened at court in a case, and what further information or action is required from the police in order to progress the case as quickly and efficiently as possible. The HRS is intended to be completed and communicated electronically.

³⁷ An upgraded case file is required if a not guilty plea is entered by the defendant at their first hearing. It includes further documentation and evidence collated by the police for use by the prosecution at trial.

³⁸ A PDF document made up of only black and white text may be a small file size; as soon as colour and pictures are included the file size rises dramatically. The maximum file size that CMS will accept is 1MB.

- there are continuing problems in getting CCTV in a format that can be played by the CPS and the courts. Equipment to convert footage into a format that can be played is commercially available, but not all forces visited had this. In Leicestershire, the criminal justice unit had installed CCTV conversion equipment in their offices to overcome these practical problems.

As a result of these IT issues, CPS staff overwhelmingly held the view that it takes significantly longer to process work digitally rather than in paper form, and this includes basic activities such as conducting a review of the case file. These views were supported by the HMCPSI members of the review team, who found it more time-consuming to read electronic case files than paper files. There were signs that trying to find the right document (and correct version) was overwhelming some CPS staff. There is considerable additional work for both CPS and police staff in renaming documents that must be opened first to be identified, and also in arranging for the provision of duplicates where originals cannot be found.

There were also inconsistencies and a lack of clarity over the process used to try and find solutions to known IT problems. A central 'issues log' is maintained by CPS Headquarters and contains some, but not all, of the weaknesses we observed. Some were identified as local issues, but our observations indicated that the problems were more widespread. The CJS Efficiency Programme Board³⁹ (and sub groups) is intended to become the focal point for bringing together file quality and IT issues, and there were signs that this was beginning to happen.

There were some positive developments to the digitisation of the process for building case files;

- most interviewees considered that the timeliness of the case file building process had improved and this is supported by our findings;
- the ability to work electronically means that work can be moved around to other CPS teams or individuals with greater capacity; and
- the use of technology has speeded up the provision of the initial case file for anticipated guilty pleas in the magistrates' courts, thus enabling the first hearing to go ahead as scheduled, with cases considered by the CPS in advance.

Communication between agencies

Communication between the CPS and the police staff responsible for building case files has become more challenging, particularly where restructuring in either or both organisations has led to the creation of larger, centralised units. Whilst there are benefits in terms of economies of scale in larger units, the advantages of the closer working relationships

³⁹ This is an interagency strategic group responsible for delivery of key strategic initiatives designed to improve efficiency across the criminal justice system.

achieved by most of the smaller, local units have diminished. There were mixed views on the responsiveness of individuals in dealing with requests for information, and this was reflected in our findings:

- in the CPS areas visited, most daily communication between police and CPS offices was via email, partly due to difficulties in locating the right person to talk to, partly because of longstanding working practices, and partly because of the desire to maintain audit trails. Whilst this was effective for some routine exchange of information, an over-reliance on email occasionally meant that issues that could be resolved by a short phone call took days to resolve;
- in Greater Manchester Police, a two-way interface between the police and the CPS was being trialled. This enables immediate communication between their respective IT systems (ICIS and CMS), and can be easily audited by supervisors to monitor any requests from the CPS, and ensure timely replies. For this reason, the force has made a conscious effort to ensure officers use the two-way interface rather than email;
- there are different approaches to methods of communication between the CPS and the police. This does not sit comfortably with the CPS's aim to be able to move work around seamlessly across their network, which is assisted by standardised processes;
- agreed escalation processes were in place in all forces visited for following up the receipt of outstanding documents. CPS staff believed that escalation was an effective tool to resolve issues; and
- in relation to the Crown Court Early Guilty Scheme, there was inconsistency in the communication of the requirement for an upgraded case file where an early guilty plea in the Crown Court was anticipated by the prosecutor. Two contrasting examples were noted in the same CPS area, which might offer useful lessons. In the first case, an early guilty plea was agreed with the defence and no further work was required of the police, so that an offence of 'supplying class A drugs' was dealt with on the initial prosecution case file, amounting to no more than 20 pages of material. In the other case, an allegation of an assault was also resolved quickly as a guilty plea; but the police were not told to stop preparing the case, and so completed a substantial case file that proved unnecessary.

6. Findings: Upgraded case files

Timeliness of upgraded file communications

The CPS is responsible for asking the police to provide an upgraded case file so that pre-trial preparation work can be completed. As part of our examination of the 180 case files, the review team carried out several checks of the timeliness (outlined in Annex A) of requests to and responses from the police, once an upgraded case file was needed.

In all locations, the initial request for an upgraded case file was normally initiated by the prosecutor at court; this saves approximately 48 hours over non-electronic processes of the past. In 89% of cases, the CPS request to the police for an upgraded case file was submitted in a timely fashion. The results are shown by force in Figure 7.

