

THE INSPECTORATE'S REPORT
on
THE FYLDE BRANCH
of
CPS MERSEY/LANCASHIRE

Fylde Branch



BRANCH OFFICE

◆ Blackpool

SUB-BRANCH OFFICE

Lancaster

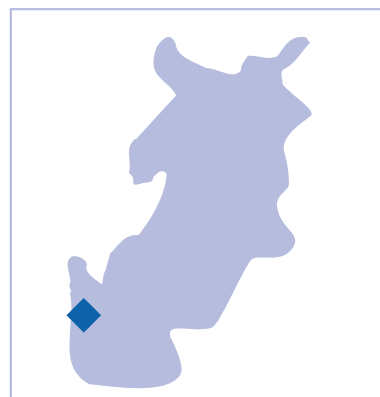
COURTS COVERED

Magistrates' Courts

Blackpool
Fylde (sitting at Lytham)
Lancaster
Wyre (sitting at Fleetwood)

Crown Court

Lancaster
Preston



REPORT ON THE INSPECTION OF THE CPS FYLDE BRANCH

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INTRODUCTION

- 1.1 This is the Crown Prosecution Service Inspectorate's report about the quality of casework in the Fylde Branch of CPS Mersey/Lancashire.
- 1.2 A good casework decision is one which results in the right defendant being charged with the right offence in the right tier of court at the right time, thereby enabling the right decision to be taken by the court. The decision must also be taken at the right level within the Crown Prosecution Service (CPS) and be prosecuted by the right prosecutor.
- 1.3 The purpose and aims of the Inspectorate are set out on the inside back cover of this report. The inspection process focuses on the core business of the CPS: providing advice; reviewing cases; preparing cases; and presenting cases in court.
- 1.4 The Fylde Branch is in the CPS Mersey/Lancashire Area and has its principal office at Blackpool, with a sub-office at Lancaster. On 16 November 1998, it employed 56 staff (the Branch Crown Prosecutor (BCP) and 21.6 other prosecutors; one senior caseworker and 25.6 other caseworkers; and 6.8 administrative staff).
- 1.5 The Branch comprises two teams. The Blackpool team (10.9 prosecutors, 15.6 caseworkers and two administrative staff) is responsible for the conduct of prosecutions in the magistrates' courts at Blackpool and Fylde. The Lancaster team (10.7 prosecutors, ten caseworkers and two administrative staff) is responsible for the conduct of prosecutions in the magistrates' courts at Lancaster and Wyre. Each team is also responsible for Crown Court cases originating from its magistrates' courts.

- 1.6 The team of four inspectors visited the Branch between 16 and 27 November 1998. During this period, we observed ten CPS advocates in the magistrates' courts at Blackpool, Fylde, Lancaster and Wyre and in the Blackpool and Fylde Youth Courts. We also observed a CPS advocate, CPS caseworkers and counsel in the Crown Court sitting at Preston.

CONCLUSIONS AND RECOMMENDATIONS

- 2.1 The Branch has two offices, and the members of the Lancaster team are based partly at Blackpool and partly at Lancaster. Branch managers have addressed the difficulties in achieving consistency that this could produce in a variety of ways, including the successful introduction of a Branch manual on case preparation, the circulation of regular updates on legal developments, and the provision of legal training at both offices.
- 2.2 The Branch has good relationships with other criminal justice agencies and court users. Overall, the standard of decision-making is good, and the proportion of failed cases is well below the national average. Case preparation is assisted by the use of some well-designed checklists, which contain instructions for prosecutors and caseworkers.
- 2.3 However, the evidence in some cases needs to be analysed more carefully at key stages. The timeliness of casework decisions and some aspects of case preparation need improvement. In particular, review endorsements need to be fuller, and should be used to prepare better quality instructions to counsel.

- 2.4 To assist the Branch in improving its casework, we recommend that:
- i the BCP should introduce a system to ensure that pre-charge advice is always linked to an ensuing prosecution file (paragraph 4.6);
 - ii the BCP should review the action-dating system to ensure that pre-charge advice is given to the police within 14 days (paragraph 4.12);
 - iii the BCP should ensure that timely and effective initial review is carried out in all cases (paragraph 5.8);
 - iv prosecutors should complete and return forms TQ1 in all appropriate cases, to enable the police to compile accurate statistics on the quality and timeliness of file submission (paragraph 5.12);
 - v the BCP, in conjunction with the police, should use Joint Performance Management (JPM) information to increase the proportion of police files which are both timely and of good quality (paragraph 5.14);
 - vi in cases where the defendant is remanded in custody, prosecutors should endorse fully the reasons for opposing bail, and the reasons given by the court for refusing bail (paragraph 5.26);
 - vii the BCP should ensure that effective review is carried out in all cases, and that decisions to terminate cases or amend charges are taken at the earliest opportunity (paragraph 5.35);
 - viii prosecutors should ensure that they review Crown Court cases effectively, and deal with all the issues in the case (paragraph 5.45);
 - ix the Branch management team (BMT) should:
 - amend the Branch manual’s guidance on review endorsements;
 - ensure that prosecutors make fuller review endorsements in all appropriate cases; and
 - monitor the quality of review endorsements (paragraph 5.50);
 - x the BCP should ensure that the whole Branch is able to learn from its cases, both convictions and acquittals (paragraph 5.52);

- xi the BCP should ensure that sensitive unused material is stored securely, and that schedules of such material are completed in all relevant cases, to provide evidence that the correct decisions and action have been taken (paragraph 6.12);
- xii prosecutors and caseworkers should ensure that instructions to counsel fully address the issues in the case, and, where appropriate, the acceptability of pleas (paragraph 6.27);
- xiii the BMT should ensure that the custody time limit expiry and review dates are calculated and endorsed correctly on every file, and that the procedures and practices in relation to the monitoring of time limits are uniform throughout the Branch (paragraph 6.40);
- xiv the BCP, in conjunction with the Crown Court, should seek earlier listing and disposal of child abuse cases (paragraph 8.3).

THE INSPECTION

- 3.1 In the year ending 30 September 1998, the Branch dealt with 19,018 defendants in the magistrates’ courts and 1,570 defendants in the Crown Court. In a further 303 cases, advice was given to the police before charge.
- 3.2 The inspection team examined a total of 248 cases, ranging from those where an acquittal was directed by the judge, through those where the prosecution terminated proceedings, to those where the defendant pleaded guilty. The team interviewed members of staff in the Branch and local representatives of the criminal justice agencies that directly affect, or are affected by, the quality of casework decisions taken in the Branch. A list of those representatives from whom we received comments is at the end of this report.

