

# THE JOINT THEMATIC REVIEW OF THE NEW CHARGING ARRANGEMENTS

## *Executive Summary*

NOVEMBER 2008

## Introduction

- 1 This is the executive summary of the report of Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) into the effectiveness of the operation of the new charging arrangements (commonly referred to within the Crown Prosecution Service (CPS) as the statutory charging scheme). Under the new arrangements the CPS have taken over responsibility from the police to determine whether an alleged offender should be charged in the more serious or contested cases, by virtue of the Criminal Justice Act 2003.
- 2 The implementation of the statutory charging scheme in England and Wales took place in stages between 2004 and early 2006 and was throughout a joint project between the Association of Chief Police Officers (ACPO) and the CPS. It has had a significant impact on the structure of the criminal justice system. For the first time in the history of the criminal law the decision whether or not a suspect should be charged with an offence has, in certain circumstances, passed to a body independent of the investigation.
- 3 This was the first detailed independent review of the effectiveness of the scheme, and as such inspectors trust will contribute substantially to the debate currently taking place on the future operation of the charging arrangements.
- 4 The joint review was undertaken in parallel with an HMCPSI inspection of CPS Direct (CPSD) which provides out-of-hours charging decisions across England and Wales. The findings from that inspection are the subject of a separate report. This joint review's report, when read in conjunction with the CPSD one, provides a full analysis of how the scheme is operating in all its aspects.
- 5 There have been undoubted benefits from the scheme, not least of which is the improved working relationship between the police service and the CPS. The permanent presence of duty prosecutors in police stations has assisted in developing the 'prosecution team' ethos between prosecutors and police and improved the understanding of their respective roles. However there has been criticism directed at the actual or perceived time taken to get a decision and the amount of work the investigator has to undertake before the decision will be taken, which is supported to a significant extent by the review findings.
- 6 The report puts forward a number of recommendations designed to address the key concerns identified during this review, some of which will require a significant cultural change if they are to be implemented effectively. It also identifies some good practice which could usefully be adopted on a more widespread basis.

## Aims and objectives

- 7 The aims and objectives of the review, developed in consultation with a range of agencies and organisations with an interest in the findings, were:

*Aim:* to evaluate the operation of the statutory charging scheme against the expected benefits for the criminal justice system.

*Objectives:* to evaluate the operational effectiveness of the roles, responsibilities and processes of the police and CPS staff involved directly in the provision of charging decisions; consider the effectiveness of governance arrangements, including local variations on the operation of the scheme and the application of the Director (of Public Prosecutions)'s Guidance and the

operation of prosecution team performance management (PTPM) mechanisms; determine the impact of the charging scheme on casework outcomes; determine the impact of the charging scheme on resources for both the police and the CPS, including the capacity to make timely charging decisions and the impact on levels of police abstraction; consider the effectiveness of the interfaces between the police, geographical CPS areas and CPSD; assess whether the scheme assists in improving the quality of investigations and case-building; and identify good practice.

### Methodology

8 The methodology consisted of an examination of finalised cases which had been subject to a pre-charge decision; fieldwork in seven criminal justice areas, where observations were carried out at 25 charging centres of the consultation process; and interviews with investigators, prosecutors and senior police and CPS managers. The fieldwork was undertaken between 25 February-11 April 2008. A questionnaire was also sent to the chief constable and chief crown prosecutor for each area not visited during the fieldwork.

### Overall findings

9 The implementation of the statutory charging scheme has delivered benefits to the criminal justice process. It has required close partnership working between the CPS and the police service at both senior and operational levels. It has facilitated progress within the criminal justice system in relation to linked projects improving criminal case management and reducing delay in the courts. Nevertheless some aspects of the scheme need to be substantially refined in order to be fully effective. Operational personnel (both police and CPS) understood the potential benefits of the scheme and the vast majority were strongly supportive of the concept of prosecutors also giving pre-charge advice. However most also felt that the processes involved need to be significantly more efficient.