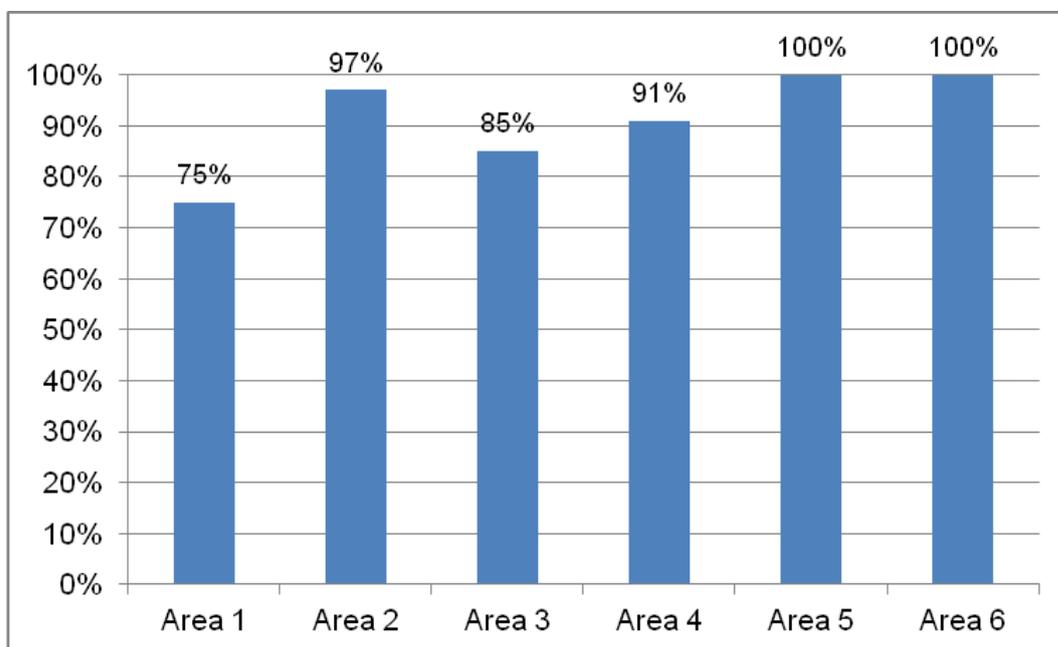


Figure 7: Percentage of timely CPS requests for upgraded case files

Although the timeliness of the original request for an upgraded case file was good, we found requests for further information after receipt of the upgraded case file frequently happened very late in the process.

Almost all CPS contested work is prioritised on the basis of the next hearing date. This means that significant delays often occurred between receipt of the case file from the police and the examination of that case file by a prosecutor. This can, and often did, cause problems if key information was missing, or there had been developments in the case, when the case file was eventually reviewed. We observed a case whereby forensic evidence, crucial to the case, was not provided at the first hearing, but was provided seven days later. The case file (including the forensic evidence) was not examined by the CPS for a further 21

days, at which point it was discovered that further forensic evidence would be necessary to prove the case. Although a request to the police was made, the evidence was not received by the time of the trial and an adjournment was refused by the court, leading to the case being terminated.

Overall, across the six forces visited, the police provided the upgraded case file to the CPS in a timely fashion in 74% of cases. There was significant variance in performance, as Figure 8 shows.

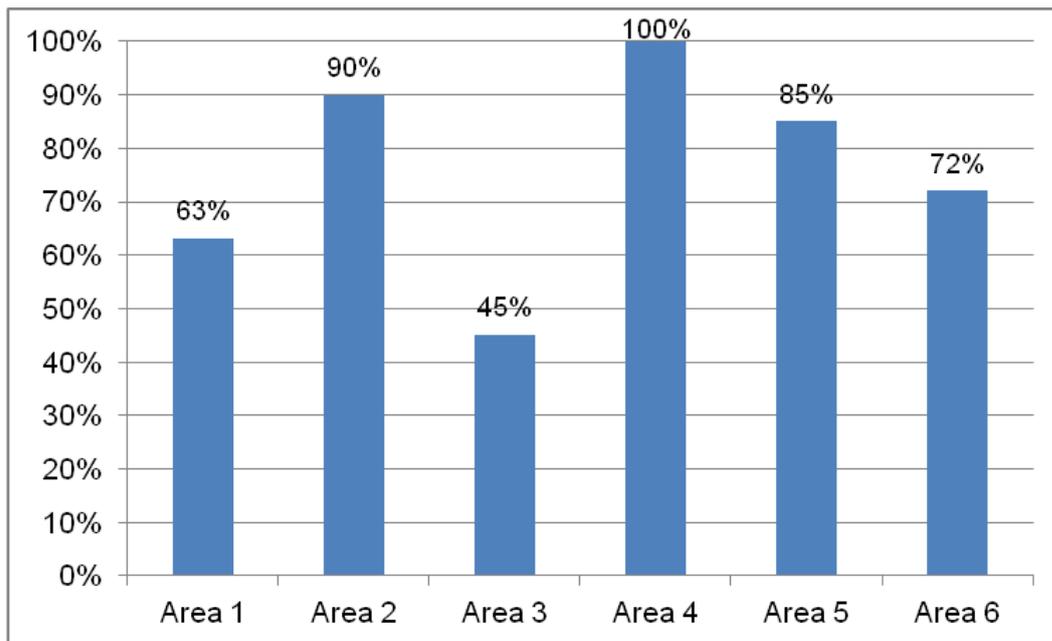


Figure 8: Percentage of cases where the police provision of the upgraded case file was timely

Whilst the timeliness of the provision of the upgraded case file has improved since the introduction of DGSP, we found it was often at the expense of quality. Important information was missing from the original upgraded case file in 32% of cases assessed by the review team. For example, in one case some statements were not received with the upgraded case file, and the key statement had been labelled wrongly. Delays in resolving these issues led to the committal hearing being adjourned.

