

Joint case building by the police and Crown Prosecution Service

Interim findings from phase 1 of a joint inspection
by HMCPSI and HMICFRS of case building by the
police and Crown Prosecution Service

January 2024



If you ask us, we can provide this report in Braille, large print or in languages other than English.

For information or for more copies of this report, please contact us on 020 7210 1160, or go to our website: justiceinspectorates.gov.uk/hmcpsi

Contents

1. Foreword	4
2. Introduction	7
3. Our interim findings	10
Information technology (IT)	11
IT systems	11
Exchanging information between the police and CPS IT systems	12
Complexity and levels of experience	14
Complexity and inexperience	14
Partnership working	17
Joint Operational Improvement Meetings.....	18
Case building supervision and triage	18
Case building and tasking.....	20
Casework communication	21
Other reviews	22
Annexes	
4. Annex A: Inspection framework	23
5. Annex B: Inspection methodology	28
Fieldwork conducted in Phase 1	29
Performance data	30
File examination	30
Timetable for fieldwork in Phase 2	30
6. Annex C: Charging arrangements, disclosure of unused material and the new charging model	32
The charging stage of a prosecution case	33
The new charging model.....	35

1. Foreword

The purpose of the criminal justice system is to deliver justice for all members of society and to uphold the rule of law. It must be a system that is efficient, effective, accountable and delivers a fair justice process that supports victims and witnesses.

In England and Wales, the vast majority of crimes are investigated by the police and prosecuted by the Crown Prosecution Service (CPS). From the outset of each criminal case, their joint work provides an important foundation for the criminal justice system. Police and CPS personnel who work together on these cases are often referred to as the 'prosecution team'. It is vital for this team to work effectively to build strong and fair cases.

Historically, our inspections and reviews have focussed on the 'outputs' of the prosecution team's constituent parts, for example, the quality of police files that are passed to the CPS, or the quality and pace of charging by the CPS. The fundamental issues that underlie these critical outputs are the culture and communication between the police and the CPS.

The relationship between the police and the CPS is even more critical when the criminal justice system is subject to the extreme challenges it faces now. The number of unresolved magistrates' courts cases is beginning to rise again, and the Crown Court backlog continues to increase with the number of live cases at its highest rate to date. In addition, the prison population is nearing full capacity¹.

These reasons are why His Majesty's Crown Prosecution Service Inspectorate (HMCPSI) and His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) have prioritised this joint inspection reviewing the relationship between the two organisations.

Specifically, we are considering the joint culture and communication, to find and promote what works well and to identify what does not, where the good practice is, and where there are obstacles. We are carrying out this inspection in two phases. Phase 1 is complete.

Important themes have emerged during phase 1 of this inspection. We felt that the publication of interim findings at this stage would assist those dealing with case building at local and national levels. In particular, we found that the systems and processes, including IT systems used by police and CPS for quality assurance, communication and transfer of information have become overly complicated. Rather than facilitate partnership working, they can create barriers to it.

¹ [Criminal courts - Courts data - Justice Data](#) & [Prison population figures 2023: GOV UK](#)

Joint case building by the police and CPS

These are interim findings from phase 1 only. Our final report will present a fuller picture, including findings and recommendations based upon a case file examination and fieldwork from the CPS Areas and police forces from both phases of this inspection. Phase 2 will comprise fieldwork and case examination in a further three CPS areas and four police forces.

2. Introduction

Introduction

2.1. His Majesty's Crown Prosecution Service Inspectorate (HMCP SI) and His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) are conducting a joint thematic inspection into the building of prosecution cases by the police and Crown Prosecution Service (CPS) at the early stages of criminal cases.

2.2. The inspection question is: "How can police forces and CPS Areas improve culture, communications and partnership work on case building in either way² and indictable only³ casework to deliver stronger cases, a better product for the court and defence, and a better service to victims, witnesses, and the public?"

2.3. Our inspection framework (set out in Annex A) consists of six criteria and various sub-criteria. The inspection has a particular focus on how communication and culture impact on prosecution case building up to the point of the first plea hearing. The methodology we are using is set out in Annex B. This is an interim findings report after phase 1 of the inspection. These findings are derived from our work in two CPS Areas and four police forces, including the examination of 40 of their case files.

2.4. There is further fieldwork in four police forces and three CPS Areas in phase 2. These were selected as they have different processes in operation from those visited in phase 1. For example, some of the police forces use different case management systems to manage their criminal justice functions, and some of the CPS Areas and forces have yet to implement the new charging model, which we explain in Annex C. These differences, together with interviews with national bodies and interested parties, and an additional 80 case file examinations, will contribute to our final judgments. The additional work still to be completed may also influence recommendations in the final report, which we aim to publish in Spring 2024.

2.5. This interim report highlights the common themes we identified from phase 1 of our inspection. These themes are areas of concern that have an adverse impact on the relationship between the CPS and the police, and therefore on the effectiveness of their joint working.

2.6. We are aware of other national reviews being conducted which may impact on our inspection findings, such as the Home Office Policing

² Either way offences are those that can be heard in either the magistrates' courts or the Crown Court.

³ Indictable only offences are those that must be heard in the Crown Court.

Productivity Review, the Joint CJI Victims Inspection and ongoing reviews of the Director's General's Guidance on Charging (6th edition). We shall comment on these in our final report.

2.7. The purpose of sharing our interim findings at this point in the inspection is to help inform the ongoing national debate on improving the effectiveness and efficiency of the criminal justice system. We will make recommendations at the conclusion of the inspection in our final report.

