




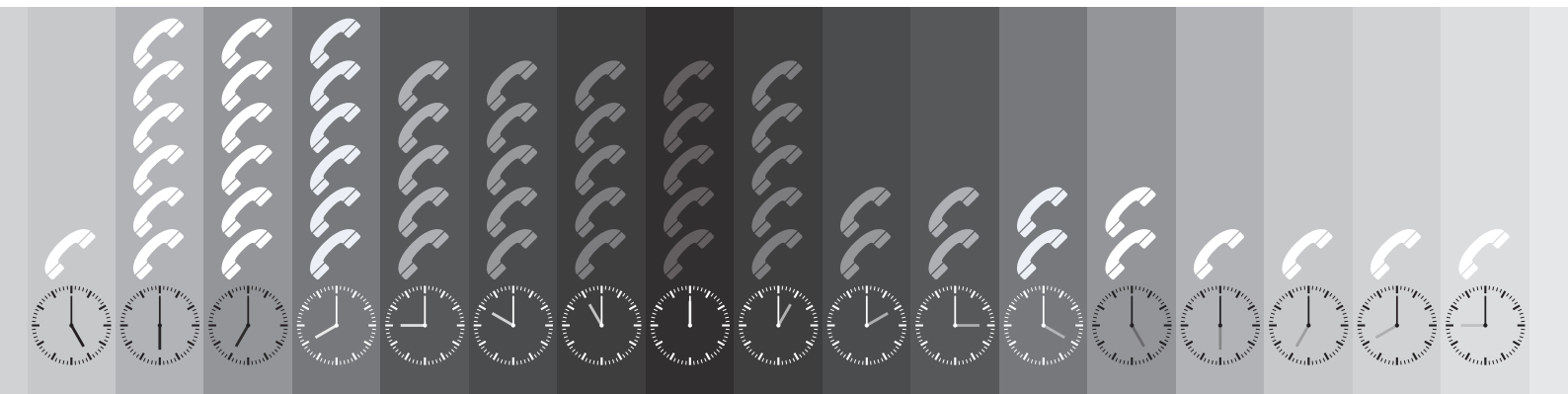
Inspection of CPS Direct

November 2008



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1 INTRODUCTION

CPS Direct

- 1.1 This is the first inspection by Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) of CPS Direct (CPSD). CPS Direct is a business unit within the Crown Prosecution Service (CPS) which provides out-of-hours charging advice to all police forces in England and Wales from 5pm-9am Monday-Friday and all day on Saturdays, Sundays and bank holidays.

Background

- 1.2 In November 2001, a review of the practices and procedures of the criminal courts undertaken by Lord Justice Auld (the Auld Review) recommended that the CPS, rather than the police as was then the position, should assume responsibility for charging in all but minor cases or where circumstances required a holding charge before the CPS could be consulted. This recommendation was eventually put on a statutory footing in the Criminal Justice Act (CJA) 2003 which amended the Police and Criminal Evidence Act (PACE) 1984 to allow the Director of Public Prosecutions (DPP) - in effect, any crown prosecutor - to make a charging decision.
- 1.3 In 2003, following evaluation of pilots in six areas the CPS and police began a programme of rolling-out charging nationally. All areas undertook a period of 'shadow' charging, evaluated by a joint national team, before being allowed to undertake charging on a statutory basis. The programme was completed in 2006 when CPS areas became responsible for making charging decisions during normal working hours. The new arrangements represented one of the most fundamental and important changes in the criminal justice system for decades and required the development of whole new ways of working for both the police and the CPS. It also brought about changes in relationships between them.
- 1.4 CPSD, which had itself also been operational as a pilot scheme since 2003, was rolled-out between 2004-06, when it became fully established, to provide the out-of-hours service to the police.
- 1.5 A fundamental difference between the service provided by CPSD and that of local CPS areas is that all decisions are made over the telephone and all prosecutors are home-based. Police investigators telephone a central number when they need a charging decision and are put through to the next available prosecutor. CPSD prosecutors work shifts, with shift patterns and the number of prosecutors on duty calculated to match demand as closely as possible. Each shift is overseen by an experienced lawyer manager (referred to as a shift manager throughout this report). Shift managers are supervised by a Unit Head, who in turn reports to the Chief Crown Prosecutor (CCP). The structure of CPS Direct is shown at Annex B.
- 1.6 In an average week, nearly 3,300 calls are received by CPSD and one in four pre-charge decisions is made by their prosecutors¹.
- 1.7 In 2007-08 CPSD had a budget of around £12.8 million and at the end of the financial year had the equivalent of 154 full-time staff.