Other findings include:

- in case files where material was missing on receipt of the upgraded case file, **case progression** was adversely impacted in 26 of the 54 relevant cases (48%). For example, in one police area an adjournment of a trial was required, because the forensic evidence necessary to prove that a substance was a controlled drug, was not provided at the upgraded case file stage. Similarly, in the same area, CCTV

evidence was not provided at the upgraded case file stage, nor was it ready at the plea and case management hearing⁴⁰ (PCMH) in the Crown Court. As a result, it was necessary for the Judge to make a specific order for the provision of the footage;

- in case files where additional material⁴¹ became necessary after receipt of the original upgraded case file, case progression was adversely impacted by late or non-submission of the required information in 13 out of 44 relevant cases (30%);
- the timeliness of the provision of CCTV evidence has improved over recent years, but was still a problem in a number of cases in our case file sample. We noted three cases where the late receipt of CCTV evidence led to unnecessary work in building upgrade case files. This was because once the CCTV was viewed, it became clear that the footage did not support the charges or other evidence. The cases were therefore discontinued.⁴² Had the CCTV been provided with the first hearing file, the cases could have been dropped immediately, and upgraded case files would not have been requested; and
- outcomes were considered to have been impacted adversely by issues of timeliness or quality of the case file submitted by the police in 8 out of 82 (10%) relevant cases. For example, in one case a charge of attempted burglary could only be proved with the evidential comparison of footwear impressions by a forensic scientist; but this evidence was not provided in time for the trial. An application by the prosecution to adjourn the trial was not agreed, and the charge was dropped.

In addition to the CPS review that should take place following receipt of the upgraded case file, all CPS areas conducted separate trial readiness checks to establish if relevant cases were trial ready. All aimed to be trial-ready two or three weeks before a trial; but this was considered aspirational in most CPS areas. Any significant delay between the receipt of the upgraded case file and the initial CPS review reduces the likelihood of all necessary information being available in the required timescales. Whilst the majority of cases that are not trial ready at the time of the check can be rectified, a significant number require an adjournment, with the resulting inconvenience to victims. In a small number of cases, the court declined an adjournment and the cases were discontinued.

⁴⁰ A plea and case management hearing is one of the first hearings at the Crown Court. The defendant can enter a plea of guilty or not guilty, and if the plea is not guilty, the case management then takes place. It is the opportunity for the judge to manage the case before it is listed for trial. For example, the judge can order special arrangements for vulnerable or child witnesses.

⁴¹ Additional material was requested by the CPS either because it was missing, or because developments in the case meant that it was now required.

⁴² When a case is discontinued the trial is terminated, and the case does not proceed any further. Reasons must be given for discontinuance, and the accused must be informed of the notice in accordance with section 23A of the Prosecution of Offences Act 1985.

The Disclosure of unused material

*Disclosure is an important issue and the application of proper and fair disclosure is a vital component of a fair criminal justice system. In the interests of fairness, full disclosure should be made to the defence of all material held by the prosecution that either undermines its case or assists the defence case.*⁴³

As part of the examination of the 180 case files, the lists (known as schedules) of unused material⁴⁴ were considered. These documents are prepared by the police in compliance with the Criminal Procedure and Investigations Act 1996, and submitted as part of the upgraded case file which is sent to the CPS. This is done after the defendant enters a not guilty plea, or after it has been decided that the case will be heard at the Crown Court. These forms are known colloquially as the “MG6 series”, and comprise the MG6B, MG6C, the MG6D and an MG6E.⁴⁵

Based upon the information provided by the officer, the prosecutor must decide which of the listed items are disclosable to the defence. Without this information, the prosecutor will not be able to make a proper judgement. Overall, of the 156 case files that could be read electronically, 52% of the disclosure schedules were assessed as adequate.

There was a significant variation across the six police forces. In the most successful force, 71% of disclosure schedules were judged as adequate by the review team; whereas in another force this figure was only 35%. The results are shown by force in Figure 9.

⁴³ An extract from the Attorney General’s Guidelines on Disclosure, available on the CPS website, http://www.cps.gov.uk/legal/a_to_c/attorney_generals_guidelines_on_disclosure/.

⁴⁴ The schedules list items related to the investigation that are not being used as evidence, such as the custody record of the defendant or the crime report. This evidence is referred to as unused material.

⁴⁵ The glossary at Annex B provides more information on these forms.

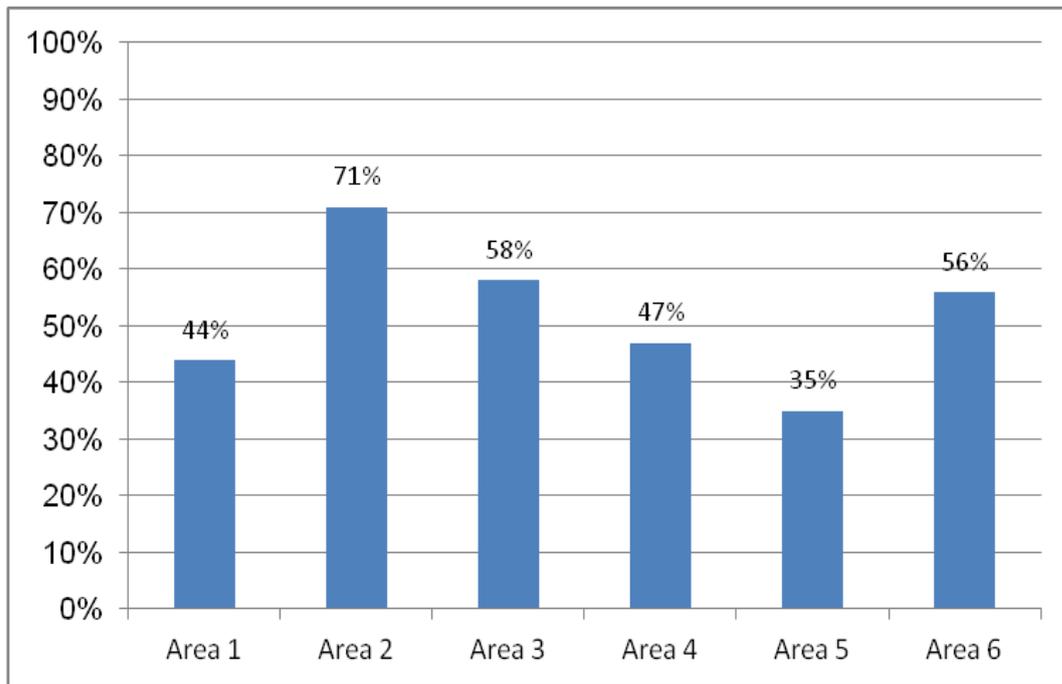


Figure 9: Percentage of cases meeting required standard for Disclosure Schedules

Poor quality schedules contained various flaws. The most common were:

- items were not adequately described on the schedule (or not described at all), so that their relevance and potential to undermine the prosecution case or assist the defence could not be ascertained;
- items of a sensitive nature were inappropriately entered on the non-sensitive schedule and vice versa, resulting in unnecessary additional work for CPS staff, and the potential for disclosure of sensitive information to the defence;
- schedules contained inappropriate items which were not unused material, but were in fact examples of evidential material (such as key witness statements or exhibits). For example, audiotapes of defendant interviews were routinely listed. These items had often already been included on the exhibit list, and were duplicated on the schedule;
- in one force, we found that schedules listed excessive amounts of material. In one case of domestic assault involving one victim and one incident, the schedule contained over 70 individual entries most of which were inappropriately listed. For example, one entry simply made reference to the defence solicitor being present at the interview;
- conversely, some schedules contained too few items, indicating that information was missing from the list. For example, in another force area, a similar domestic violence case to that described above produced a schedule with only four items listed, two of which were exhibits in the trial, leaving only two correct entries. When applying the local practice for the provision of unused material in that force, a schedule would need to contain at least three items; and

- supplementary schedules were submitted without sequential numbering of items, or duplicated earlier schedules. This makes it more difficult for the CPS to refer to these items when communicating with officers or the defence.

Where better practice was found, this was derived from a greater compliance with the CPS and the Association of Chief Police Officers (ACPO) Disclosure Manual. This manual requires that the police disclosure officer accurately describes items of unused material on the schedule, allowing the prosecutor to make an informed assessment of whether that material ought to be disclosed to the defence.

Proportionality of CPS requests for upgraded case files

As well as considering the timeliness of CPS requests for upgraded case files, and additional material at various stages in the progress of cases, the review team also looked carefully at the requests themselves. This was in order to determine if any were excessive or disproportionate, and therefore likely to burden the police with unnecessary work.

In the CPS areas visited, the staff aimed to give the police as much information as possible about the issues likely to be disputed at trial, and those matters agreed with the defence. We found that many requests were accompanied either by an electronic version of the endorsement of the case file made by the prosecutor at the court hearing (the Hearing Record Sheet, or HRS), or by a Case Management Form⁴⁶ (CMF) issued by the court as a result of in court discussions with both prosecution and defence. Where available, these documents were generally of assistance to the police in preparing a proportionate upgraded case file.

Significantly, the charging prosecutor's pre-charge Action Plan was not used as a basis for subsequent requests for upgraded case files, although in many cases the evidence or material requested by the CPS had already been asked for at the charging stage. Similarly, the police appeared to have "shelved" the Action Plan as soon as the suspect had been charged, and there was little evidence of its continuing use as a tool for building an upgraded case file. The results are shown by force in Figure 10.

⁴⁶ This is a record of the magistrates' court hearing when consideration is given to what needs to be done to manage the case properly. For example, agreeing which witnesses are required for court, any special measures that might be needed to assist them in giving evidence, and which issues put forward by the prosecution are agreed or contested by the defence.

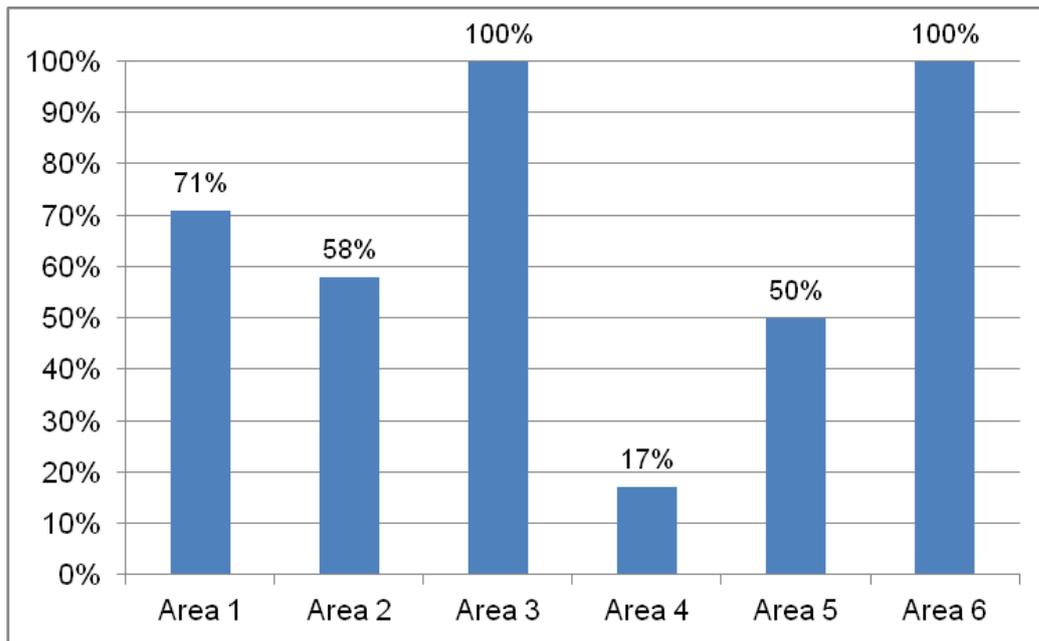


Figure 10: Percentage of cases where the upgraded case file request was clear and specific

Overall, the review team found that:

- in 110 out of 155 of relevant cases (71%), where an upgraded case file was requested, the request from the CPS was clear, specific and took account of the NFS, agreed protocols, directions from Judges, and any evidence or issues agreed by the defence; and
- where additional material was requested by the CPS after the upgraded case file had been received, the review team considered that 61 out of 69 of these requests (88%) were necessary. Thus, the number of unnecessary requests was small, representing just eight cases (12%).