PROVIDING ADVICE

Appropriateness of requests for advice

- 4.1 In the year ending 30 September 1998, advice cases constituted 1.6% of the Branch's total caseload, compared with the much higher rate of 4.2% nationally.
- 4.2 Despite this low rate, and the efforts being made by the police to filter out inappropriate requests for advice, Branch staff told us that some cases are inappropriately submitted. We found one such case. The prosecutor gave advice, without pointing out the inappropriateness of the request.
- 4.3 There is no formal agreement with the police about the types of case which should be submitted for pre-charge advice. The BCP, in consultation with the BCPs for the Burnley and Preston Branches, has drafted guidelines on the referral of cases to the CPS for advice, and these have been circulated to the Lancashire Constabulary. We are pleased to note this, and trust that the BCPs will soon reach an agreement with the police.
- 4.4 Prosecutors give advice to police officers over the telephone. Such advice should be noted and recorded in the Branch's Performance Indicators (PIs). The system is not always complied with, and one team is not recording many telephone advices. The system has been in place for some considerable time, and prosecutors are reminded of it regularly. The BCP will wish to ensure that the good practice commended in the Inspectorate's report on the review of advice cases, which was published in September 1998 (Thematic Report 3/98), is followed throughout the Branch. This will ensure that all telephone advice is properly dealt with and recorded.
- 4.5 The Branch relies on the police to identify cases where previous advice has been given, and to

indicate this on the prosecution file. In practice, some files are not readily identified as being cases involving earlier advice. This applies both to formal requests for advice, and to requests made by telephone. It is important to ensure that advices are linked to subsequent prosecution files, so that the prosecutor is aware of the previous CPS involvement, and to ensure continuity of approach.

4.6 We recommend that the BCP should introduce a system to ensure that pre-charge advice is always linked to an ensuing prosecution file.

Quality of advice

- 4.7 Advice files are allocated to prosecutors according to their experience and expertise. The Prosecution Team Leaders (PTLs) monitor the quality of advice given by examining one advice file for each prosecutor quarterly. In addition, they discuss the more difficult cases with prosecutors, before advice is given to the police.
- 4.8 Overall, the quality of advice is good. We agreed with the advice given in all ten cases that we examined. Six were typed. In one, the nature and complexity was such that the long advice should have been typed. In the main, the advices were appropriately reasoned. In the case that we refer to above, however, we considered that it was premature to give advice, as the prosecutor should have considered video evidence before doing so, and should have dealt with the issue of credibility of witnesses in greater detail in the advice. It is important that prosecutors consider all the available evidence, and deal with all the issues in the case, in order to ensure that correct advice is given.

Timeliness of advice

- 4.9 The CPS has set a target of providing advice within 14 days of receipt of the file from the police. It was provided within this target in only four of the ten cases (40%) that we examined.
- 4.10 Each advice file is given a 14 day action-date, and prosecutors are reminded to deal with the case on that date. There is no other monitoring of timeliness. The system is not effective in ensuring timeliness, as a case not dealt with by the action-date will inevitably be late.
- 4.11 Late advice can clearly cause delay in prosecutions being commenced. It can also, on occasion, lead to the police having to extend the bail of persons who have been bailed to return to the police station.
- 4.12 We recommend that the BCP should review the action-dating system to ensure that pre-charge advice is given to the police within 14 days.**

Advice from counsel

- 4.13 Advice from counsel is rarely sought before charge or committal. Any such request has to be authorised by the BCP. We saw one case in the sample where advice from counsel had been sought before committal. It was a difficult case involving multiple allegations of child abuse, and it was appropriate to seek counsel's advice at an early stage.
- 4.14 Prosecutors exercise their discretion in seeking advice from counsel in cases that have been committed to the Crown Court. This discretion includes the seeking of advice in conference. We saw four cases in the sample where advice had been sought in the original instructions to counsel. Only one request was appropriate. In the other three cases, the issues were clear and a

Branch prosecutor could have made the appropriate decision.

- 4.15 Branch managers are fully aware of the need to ensure that only appropriate requests are made for advice from counsel post-committal. They monitored the position between 1 January and 31 March 1998, and found that the vast majority of the requests were appropriate. In view of our findings, the BMT will wish to monitor the position further.

REVIEWING CASES

Quality of review decisions

- 5.1 Under the Prosecution of Offences Act 1985, the CPS is required to review every case it deals with in accordance with the Code for Crown Prosecutors (the Code). It must establish whether there is sufficient evidence for a realistic prospect of conviction, and whether it is in the public interest to prosecute the matter.
- 5.2 We found that Branch prosecutors are making good review decisions. We inspected the quality of the review decision in 80 files, covering cases in the magistrates' courts and the Crown Court. We agreed with the assessment of the evidence in all 80 cases.
- 5.3 In one of these cases, however, although we agreed with the decision to prosecute, there was a failure to analyse the evidence properly. The defendant had been charged with wounding with intent to cause grievous bodily harm, in circumstances where it was unlikely that the necessary intent could be proved. A decision to proceed only with an offence not requiring proof of intent was made at the Crown Court, following an indication from the judge that the more serious charge was inappropriate. This decision should have been made much earlier, and certainly by committal. We take late

decision-making in the selection of charges further at paragraph 5.35.

- 5.4 We agreed with public interest decision in all 80 cases.
- 5.5 We commend the high standard of decision-making by prosecutors in the Branch.

Timeliness of review

- 5.6 The Branch's own figures show that, in August 1998, 71.5% of new files were reviewed within seven days of receipt. We found that only 53 of the 80 cases (66.3%) in our sample were reviewed within seven days, or by the first date of hearing. Of the 27 cases which were not reviewed on time, 14 were received on the day of the first court appearance, but were not reviewed until after the case had been adjourned. The BCP will wish to consider whether advocates ought to be in a position to undertake an initial review of files received at court, and to endorse the files accordingly.
- 5.7 Late review can delay progress in the case and reduces the time available for liaison with the police about further evidence, amendments to charges, or possible discontinuance.
- 5.8 We recommend that the BCP should ensure that timely and effective initial review is carried out in all cases.**
- 5.9 The timeliness and quality of files submitted by the police affect the ability of Branch prosecutors to review cases promptly and effectively. Branch and police managers monitor the quality and timeliness of submission of files through JPM. The reviewing prosecutor should complete a form, referred to as a TQ1, showing the date when the file was received and the prosecutor's assessment of its quality. The form should be returned to the police, so that the results can be collated.