¹ The data used for the national caseload is based on the number of defendants, whereas the caseload for CPS Direct is the number of cases, so the two are not identical but are sufficiently comparable to enable determination of the caseload ratio.

The legal framework

- 1.8 In April 2006 the CPS nationally assumed responsibility for deciding what charges should be brought against suspects in the most serious cases.
- 1.9 The framework for the CPS's responsibilities is set out in the DPP's Guidance (issued under PACE as amended by the CJA 2003), which is published by the CPS on its website at: www.cps.gov.uk/publications/prosecution/index.html.
- 1.10 The police can charge certain types of cases themselves, including most motoring offences and some less serious offences if a guilty plea is anticipated. Other cases have to be referred to the CPS for a charging decision. The duty prosecutor (whether in an area or within CPSD) will only make a decision in relation to a suspect who is considered suitable for bail on the basis of the full evidential and public interest tests contained in the Code for Crown Prosecutors (the Code). This requires there to be a realistic prospect of a conviction and for a prosecution to be in the public interest. Duty prosecutors can decide whether further work is needed, or can be called on to give early advice, in which case no final decision is made at that stage.
- 1.11 If a suspect is not suitable for bail and not all the evidence is yet available, the duty prosecutor applies the threshold test when deciding whether to authorise a charge. That is whether, in all the circumstances of the case, there is at least a reasonable suspicion that the person has committed an offence and that at that stage it is in the public interest to proceed. The prosecutor must also consider at that stage that sufficient evidence to satisfy the full Code test will become available within a reasonable time.
- 1.12 The DPP's Guidance sets out what information should accompany the request from the police for a charging decision in various circumstances. In every case, the police officer partially completes and submits a report (MG3) to a prosecutor for a charging decision. The rest of the report is completed by the prosecutor and involves making a written record of the charging decision and any further work which needs to be completed by the police, set out as an action plan.
- 1.13 A prosecutor can authorise charge on the evidence presented, or may decide that further evidence is required; a bail date will then be agreed to allow the police time to obtain this. Finally, the prosecutor may decide that there is insufficient evidence and that further work will not improve the case, or that it is not in the public interest to proceed. These cases will be marked on the MG3 as "no further action".
- 1.14 In the case of CPSD a copy of the MG3 is emailed or faxed to the police officer who has sought the decision and to CPSD Headquarters, which is based in York.
- 1.15 A detailed explanation of the process has been issued to the police and is at Annex A.

Links to CPS area out-of-hours schemes

- 1.16 There have been several area-organised out-of-hours pilots since the CPS assumed responsibility for charging. Only one is currently running, based in one police station in Merseyside from 5-8pm Mondays-Fridays and 11am-3pm on Saturdays. It is no longer a pilot and now operates by agreement between the CPS area and the police.
- 1.17 This out-of-hours service is clearly valued by Merseyside Police who would like to extend coverage both in terms of the hours covered and the stations involved; CPS Merseyside would need to assess the business case for this. CPSD prosecutors are available if assistance is needed.