### Key benefits

- 10 On a positive front inspectors identified the following key benefits:
- the final charging decisions by prosecutors were of good quality;
  - discontinuance had happened earlier, preventing weak cases from entering the court system;
  - some progress had been made against most of the anticipated benefits in terms of casework outcomes and delivery of Public Service Agreement targets;
  - there were a number of examples of good practice for individual processes within the overall scheme;
  - relationships between the police and CPS had improved which had helped develop a more joined-up approach to managing initiatives; and
  - feedback at multiple levels suggested that the statutory scheme was particularly helpful in managing serious and complex cases.

### Aspects requiring improvement

- 11 Aspects of work that required improvement included:
- Police and CPS processes were inconsistent, overly complex, inefficient and lacking in pragmatism in too many instances, often leading to avoidable delays and frustration;
  - the practice of delivering advice in a face-to-face meeting was not providing the anticipated benefits in all cases;
  - police file quality supervision needed to be more robust;
  - greater consistency of approach was needed by prosecutors in the level of information required to make a charging decision;

- conflicting CPS and police targets were not helpful (this issue was being addressed in the latter stages of the review);
  - some guidance and definitions required clarification;
  - a number of delays in CPS and police processes had a detrimental and significant knock-on effect on bail management; and
  - performance management needed to be strengthened.
- 12 On balance progress had been slower than desirable, although gradual improvements had been made. As pressures build for new initiatives and priorities it is important that the police service and the CPS are able to realise the potential benefits of statutory charging. The processes observed in most of the areas visited were not efficient and needed to be 'smarter', although there were some examples of good practice.

### Specific findings

- 13 Inspectors set out below the specific findings from the review.

#### *Processes, roles and responsibilities*

- 14 In the areas visited there was little consistency in the processes, systems or responsibilities of those involved in implementing and delivering statutory charging. It was not unusual for there to be completely different approaches between police basic command units and charging centres in the same area. Whilst some degree of tailoring to local circumstances is healthy and sensible, there was a need for greater consistency, preferably based on the sharing of good practice. Paradoxically whilst there are many different systems in place they were often utilised in an overly rigid fashion, when a more flexible approach would sometimes be more appropriate.
- 15 The provision of face-to-face charging decisions by prosecutors was the accepted norm for delivering pre-charge advice. Whilst for some cases this was clearly right, observations showed a considerable number of examples where little value was added by this process; there is little value in the face-to-face appointment when it is not the investigator who attends on behalf of the police. They are unable to deal with queries raised by the prosecutor on important issues such as the demeanour and reliability of witnesses. The value of these appointments also depends much on the skills of the prosecutor in conducting the consultation and this is minimal when there is no discussion of the merits of the case. Some meetings were very good and added value, others added no more than if the investigator had left the file and come back at the end of the allotted time for the decision.
- 16 A more flexible approach that enables an informed decision as to the best means of discussing a case is desirable. There were a considerable number of investigators who expressed a preference for using CPSD, which operates by telephone and fax.
- 17 Almost all the areas visited had concerns over the time taken to get a charging decision from a prosecutor, which was borne out by inspectors' observations.
- 18 A gap is growing in the expectations of many police officers and the CPS in respect of what is required for a charging decision. At some charging centres the police were preparing files sufficient for a full Code for Crown Prosecutors (the Code) test decision, but prosecutors wanted a trial ready file where they intended to authorise charge but anticipated a not guilty plea. This was in part due to a lack of confidence in the police doing any additional work once charge was authorised and, also, the pressure to comply with the requirements of the

Criminal Justice: Speedy, Simple, Summary (CJSSS) initiative, which requires the prosecution and the defence to identify trial issues at the first hearing, with the trial date normally set within six weeks of that hearing.