5.10 The value of these figures depends on Branch staff completing and returning a high proportion of TQ1s to the police. Police representatives told us that the return rate was poor, and did not exceed approximately 75%. We noted that some of the files in our sample still had the forms on them.

5.11 The low return rate can be explained, in part, by the fact that police record only those forms returned in the month in which they were submitted to the CPS. The system will inevitably mean that the TQ1s will not be counted if the file was sent in the last few days of the month. Additionally, one police division was submitting TQ1s in inappropriate circumstances. These forms were, quite properly, not being returned to the police. The BCP, in conjunction with the police, will no doubt want to resolve these difficulties. Although these factors may affect the figures for the return rate, it is nevertheless clear that the forms are not being returned in all appropriate cases, and this is preventing a clear joint assessment being made of the quality of police files.

5.12 We recommend that prosecutors should complete and return forms TQ1 in all appropriate cases, to enable the police to compile accurate statistics on the quality and timeliness of file submission.

5.13 The JPM figures for the quarter ending 30 September 1998 suggest that only 60.1% of all files submitted by the police were fully satisfactory and sent within the agreed time guidelines. Late delivery of fully satisfactory files by the police hinders effective review, and can result in papers being served on defence solicitors at a late stage, with the consequence that cases have to be adjourned.

5.14 We recommend that the BCP, in conjunction with the police, should use JPM information

to increase the proportion of police files which are both timely and of good quality.

Selection of the appropriate charge and charging standards

- 5.15 Police charges required amendment in 15 of the 80 cases (18.8%) that we examined. By amendment, we include instances in which additional charges should have been preferred. Only seven of these (46.7%) were amended at the first opportunity.
- 5.16 Charges in four cases were never amended. Three of these should have specified that a charge of common assault involved beating, and the fourth required the addition of a charge alleging an assault occasioning actual bodily harm.
- 5.17 Charges in a further four cases were amended late. One was amended at the second date of hearing. Two others were amended at committal, but we are not critical of this in one of them, in which counsel's advice was sought on the drafting of the indictment. In the fourth case, the correct charge was not finalised until the start of the Crown Court trial, and we have already referred to this in paragraph 5.3.
- 5.18 In another case, which we saw being presented in court, a defendant had been charged with assault occasioning actual bodily harm. The reviewing prosecutor had correctly identified that the appropriate charge was one of common assault, but had not taken any steps to amend the charge before the hearing. The case was adjourned without either an amendment being made, or an indication that there was to be one made in the future.
- 5.19 It is important that charges are amended as soon as the need arises, so that defendants know the extent of the case against them as early as possible. We take this further in paragraph 5.35.

- 5.20 The CPS and the police nationally have agreed charging standards for assaults, public order offences and some driving offences, to ensure a consistent approach to levels of charging. We agreed with the application of the standards in all 40 relevant cases in our sample, and consider that Branch prosecutors apply these standards very well, subject to our concern about timeliness.

Mode of trial

- 5.21 Representatives of other criminal justice agencies told us that prosecutors generally make appropriate representations on mode of trial, and that they provide magistrates with helpful information.
- 5.22 Mode of trial representations accorded with the Lord Chief Justice's guidelines in all 36 relevant cases in our sample. We disagreed, however, with the representations in another case that we examined. We considered that a case of assault occasioning actual bodily harm, involving a person's head being hit on the pavement, was too serious for summary trial, whereas the prosecutor had submitted that it was suitable. The magistrates had accepted jurisdiction but, in the event, the defendant elected Crown Court trial.
- 5.23 The reviewing prosecutor made a written record of the relevant considerations in only ten of the 36 cases (27.8%). It is important that prosecutors make such records, in order to assist colleagues when dealing with cases in court. We deal with the quality of review endorsements in paragraphs 5.47 - 5.50.

Bail

- 5.24 We were told that prosecutors generally opposed bail in appropriate cases, and made well-structured applications for remands in custody in the magistrates' courts.

5.25 We examined 17 cases where the defendant appeared in custody, and an appropriate decision whether to oppose bail was made in each case. However, the reasons for opposing bail were endorsed on the file in only ten of the 17 cases (58.8%); and the reasons for the court refusing bail were endorsed in only 14 (82.4%). It is important that prosecutors endorse these reasons, in order to assist their colleagues in dealing with subsequent applications for bail.

5.26 We recommend that, in cases where the defendant is remanded in custody, prosecutors should endorse fully the reasons for opposing bail, and the reasons given by the court for refusing bail.

5.27 We were also told that prosecutors do not always indicate whether they oppose bail in cases involving a breach of bail. We observed one such case at court. In presenting the case, the prosecutor did not indicate whether or not the prosecution opposed bail. On examining the file, we considered that the police had not provided sufficient information to make such a decision. Branch staff suggested that prosecutors are not always given all the information that they require, and police representatives accepted this may sometimes be the case.

5.28 A breach of bail does not automatically remove the right to bail. However, unless prosecutors are in possession of all relevant facts in cases where a breach of bail is alleged, they cannot make a decision about whether to oppose bail. The BCP will wish to discuss with the police the information required in these cases.

Discontinuance

5.29 The Branch's discontinuance rate of 13.2%, for the year ending 30 September 1998, is higher than the national average (12%). We examined a

sample of 104 cases stopped by the prosecution in the magistrates' courts, to look at the reasons for the terminations.

5.30 Thirty-two cases (30.8%) were stopped because there was insufficient evidence, and 25 (24%), because it was not in the public interest to prosecute. In 14 cases (13.5%), the prosecution was unable to proceed because, for example, witnesses refused to give evidence, or failed to attend court. Thirty-three cases (31.7%) were stopped because defendants produced their driving documents. This is a high proportion, and the BCP, in conjunction with the police and the magistrates' courts, will wish to consider the use of offences of failing to produce documents.

5.31 Of the 104 cases, 37.5% of the cases were formally discontinued under section 23, Prosecution of Offences Act 1985, and 57.7% were withdrawn at court. In the remaining 4.8%, no evidence was offered by the prosecution.

5.32 We examined ten terminated files, in order to assess whether the Code tests had been correctly applied. We agreed with the decisions taken in all of them.

5.33 Four of the ten cases (40%), however, were not discontinued at the earliest opportunity. In two, there was delay between the receipt of additional information and the review which led to the cases being terminated. In one, while this delay occurred, the defendant was kept in custody. In the third case, the delay was caused by a failure to link relevant information to the case papers. Failure to check with police whether further information would be forthcoming delayed the decision to terminate in the fourth case.