3. Our interim findings

3.1. It is important to understand from the outset that the roles of the police and the CPS are different. The CPS's principal function is to review and prosecute criminal cases. The police's functions are much broader, encompassing preventing and detecting crime, responding to calls and public safety.

3.2. Good communication is fundamental to ensuring an effective relationship between the police and the Crown Prosecution Service (CPS). We spoke to a range of people in the police and the CPS. At all levels we consistently found a sense of purpose and desire to achieve a high standard of casework. There was an understanding that poor quality casework directly affects victims.

3.3. Despite high aspirations around casework in both the police and the CPS, we found shortcomings in and frustrations about the effectiveness of communications between the two agencies. The difficulties are driven in part by differing priorities, overly bureaucratic systems (especially information technology) and processes, and the lack of shared performance metrics.

Information technology (IT)

IT systems

3.4. There are significant challenges presented by the IT systems used by both police forces and the CPS.

3.5. The police are structured into 43 independent forces using a variety of case management systems to manage their criminal justice role. The CPS uses one case management system (CMS) and has one set of standard operating practices (SOPs) across the 14 regional CPS Areas. IT systems in the police and CPS were not originally intended or designed to be used for digital case transfer and have had to be adapted for this purpose.

3.6. The lack of consistent IT across England and Wales means that information and material are not transferred in the same way from all forces to the CPS, making material difficult to locate. CPS Areas that work in partnership with more than one force often have to manage more than one IT system interface.

3.7. Many of the police personnel and prosecutors we spoke to found their own IT systems difficult to navigate or use effectively, with many indicating the systems were not user-friendly or intuitive.

Exchanging information between the police and CPS IT systems

3.8. The IT systems in the police and CPS can be barriers to the effective transfer of material from the police and the receipt of it into the CPS's case management system (CMS) in the right place. The processes are overly bureaucratic, largely because they have been added onto existing IT systems which were not initially intended or designed to transfer material from one to the other. In many cases, this results in the police believing the material has been sent, and the CPS believing it has not arrived.

3.9. The process depends in part on the police correctly using a naming convention. When material is incorrectly named, the CPS CMS will not recognise it and it will not 'land' in the case file in the correct place or in the correct way. In such an example, the material will be stored on the tab in the CMS file labelled as 'other', rather than on the tabs for statements or exhibits.

3.10. These difficulties can result in the CPS requesting information from the police that has already been sent, or that the police believe has already been sent. Consequently, discussions about whether material has or has not been sent by the police to the CPS are commonplace. This can lead to tension, with each party blaming the other for not carrying out their roles properly, when in reality the issue is caused by the complexity of sharing information between multiple IT systems.

3.11. These communication challenges negatively influence the relationship between both parties, hamper effective partnership working, create additional unnecessary work for the police and the CPS, and cause delay to charging decisions.

3.12. In some forces, the officer in the case (OIC) and/or their supervisor are not notified by the IT system when the CPS set an action plan after charge, so they are unaware of the request for further work. Another systemic barrier to case building we were told of is where, in some police systems, the action plan is automatically removed from the OIC's workload when the deadline has passed, irrespective of whether the additional work has been completed.

3.13. The two-way interface (TWIF) between the police and the CPS cannot process anything over 1MB in size. Material exceeding this must be compressed by police (potentially reducing its quality, for example, CCTV footage or still images), broken down into smaller file sizes and sent in parts, or sent via email then uploaded by CPS operational delivery staff to CMS. This is inefficient for the police and the CPS. In some of the police systems, if items fail to send properly in the TWIF, they must be recreated, not just re-sent. This

is burdensome for the police and takes more time. In addition, the police may not be aware that items have failed to send, because a message does not always come back to tell them.

3.14. Whilst there are steps being taken to raise the TWIF limit to 4MB⁴, we cannot at this stage offer assurance that this will be sufficient, given the increasing complexity, size and quality of material to be transferred digitally.

3.15. Under the new charging model (explained in Annex C), in the more pressing 'red' cases, there is some urgency to CPS operational delivery staff opening the case on CMS to check the contents, because there is a target of three hours to deliver charging advice when the suspect is in custody. However, doing so while the file is still coming over the TWIF stops the transfer. This means that the police have to restart the transfer process from scratch. A ten-minute embargo on opening the case has been introduced nationally to try to prevent this, although the transfer can take considerably longer. In one of the CPS Areas we visited, the police criminal justice unit and the CPS operational delivery staff use a dedicated 'red' charging Microsoft Teams chat, and the police tell the CPS when it is safe to open the case on CMS. These are practical workarounds which are necessary to overcome inadequacies in this important IT interface.

3.16. Many of our interviewees did not know what the impact was in their partner agency of using the IT in a certain way, or how material sent by them landed with their counterpart. One example is, where the contents of a hearing record sheet setting out what happened in court, and any actions required as a result, are copied into an action plan and sent to the police. When this is received by the police management systems the result is a jumble of text, with special characters replacing some punctuation. This often causes frustration, contributes to miscommunication, and adversely affects each organisations' cultural perceptions.

3.17. There is considerable effort being invested with an established programme of works, funded by the Home Office and under the auspices of the Police Digital Service, to streamline the digital delivery of case papers from the police to the CPS. The focus of this work is to remove duplication, improve efficiency and reduce errors. The Digital Case File project team is working with police forces and the CPS, to move away from using electronic document templates, favouring instead the completion of structured pre-set data fields to promote consistency and compliance. We will cover this in more detail in the final report.

⁴ There is a pilot running in one police force.

Complexity and levels of experience

Complexity and inexperience

3.18. The increased complexity of the law and legal processes have placed additional burdens on police and prosecutors. The legal landscape has changed significantly in recent years. In particular, the number and complexity of criminal offences and sentencing, and the range of out of court disposals, has expanded. Also, disclosure and redaction (for data protection purposes) have become much more important and arguably more complex in a digital world.