- 19 CJSSS is now undoubtedly a key driver and is impacting on the delivery of the intended benefits of the scheme. The need to be trial ready at the time of charging was increasingly being seen as paramount, to help minimise the number of ineffective hearings at court and ensure cases were trial ready on the date set down for the contest. There were also views that once the police had got a sanction detection<sup>1</sup> they were less inclined to undertake further investigation as preparatory work because they had achieved one of their key targets, and that the CPS were risk averse because reducing post-charge attrition was one of their key targets. A move to making the police sanction detection and CPS attrition rates subordinate to the offences brought to justice target was being initiated during the latter stages of the review.
- 20 Inspectors found that the gap in expectations was leading to frustration on the part of investigators, increasing the number of times a suspect was re-bailed and contributing to the overall delay (because the investigator has to gather more admissible evidence at the investigative stage or subsequently when they went away with another action plan requiring further work to be undertaken and not a charging decision).
- 21 Suspects might be bailed several times before and after the first appointment, which was reducing the import of bail (although it was well managed at a few charging centres). The issue of bail management was brought to the fore during the course of the review and there are clear connections with the effectiveness of the management of action plan compliance, which is weak.
- 22 Custody and priority cases such as those involving persistent young offenders, which required immediate decisions, could have a significant impact on the smooth running of an appointment-based system. The interposing of these cases led to appointments in bail cases being put back or cancelled. This created unnecessary police abstraction where the officer had travelled from another station and further increased delay. Few CPS areas had any contingency arrangements to provide a back-up facility. Duty prosecutors needed to be more proactive in assessing the impact of custody cases and more flexibility was needed to ensure that dealing with these cases was not to the detriment of others. The current 'one size fits all' model does not work efficiently or flexibly.
- 23 An initiative by CPS London to provide telephone charging advice during office hours (CPS London Direct), similar to that operated by CPSD, may provide greater flexibility to give charging decisions when they are needed.
- 24 The wording of the threshold test (used in respect of those cases where the full Code test cannot be applied because all the necessary evidence is not available, but there is a need to keep the suspect in custody after charge) needs to be reviewed to reflect more accurately the nature of the decision taken at that stage. It resembles the test for police officers to exercise their power of arrest, i.e. there is a reasonable suspicion that the arrested person has committed an offence, and is confusing. Inspectors understood changes are currently being considered.

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<sup>1</sup> A sanction detection is when an offender is charged, reported for summons, cautioned, receives a final warning, has other offences taken into consideration, or receives a penalty notice or street warning

- 25 A significant proportion of the time allocated for an appointment was spent by the prosecutor typing their decision on the CPS case management system and often the officer was, by agreement, absent for most of the allotted time or sat doing nothing. The average overall appointment time in the 148 consultations observed by inspectors was 60 minutes (including custody cases, which could be of any length) of which a third of the time was spent in discussion between the prosecutor and the investigator. The majority of the rest of the appointment time was spent by prosecutors reading the file and typing up their decision. Inspectors observed consultations where the time taken by the prosecutor to type up the decision led to later appointments being put back or cancelled.
- 26 Although inspectors observed some inefficiency in all the areas visited they also noted some positive examples of effective systems, for example police file supervision in parts of Humberside was very good; bail management at the Wembley charging centre was strong; prosecutors and prisoner handling unit personnel were working well together in Nottingham Bridewell charging centre; and the early involvement of prosecutors in complex cases was beneficial.
- 27 It was difficult to say at the time of the review what the full impact of the Director's Guidance Streamlined Process<sup>2</sup> (DGSP) would be on the scheme. The process had not yet been evaluated, nor rolled-out beyond the pilot areas. It could speed up the process in applicable cases but only in conjunction with an overhaul of the appointments system. There is reduced added value if the investigator still has to wait to get an appointment.