5.34 A late decision to discontinue means that unnecessary resources are devoted to continuing with a case, not only by the Branch, but also by other agencies in the criminal justice system. The

implications for the defendant are self-evident. The same issue of delay in decision-making in relation to the amendment of charges was referred to in paragraphs 5.15 - 5.19.

5.35 We recommend that the BCP should ensure that effective review is carried out in all cases, and that decisions to terminate cases or amend charges are taken at the earliest opportunity.

5.36 In two further cases, we could not ascertain the reasons for termination. In one, this was because there was insufficient information in the file endorsement. In the other, there was no endorsement at all. This is another example of poor quality review endorsements, which we deal with at paragraph 5.50.

Cases lost on a submission of no case to answer in the magistrates' courts and discharged committals

5.37 The Branch PIs show that, in the year ending 30 September 1998, 16 trials were stopped by the magistrates at the close of the prosecution case. This is 0.1% of the Branch's caseload, which is half the national average of 0.2%. We examined one such case and agreed with the initial decision to proceed. We found, however, that the case would have benefited from a careful analysis of the strength of the evidence. Instead, the only review endorsement was a tick to show that the case had been accepted. This is a further example of the poor quality of review endorsements, which we deal with at paragraph 5.50.

5.38 In the same period, eight defendants were discharged at committal after the magistrates decided that there was insufficient evidence to commit them to the Crown Court for trial. Two cases (involving four defendants) were recorded

for the period from which our file sample was selected. They were both incorrectly categorised. Although incorrect categorisation of cases does not appear to be a major problem for the Branch, the BCP will wish to ensure that all staff are properly trained on the recording of PI information.

Judge ordered and judge directed acquittals

5.39 In the year ending 30 September 1998, 66 cases were not proceeded with in the Crown Court. This represents 5.9% of the Branch's caseload, which is lower than the national average of 8.8%. The great majority were stopped by the judge at the request of the prosecution before the trial started (judge ordered acquittals).

5.40 We examined 21 judge ordered acquittals. We disagreed with the decision to prosecute in two. In one case, there was no evidence against one of two defendants jointly charged with theft. In the other case, there were difficulties in proving ownership of the property alleged to have been stolen. There was no review endorsement in either case, nor was there any analysis of the issues in the instructions to counsel.

5.41 In another case, although we agreed with the decision to prosecute, the wrong offence was charged. There was insufficient evidence to prove that one of the two defendants charged with burglary had entered the premises, or had participated in the particular burglary, although there was sufficient evidence to show that he had committed the offence of conspiracy to commit burglary. Proper analysis of the evidence would have identified the need to alter the charge.

5.42 In the same period, there were eight cases in which the judge directed an acquittal after the trial had started. This represents 0.8% of the Branch's caseload, which is considerably lower than the national average of 2.2%.

5.43 We agreed with the original decision to prosecute in all three judge directed acquittals that we examined. In one of these cases, however, the reviewing prosecutor failed to analyse the evidence effectively. The case involved an allegation of assault. There was inconsistent evidence about whether the defendant had a weapon in his hand, although there was evidence to show that he had assaulted the victim. The prosecutor should have sought evidence to overcome the inconsistencies, and should have considered whether the case could have been presented with alternative charges. Although the reviewing prosecutor identified the problem, an alternative charge was not added, nor were the issues included in the instructions to counsel. A proper analysis of the evidence may have resulted in the case being presented in a different way, and increased the prospects of a conviction.

5.44 The four cases we have described above all had evidential difficulties. These were either not identified, or no action was taken to remedy them. A thorough review at committal should have identified these difficulties, and steps should have been taken to resolve them, or to stop the case, as appropriate.

5.45 We recommend that prosecutors should ensure that they review Crown Court cases effectively, and deal with all the issues in the case.

5.46 An endorsement was not made at initial review in two of these cases, and in three, the instructions to counsel did not contain any analysis of the issues. We make recommendations about these matters at paragraphs 5.50 and 6.27.

Review endorsements

5.47 We have commented on the poor quality of some review endorsements at paragraphs 5.23, 5.36,

5.37 and 5.46. The reviewing prosecutor had made an appropriately full note of the evidential issues in only 24 of the 80 cases (30%) in our sample. Public interest factors were fully endorsed in only 18 cases (22.5%).

5.48 In many cases, we found little evidence of the reviewing prosecutor's analysis of the issues. There was no review note at all in others. In the absence of good review endorsements, it is very difficult for anyone else dealing with the file to identify the factors which were taken into account when the decision to proceed was made. This makes it difficult for another prosecutor to make decisions about the progress of the case.

5.49 We were concerned to note that the Branch manual's guidance on review endorsements does not require prosecutors to endorse their analysis of the evidence and public interest considerations in abbreviated files. Abbreviated files carry the expectation that the defendant will plead guilty, but the offences may be serious and may carry sentences of imprisonment.

5.50 We recommend that the BMT should:

- **amend the Branch manual's guidance on review endorsements;**
- **ensure that prosecutors make fuller review endorsements in all appropriate cases; and**
- **monitor the quality of review endorsements.**

Learning from experience

5.51 Caseworkers complete adverse case reports in judge ordered and directed acquittals, which are then passed to the reviewing prosecutor for comment. The reports are then sent to the senior caseworker, who prepares a monthly summary for the BCP and PTLs. There is no general discussion of failed cases or casework issues in

the Branch, nor are there any mechanisms for sharing successful casework lessons. Branch prosecutors and caseworkers are losing opportunities to learn from all cases.

5.52 We recommend that the BCP should ensure that the whole Branch is able to learn from its cases, both convictions and acquittals.

5.53 Branch staff are kept up to date on developments in the law. The BCP prepares a legal bulletin, in which national and Area circulars are summarised, on a regular basis. In addition, Branch staff receive formal training. There is an active Branch training committee, which provides regular training on new developments. Some Branch staff have also recently attended training days arranged by the Area.

5.54 Prosecutors and caseworkers need to work together closely in dealing with cases in both the magistrates' courts and the Crown Court. The geographical area covered by the Branch provides its own problems, and staff are often away from the office. The need to overcome inherent communication problems through regular and constructive Branch and team meetings is something that the BCP is fully aware of, and is taking action to address.

PREPARING CASES

6.1 The Branch has a manual, which contains guidance on case preparation. It has recently been updated, and has put national practice into a local context. Members of the Branch told us that they found the manual helpful in preparing their cases. This is a good initiative in seeking to achieve consistency in systems.