3.19. At the end of December 2020, the Director's Guidance on Charging (6th edition) (DG6), the revised Attorney General's Guidelines on Disclosure and the revised Code of Practice to the Criminal Procedure and Investigations Act 1996 came into force. We explain these briefly in Annex C.

3.20. They had the effect of 'front loading' case preparation, increasing the amount of information available to the prosecutor upon which to base their charging decision. However, they also increased the work police must do before sending a file to the CPS for a charging decision. This includes redaction of all rebuttable presumption material (see Annex C), completing schedules of unused material and, in all Crown Court cases or any case with large amounts of digital material⁵, completing an investigation management document.

3.21. Whilst investigation and case file building continue to become more complex, experience amongst both workforces has decreased. As a result of austerity, the police and the CPS lost personnel. More recently, police and CPS budgets have increased, leading to both taking on a significant number of new personnel. Whilst staff levels have increased in recent years, this has brought with it a number of other issues, most notably inexperience in frontline teams as well as supervision and management functions in both agencies. Many of the police and CPS personnel we spoke to had joined their organisation only in the last two or three years.

3.22. The impact of the new police foundation degree and Covid-19 lockdowns has been that those officers who joined the police between 2020 and 2021 received their initial training virtually rather than face to face. Prosecutors recruited during this period also received virtual induction and initial training, meaning there were fewer opportunities to learn from more experienced colleagues. Whilst some new starters are now being inducted in person, there

⁵ As required by the Attorney General's Guidelines on Disclosure.

is a cadre of personnel in the police and CPS with around two or three years of experience who were affected and received fewer opportunities to develop. Significantly, these are the police and CPS personnel now undertaking the investigation and prosecution of magistrates' courts and Crown Court cases, whilst helping to induct and train newer colleagues.

3.23. Demand has also grown. Prosecutors dealing with Crown Court casework have high caseloads as backlogs continue to rise. Ministry of Justice court data confirms that in Quarter 2 of 2023-24 there were 66,547 outstanding Crown Court cases⁶. This is one factor that has led to prosecutors not always meeting their required charging timescales.

3.24. Similarly, during the inspection, we were told that many officers were carrying high caseloads, and that the work required and expectations upon them were adversely affecting morale and leading to difficulties in staff retention. This has led to officers not always doing everything they should to comply with DG6, nor doing it in a timely manner.

3.25. The police need to improve the quality of investigation and compliance with the national file standard on case submission (as we discuss in paragraph 3.44). Police supervisors need to be more robust when quality assuring case file submissions. The CPS also needs to improve the quality of its action plans and assess whether these are required in all cases (which we discuss further in paragraphs at 3.50 to 3.52). Many police interviewees perceived that prosecutors sometimes issued action plans to get the case off their task lists, particularly when close to the 28-day charging decision target.

Redaction and front-loading of cases

3.26. Redaction has acquired more significance with the increased importance of data protection. It was raised numerous times in our interviews and focus groups and is a considerable issue for the police and CPS nationally, particularly in relation to the time taken by the police, and to a lesser extent the CPS, to prepare cases. It is also causing tension in the police/CPS relationship, with police officers frequently seeing redaction as unnecessarily burdensome, especially in cases that result in CPS advice not to charge a suspect (a 'no further action' or NFA decision). CPS data on charging consultations for Quarter 2 2023-24⁷ shows that, where a legal decision was made (not including requests for further material), 29.9% of cases were given an NFA decision. Police interviewees recognised there were some cases

⁶ [Criminal courts - Courts data - Justice Data](#)

⁷ Quarter 2 is the last full quarter for which data was available at the time of writing. It covers July to September 2023.

where they should have decided to NFA, meaning they would not have needed to prepare a full file and redact the material.

3.27. The statutory position is that the police must comply with their obligations under the Data Protection Act 2018 (DPA) regarding personal data such as addresses, dates of birth, political beliefs, gender or sexual orientation. The police are permitted to share unredacted personal data with the CPS only where it is necessary for the CPS to see the personal data to fulfil their duties, such as making a charging decision or dealing with disclosure obligations. An example of relevant and necessary personal data would be the address of the victim in their statement of complaint about a burglary at their home. The requirement extends to relevant unused material, including those items that fall under the “rebuttable presumption” category set out in the Attorney General’s Guidelines on Disclosure (see Annex C), regardless of whether police assess the material as meeting the disclosure test. The CPS must then ensure that any material they send to the defence and court is appropriately redacted.

3.28. There are joint principles for redaction⁸ agreed between the National Police Chief’s Council (NPCC) and the CPS, and we were told that the revised guidance issued in 2022 has improved understanding. There is, however, a real disconnect between what the statute and nationally agreed policies set out, and what frontline officers and staff believe is, or should be, the practice. A lack of a clear understanding about redaction, and disagreements about what needs to remain and what should be redacted, appear to be commonplace. We found that both the police and CPS interviewees appreciated that the redaction of material was necessary to prevent personal details being served on the defence and courts. There was more of a mixed picture regarding *what* redaction was actually required case-by-case, and how the legislation applied to information passed between the police and the CPS. Some police and CPS personnel were clear about what was expected and felt confident, whereas others knew the principles but were less sure of how to apply them.

3.29. We found that the police view often was that only ‘rebuttable presumption’ material capable of meeting the test for disclosure should require redaction. Furthermore, the police view the necessity to provide and redact the full material required in the national file standard as a waste of resource in those cases where the CPS advise no further action. There were similar concerns expressed, albeit much less often, regarding the need to clip hard media to a maximum of ten minutes, which is the standard agreed between the CPS and NPCC to enable a focused review of only relevant material.