#### **Governance (including performance management)**

- 28 The introduction of the statutory charging scheme was a significant challenge which has been subject to a considerable amount of oversight at a national level throughout its implementation. In the early days a steering group operated with attendance at very senior levels from the police service and the CPS. A national Charging Operations Board remains in place. The board was less active in the early part of 2007-08, but had been reinvigorated to manage the piloting and implementation of DGSP. The joint charging National Prosecution Team drove the development, testing, evaluation, roll-out and post-implementation review and maintenance of the scheme and revised the Director's Guidance. This jointly managed project had practitioner involvement throughout. Overall the governance of charging-related issues has been a good example of joint working and has contributed to the prosecution team ethos. Whilst much of the work of these groups has been positive they, together with local managers, have not been wholly successful in ensuring the effectiveness of the scheme to deliver charging decisions at the time needed.
- 29 Leadership and management capability within the prosecution team was identified as a key challenge at the time of the evaluation of the pilot scheme. Whilst some areas had kept a tight management rein on statutory charging, in others effective management oversight had reduced as charging made the transition from an initiative to 'business as usual'. Better management of processes and performance would have had a positive impact on some of the weaknesses identified during the review.

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2 DGSP is intended to reduce the amount of material which an investigator must compile in those cases where the police may charge without prior authorisation. It will also be applicable in those cases which come within the terms of the scheme where the prosecutor considers that the case is suitable to be dealt with in the magistrates' court and a guilty plea is anticipated

- 30 Statutory charging has been a national priority for the CPS and ACPO since 2004-05 and that has been reflected in CPS area business plans. However in some areas the emphasis had diminished as the need to implement other new initiatives emerged. From a police perspective the strategic drive and determination to deliver the charging scheme fluctuated according to where criminal justice featured in local policing priorities, the influence of criminal justice departments and the level of ‘ownership’ at operational command level within the police. Where there were effective inter-agency relationships there was an increased likelihood of effective planning and pragmatic, speedy, remedial action in times of difficulty.
- 31 The PTPM structure had developed slowly and still needed to be more proactive and robust. It was difficult to find examples of where resilient changes had been made as a result of issues identified through PTPM. A number of factors impacted: wrong people attending, data unwieldy, lack of knowledge about what data could and could not show, lack of effective evaluation and drilling down of the data.
- 32 In most of the areas visited there was scope for a more holistic approach to the performance management of statutory charging. In some the regimes gave the appearance of two very different systems running in parallel and bolted together for PTPM meetings rather than a seamless, joined-up system monitoring the entire charging process. Lincolnshire had made some progress in assessing joint performance at the various stages from arrest to charge.
- 33 CPS quality assurance centred on examination of the forms on which decisions or advice were recorded (MG3s). This was not, in isolation, a reliable indicator of the overall effectiveness of the process. In short more managers needed to get out and observe the operation in practice.

#### The impact on casework outcomes

- 34 Outcomes had improved since the scheme was introduced; discontinuance and overall successful outcome rates were better and guilty plea rates had improved. From a wider criminal justice system viewpoint, there had been improvements in the level of ineffective trials and the number of offences brought to justice. These were all potential benefits identified during the pilot scheme. However based on the findings of the review it was clear that greater improvements could have been achieved. It was also not possible to comment as to what impact other initiatives, such as No Witness No Justice and the Effective Trial Management Programme, may have had on the outcomes. The table below indicates the improvement achieved at national level against the six key performance indicators:

Measure	Target	2005-06	2006-07	2007-08
Magistrates’ courts (MC) attrition	31.0%	23.5% (41)	22.0% (42)	21.0% (42)
MC continuance	11.0%	16.7% (1)	15.7% (3)	14.7% (6)
MC guilty plea rate	52.0%	67.5% (42)	69.2% (42)	72.3% (42)
Crown Court (CC) attrition	23.0%	23.3% (20)	22.2% (28)	20.8% (37)
CC discontinuance	11.0%	14.0% (11)	13.1% (17)	12.9% (18)
CC guilty plea rate	68.0%	65.0% (18)	66.5% (20)	71.3% (36)
<b>Targets achieved</b>	-	<b>2</b>	<b>3</b>	<b>4</b>