6.2 The Branch also has a number of useful checklists, which are used by staff to assist in case preparation. These include action sheets for summary trials, committals and cases for

transfer, which help to ensure that all necessary steps are taken.

Advance information

6.3 Caseworkers prepare advance information in accordance with instructions given by prosecutors. Prosecutors check the material before it is given to the defence. In some cases, it is provided to the defence prior to the first date of hearing, but, usually, it is only provided at the hearing.

6.4 National guidelines require advance information to be provided within seven days of the Branch being in possession of the file from the police and knowing the identity of the defence solicitor. Branch staff monitor the timeliness of the provision of advance information. During August 1998, it was sent within seven days of receipt of the file in 82.8% of cases. It was served promptly in 28 out of 33 relevant cases (84.8%) in the sample that we examined. The BCP will wish to improve these figures further, and to ensure that advance information is sent out before the first hearing date, whenever possible.

6.5 The Branch receives requests for advance information in cases in which the law does not require the prosecution to provide it. Branch policy is that such disclosure should be given in all cases where there is a pre-trial review (PTR). There is no guidance on its provision in other cases, and it is left to the discretion of the individual prosecutor. In practice, prosecutors' responses vary, and there are variations between magistrates' courts practices in the fixing of PTRs (see paragraph 6.15).

6.6 It is important that prosecutors adopt a consistent approach, so that defence solicitors can be confident that requests are considered in an objective manner. The BCP will wish to consider providing guidance to ensure that a common

approach is adopted by prosecutors to requests for advance information in cases where the law does not require it.

Unused and sensitive material

- 6.7 All prosecutors and caseworkers received training on the disclosure provisions in the Criminal Procedure and Investigations Act 1996 (CPIA) when they first came into force. A Branch prosecutor has also recently delivered further training. Branch staff generally understand the provisions and apply them properly.
- 6.8 We found that the unused material disclosure schedule had been correctly completed in 48 out of 56 relevant cases (85.7%). Disclosure was made in 54 out of 55 relevant cases (98.2%) and was timely in 50.
- 6.9 We were particularly pleased to note that prosecutors are properly considering unused material in summary trials. The disclosure schedule had been served in all but one of the 26 relevant cases that we examined. In our experience, these figures are good.
- 6.10 Branch prosecutors do not deal with sensitive material so well. The relevant disclosure schedule had been correctly completed in only two out of the eight relevant cases (25%) in our sample. It appeared that failure to complete the schedules had not had an adverse effect on disclosure. It is important, however, that the schedules are correctly completed, to show that they have been considered, and that the correct action has been taken.
- 6.11 The schedules are usually kept on the files, although any that contain sensitive information should be stored securely. We were concerned to note in one case that the schedule, which contained sensitive information, and the material

itself, had been left on the file. It is essential that such material and information is stored securely, in order to ensure that it is not improperly disclosed.

6.12 We recommend that the BCP should ensure that sensitive unused material is stored securely, and that schedules of such material are completed in all relevant cases, to provide evidence that the correct decisions and action have been taken.

- 6.13 We were told by Branch staff that, on occasion, orders for disclosure are made at plea and directions hearings (PDHs), before a defence statement has been served. Under the CPIA, such a statement is normally required before the prosecution is under any obligation to provide secondary disclosure. The BCP will wish to discuss the disclosure provisions with other members of the criminal justice agencies, to ensure that the proper procedure is followed.

Summary trial preparation

- 6.14 A summary trial checklist is used by prosecutors in preparing all summary trials. The form includes instructions to caseworkers about which witnesses should be warned, and which statements need to be served under section 9, Criminal Justice Act 1967. It also includes instructions about unused material.
- 6.15 Blackpool Magistrates' Court holds PTRs for cases estimated to last more than half a day, while Lancaster Magistrates' Court holds them for cases estimated to last more than two hours. At the time of our visit, PTRs had just been introduced at Fylde Magistrates' Court, and were about to be introduced at Wyre Magistrates' Court.
- 6.16 The purpose of PTRs is to ensure that the prosecution and defence are ready to proceed on

the date fixed for trial. We were told by magistrates' courts users that they have been successful in reducing the length of trials.

- 6.17 We examined 29 summary trials. In 25 cases (86.2%), the police were told promptly which witnesses to warn. Appropriate statements were served under section 9, Criminal Justice Act 1967 in all 18 relevant cases.
- 6.18 Prosecutors are aware of the procedure for agreeing admissions of fact under section 10, Criminal Justice Act 1967. We saw two cases where admissions had been made.
- 6.19 Prosecutors are also familiar with section 23, Criminal Justice Act 1988. Subject to certain conditions, this enables a witness' statement to be read to the court if he or she is outside the United Kingdom, or is mentally or physically unfit to attend court, or is too frightened to attend court. We did not see any examples where it would have been appropriate to use this section.
- 6.20 The Branch does not have a high rate of contested trials, and those it does have are prepared to a high standard, subject to our earlier comments about the timeliness of decisions.

Committal preparation

- 6.21 National guidelines require committal papers to be prepared and served by Branch staff within 14 days, in cases where the defendant is on bail, and within ten days, if the defendant is in custody, once they have received a complete file from the police.
- 6.22 Branch statistics for July 1998 show that 87.5% of committal papers were served within the CPS guidelines. We examined a sample of 30 cases. We found that service was timely in 25 out of 28 (89.3%), where timeliness could be ascertained.
- 6.23 Caseworkers usually prepare committals for approval by a prosecutor. In one team, however, the amount of committal preparation undertaken by caseworkers has decreased to 40% of committals, because of sickness.
- 6.24 Committals are prepared using a Branch committal instruction sheet, and the CPS Crown Court Case Preparation Package. The latter produces a series of standard paragraphs, with free-text options for instructions to counsel. These enable the caseworker and prosecutor to prepare a case summary, and to insert information and specific instructions relevant to the case.
- 6.25 The instructions to counsel contained a summary of the case in 26 of the 29 relevant cases (89.7%) in our sample. In our experience, this is a relatively high proportion of cases. However, some summaries did not analyse the issues, and we have referred to the difficulties this can cause in paragraph 5.43. A well prepared summary, which addresses the issues in the case, will always be a useful aid to counsel, particularly in complex cases.
- 6.26 In addition, the instructions addressed the acceptability of any mixed pleas in only three of the 14 cases (21.4%) where that would have been appropriate. The absence of guidance in this area can cause unnecessary delay in the Crown Court, as cases may have to be put back for a prosecutor to be consulted.
- 6.27 We recommend that prosecutors and caseworkers should ensure that instructions to counsel fully address the issues in the case, and, where appropriate, the acceptability of pleas.**
- 6.28 In 24 of the 30 cases (80%) that we examined, the instructions were delivered to counsel within the agreed Bar Standard time guidelines. This figure

is higher than the Branch's own monitoring, which shows that timely instructions were delivered in 70.6% of cases in the quarter ending 30 September 1998. The BCP will want to improve these figures.