2 METHODOLOGY

Inspection methodology

- 2.1 The methodology used included exchange of information between the inspection team and the Joint Review of the New Charging Arrangements carried out by HMCPSI and Her Majesty's Inspectorate of Constabulary (HMIC) which ran in parallel to this inspection. The framework against which CPSD was assessed is at Annex C and was the subject of consultation with CPSD prior to the fieldwork stage.
- 2.2 Fieldwork was conducted from February-April 2008. Observations were conducted in the homes of CPSD duty prosecutors and shift managers to assess the quality of service delivery and management arrangements. It was also undertaken in a number of police force areas between 3-18 April to observe calls made to CPSD by operational police officers and file preparation teams and to take their views on the service provided by CPSD. The police services (and other agencies) assisting the inspection are listed in Annex D. The visits to police stations and duty prosecutors' home offices took place at various times outside the standard working day, including bank holidays. The table at Annex E shows the pattern of the 39 observations and the 66 calls observed. The team wishes to record its thanks to the police forces visited and to CPSD for their cooperation in the observations, with particular thanks to those duty prosecutors who made inspectors welcome in their homes.
- 2.3 Interviews were conducted with individual managers and staff within CPSD and with focus groups. Inspectors observed national team meetings of CPSD staff and a session of the hate crime scrutiny panel. Senior members of CPS Headquarters, including the Chief Executive, were also interviewed about strategic aspects of the charging scheme and CPSD's role in it.
- 2.4 A total of 66 finalised cases, drawn from most of the police force areas visited, were examined in order to assess the quality of a number of aspects of charging decisions. These included whether the right test had been applied in reaching the charging decision, the quality of the duty prosecutor's advice, consideration of appropriate ancillary matters, and the standard of any action plan. In addition the overall quality of the charging advice provided by the prosecutor, as reflected on the papers, was assessed and marked as good, adequate or poor. The key results from the file examination are set out at Annex F and are referred to where relevant in the text of the report.
- 2.5 A range of management and performance information was considered by the team, including documentation supplied by CPSD for each criterion in the framework. The information supplied included minutes of management and team meetings; management reviews; guidance supplied to the police, duty prosecutors and their managers; and detailed performance information, including that generated by CPSD's call-handling software.
- 2.6 Questions relating to CPSD were included in the joint review methodology and incorporated into the interviews conducted by that team with CPS and police leads for charging, area duty prosecutors, and operational police staff. At a national level the representatives of key organisations were seen by the joint review team, including the Association of Chief Police Officers' lead officer on statutory charging, the Police Federation and the National Police Improvement Agency. The joint review team circulated questionnaires to the CPS (prosecutors and CCPs), police (chief constables, custody officers, file supervisors and investigators), and defence practitioners, and these also included relevant questions about CPSD. The full results are annexed to the joint review report and relevant findings used as part of the evidence for the findings in this report.

Equality impact assessment

- 2.7 An equality impact assessment was prepared for the inspection and kept under review. It is available on our website at www.hmcpso.gov.uk or upon request to our York office at United House, Piccadilly, York, YO1 9PQ.

Glossary

- 2.8 A list of the key terms and abbreviations used in this report is at Annex G.

Findings

- 2.9 The report examines the efficiency of the service, quality of legal decision-making and arrangements for, and the quality of, management. The framework used for assessment is at Annex C.
- 2.10 The report identifies strengths and aspects for improvement, draws attention to good practice and makes recommendations in respect of those aspects of the performance which most need to be improved. The definition of those terms is also included in the glossary.