Data provided by the CPS

Figures in brackets indicate the number of areas achieving the national target

- 35 There had been a gradual but steady decrease (improvement) in the percentage of cases where the decision was that there should be no further action. In 2007-08 the CPS directed that there should be no further action against 158,975 suspects (29.1% of the total of charging decisions). It was not possible to say in how many of these cases the custody sergeant would, prior to implementation of the scheme, have made the same decision, nevertheless this represents a considerable saving to the criminal justice system by reducing the time spent by the police in unnecessary file building and bureaucracy, and by not allowing cases that would have subsequently been discontinued to clog up the courts. This should allow for trials to be listed sooner with the resultant benefit for all concerned, particularly victims and witnesses.
- 36 The role of the police supervisor is to ensure that only those cases which meet the statutory criteria and standards are submitted to a prosecutor for a charging decision. In some cases the decision to take no further action might properly have been taken by a police file supervisor. The proper oversight of cases at the police supervisory stage could free up more prosecutor and investigator time and reduce the wait for appointments. The observations and interviews confirmed that in some cases CPS prosecutors were called upon to take decisions that the police could have properly made.
- 37 The level of offences brought to justice has continued to grow over the past few years. Increased use of diversionary disposals, for example penalty notices for disorder, were a significant factor although this may have reached a plateau in 2007-08. It was envisaged that statutory charging would have a positive impact on the proportion of convictions as a sub-set of offences brought to justice. This was less apparent during the early stages of the roll-out but there has been a significant improvement in 2007-08. However relative performance is determined by a number of external factors, in particular the number of non-judicial disposals which are influenced by policing policies and priorities and changes to the remit of the scheme.
- 38 There has been a reduction (improvement) in the level of ineffective trials<sup>3</sup> in the magistrates' courts (down from 21.2% in 2005-06 to 18.3% in 2007-08) in respect of all cases, whether charged on the direction of a crown prosecutor or by the custody sergeant in accordance with the Director's Guidance. There has been an increase (1.8%) in the level of cracked trials<sup>4</sup> in the same period. Both may be attributable to a number of reasons, including better victim and witness care resulting in higher attendance rates. Overall the number of trials listed (whether police or CPS charged) had increased by approximately 5% at a time where the caseload had reduced significantly. A similar pattern emerged for Crown Court cases in terms of the breakdown, although the number of trials listed had reduced. There had been a number of initiatives involving victims and witnesses and case progression implemented during this timeframe that were likely to have contributed positively to these results.

#### Value for money

- 39 The value added by statutory charging can be considered in many ways. At an individual case level feedback and observations showed a mixed picture. Inspectors saw examples of cases that the police wished to charge, but following an effective discussion with the prosecutor it was recognised that there were significant problems with the evidence. On the other hand they observed cases where the prosecutor added limited value at that stage, but merely authorised the charge on what was clear evidence (under the full Code test) or information (under the threshold test) without contributing significantly to the investigation or marshalling of relevant evidence.

3 An ineffective trial occurs when the hearing is adjourned on the day set down for the contest to another trial date

4 A cracked trial occurs when either the proceedings are discontinued on the day set down for trial or the defendant enters an acceptable guilty plea



- 40 The CPS was the beneficiary of all the additional funding for the scheme as it was anticipated they would take on most of the additional workload. However the benefits identified in the original business case were spread throughout the criminal justice agencies. There was limited evidence of robust analysis of indicators of these ‘downstream’ benefits to ensure that the scheme was delivering what was anticipated.
- 41 The CPS reported, on a quarterly basis, to HM Treasury on the ‘efficiencies’ delivered as a result of Spending Review 2004 funding (the statutory charging scheme forms part of the reporting regime). The reports were based on the changing profile of casework outcomes split between guilty pleas, discontinuances and contested cases. A cost was allocated to each outcome based on the time expected to be taken for such a case (based on the CPS activity cost model). The benefits were assessed by comparing the current outcomes against the breakdown calculated during the pilot conducted in 2002-03. Inspectors had significant concerns with this system including:
- The pilot data was calculated against a particular sub-set of cases (not guilty pleas) but is now being compared to all cases that go through the charging scheme. Whilst improved outcomes had been achieved, the data used would overstate the improvement because a significant number of cases where the defendant would plead guilty anyway were now passed to a prosecutor because of the nature of the case, for example persistent young offenders and some categories of dishonesty offences.
  - The efficiencies were based on the assumption that the time saved by better outcomes would be used to absorb additional work that might otherwise attract additional funding. There was no requirement to account for the use of this time and no records were available to inspectors to give a level of assurance that the savings were realistic. Whilst the CPS has undoubtedly taken on additional work over time it has also had significant increases to budgets; at the same time overall caseload has reduced significantly in the magistrates’ courts.
  - The costs of delivering the scheme are not taken into account in the reporting regime.
  - In purely financial terms it was difficult to gauge the value for money of the scheme, as there was limited reliable data on the cost of providing statutory charging and the scheme has changed significantly since the pilot and related business case. The CPS had allocated over £150 million so far (including some additional funding and reallocation). Whilst there was no doubt that the scheme had delivered a number of financial benefits and some efficiency savings, the processes for monitoring the value of such an investment were not sufficiently robust. It was also clear that significant inefficiencies still existed within the scheme, indicating that the further improvements could have been achieved.