Quality of indictments

- 6.29 Branch staff usually draft indictments. Occasionally, counsel is asked to draft the indictment in particularly complex cases. We saw one such example, and the decision to involve counsel was appropriate. We referred to this case in paragraph 4.13.
- 6.30 Amendments to indictments were made in eight out of 30 cases (26.7%). This is a high figure, but most of the amendments were made to accommodate changed circumstances in the case, and were not as a result of poor drafting. This accords with the views of Crown Court users, who considered that indictments were generally drafted appropriately.
- 6.31 Indictments have to be lodged within 28 days of committal or transfer. Twenty-nine of the 30 indictments in our file sample (96.7%) were lodged within the time limit. We were unable to ascertain the position in the remaining case.

The CPS in the Crown Court

- 6.32 The magistrates' courts commit cases to the Crown Court sitting at Preston, as do the magistrates' courts covered by the Burnley and Preston Branches. Following committal, cases may be transferred to the Crown Court sitting at Lancaster. Courtrooms dealing with the Branch's cases are usually covered by a dedicated caseworker. The Branch has a low rate of contested trials in the Crown Court.
- 6.33 Branch prosecutors conduct bail applications in chambers at Preston Crown Court on three days

a week, and conduct all bail applications at Lancaster Crown Court. They also attend all PDHs held in the Branch's cases. We were pleased to see that they familiarise themselves with those cases. This means that they are able to contribute fully to the proceedings, where appropriate. On the occasions when a Branch prosecutor is not at the Crown Court, a duty prosecutor is always available in the office to deal with any queries arising in Crown Court cases.

- 6.34 We were told by a number of Crown Court users, and this was confirmed by some members of the Branch, that prosecutors are not always sufficiently involved with their Crown Court cases. In addition to providing prosecutors with more feedback about results of cases in the Crown Court (see paragraph 5.51), the BCP may wish to consider introducing a system whereby the reviewing prosecutor checks Crown Court cases shortly before trial, in order to ensure that all necessary work has been completed. It is important that prosecutors monitor and maintain appropriate control of their Crown Court cases.
- 6.35 We were told by Crown Court users that Branch staff do not always comply with directions made at PDHs. Our examination of the files did not confirm any widespread non-compliance. Directions were complied with in two of the three cases in our sample. In the third case, secondary disclosure was not made within the time ordered by the judge, but it was unclear from the file why not. The BCP will no doubt wish to maintain a close check on the compliance with PDH orders.

Custody time limits

- 6.36 Custody time limit provisions regulate the length of time during which an accused person may be remanded in custody in the preliminary stages of a case.

6.37 We examined ten files which were subject to custody time limits. In eight, the correct expiry dates were calculated and endorsed appropriately on the file jackets. In the remaining two, the date had been incorrectly calculated, in that the wrong start date for the custody time limit was used. In both cases, this would have meant that the time limit would have expired before the date noted in the Branch records, with the potential result that the accused would be released on bail, instead of remaining in custody. In both cases, the defendants were committed to the Crown Court before the actual expiry of the custody time limit, and so there were no adverse consequences.

6.38 The Branch uses a combination of a diary and a computer-based system for monitoring custody time limits. The two teams used varying review periods for Crown Court cases. There was no apparent reason for this variation, and the BCP will wish to ensure that a consistent review date is calculated and used in every case.

6.39 We were pleased to note that the BCP took immediate action to conduct his own check of a sample of files, as soon as he was told of our findings. We have been informed that a group has been set up to look into the procedures and practices used, in the light of our and the BCP's findings. During this review, the BCP will wish to consider whether senior staff should perform more in-depth spot checks, to ensure the accuracy and integrity of the system.

6.40 We recommend that the BMT should ensure that the custody time limit expiry and review dates are calculated and endorsed correctly on every file, and that the procedures and practices in relation to the monitoring of time limits are uniform throughout the Branch.

File endorsements

6.41 We have made recommendations about the need to improve the quality of review endorsements in paragraph 5.50. The standard of other file endorsements was generally better.

6.42 Out-of-court endorsements were particularly good in Crown Court cases, with all 30 that we examined having endorsements clearly and legibly recorded in the appropriate section of the file. Forty-nine of the 60 relevant magistrates' courts cases (81.7%) were properly endorsed.

6.43 Court endorsements were also of a good standard. Twenty-five out of 30 Crown Court files (83.3%) and 68 out of 80 magistrates' courts files (85%) contained a comprehensive record of case progress in court.

PRESENTING CASES IN COURT

7.1 We observed ten Branch advocates presenting cases in the magistrates' courts and youth court, and one advocate dealing with bail applications at the Crown Court. The overall standard of advocacy was satisfactory; some was good. All advocates were well prepared. We were told that Branch advocates dealt with Crown Court bail applications well. We were pleased to be able to confirm this from our observations.

7.2 The PTLs monitor the advocacy of prosecutors once a year. In addition, they see prosecutors at court on an informal basis. When monitoring is carried out, feedback is given to the prosecutors.

7.3 We observed 11 counsel in the Crown Court. They were all experienced. Monitoring of counsel is mostly informal, although caseworkers make a note of very good, or poor, performance. A representative of another criminal justice agency told us that insufficiently experienced counsel

are, on occasion, instructed to prosecute. The BCP will wish to consider implementing a formal system to monitor counsel's performance to assess the position.

- 7.4 Selecting the right level of counsel in each case requires careful judgement. We came across one case in which the Presiding Judge had expressed views about the appropriate level of prosecution counsel, and in which the CPS had nevertheless decided not to instruct Queen's Counsel. The BCP will want to give particularly careful consideration to such indications in the future, to avoid any perceived imbalance between the strength of the prosecution and defence teams.
- 7.5 Our examination of Crown Court cases showed that counsel originally instructed only dealt with 15 out of 29 PDHs (51.7%) and 12 out of 20 trials (60%). During our observation of PDHs at Preston Crown Court, we noted that counsel originally instructed dealt with only three out of nine cases (33.3%).
- 7.6 The CPS and the Bar Council have agreed that the number of returned briefs should be monitored by chambers on a monthly basis. For the period 1 April to 30 September 1998, figures prepared by chambers, and collated by Branch staff, show that counsel originally instructed dealt with 65.3% of all hearings.
- 7.7 When a brief is transferred, particularly at the last minute, it can mean that counsel is not well prepared, and can involve an unnecessary adjournment of a case. The BCP will want to ensure that discussions take place with representatives of chambers, with a view to seeking a significant reduction in the number of returned briefs.