3 SUMMARY OF FINDINGS

- 3.1 This inspection has shown that, overall, the service provided by CPS Direct is good.
- 3.2 Calls from the police are picked up quickly and the quality of advice provided thereafter is very good. The reasons for decisions are set out clearly and ancillary issues are routinely addressed. Duty prosecutors are courteous and professional when dealing with calls. These factors have contributed to positive feedback from the police about the quality of service they receive. Generally action plans, which set out any further action necessary by the police, are detailed and specific, setting sometimes challenging but realistic target dates. Inspectors found, however, that some were less detailed and omitted points, which were then left to the local CPS area to pursue. Steps need to be taken to ensure action plans are of a consistently high standard.
- 3.3 There are also a number of respects in which the operation of the service could be strengthened further.
- 3.4 Although guidance detailing the circumstances in which CPSD should be contacted and the documentation required is generally available in police offices, not all officers seeking advice are well prepared. Police evidential review officers are helpful in ensuring officers are ready but they tend to be available only during normal working hours. Lack of preparedness can lead to an ineffective call. This inspection identified scope for more effective liaison which would help to create better mutual understanding of respective needs and so reduce the incidence of such occurrences.
- 3.5 Available IT and communications equipment varies between and even within forces. Not all officers are able to make use of email facilities and fax machines are not always conveniently located for their use. This impacts upon the time that police officers spend making individual calls. Equally CPSD prosecutors require the telephone line to be kept open while they read the relevant papers. Police senior managers are frustrated that this removes officers from operational duties for longer than they consider necessary. Whereas officer time is necessary to answer queries from duty prosecutors, some time is still spent waiting for advice.
- 3.6 In order to deliver an efficient out-of-hours service, CPSD closely monitors its performance and that of its staff and has sought over time to improve the speed of service provided to the police.
- 3.7 In 2007-08 93% of calls were being answered within 15 seconds which means that police officers have almost instant access to a prosecutor. Almost 80% of calls were dealt with within an average time of 43 minutes, with 42% in 30 minutes or under. The length of calls is strictly monitored contemporaneously by shift managers to ensure that if one is taking a long time there is good reason for this. This real time monitoring is of benefit to both police and the CPS as it ensures that the service being provided by prosecutors is actively managed and that they are using their time efficiently and effectively.
- 3.8 On particularly long and complex cases police officers may be released while papers are read but this is not routine. In 2007-08 0.6% of calls took longer than 90 minutes.

- 3.9 Despite the fact therefore that some calls will be relatively short and a charging decision is made quickly by a prosecutor, the feeling remains that operational officers are being detained longer than necessary. Whilst some of the issues which affect the quality of service are already being addressed, CPSD and its police partners still need to work more closely to ensure that the service is sufficiently flexible to cater for police operational needs.
- 3.10 CPSD has sought to deploy its staff effectively and match supply to demand and it appears to be largely successful in this. Working patterns have been rationalised to improve efficiency. CPSD has operated within its budget. The majority of staff are prosecutors who receive premium payments for out-of-hours working. Staff costs are therefore high and there is little opportunity to achieve real cost savings, although value for money in day-to-day running costs is achieved where possible.
- 3.11 Despite the fact that lawyers work from home on their own, there are clear and effective lines of communication between them and their managers. This is demonstrated particularly during prosecutors' shifts, and observed by inspectors. The speed and level of communication prevents any sense of isolation and enables prosecutors to feel part of a single cohesive team, supported by managers and other colleagues. Managers are able to maintain regular and close contact with their team members and provide effective feedback on performance, sometimes immediately. The overall performance of CPS Direct is understood and managed well by senior managers who adopt a corporate approach, although more could be done to discuss and report casework performance.

Conclusion

- 3.12 CPSD is but one of the CPS units delivering statutory charging to the police. The Joint Review of the New Charging Arrangements found that CPS areas were not always in a position to provide a charging decision when it was needed and that the process had become too complex and was insufficiently flexible. The way CPSD operates means that it is able to offer an immediate service when needed and there are many aspects in the way it is managed and run which should inform future thinking on how the statutory charging scheme might operate. It too, however, needs to ensure it is flexible enough to meet police needs.

Good practice, strengths, aspects for improvement and recommendations

- 3.13 The inspection has identified two aspects of good practice, six strengths, three aspects for improvement and makes six recommendations. These are set out below.

Good practice

-
- 1 Duty prosecutors routinely ask a series of screening questions to ascertain that a case is appropriate for referral to CPSD (paragraph 4.21).
-
- 2 Timescales for additional work needed are discussed with the investigating officer and the estimate given challenged in appropriate circumstances (paragraph 5.34).
-

Strengths

-
- 1 Calls are answered promptly and the average call length is good (paragraph 4.7).