#### **Working relationships**

- 42 The introduction of the scheme had strengthened working relationships between the police and the CPS and was a contributing element to the development of the prosecution team ethos.
- 43 Relationships tended to be stronger at a national level, partly because they were further away from the day-to-day challenges faced at operational level, although concerns expressed about the operation of the scheme were causing some tensions. There were still issues that need to be addressed, for example police concerns that some prosecutors were risk averse and prosecutor

fears that police officers were less likely to complete work post-charge. However the working environment was now one where such issues could be discussed more openly and frankly with less emphasis on blame. The key challenge is to translate the benefits of these better working relationships into more effective management, delivering improved efficiency.

- 44 The stronger relationships had a beneficial impact in the implementation of other inter-agency initiatives. Whilst other issues would clearly have also made a contribution, many felt that initiatives such as CJSSS and conditional cautioning had benefited from better police/CPS working relationships.

#### **The impact on file building processes**

- 45 Improving the quality of police files and reducing the burden caused by building cases that would subsequently be discontinued were two of the stated aims of statutory charging.
- 46 Where there was good quality police file supervision it was leading to a better file being presented to the CPS. Prosecutors considered the scheme had a positive impact on police file quality. Inspectors found numerous variations on how police file supervision was structured and substantial differences in effectiveness. Although there were good examples found of the value added to the charging scheme process through the use of evidence review officers (EROs), not surprisingly limited effectiveness was often a reflection of limited investment in the role. At its most extreme the expectations of the role were simply not being met.
- 47 Concerns over file quality in a number of police forces had led to the appointment of specialist teams to take over the process of completing an investigation after a suspect had been arrested. There was limited indication of effective systems to feedback to investigators or supervisors any weaknesses identified by EROs or prosecutors, which enabled 'errors' to be repeated. The advent of these specialist units has contributed to the de-skilling of investigators and front line sergeants.
- 48 It was clear that in a significant number of cases prosecutors were requesting a full trial ready file before making a charging decision. Therefore workloads had not decreased as much as anticipated although work did happen earlier in the process. A full file might be built only for the prosecutor to direct that there should be no further action; this was clearly not what was intended. In the worst case scenario, which inspectors observed, a subsequent prosecutor would direct that there should be no further action when the first had indicated an authority to charge would be forthcoming when further work had been completed.

#### **Conclusion**

- 49 To be fully effective the scheme, as a minimum, requires the process to deliver two things which overall the findings from the review indicate are requiring improvement. First there needs to be good supervision by the police service at all stages of the investigative process, coupled with proactive oversight of cases by supervisors to ensure that only appropriate ones are referred to a prosecutor.
- 50 Secondly the CPS must be in a position to provide an effective charging decision when it is needed on a file that meets the prescribed standard, regardless of whether the suspect is on bail or in custody. As the findings indicate, the CPS and the police also needed to consider whether the drive to deliver the decision face-to-face during office hours in all cases adds value, coupled with whether there is a necessity for the charging decision to be delivered locally. The impact of the CPS London Direct initiative on reducing the time an investigator has to wait for an appointment will assist to inform the way forward.