⁸ <https://knowledgehub.group/documents/49300605/0/Joint+Principles+for+Redaction+-+FINAL.docx/b6d4e0e4-6ccf-30c3-c043-5f4fe3070a7f?t=1633975497209>

3.30. The CPS position is that front-loading allows them to have all relevant material at the pre-charge stage to make the right decision, which may be to take no further action. This avoids dropping the prosecution at a later stage, which can have a negative impact on defendants, victims and witnesses. Some CPS staff we spoke to also expressed the view that the police are primarily concerned with getting the case to charge, and thereafter are less engaged. These are very different views that impact adversely on the prosecution team relationship.

3.31. There is clearly a tension between the need to ensure that all relevant material is provided to the CPS for a sound charging decision to be made and to comply with agreed obligations, and the use of resources required to reach that position.

3.32. We are aware that the issue of redaction is one already being discussed at a national level, with strands of work focusing on the possibility of legislative and non-legislative measures to ease the burden of unnecessary work on the police. We will expand upon this in our final report, but the early indications are that there are potentially significant efficiency savings for the police which would release officers to focus on other priorities.

Partnership working

3.33. Relationships between the police and CPS are generally seen as mature and open, but different views remain on key areas.

3.34. In the CPS Areas and police forces we visited in phase 1, we found a shared sense of purpose at a strategic level to improve file building and deliver successful outcomes for victims, witnesses and the public. There was an awareness of the responsibilities and impact each had, and how challenges in one agency could hamper effective case building by partners. Each organisation had its own strategies for improvement, and joint meetings were being held regularly to discuss issues and to develop solutions.

3.35. However, evidencing tangible benefits from joint improvement work is less easy; plans developed at a strategic level did not necessarily translate into operational improvements. We noted instances where the intended approach set out at the strategic level was not uniformly understood and/or implemented as envisaged at the frontline.

3.36. We found that there were some excellent relationships at an operational level, but also a pervading lack of understanding of each other's roles. This and the IT blockages lead to perceptions about whether the police or the CPS are simply doing their job correctly or are putting up unnecessary hurdles for

the other to overcome. This negatively affects the culture and communication between the two organisations, and therefore the ability to resolve casework issues.

Joint Operational Improvement Meetings

3.37. In March 2021, following deep dives into case progression, the CPS, National Police Chiefs' Council (NPCC), and College of Policing published a joint National Case Progression Commitment and action plan, an in-depth analysis of the barriers to effective case progression and a focus on five priority themes: Capacity, Capability, Leadership, Partnership, and Governance. Joint Operational Improvement Meetings (JOIMs), where police and CPS managers meet to discuss performance and case building, were introduced as a result. JOIMs replaced prosecution team performance meetings (PTPM), which constituted the previous joint performance management regime. Also introduced was a case progression toolkit, bringing together good practices developed nationally, and setting out priorities to improve case progression.

3.38. We were told that the data packs used to support JOIMs can be too detailed to be helpful in focusing on what the priorities for improvement should be. We share that concern, and note that the data is given per month and does not provide quarterly or yearly trends. There are also issues with data validity, and we were told by police interviewees at both senior and operational levels that they find it too geared towards the CPS. To overcome this, some police forces are using the data to develop their own performance information and analysis. We were told by at least one CPS Area that they also produce bespoke data and analysis.

3.39. There has been a recent review of the JOIM process by the NPCC and CPS. We will examine this further in our final report.

Case building supervision and triage

3.40. Police forces use different ways to quality assure the material they send to the CPS, in addition to supervision provided by the officer's immediate supervisor. Most, but not all, have some kind of central gatekeeping team, but there are variations in what types of cases go through them, what assurance they carry out, and to what extent they are effective. CPS Areas that work in partnership with more than one force often have to engage with different gatekeeping or police supervision systems.

3.41. Most of the police gatekeeping structures we saw involved a triage process for prosecution case file content against national file standards. This gatekeeping function either accepts or rejects cases. Those rejected are returned for further work then resubmitted when they are judged to have met

the required standard for submission to the CPS. In some forces, gatekeepers returned case files to investigating officers for further work. In other forces, case file builders retain and progress case files. We saw examples in our file sample and heard comments from interviewees of file submissions being rejected and resubmitted to supervisors and/or gatekeepers multiple times. As well as checking to ensure all required documents were present, some gatekeepers also check the evidential quality of their content.

3.42. We found that the level of resources dedicated to the gatekeeping function varied amongst the four forces we inspected in phase 1, as did the expertise and authority of personnel to make decisions. In some forces, police decision makers decide whether to submit cases to the CPS, use an out of court disposal or take no further action. In other forces we saw gatekeepers carrying out a more limited assessment of the case and deferring to the CPS for decisions around taking no further action or out of court disposals.

3.43. We also found wide disparity in the timeliness of files submitted through gatekeepers. In some forces, the files were processed within a few days, whereas in others, backlogs were counted in weeks or even months. In those forces, the quality assurance and gatekeeping functions, which are designed to check the quality of a file before it reaches the CPS, are adding considerably to the time taken. At this stage we cannot comment on the effectiveness of gatekeeping on the quality of case files submitted by the police in terms of DG6 compliance and evidential content. This is something we will explore in the final report.