7. Findings: Governance

National governance

The National Prosecution Team⁴⁷ (NPT) maintains a key role in oversight of case file quality operational issues, and has issued helpful guidance and good practice advice.

Following the findings of the NAO report on the implementation of the DGSP, the NPT undertook a series of quarterly reviews of police performance in relation to case file quality issues in 2012/13. They have focused on compliance with the Director's Guidance for anticipated guilty pleas in magistrates' courts cases. Reports are issued at both local and national levels, and cover issues such as how well police forces anticipate the plea of the defendant; the overbuilding of case files, and the percentage of case files subject to supervision. Although this is useful information for forces to consider, more could be done to highlight issues of the quality of the case files themselves. These reports do not include Crown Court or contested cases.

The focus of strategic interagency liaison is the CJ Efficiency Programme Board, which was introduced in October 2011. This board is overseen by three senior staff, from the Association of Chief Police Officers, the CPS and Her Majesty's Courts and Tribunals Service (HMCTS). Subgroups are responsible for delivery of the work programme agreed by the Board. The continuing work of the Board addresses issues, including technology, that have the potential to improve the efficiency of the case file building process.

Overall, there is scope to improve the oversight and support arrangements at national level. Whilst senior managers are aware of a number of issues relating to case file quality and the role played by police and CPS staff in supporting efficient case file building, there is limited means to assess the impact of these issues at a national level, in order to prioritise improvement activity. For example, the problem with the identification of documents supplied by the police to the CPS was identified as a problem in some CPS Areas, and listed in the central IT issues log as relevant to that CPS Area only. The proposed actions to resolve the problem appeared to be based on local activity. The review team found this to be a widespread problem across all areas visited.

The review team is aware of proposed activity (by both the CJ Efficiency Programme Board and the CPS Refocusing Programme)⁴⁸ which is intended to deliver improved IT interfaces and more consistent practices. Examples of CJS efficiency programme work include: extensive work to design a replacement system for the existing CPS case management system in 2016; and a special court established in Birmingham magistrates' court where the concept of digital preparation and presentation of cases is being trialled.

⁴⁷ The National Prosecution Team (NPT) is a joint team of CPS and Association of Chief Police Officers/College of Policing staff, who develop guidance and plans to ensure the delivery across all criminal justice areas of cross-criminal justice service change initiatives.

⁴⁸ The CPS Refocusing Programme includes a number of significant initiatives designed to ensure that that CPS structures and working practices are more consistent and fit for purpose, taking account of changes in the criminal justice landscape.

Guidance and training

The CPS and the police have ready access to the Director's Guidance on the NFS, via their internal website or the Police National Legal Database (PNLD). However, within the CPS this is rarely used as a means of assessing case files, primarily because there is a tendency for local agreements or practices to supersede the national guidance.

Most CPS staff felt that insufficient training had been provided on digital working, thereby affecting their ability to manage case files efficiently. The introduction of Standard Operating Procedures as part of the CPS Refocusing Programme offers an opportunity to conduct more focused training on specific ways of electronic working.

There is a significant challenge for the police in ensuring that all relevant staff are aware of, and kept up to date with, the requirements for effective case file preparation. For many police officers, their involvement in criminal casework is irregular, and it is therefore difficult to ensure that they keep their knowledge up to date. The same is true to a lesser degree of supervisors, who may have a variety of different responsibilities. An e-learning package on the national file standard has been developed by the police National Centre for Applied Learning Technologies (NCALT); while this, by itself, is not the solution to all the problems, it can help.

Performance management

It is essential that there are proportionate and effective mechanisms in place for the CPS and police to work together to drive up the efficiency and quality of the case file building process. The key findings in this area were:

- all CPS areas visited had some form of local joint performance management arrangements, usually under the auspices of Local Criminal Justice Board Delivery Groups, or longstanding Prosecution Team Performance Management meetings. However, the prominence of discussions on case file quality issues varied considerably amongst the different joint meetings. We also saw limited evidence of turning discussion into specific, agreed remedial actions, designed to improve case file quality;
- two forces have implemented specific initiatives focused purely on case file quality, one of which started in late 2012, and the other in early 2013. One police force has been monitoring case files over a three-year period, and has seen steady improvement. We also saw evidence of a one-off, short-term monitoring scheme on case file quality in another CPS area; and
- only four of the fifteen forces assessed in the most recent National Prosecution Team report were considered to have made sufficient progress in respect of feeding back to officers on the quality of MG5s. This may go some way to explaining the lack of progress in improving case file quality.

8. Conclusions

The main focus in recent years, for both the police and the CPS, has been to standardise and minimise the level of information that needs to be provided at each stage in the life of a case, without compromising the integrity of the prosecution process. This review, and recent related reviews, indicates that neither agency is reaping the full benefits of the work undertaken on building proportionate case files.

On the basis of three pieces of work (the NAO report, *Stop the Drift 2* and this current review), we conclude that there is a considerable lack of understanding amongst frontline officers of the importance and relevance of the information they are providing to the prosecution. Without this understanding, the poor practice identified in the more straightforward cases (where the defendant pleads guilty) is repeated in contested cases. As a result, with the increased demands of disclosure and other additional evidence that may be required for case files going to court, the unnecessary burden on both the police and the CPS is even greater. This is only exacerbated by the inefficiencies in the IT systems.