- 51 The scheme was intended to be fairly straight forward and efficient, aimed at ensuring that the right people were prosecuted (or not) with the right charges being applied first time, contributing to more offenders being brought to justice and improved efficiency as cases progressed through the system. For a variety of reasons the processes have become too complex, impacting on the effective delivery of the anticipated benefits. A more flexible 'common sense' approach to issues would improve efficiency.
- 52 Notwithstanding the desire for flexible, pragmatic systems there is scope for greater consistency in key functions. Wherever possible this should be based on best practice.
- 53 In reaction to comment made in the Independent Review of Policing by Sir Ronnie Flanagan (7 February 2008) about the operation of the scheme there has been a renewed drive by the National Prosecution Team to make it more effective. Alternative methods of providing prosecutor input, using better technology, are being planned. There are also a number of initiatives currently under development including DGSP, integrated prosecution teams and 'virtual' courts that should have a positive impact on the statutory charging scheme.
- 54 There is a solid foundation from which the necessary improvements identified by the review can be progressed. Many of the more challenging aspects of implementing the scheme, including issues around organisational culture, are in place or well advanced. The CPS and the police need to build on previous work and improve the processes and systems that underpin effective delivery of pre-charge decisions. Systems need to be more flexible so that they can provide charging decisions when necessary. The level of improvement required will vary from area to area with some needing substantial remedial action.

#### **Recommendations, aspects for improvement and good practice**

- 55 Inspectors identified six instances of good practice and made 15 recommendations which identified steps necessary to address weaknesses relevant to important aspects of performance which they considered merited the highest priority for the CPS and police service in improving the scheme. They also identified ten aspects for improvement which related to other areas that would benefit from changes, but which did not have as high a priority.

#### *Good practice*

- 1 The formal accreditation of evidence review officers (paragraph 8.8).
- 2 The provision of additional/dedicated prosecutor resources in serious and complex cases to provide continuing investigative and charging advice while suspects remain in custody (paragraph 9.6).
- 3 The booking of the next appointment (if necessary) at the end of the first appointment (paragraph 10.7).
- 4 The use of a Bail Clerk to assist in bail management (paragraph 14.16).
- 5 The use of dedicated resources to target bail absconders (paragraph 14.17).
- 6 The monitoring of case outcomes from arrest to conclusion (paragraph 16.15).

### *Recommendations*

56 Recommendations are normally targeted at very specific issues raised in particular sections of the report. However in the report there are several related issues around the processes involved in delivering the scheme and so inspectors made one overarching recommendation to deal with this. The alternative would have involved drafting multiple specific recommendations for individual processes. Reviews of processes will need to take account of other initiatives under development such as DGSP and the provision of centralised telephone charging advice. They should also take account of the impact of some of the more specific recommendations in this report. Most of the review work should be undertaken at local area level, although the National Prosecution Team may need to be involved in strategic solutions, particularly if technology and telephony is to play a more significant role in delivering the service. Inspectors recommended that:

- 1 The Charging Operations Board and local prosecution team managers should review the processes involved in delivering the statutory charging scheme. Systems need to be more flexible and pragmatic than currently is the case and must deliver an effective arrest to charge (or alternative disposal) process for suspects in custody or on bail.
- 2 The threshold test in the Code for Crown Prosecutors is revised so that it reflects more accurately the basis on which decisions are made at that stage in the process (paragraph 5.22).
- 3 The prosecution team performance management process is reinvigorated and participants need to gain a greater understanding of data and how to use the information to improve performance (paragraph 7.13).
- 4 In order to improve the effectiveness of the charging scheme the functions of the evidence review officer should be included in the police service Integrated Competency Framework and the Association of Chief Police Officers, together with the National Police Improvement Agency, should ensure that the role is clearly defined to meet the requirements of the statutory charging scheme, and reinforced by the setting of national training standards (paragraph 8.8).
- 5 The police Professionalising Investigation Programme take account of the obligations on investigators, particularly those involved in Level 1 priority and volume crime investigations, to prepare cases to a standard sufficient to meet that required by evidence review officers and duty prosecutors (paragraph 8.13).
- 6 The Director of Public Prosecutions issues guidance on what material the investigator is required to provide to the duty prosecutor in order for there to be a charging decision (paragraph 8.13).
- 7 The Director's Guidance on Charging is reviewed to clarify the relationship between the operation of the threshold test by custody officers and the requirement to refer certain categories of cases to a prosecutor under annex A (paragraph 9.15).
- 8 CPS managers ensure that there are appropriate quality assurance systems to enable them to accurately gauge the effectiveness of duty prosecutor performance (paragraph 9.20).