THE BRANCH AND OTHER AGENCIES

- 8.1 Branch staff enjoy good relationships with all the other criminal justice agencies. The BCP and PTLs attend a number of court user group meetings, where issues of concern can be addressed. Other agencies consider these meetings to be useful. Branch managers also have additional liaison meetings with the police.
- 8.2 Branch prosecutors make good use of the transfer provisions for cases involving child victims or witnesses. These provisions provide for the transfer of these cases from the jurisdiction of the magistrates' courts to the Crown Court, in order to ensure that there is swift progression from charge to disposal. However, we were told, both by members of the Branch and by other Crown Court users, that there can be considerable delay in the listing of these cases. We observed such a case at PDH in Preston Crown Court. A Branch prosecutor had used the transfer provisions, but the date fixed for trial was six months after transfer.
- 8.3 We recommend that the BCP, in conjunction with the Crown Court, should seek earlier listing and disposal of child abuse cases.**
- 8.4 We were told of concern about general delays within the Crown Court. The Court itself is concerned about the rate of cracked trials, that is cases listed for trial that do not proceed upon the fixed date. These include some judge ordered acquittals, and some cases where there is acceptance of late tendered pleas of guilty to the original or new charges. The BCP is not the lead BCP for Preston Crown Court, but will want to play a full role in the analysis of these cases, and the avoidance of any causes of delay.
- 8.5 Branch members work effectively with the Probation Service, and are responsive to any issues raised. Although it has been agreed that

details of the witnesses to be called in trials will be provided to the Witness Service, these details are not always provided before the day of trial. Without this information, the Witness Service is unable to contact witnesses in advance of the hearing. The BCP will want to ensure that the Witness Service is provided with the necessary details, at the appropriate time.

KEY STATISTICS

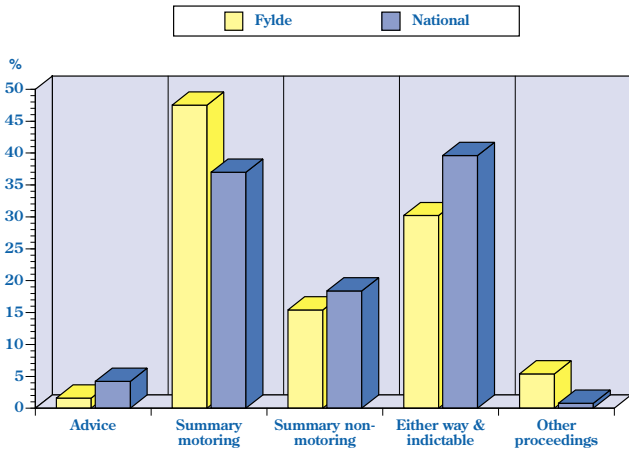
9.1 The charts which follow this page set out the key statistics about the Branch's casework in the magistrates' courts and the Crown Court for the year ending 30 September 1998.

EXTERNAL CONSULTATION

10.1 On page 20, there is a list of the local representatives of criminal justice agencies who assisted in our inspection.

MAGISTRATES' COURTS

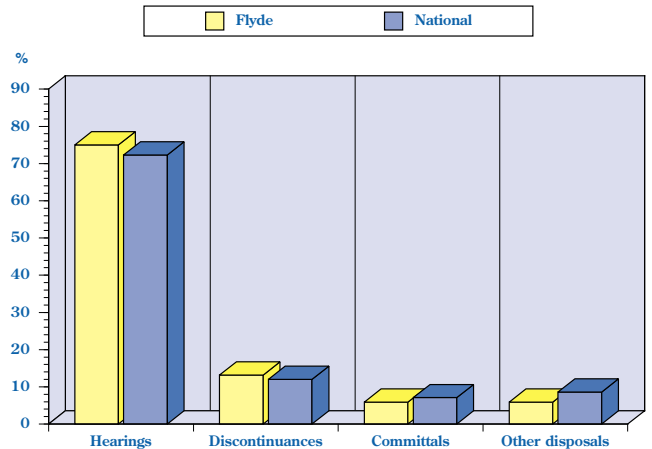
1 - Types of case



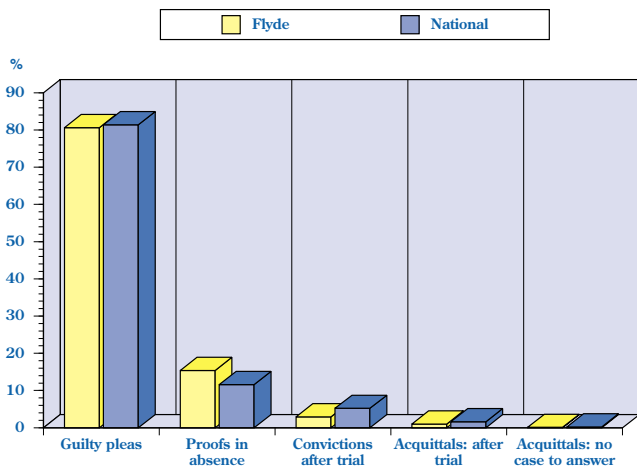
	Fylde		National	
	No.	%	No.	%
Advice	303	1.6	60,220	4.2
Summary motoring	9,168	47.5	530,379	37.0
Summary non-motoring	2,982	15.4	263,469	18.4
Either way & indictable	5,827	30.2	567,549	39.6
Other proceedings	1,041	5.4	11,512	0.8
Total	19,321	100	1,433,129	100

2 - Completed cases

	Fylde		National	
	No.	%	No.	%
Hearings	13,484	75.0	983,826	72.3
Discontinuances	2,375	13.2	163,707	12.0
Committals	1,056	5.9	97,335	7.1
Other disposals	1,062	5.9	116,529	8.6
Total	17,977	100	1,361,397	100