3.44. Where there is a quality assurance function in the police forces we visited in phase 1, we found that this did not consistently equate to delivering a file that met the national file standard (NFS). We examined 10 cases each from the four police forces in phase 1. Our file sample from this first phase (combining those that were accepted and those that were wrongly rejected by the CPS) shows rates of compliance with NFS ranging from 25.0% to 70.0%. The joint operational improvement meeting (JOIM) data for the same four police forces showed first triage acceptance ranging from 64.1% to 77.0% in October 2023. We will examine further at the conclusion of the inspection across all the CPS areas and police forces we inspected, and cross reference with JOIM data to get a wider picture of the acceptance rate.

3.45. In our file sample, the CPS triage process allowed 18.9% of cases that ought to have failed, to pass their respective checks. The CPS triage also, but to a much lesser degree (5.4% of cases), rejected cases that met NFS. Again, we will examine this further in our final report.

3.46. Once the case has been accepted by the CPS as meeting the national file standard, it is reviewed by the allocated lawyer. The CPS lawyer, if they are applying the full Code test contained in the Code for Crown Prosecutors, should use the Director's Guidance Assessment (DGA) to report on compliance with DG6, although CPS lawyers do not complete this as often as they should. In our file sample, the lawyer failed to complete the DGA assessment in 15.0% of applicable cases. The lawyer marked the file as complying with DGA in about two-thirds of cases (69.7%), but we concluded that their assessment was wrong nearly half the time (10 of the 23 applicable cases), meaning that actual compliance is lower than is being reported. Data collated by the CPS showed a national DGA acceptance rate of 56.8% in Quarter 1 of 2023-2024. The trend across the five quarters up to and including Quarter 1 of 2023-2024 is improving.

3.47. More consistent and accurate use of DGA is essential to provide good quality feedback to the police and promote improvement in file building.

3.48. The police can challenge a DGA report that the file is not compliant, and some forces use this facility more than others, with varying degrees of success.

3.49. We observed in our file sample and fieldwork that the police supervision and quality assurance appeared to be geared more towards providing the content required by the NFS and DG6, and less with the quality of the material and the investigation. This could be an unintended consequence of DG6 and NFS and could be distracting from an approach that focuses more on evidential quality and is more victim-centred.

Case building and tasking

3.50. When the CPS lawyer reviews the police file, if they consider there are missing elements or that further lines of enquiry are warranted, they usually set an action plan containing a list of the tasks required and a deadline for their completion. In our file sample, most cases did not need an action plan before the charging decision could be made.

3.51. We found that the CPS asked for information that the police had already supplied in about a third of cases. CPS action plans in our sample rarely requested unnecessary or irrelevant material, but more often did not ask for information or additional evidence that inspectors concluded was needed to build a strong case for trial or to meet the prosecution's various duties.

3.52. The CPS need to improve action plans by setting actions that are clear and include a rationale for the tasks being set. This would assist the police to understand why they are being asked to carry out additional work.

3.53. The police replied to most action plans, usually with a clear response, but less often to *all* the points set out in the action plan. As we discussed in relation to IT (paragraph 3.12), the police IT systems do not always tell an officer and/or their supervisor when an action plan has been received and this may contribute to these issues.

Casework communication

3.54. We found that communication in most cases we are looking at in this inspection is performed through system interaction at operational level between the police and the CPS, whether on the administrative side, or between officer and prosecutor. There is little personal contact in most cases between police officer and prosecutor, either by phone, face-to-face or virtually. Whether this is because of the extent to which this is driven by DG6, or local interpretation is a matter we will explore in our final report.

3.55. This limited personal contact is not true of all casework. Where there are specialist teams, for example, in rape and serious sexual offences or complex casework, the police and CPS work more closely together and have direct contact, resulting in better culture and communication and ultimately better-quality casework for defendants, victims and witnesses.

3.56. It is difficult to replicate this across cases not dealt with in specialist teams because the number of cases is far greater, and this approach would require significantly more resource for both the police and CPS.

3.57. However, our fieldwork found that where the police and CPS did work more closely, the relationship between the two parties was stronger and the ability to remedy issues more efficient.

3.58. Almost everyone we interviewed across the police and CPS in phase 1 would welcome more direct contact and found it helpful when they could speak to their counterpart in the police or CPS when cases required it, as currently many do not. In those that do, we conclude more direct contact between police and prosecutors would help build stronger cases.

3.59. One of the barriers to better communication was not having the necessary information to get in touch with the officer in the case (OIC) and/or the CPS prosecutor. In our file sample, we found that the OIC's name, location, and contact information (such as an email address, phone number or both) were supplied in 77.5% of the 40 cases. The best performing forces reached 80.0%, and in the lowest-scoring force, officers' details were recorded in 70.0% of cases. The prosecutor supplied their contact information much less often. One CPS Area performed much better than the other, with prosecutors' direct

contact information (email and/or phone number) included in some or all action plans in 63.2% of cases, compared to in 11.1% of cases in the other Area.

3.60. We found that even where contact details were supplied, the opportunity to make contact was rarely taken, or if it was, there was no evidence of it on the file. Around two in five cases had no communication or no evidence of communication. In the inspectors' judgement, such contact may have improved the quality of file building or reduced the number of consultations for charging advice on the case.

3.61. The issues arising with the introduction of red charging has necessitated more direct contact at an administrative level. This has included the introduction of shared Microsoft Teams chats for police criminal justice units and CPS operational delivery to monitor progress on the submission of the papers and completion of the charging advice in these time-sensitive cases. However, we saw little evidence in phase 1 of direct contact between the officer and prosecutor to discuss investigation and any reasonable lines of enquiry. This demonstrates that communication between police and CPS is focused on process.