- 9 The police and the CPS use the prosecution team performance management structure to monitor the effectiveness of the appointments process locally and improve where required (paragraph 10.12).
- 10 The CPS ensures that resources are allocated effectively to enable a timely charging decision to be made in respect of all suspects in custody, without disruption to appointments already fixed (paragraph 10.25).
- 11 Prosecutors should ensure they consider all relevant ancillary matters, and endorse the MG3 accordingly, when determining whether or not to authorise the charging of a suspect (paragraph 12.7).
- 12 A timely full Code test review should be carried out by the prosecutor in every case which is subject initially to a threshold test review (paragraph 12.10).
- 13 The ownership of the supervisory process of pre and post-charge action plans needs to be unambiguous, including the part to be played by the evidence review officer in that process (paragraph 13.19).
- 14 The police and the CPS should routinely monitor the impact of bail management on the effectiveness of the charging scheme and implement local improvements where appropriate (paragraph 14.23).
- 15 A formal review of the prosecution team performance management data reports should be undertaken to ensure that they meet the current needs of the users (paragraph 16.17).

*Aspects for improvement*

- 1 The National Police Improvement Agency when planning future arrangements considers the opportunities for the police service to strengthen links with the criminal justice system, by assisting in the improvement of key aspects of the charging scheme (paragraph 7.14).
- 2 The CPS and police locally, taking into account National Prosecution Team guidance, should:
  - issue clear guidance identifying those types of case that should be submitted to a CPS office (as opposed to a duty prosecutor) for a charging decision; and
  - police file supervisors or evidential review officers should determine in accordance with that guidance at an early stage which route a case should take (paragraph 9.7).
- 3 The CPS and police forces in each area undertake an audit of the provision of duty prosecutor charging rooms to ensure that each provides an acceptable working environment to facilitate the provision of effective charging decisions and early advice (paragraph 11.4).
- 4 Duty prosecutors should, by arrangement, attend the custody suite before the start of each charging session to determine the possible impact of custody cases on the day's fixed appointments (paragraph 11.6).

- 5 The CPS and police forces should ensure that computer equipment, capable of displaying multiple file formats, should be provided in each charging centre room (paragraph 11.9).
- 6 The CPS should undertake a keyboard skills assessment of all prosecutors and where necessary provide appropriate training (paragraph 11.22).
- 7 Duty prosecutors and investigators should be trained in the planning of consultations to ensure the maximum benefit is obtained (paragraph 11.22).
- 8 The police and the CPS should ensure that the material provided to the prosecutor when making a charging decision is recorded fully on both the police and CPS part of the MG3 form (paragraph 11.30).
- 9 CPS managers should, as part of their assessment of prosecutor performance, undertake observation of the face-to-face appointment process (paragraph 11.31).
- 10 The CPS and Association of Chief Police Officers issue guidance on when early legal advice can be sought in accordance with the provisions of sections 5.2 and 5.3 of the Director's Guidance (paragraph 11.52).

The full text of the report may be obtained from the Corporate Services Group and HMCPS Inspectorate (telephone 0207 210 1197) and is also available online at [www.hmcpai.gov.uk](http://www.hmcpai.gov.uk).