It is also evident that supervisors, who have the first opportunity to check quality and feed back learning points to officers, are making little impact on standards.

The guidance included in the National File Standard (NFS), which was agreed by ACPO and the CPS and provided to the police and prosecution, sets out how, when and in what circumstances evidence and information should be gathered and presented to the court. Our findings, however, suggest that all too often this is interpreted as a requirement to comply with completion of a particular set of forms, rather than the presentation of evidence. Annex C to the Director's Guidance, which is intended to be an *aide memoire* for the preparation of case files, is presented as a checklist of documents to be completed for different categories of case files. It is not a driver for improved understanding of the police provision of information to the prosecution.

In further developing IT capability, there is a need to focus more on a digital process rather than automating the existing paper processes. It was encouraging that a more joined-up approach to IT development was apparent through the work managed via the CJS Efficiency Programme. However, it is too soon to evaluate how effective this work will be, and there is still a long way to go in achieving the ultimate goal of a truly digital process for case file building.

However, there was evidence of progress in some of the forces visited. In those forces where performance was better, common features were:

- effective and experienced police supervisors;
- early and effective quality assurance of case files;
- early review of case files by the CPS;
- dedicated/centralised case file preparation unit(s);
- IT systems based on data entry and not templates;

- clearly identified lines of communication between police and CPS staff at strategic level, and effective links to deal with routine issues on a case-by-case basis; and
- a sound understanding of each agency's role in the criminal justice process.

There is a clear need for monitoring of these issues to assess where improvements are being made and where poor practice continues to impact on the quality of service to victims and witnesses.

9. Recommendations

The recommendations of this report support those of *Stop the Drift 2* (see Annex C), the most relevant of which are included below.

The **College of Policing** should urgently review and improve the quality of police training in matters such as the substantive criminal law and criminal procedure, including the rules of evidence and the role of police officers and police work in the criminal justice system. Insofar as police officers lack sufficient training in and experience of the workings of criminal courts, that deficit should be remedied, so that police officers have a sound appreciation of what happens when cases proceed to court, and how evidence is presented and tested. That way, they will have a far better understanding of the critical importance of the work they do in the earliest stages of the criminal justice process. The quality of supervision of police officers should be materially improved, so that mistakes are rectified promptly, time and effort is saved in the preparation of cases, and the interests of justice are served. [Recommendation 1 from *Stop the Drift 2*]

Police Forces, in order to improve file quality, should consider further training for police supervisors, perhaps delivered jointly with the CPS. This training should focus on the critical points raised in this report, with specific emphasis on ensuring that police officers accurately differentiate between key and non-key witnesses; understand how case papers need to be prepared and presented to improve the effectiveness of the prosecution; and limit file build to the required information. [Recommendation 5 from *Stop the Drift 2*]

ACPO and the **CPS** should consider amending the MG 3/5/6 forms, and if possible amalgamate one or more of them, in order to reduce the tendency to copy and paste from one form to another. [Recommendation 4 from *Stop the Drift 2*]

ACPO and the **CPS** should urgently review the level of understanding among police disclosure officers and prosecutors of their respective roles and duties in dealing with the discharge of the duty of disclosure of unused material giving particular attention to:

- identification of relevant material to be scheduled and distinguishing that from evidence in the case;
- accurately and clearly describing items on the unused schedules; and
- distinguishing appropriately between material that is truly sensitive, and other items that can safely be recorded on a non-sensitive schedule

The **CPS** should reconsider their approach to the prioritisation of case file reviews, so that it is based on the date the case file is received from the police (rather than the trial date), in order to ensure that the police have sufficient time to complete prosecution actions.

The National Policing Business Area⁴⁹ should prioritise the move from the current digitisation of a paper process to a system where data are only entered once by police officers, and then transferred to the CPS/courts as needed. Forces should place greater emphasis on the quality of information contained in case files. [Recommendation 6 from *Stop the Drift 2*]

The **Criminal Justice Efficiency Programme Board** should:

- urgently review arrangements for the electronic transfer of visually recorded evidence between police and the CPS, to ensure the use of hard copies and downloaded still pictures are minimised [Recommendation 7 from *Stop the Drift 2*];
- review the National File Standard to ensure that it is not framed as compliance checks on the submission of particular forms, but becomes a driver for the improvement of the quality of information contained in case files that is fit for a modern criminal justice system;
- review the management and administration of witness care, and consider effective models for recording and preparing the required information for use by the prosecution and the courts when setting dates for trial;
- reinforce and clarify the process by which both the CPS and police report IT-related issues that mitigate against the effective use of the interface between the two agencies such as the document naming arrangements; and
- review existing arrangements that contribute to the tendency to scan documents (especially those which originate in an electronic format) for transmission to the CPS.

⁴⁹ This group leads the development on policing practice and professionalism in criminal justice matters on behalf of all forces.

Annex A. Standard criteria for case file examination

In order to achieve maximum consistency between the judgements of both HMCPST and HMIC, the review team agreed standard criteria on which to assess case files. These standards are summarised below.

The Police Report (MG 5) – Summary of Key Evidence

In order to be assessed as adequate, this section of the police report must include all of the following:

- a correct list of key witnesses;
- an explanation of what evidence each key witness will provide; and
- a summary of key evidence (a copy and paste from another document is not acceptable). This should normally be less than one page in length. If, however, it is a complex offence, then this section may be longer. The review team should bear in mind that a narrative of the incident is not a summary.

The Police Report (MG 5) – Summary of Interview

In order to be assessed as adequate, this section of the police report must include all of the following:

- start/finish times;
- details of persons present;
- any admissions made by the defendant;
- if no admissions, or a no comment interview, then a sample of some of the questions asked. A full transcript of questions and answers is not required; and
- any CCTV shown and what the response was (as required by the NFS).