3 - Case results

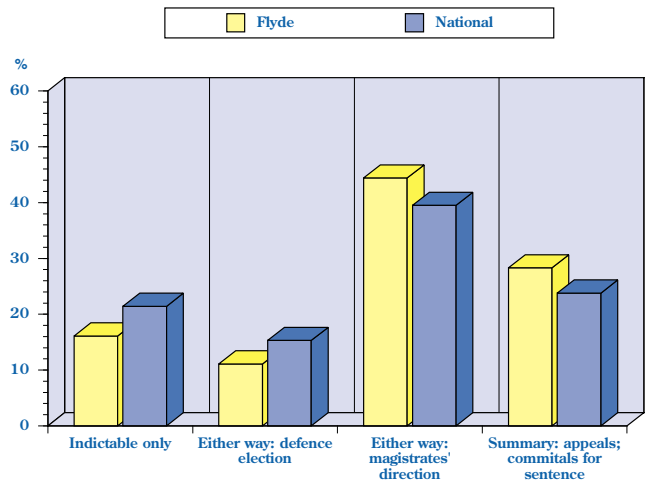


	Fylde		National	
	No.	%	No.	%
Guilty pleas	10,887	80.6	804,174	81.4
Proofs in absence	2,081	15.4	115,102	11.6
Convictions after trial	392	2.9	50,910	5.2
Acquittals: after trial	129	1.0	15,609	1.6
Acquittals: no case to answer	16	0.1	2,386	0.2
Total	13,505	100	988,181	100

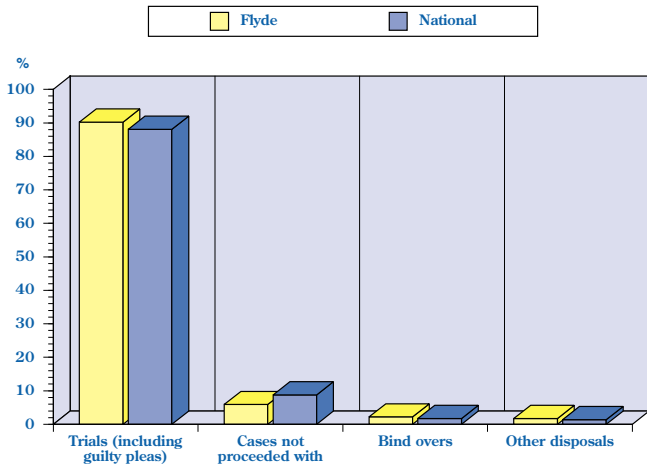
CROWN COURT

4 - Types of case

	Fylde		National	
	No.	%	No.	%
Indictable only	253	16.1	27,122	21.4
Either way: defence election	175	11.1	19,354	15.3
Either way: magistrates' direction	697	44.4	50,075	39.5
Summary: appeals; committals for sentence	445	28.3	30,203	23.8
Total	1,570	100	126,754	100



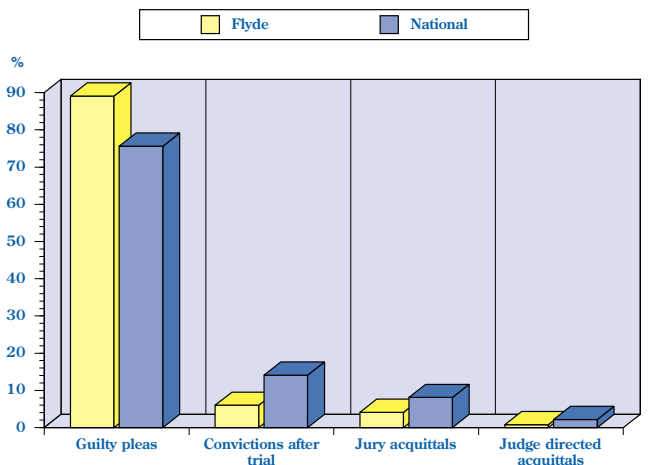
5 - Completed cases



	Fylde		National	
	No.	%	No.	%
Trials (including guilty pleas)	1,015	90.2	85,158	88.1
Cases not proceeded with	66	5.9	8,526	8.8
Bind overs	25	2.2	1,596	1.7
Other disposals	19	1.7	1,351	1.4
Total	1,125	100	96,631	100

6 - Case results

	Fylde		National	
	No.	%	No.	%
Guilty pleas	915	89.1	65,701	75.6
Convictions after trial	62	6.0	12,226	14.1
Jury acquittals	42	4.1	7,083	8.1
Judge directed acquittals	8	0.8	1,924	2.2
Total	1,027	100	86,934	100



LIST OF LOCAL REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES WHO ASSISTED IN OUR INSPECTION

Judge	His Honour Judge Lockett, Recorder of Preston
Magistrates' courts	Mr J Feinstein, Stipendiary Magistrate Mr J Robinson, Justice of the Peace and Chair of the Magistrates' Courts Committee Mr D Holt, Justice of the Peace and Chair elect of the Lancaster Justices Mr J Trembles, Justice of the Peace and Chair of the Blackpool Justices Mr I Moorby, Justices' Chief Executive and Clerk to Lancashire Magistrates' Courts Committee Mr S Coombs, Clerk to the Lancaster Justices Mr T Wilson, Acting Clerk to the Blackpool, Fylde and Wyre Justices
Police	Inspector M Duff Sergeant M Brownlow Sergeant J Duckworth Sergeant A Durber Sergeant S Needham Mrs T Clark, Manager of Blackpool Criminal Justice Support Mrs G Stables, Manager of Lancaster Criminal Justice Support Miss E Archer, Lancaster Criminal Justice Support
Defence solicitors	Mr P Brewer Mr T Colebourne Mr A Godwin Mr D Hardy
Counsel	Mr R Haworth
Probation Service	Mr S McPhillips, Assistant Chief Probation Officer
Witness Service	Ms A Dixey Mrs L Westoby

CROWN PROSECUTION SERVICE INSPECTORATE

STATEMENT OF PURPOSE

To promote the efficiency and effectiveness of the Crown Prosecution Service through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice.

AIMS

- 1** To inspect and evaluate the quality of casework decisions and the quality of casework decision-making processes in the Crown Prosecution Service.
- 2** To report on how casework is dealt with in the Crown Prosecution Service in a way which encourages improvements in the quality of that casework.
- 3** To carry out separate reviews of particular topics which affect casework or the casework process. We call these thematic reviews.
- 4** To give advice to the Director of Public Prosecutions on the quality of casework decisions and casework decision-making processes of the Crown Prosecution Service.
- 5** To recommend how to improve the quality of casework in the Crown Prosecution Service.
- 6** To identify and promote good practice.
- 7** To work with other inspectorates to improve the efficiency and effectiveness of the criminal justice system.
- 8** To promote people's awareness of us throughout the criminal justice system so they can trust our findings.



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