 - 2 The process for appeals is structured and proportionate and appeals are viewed as opportunities to learn lessons (paragraph 4.31).

 - 3 The standard of decisions is good and they are explained well in MG3s, with relevant ancillary matters addressed thoroughly (paragraph 5.30).

 - 4 CPS Direct and its staff are flexible and meet sudden changes to demand for its services with speed and efficiency (paragraph 6.14).

 - 5 Staff work well together and form strong teams. Satisfaction levels with the standard of management are very good (paragraph 8.11).

 - 6 The feedback and support given to duty prosecutors on casework matters (paragraph 8.12).

Aspects for improvement

-
- 1 Effectiveness and equality of access to training are not monitored or ensured (paragraph 6.21).

 - 2 Addressing the concerns of prosecutors about the provision of legal reference books (paragraph 6.26).

 - 3 CPS Direct senior managers should consider the priority given to equality issues and ensure that they are embedded into all its processes (paragraph 8.17).

Recommendations

-
- 1 CPS Direct should address with police partners at a strategic level the need for improved technology and facilities, to enable advice to be given as swiftly as possible (paragraph 4.20).

 - 2 CPS Direct should work with police partners to reduce the number and reasons for ineffective calls (paragraph 4.26).

 - 3 CPS Direct should ensure that the standard and clarity of action plans are consistent and high (paragraph 5.33).

- 4 The CPS Chief Operating Officer should ensure that CPS geographical areas accurately record CPS Direct cases, and carry out effective assurance checks (paragraph 6.5).

 - 5 CPS Direct should ensure that performance management discussions include regular consideration of the findings from the quality assurance of casework (paragraph 7.3).

 - 6 CPS Direct senior managers should ensure that:
 - liaison mechanisms are in place and that liaison is carried out effectively across all areas and groups; and
 - it engages with the police and CPS at a national and strategic level more effectively to secure service delivery improvements (paragraph 8.36).
-

4 THE SERVICE PROVIDED

The calling system

- 4.1 A police officer requiring advice from CPSD telephones a single national number. CPSD has sophisticated software which routes calls to the next available duty prosecutor. In most instances, the officer emails the MG3 and faxes evidence on which the decision is sought. The prosecutor works with that officer until the advice has been completed. The line is kept open, but officers are usually released for some of the time while the prosecutor reads the evidence and reaches a decision. If no prosecutors are available a message is taken by a central operator and the case is posted via a shared email box as a “call back”. Any prosecutor finishing another call can take that case and is not allocated another until it is dealt with.
- 4.2 Currently, the call system software does not permit particular calls to be directed to specialist or pools of prosecutors, but a new software package which has recently received financial approval will allow this to happen.
- 4.3 The software provides managers with a wide range of data to assist in monitoring performance. The figures available to the management team can be broken down to show the performance of teams or individual lawyers. The data includes the length of individual calls, those which have been missed and the length of time taken to answer calls.

The time taken to answer calls

- 4.4 When CPSD was first introduced there were concerns about the time taken to answer calls and the time taken during a call to deliver advice. The former has largely been resolved; the latter, whilst good, has room to improve further. The data for call timeliness and rate of effective calls for 2006-07 and 2007-08 is set out at Annex H.
- 4.5 At the outset police officers were waiting too long for calls to be answered. To address this, in addition to changing the call answering system, CPSD set itself a target of answering more than 90% of calls within 15 seconds. Any instances where a lawyer is considered to have failed to answer promptly are addressed immediately. In 2007-08 CPSD answered 93.1% of calls within that 15 seconds, comfortably exceeding their target. Observations of prosecutors in their home offices during the course of the inspection confirmed that they picked up calls promptly and professionally.
- 4.6 The second limb of criticism was that individual calls for charging advice took too long. This too has been an ongoing concern to managers. The earliest reports were of calls taking one and a half to two hours. In 2007-08 42% of calls took less than 30 minutes and a further 25% between 31-43. The average call time was 43 minutes which represents an improvement on previous years.
- 4.7 Some 21% of calls are ineffective (in that they do not generate a formal charging decision, recorded on an MG3) and the shorter time needed to deal with these can bring down the overall average time per call. As there has been a significant reduction in the number of ineffective calls since 2006-07 (30%), the overall improvement in timeliness is all the more significant.