The Police Report (MG 5) – Additional Information

The additional information on the police report is contained in sections 3 – 8. In order to be assessed as adequate, this section must include all of the following:

- Section 3 – Non key witnesses must be listed correctly with a description of their role in the case;

- Section 4 – Visually Recorded Evidence (VRE) including CCTV: details of the evidence on the VRE/CCTV; the place where the recording was made; and the person currently in possession of the VRE/CCTV (e.g. whether an officer is in possession of CCTV that captures an act of shoplifting). It would also be helpful to have details of the format of the VRE/CCTV; and
- Section 6 – Forensics/Fingerprint/Drug Evidence: if a drug offence is disclosed then the value/weight of the drugs is required on the MG5.

Confidential Information (MG6)

The MG6 form is only required for first hearing 'if it is applicable' at that stage. We have seen some forces where these forms are included with the initial case file submission even if they would not be required. Therefore, where an MG6 is not required, but is included in the case file because of a CPS request, force policy or by the officer unnecessarily including it, then it should be judged as 'not applicable' on the spreadsheet to record findings.

At any later stage in the case, the NFS requires an MG6 to be included in the case file. Where the review team consider, from the overall case file examination, that there is no relevant confidential information, there should be an entry on the MG6 stating that this is the case. A blank MG6 with no details clarifying whether there is, or is not, any relevant confidential information for the prosecutor to consider will be deemed inadequate. MG6 must also include the officer's name (not necessarily signed) and dated.

Other case file documentation

The adequacy of other case file documentation will be judged in light of the above. For example, additional relevant information may be included in the 'police request for a charging decision' (MG3) sent to the prosecutor but not included in the police report. This may make the charging decision request adequate but the police report inadequate.

Proportionality of case file build

The review team will make a judgement regarding the proportionality of the information and evidence contained in a case file. Examples of disproportionate case file build are:

- statements which will not required at any point. For example: continuity statements, statements from persons exhibiting evidence (for example ROTI clerk statements exhibiting the ROTI), non-evidential arrest statements, statements from officers transporting prisoners;

- documents included in the unused material schedules which are then unnecessarily scanned and included in the electronic case file. For example, custody records and crime reports that can be obtained at any time from police systems;
- MG6 forms which are not required for police charge cases but the officer includes them, with the initial case file. The review team will need to check the dates on these forms to assess case file build at this stage; and
- other hard copy documents which were originally handwritten and scanned into the electronic case file. For example search authorities, search records and police pocket note books. The review team will need to make a judgement on this element. For example, it may be proper to scan search records for inclusion on the electronic case file if such records are not easily accessible through force systems. These documents out to be included in the unused material schedule. However, most of these documents will not be required by the CPS and therefore should not appear on the CMS case file. The HMIC inspector should check with their HMCPSI colleague, who has access to CMS, to assess whether such documents have been sent through to the CPS system.

Timeliness

When assessing timeliness at the various stages of the case file preparation process, the following standards were applied.

CPS request for upgraded case file

Case files were marked as timely if the request was sent to the police within 48hours of the hearing where it became apparent that an upgraded case file would be required.

Police provision of the upgraded case file

Case files were marked as timely if the upgraded case file was received:

- within 14 days of the request for any cases involving custody
- within 21 days of the request for bail cases

Police provision of additional information requested after the upgraded case file had been received

This was treated on a case by case basis. Inspectors used their judgement to assess what was a reasonable time frame to provide the information based on when it would be required. In general terms, this meant that the earlier the request was received, the more time would be allowed.

These judgements were also informed by the following documents:

- a. The ACPO/CPS Prosecution Team's Terms of Reference for the Quality of MG5 Forms used for their Autumn 2012 Review; and
- b. The PNLD Guidance on completion of all MG Forms by police officers (particularly MG5, MG6, MG6C, MG9 , MG10 and MG11).

Annex B. Glossary

Association Of Chief Police Officers (ACPO)	A national body representing the views of Chief Constables
Case management system (CMS)	IT system for case management used by the CPS. Through links with police systems CMS receives electronic case material. Such material is intended to replace paper case files as part of the T3 implementation. <i>See also Transforming Through Technology (T3).</i>
Committal	Procedure whereby a defendant in an <i>either way</i> case is moved from the magistrates' court to the Crown Court for trial, usually upon service of the prosecution evidence on the defence, but occasionally after consideration of the evidence by the magistrates. <i>See also either way offences</i>
Court orders/ directions	An order or direction made by the court at a case progression hearing requiring the prosecution to comply with a timetable of preparatory work for a trial. These orders are often made under the Criminal Procedure Rules.
Cracked trial	A case listed for a contested trial which does not proceed, either because the defendant changes his plea to guilty, or pleads to an alternative charge, or because the prosecution offer no evidence.
Custody time limits (CTLs)	The statutory time limit for keeping a defendant in custody awaiting trial. May be extended by the court in certain circumstances.
Discontinuance	The formal termination of a case by the CPS under section 23A of the Prosecution of Offences Act 1985.
Early Guilty Plea Scheme (EGP)	A scheme introduced by the Senior Presiding Judge in a number of Crown Court centres which aims to identify cases where a guilty plea is likely. The aim is to separate these cases into EGP courts which expedite the plea and sentence thereby avoiding unnecessary preparation work.
Either way offences	Offences of middle range seriousness which can be heard either in the magistrates' court or Crown Court. The defendant retains a right to choose jury trial at Crown Court but otherwise the venue for trial is determined by the magistrates.
NICHE	This is the name of a case record management system used by several police forces in England and Wales.
NSPIS	The National Standard for Police Information System is the name of an IT system used by several police forces in England and Wales
Plea and case management	A plea and case management hearing takes place in every case in the Crown Court and is often the first hearing after committal or sending in