Annex A

Inspection framework

Inspection framework

Inspection Question

How can police forces and CPS Areas improve culture, communications, and partnership work on case building in either way and indictable only casework to deliver stronger cases, a better product for the court and defence, and a better service to victims, witnesses, and the public?

Inspection Criteria

1. Does each agency deliver the most effective and proportionate service to each other in the charging process for either way and indictable only cases?
 - a) Do police forces comply with the Director's Guidance on Charging (6th edition) (DG6) and the national file standards (NFS) for the type of case they submit for a charging advice?
 - b) Are there systems in place within the police to ensure there is effective investigation, supervision and gatekeeping or other quality assurance of case files before they are submitted for charging advice?
 - c) Are CPS Areas' triages of police file submissions effective?
 - d) Do CPS Areas use feedback mechanisms effectively to report any lack of compliance with DG6 and NFS?
 - e) Are CPS Area action plans being used appropriately to build stronger cases? Are actions relevant, clearly expressed and proportionate, and are target dates realistic?
 - f) Are police forces addressing actions set in action plans effectively?
 - g) Have the interests of victims, witnesses and the public been addressed in the charging process?
 - h) Timeliness in the charging process: are there delays in the charging process in either or both agencies impacting on effective case building (e.g., evidence becoming unavailable, the expiry of summary time limits)?
 - i) Is there good communication between the parties to facilitate strong case building?
 - j) Is there effective partnership working on an operational level to build strong cases?
2. Are either way and indictable only cases prepared effectively for the first court hearing by the police and CPS Areas?
 - a) Are accurate assessments being made by police forces and by CPS Areas of whether a case is anticipated to be a guilty plea or not guilty plea?

Joint case building by the police and CPS

- b) Do police forces submit the file after charge in compliance with the timescales set for cases?
- c) How effective are police forces at supplying material requested in an action plan set when charge is authorised?
- d) Do CPS Areas review cases in good time?
- e) Do CPS Areas identify any remedial work needed or any omissions from any action plan set when charge is authorised, and do they task police forces to carry out additional work or rectify deficiencies in good time for the first hearing?
- f) Are there effective processes and clear communication between the police and CPS to address key issues to ensure progress can be made at first hearing?
- g) Are there agreed escalation processes and are they used effectively?
- h) Are the requirements and processes for redaction clearly understood and implemented effectively?
- i) Does the file bundle prepared for the defence for the first hearing include accurate information about the prosecution case, with sufficient information to enable the defence to take instructions and give appropriate advice to their client, or for an unrepresented defendant to know what the case against them is?
- j) Is there engagement with the defence before the first hearing, and is it effective?
- k) Have the interests of victims, witnesses and the public been addressed when preparing for the first hearing?
- l) Has the preparation by the police and CPS ensured that the prosecution is able to make the relevant applications at sentencing in GAP hearings, and if a guilty plea is entered on an NGAP case?

3. Are the police and CPS effective and efficient at the first hearing in either way magistrates' courts cases?

- a) Do police forces brigade cases into the right courtroom for the first hearing?
- b) Do any omissions or inaccuracies in the information provided to the court affect the effectiveness of the first hearing?
- c) What factors in the case bundle for the defence impact the most on the plea entered at the first hearing in magistrates' courts?
- d) Are there identifiable factors or themes which feature in cases that are expected to be a guilty plea (GAP) and where a not guilty plea is entered?

Joint case building by the police and CPS

- e) Are there identifiable factors or themes which feature in cases that are expected to be a not guilty plea (NGAP) and where a guilty plea is entered?
 - f) Are cases are moved from one courtroom to another on receipt of a plea other than that anticipated? Does this cause delay? What is the impact on the prosecutor(s) in those courtrooms?
 - g) Have the interests of victims, witnesses and the public been addressed by the police and CPS at the first hearing?
4. Are the police and CPS effective and efficient at the plea and trial preparation hearing (PTPH) in Crown Court cases?
- a) Do any omissions or inaccuracies in the information provided to the court affect the effectiveness of the first hearing?
 - b) What factors in the prosecution case bundle for the defence impact most on the plea entered at the PTPH?
 - c) Are there identifiable factors or themes which feature in cases that are expected to be a guilty plea at PTPH and where a not guilty plea is entered?
 - d) Are there identifiable factors or themes which feature in cases that are expected to be a not guilty plea at PTPH and where a guilty plea is entered?
 - e) Have the interests of victims, witnesses and the public been addressed by the police and CPS at the PTPH?
5. What partnership arrangements are in place between the CPS and police to build stronger cases and how effective are they?
- a) Do police forces and CPS Areas have robust quality assurance of the standard of their delivery to each other and other service users?
 - b) Do the processes in place to exchange information facilitate effective communication to build strong cases?
 - c) Is there an effective culture of shared responsibility and effective joint working at operational and strategic levels?
 - d) Are escalation processes or other mechanisms in place for police forces and CPS Areas to hold each other to account on individual cases, are they fit for purpose, and are they used effectively and robustly?
 - e) What measures do police forces and CPS Areas use to assess the strength of prosecution team case building? (For example, DG6 compliance, number of triages or charging consultations, number of hearings per case, timely guilty pleas?)

Joint case building by the police and CPS

- f) How effectively are data and other evidence used to drive improvements in case building in the CPS, in the police, and jointly?
 - g) Are there differences in the partnership arrangements in CPS Areas and police forces where case building is stronger, and in places where it is weaker?
 - h) How do any differences impact on case building?
 - i) What are the most significant aspects of police and CPS teamwork that are working well and not working well?
6. Are there efficiencies and better outcomes that can be achieved by improving partnership working? What are the impacts of stronger and weaker police and CPS case building on each other, and on other agencies, the defence, victims, witnesses, and the public?
- a) What is the impact where there are inefficiencies in the charging process (question 1 above)?
 - b) What is the impact where cases are not prepared effectively in advance of the first hearing (question 2 above)?
 - c) What is the impact where cases are not progressed effectively at the first hearing in the magistrates' courts (question 3 above)?
 - d) What is the impact where cases are not progressed effectively at the plea and trial preparation hearing in the Crown Court (question 4 above)?
 - e) Are there other efficiencies or improved outcomes that could be achieved by better police and CPS case building?