STRENGTH

Calls are answered promptly and the average call length is good.

- 4.8 Several factors have contributed to the improvements in the length of time taken to provide advice. Those police officers who use CPSD regularly have become more familiar with the system and what will be required by the lawyer in order to make a decision, so have their papers in order. Lawyers have become more competent and confident in giving advice and have also improved their IT skills to provide a faster service. Sophisticated call data has allowed managers to identify individuals who need assistance with producing MG3s, for example with keyboard skills, and mentoring or other specific support provided by line managers has been arranged where a need has been identified.

Factors affecting the length of calls

- 4.9 There remain a number of factors that continue to affect the time taken to provide a charging decision, such as the nature and complexity of the case, or stand in the way of further improvements, in particular the capabilities and proper functioning of IT and other equipment. Some are outside the control of individual prosecutors or CPSD as a whole.

Complexity

- 4.10 CPSD deals with some serious and complex casework where the initial charging decision has a significant influence on the course of the investigation and case outcome. Some of the cases have significant volumes of statements or exhibits needing particularly careful analysis, or may require legal research before a charge can be authorised and so may be lengthy to deal with. Those prosecutors who are more experienced or have specialist skills or knowledge take cases which will inevitably take longer; sensitive cases are discussed further at paragraphs 5.8-5.20.

CPS equipment

- 4.11 On occasions prosecutors suffer failures of equipment, power supply, or the internet service to their home office. Any CPS IT problems experienced by prosecutors are dealt with as a matter of urgency through the national CPS IT Helpdesk and recorded in the daily shift reports. Duty prosecutors have a detailed manual of guidance which includes instructions on how to deal with an equipment breakdown. In exceptional instances they have to give advice via the telephone alone. Since this involves statements being read out by the police officer it is very time consuming and causes considerable delay to each call.

Police equipment and systems

- 4.12 This review has found that the facilities available to police officers to support easy access to CPSD vary across the country and even within forces. In some areas an officer cannot email the MG3 and in one or two others the police copy of the MG3 submitted by email is password protected, both of which necessitate the duty prosecutor having to retype key information. Understandably this is a source of frustration for prosecutor and officer alike.
- 4.13 Most forces transmit the evidence by fax. Given the technology currently available, this is an inefficient and slow way to exchange documents. Moreover, CPSD and the inspectors received complaints that fax machines are often out of service. In observations, some officers had to move to other rooms or floors to find a working machine and in extreme cases officers have had to drive to another police station. Fax machines are often not in the same room as a computer terminal or phone and, during observations, one group of officers had no phones in the room in which they were based and were therefore going backwards and forwards between three rooms during the call. Other observations revealed officers attempting to contact CPSD from large noisy rooms.

- 4.14 These issues have been ongoing since the start of CPSD. There have, however, been improvements and some police forces are taking the initiative. A small number of forces have the technology to scan statements and other documents and email them as attachments. In Gwent there was, very helpfully, a custom-built desk equipped with a phone, working fax and computer situated in a quiet location free from interruption, from which the officer could call CPSD. There was clear guidance displayed about using the CPSD service.

Readiness for calling CPSD

- 4.15 Officers who use the system regularly tend to plan better for the call and will only ring once they have gathered the documentation required. They are assisted in this if there are proactive evidential review officers (EROs) or other effective 'gatekeepers' within the police service who filter inadequate or incomplete files before the call is made. EROs are normally only available during office hours, although some now work later into the evening. If there is no ERO provision out-of-hours the gatekeeping function is provided by the custody officer, who has a number of other responsibilities, including the care and control of detainees in the custody suite.
- 4.16 Officers who use CPSD less often tend to have lower awareness of the requirements of the DPP's Guidance, which governs the cases that ought to be referred to CPSD for a charging decision and the documentation and evidence required. CPSD has been operational since 2003 and has sent out a formal guidance manual and posters for display to the police on more than one occasion. The guidance is also available on CPSD's website. Despite this, a significant number of calls are ineffective or lengthened by a lack of understanding of what information is needed. During observations there was often little or no guidance displayed in police offices and, where it was, it was sometimes out-of-date.