hearing (PCMH)	indictable only cases. Its purpose is twofold: to take a plea from the defendant, and to ensure that all necessary steps are taken in preparation for trial or sentence and that sufficient information has been provided for a trial date or sentencing hearing to be arranged.
Pre-charge decision (PCD)	The CPS has a duty to advise the police as to whether there is sufficient evidence for a suspect to be prosecuted. This is known as pre-charge decision (PCD). The duty derives from the provisions of section 3(2)e of the Prosecution of Offences Act 1985, from paragraph 2.2 of the Code for Crown Prosecutors and the Director's Guidance on Charging. The latest edition Director's Guidance came into effect in early 2011.
Prosecution Team Performance Management (PTPM)	Joint analysis of performance by the CPS and police locally, used to consider the outcomes of charging and other joint processes.
Prosecutor's duty of disclosure	The prosecution has a duty to disclose to the defence material gathered during the investigation of a criminal offence, which is not intended to be used as evidence against the defendant, but which may undermine the prosecution case or assist the defence case. Initial (formerly known as "primary") disclosure is supplied routinely in all contested cases. Continuing (formerly "secondary") disclosure is supplied after service of a defence statement. Timeliness of the provision of disclosure is covered in the Criminal Procedure Rules. <i>See also unused material.</i>
Review, (initial, continuing, summary trial etc, full case file)	The process whereby a crown prosecutor determines that a case received from the police satisfies and continues to satisfy the test for prosecution set out in the Code for Crown Prosecutors, one of the most important functions of the CPS.
Record of Tape Recorded Interview (ROTI)	A record of the relevant content of the tape recorded police interview of a suspect for an offence
Sensitive material	Any relevant material in a police investigation not forming part of the case against the defendant, the disclosure of which may not be in the public interest.
Streamlined Process (Director's Guidance)	Procedures agreed between the CPS and police to streamline the content of prosecution case files; a restricted amount of information and evidence is initially included where there is an expectation that the defendant will plead guilty.
Summary offences	Offences which can only be dealt with in the magistrates' courts, e.g. most motoring offences, minor public order and assault offences.
Unused material	Material collected by the police during an investigation but which is not being used as evidence in any prosecution. The prosecutor must consider whether or not to disclose it to the defendant. <i>See also prosecutor's duty of disclosure under section 32 of the Criminal Justice Act 2003.</i>

Upgraded case file	The full case file provided by the police for a contested hearing.
Witness Care Unit (WCU)	Unit responsible for managing the care of victims and prosecution witnesses from a point of charge to the conclusion of a case. Staffed by witness care officers and other support workers whose role it is to keep witnesses informed of progress during the course of their case. Units have often a combination of police and CPS staff (joint units).

MG forms

The ACPO/CPS Manual of Guidance prescribes the use of a series of template forms (commonly referred to as MG forms), designed to communicate information between the police and the CPS in any case. The most common forms are listed below:

MG3 - Report to Crown Prosecutor (& **MG3A** – Further Report, where produced)

MG5 - Police Report

MG6 - Case File Evidence and Information

MG6C - Schedule of relevant non-sensitive unused material

MG6D - Schedule of relevant sensitive material

MG6E - Disclosure Officer's report

MG9 - List of Witnesses

MG10 - Witness non-availability

MG11(s) - All key witness statement(s) or ROVI (if visually recorded)

MG12 - Exhibits List

MG20 – Further Evidence/Information report

Annex C. Recommendations from *Stop the Drift 2*

Short term

1. The College of Policing should urgently review and improve the quality of police training in matters such as the substantive criminal law and criminal procedure, including the rules of evidence and the role of police officers and police work in the criminal justice system. Insofar as police officers lack sufficient training in and experience of the workings of criminal courts, that deficit should be remedied, so that police officers have a sound appreciation of what happens when cases proceed to court, and how evidence is presented and tested. That way, they will have a far better understanding of the critical importance of the work they do in the earliest stages of the criminal justice process. The quality of supervision of police officers should be materially improved, so that mistakes are rectified promptly, time and effort is saved in the preparation of cases, and the interests of justice are served.
2. ACPO should review existing guidance on the use of split-screen CCTV in custody areas to monitor vulnerable detainees in their cells, to ensure that risk is being assessed properly and custody staff are empowered and required to use this facility where appropriate (thereby reducing the need for one-one monitoring by officers).
3. Forces should review their arrangements with local authorities to ensure that vulnerable adults and children are appropriately accommodated (this relates to the use of section 136 of the Mental Health Act 1983, and to cases where children/young people are denied bail and continue to be detained in police cells after charge).
4. ACPO and the CPS should consider amending the MG 3/5/6 forms, and if possible amalgamate one or more of them, in order to reduce the tendency to copy and paste from one form to another.

Longer term

5. In order to improve file quality, forces should consider further training for police supervisors, perhaps delivered jointly with the CPS. This training should focus on the critical points raised in this report, with specific emphasis on ensuring that police officers accurately differentiate between key and non-key witnesses; understand how case papers need to be prepared and presented to improve the effectiveness of the prosecution; and limit file build to the required information.
6. The ACPO Criminal Justice Business Area should prioritise the move from the current digitisation of a paper process to a system where data are only entered once by police officers, and then transferred to the CPS/courts as needed. Forces should place greater emphasis on the quality of information contained in case files.
7. The Criminal Justice Efficiency Board should urgently review arrangements for the electronic transfer of visually recorded evidence between police and the CPS, to ensure the use of hard copies and downloaded still pictures are minimised.