Annex B

Inspection methodology

The inspection methodology includes examining CPS and police files from six Areas and two of each Area's police forces (120 files in total); document analysis from those Areas and police forces; analysis of national and Area/police performance data; interviews and focus groups with Area and police staff, CPS Direct staff and national leads/senior managers; reality checks of processes and key case-building tasks; and surveys of CPS and police staff.

The inspection scope includes cases that can or must be heard at the Crown Court but excludes those likely to be dealt with by specialist teams, such as cases handled by major investigations, rape and serious sexual offence teams, or cases destined for the CPS's complex casework units.

We reviewed cases to the point of the first plea hearing, which was generally the first hearing in magistrates' courts cases or the plea and trial preparation hearing in the Crown Court. We selected cases that had recently (in the previous one or two months) had their first plea hearing and had been charged since HMCPSI's Area Inspection Programme report on each Area had been sent to them. We excluded police-charged cases, and those where a guilty plea was anticipated. We picked five magistrates' courts cases (of which four were bail cases and one a custody remand) and five Crown Court cases (of which three were bail and two were custody cases). Two of the Crown Court cases were indictable only, and the other three were either way allegations. Within these criteria, the cases were chosen at random.

We originally planned for fieldwork in the six Areas and 12 police forces from which files were examined. However, a review at the end of phase 1 (which involved two Areas and four forces) led us to reconsider. In phase 2, we will be conducting fieldwork in three CPS Areas and four police forces; the details of which Areas/forces and the phase 2 fieldwork timetable are in Annex C. Those Areas and forces which are no longer to take part in fieldwork will be asked to complete a short report on key issues for their organisation.

Fieldwork conducted in Phase 1

Table 1			
CPS Area	Police force	File examination	Fieldwork dates
CPS Mersey Cheshire	Merseyside Police Cheshire Constabulary	June 2023	July 2023
CPS East of England	Cambridgeshire Constabulary Essex Police	June 2023	July - August 2023

Performance data

We looked at CPS performance data, and specifically some of the key charging measures, to determine whether there was evidence of improved outcomes for police forces and CPS Areas that had moved to the new charging model.

The measures we analysed included:

- Average days to charge (green cases) from submission of a complaint file from the police.
- Cases with charging advice delivered within the prescribed time.
- Cases accepted at first operational delivery triage.
- Cases resulting in an action plan to the police for further work prior to the final charging decision.
- Timeliness of service of initial details of the prosecution case (IDPC) on the court and defence.
- Guilty pleas at first hearing.
- Cases dropped at or before the first hearing (CPS and police charged).
- Compliance with directions in the Crown Court.

File examination

We assessed cases against a set of questions for the police file, and another for the CPS file. Many of the questions were the same for each. Inspectors from HMCPSI and HMICFRS discussed each of the cases they examined to compare where their judgements were the same and where they differed. This gave us some insight into how accurately information was recorded on each system, how easy it was to access and understand, and how well it was shared between the police and CPS systems. This approach led to some of our key findings on how IT systems support effective case building.

Timetable for fieldwork in Phase 2

Table 2			
CPS Area	Police force	File examination	Fieldwork dates
CPS Cymru Wales	South Wales Police Gwent Police	w/c 14 August	w/c 9 and 16 October

Joint case building by the police and CPS

CPS Southwest	Gloucestershire Constabulary	w/c 11 Sept	w/c 20 November
CPS Northwest	Greater Manchester Police	w/c 25 Sept	w/c 27 November

Annex C
**Charging arrangements,
disclosure of unused
material and the new
charging model**

The charging stage of a prosecution case

There are different ways in which a criminal case reaches the courts, including police charging for less serious allegations (such as low value shop thefts), and close engagement from the very earliest stages between specialist police and CPS teams for the most serious casework (such as rape and serious sexual assaults). For the middle tranche of cases, which is the type of casework we are concerned with in this inspection, charging is usually the earliest stage at which the police force presents its case to the CPS and the CPS reviews it to determine if it meets the test for prosecution set out in the Code for Crown Prosecutors⁹.

Over recent years, there have been significant changes in how the police seek, and the CPS delivers, charging advice. When we inspected charging jointly in 2015¹⁰, all cases requiring CPS advice were dealt with by the 24-hour service in the CPS, called CPS Direct (CPSD). There were significant backlogs that had built up, leading to tensions in the working relationships between the police and CPS.

In 2016, the CPS decided that Areas should take responsibility for charging in cases where the suspect was on bail, or could be released on bail, or had been released under investigation. Cases with a suspect in custody where bail was not appropriate continued to be reviewed by CPSD. Areas charged other cases with a target of five, 21 or 28 days depending on complexity of the case and the Area. However, as we reported in HMCPSP's inspection of charging in 2020¹¹, delays persisted.

In 2018, the police and CPS agreed a new charging model (discussed in more detail below), which was piloted first, then (after a hiatus during the Covid-19 pandemic) rolled out from September 2022.

Other significant changes took place in 2020; these were the introduction of the 6th edition of the Director's Guidance on Charging¹² (DG6) and the Attorney General's Guidelines on Disclosure (AGGD), with the latter being updated¹³ in 2022. The statutory disclosure regime is set out in the Criminal Procedure and Investigations Act 1996 (CPIA) as amended and in the Code of Practice issued under the CPIA.

⁹ [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk)

¹⁰ [Joint Inspection of the Provision of Charging Decisions \(justiceinspectorates.gov.uk\)](https://www.justiceinspectorates.gov.uk)

¹¹ <https://www.justiceinspectorates.gov.uk/hmcpssi/inspections/charging-inspection-2020/>

¹² [Charging \(The Director's Guidance\) - sixth edition, December 2020, incorporating the National File Standard | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk)

¹³ [Attorney General's Guidelines on Disclosure - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Joint case building by the police and CPS

The AGGD and Code of Practice introduced a rebuttable presumption in favour of disclosing certain categories of unused material. This acknowledged that there are certain materials generated during an investigation which often contain relevant information which may undermine the prosecution case or assist the defence case, so will usually be disclosable. Prosecutors and investigators are required to proceed from the starting point that these items will be disclosable, a presumption which can be rebutted with a considered application of the disclosure test. These items are called rebuttable presumption (RP) material.

Examples of RP material include:

- tapes or recordings of messages (such as 999 calls) which include a description of the suspect.
- incident logs and crime reports.
- previous accounts by the complainant or a witness.
- any information casting doubt on the reliability of a witness, such as previous convictions.

DG6 and AGGD were designed to improve the disclosure of unused material. Failings in disclosure have led to high-profile miscarriages of justice, and to cases being stopped, often at a very late stage, when items of unused material which undermine the prosecution case come to light.

AGGD and DG6 were focused on getting disclosure right and getting it done early so the impact of unused material on the evidence was known from the outset. If adhered to, they should prevent cases being charged where there is fatally undermining material. This avoids unnecessary work for the police, CPS, defence and the court, and raising false expectations on the part of a complainant, and ensures that a fair decision is reached in a timely way for the suspect.

DG6 also sets out a step-by-step guide for police officers and prosecutors, guiding them logically through the charging process, and providing extensive detail for prosecutors and police on their specific responsibilities.

The cumulative effect of these changes is that a file submitted by the police to the CPS for a charging decision must meet the standards set out in DG6. This includes compliance with the agreed national file standard in Annex 5. If a not guilty plea is anticipated, the file must also contain schedules listing the unused material, and copies of any items that may potentially be disclosable, including those classified as RP material.

The new charging model

The CPS and National Police Chiefs' Council (NPCC) rolled out a new charging model in September 2022, following piloting and testing of proof of concept since 2018 (with a hiatus during the Covid-19 pandemic).

The new model introduced two routes for the police to seek and for the CPS to deliver charging advice and decisions:

- Red cases, where the suspect is in custody, and there will be a properly justified application for a further remand in custody if charged. The charging decision is to be made within three hours of the submission by the police of a pre-condition compliant file to the CPS. CPS Areas provide charging advice between 9am and 5pm, and CPS Direct cover outside those hours, and during weekends and public holidays.
- Green cases, which are all other cases submitted for charging advice. The charging decision is to be made by the CPS Area within 28 days of submission by the police of a pre-condition compliant file.

A pre-condition compliant file is one that meets the requirements of the Director's Guidance on Charging (6th edition) (DG6)¹⁴ and the National File Standard (NFS)¹⁵. The police must ensure that the case file has been properly supervised and quality assured, and that all material has been redacted where necessary to prevent unauthorised disclosure of personal information in breach of the Data Protection Act 2018. There are joint principles for redaction¹⁶ agreed between the NPCC and the CPS.

Compliance is evaluated by the CPS, firstly in an operational delivery triage when cases are received over the two-way interface between the police and CPS systems, and secondly by lawyers' completion of the Director's Guidance Assessment (DGA) on the case management system. This should be done when they apply the Full Code Test for the first time in a case, as set out in the Code for Crown Prosecutors¹⁷. The CPS must redact personal information from material they send to the court and defence.

Of the Areas whose files we examined, CPS Wales (which was also a pilot Area) and CPS Mersey Cheshire, with their respective forces, rolled out in September

¹⁴ [Charging \(The Director's Guidance\) - sixth edition, December 2020, incorporating the National File Standard | The Crown Prosecution Service \(cps.gov.uk\)](#)

¹⁵ The National File Standard is set out in Annex 5 of the Director's Guidance on Charging 6th edition

¹⁶ <https://knowledgehub.group/documents/49300605/0/Joint+Principles+for+Redaction+-+FINAL.docx/b6d4e0e4-6ccf-30c3-c043-5f4fe3070a7f?t=1633975497209>

¹⁷ [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](#)

Joint case building by the police and CPS

2022. CPS Yorkshire Humberside, and CPS East of England had only just rolled out when we carried out our file examination, and CPS North West and CPS South West have, at the time of writing, yet to roll out the new charging model.

HM Crown Prosecution Service Inspectorate

London Office

7th Floor, Tower
102 Petty France
London SW1H 9GL
Tel. 020 7210 1160

York Office

Foss House, Kings Pool
1–2 Peasholme Green
York, North Yorkshire, YO1 7PX
Tel. 01904 54 5490

HM Inspectorate of Constabulary Fire and Rescue Services

23 Stephenson Street
Birmingham
B2 4BH

© Crown copyright 2023

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence.

To view this licence,

visit nationalarchives.gov.uk/doc/open-government-licence/

or write to the Information Policy Team, The National Archives, Kew,
London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk

This document/publication is also available on our website at
justiceinspectorates.gov.uk/hmcpsi