Monitoring by CPSD

- 4.17 Shift managers are aware of the factors which influence the length of calls. They monitor longer calls and note them in the daily shift reports. Calls are officially recorded as 'long' when they last more than 90 minutes and shift managers alert prosecutors when a call has lasted about 70 minutes, to prevent them becoming long if possible. In 2007-08 there were 711 such calls, 48 of which were over 120 minutes and seven more than 150 minutes. Once the call is completed the manager will often look at the case in order to assess the quality of the decision and whether the call was of an appropriate length for the nature of the case. This can be a useful tool to identify poor performance, when carried out in conjunction with more qualitative assessments. Prosecutors are well aware that their call times are monitored which some view as excessively intrusive, whereas others are more sanguine. Generally, it is accepted as a necessary aspect of efficient performance management and observations indicated that prosecutors' pre-eminent concern is the quality of their service to police officers.
- 4.18 Some of the matters impacting on timeliness, but by no means all, are recorded on the shift reports and the loss of time to prosecutor and officer is not always reflected accurately. Prosecutors are resigned to dealing with the difficulties on a regular basis and may not always report problems with fax machines or other delays to the shift manager. Some estimate that up to 20% of call time can be wasted because of the hindrances to receiving the required evidence in the most efficient manner.

- 4.19 CPSD senior managers' view is that the proportion of calls affected by technical failures is fewer than that reported to inspectors. For example, managers are of the view that problems with faxes do not add significantly to the overall time of calls, as compared to the delays brought about by using them at all. Whilst that is undoubtedly so, the duty prosecutors' assessment was confirmed by inspectors' observations. During 39 sessions of observations at duty prosecutors' homes and in police stations there were 36 examples of a number of equipment failures and other obstacles, although more than one may have occurred in a single call. Annex I sets out a more detailed breakdown.
- 4.20 CPSD managers are aware of the issues and have considered the effect on performance. Some have tried to resolve the barriers locally, but with limited success. In any event, their prevalence and consistency across a number of police forces tends to suggest that they are best resolved at a national strategic level rather than locally.

RECOMMENDATION

CPS Direct should address with police partners at a strategic level the need for improved technology and facilities, to enable advice to be given as swiftly as possible.

Referral of appropriate cases

- 4.21 *Good practice* was observed in the way that CPSD prosecutors assess whether the case is appropriate for referral. They routinely ask a series of screening questions to ascertain whether, for example, the suspect is in custody and how long they can be further detained under the time limits contained in PACE, whether the custody sergeant believes that the threshold test for referral to CPSD has been passed, and whether the suspect can safely be released on bail after a decision to charge has been made. Prosecutors also ascertain that the documentation prepared by the officer is complete.
- 4.22 On a number of occasions inspectors found that police investigators and some custody officers were unsure of the exact scope of the service available from CPSD and, in particular, the circumstances in which the threshold test may be applied. Many officers were not aware that if a suspect was in custody but was suitable for bail after charge they could still seek a charging decision on the full Code test if the evidence was sufficient. Inspectors also found this to be the case in observations undertaken as part of the joint review.
- 4.23 Cases involving more than one prospective defendant were also problematic if only part of the case was referred to CPSD and one or more defendants were charged by the police because their cases did not require CPS charging advice. This can lead to inconsistencies and, in any event, is contrary to the DPP's Guidance. CPSD should ensure that the police are aware of this and continuing instances should be dealt with by liaison at senior level.
- 4.24 This lack of knowledge is evident in the percentage of calls which do not result in advice either to charge the suspect, carry out further work or take no further action, which in 2007-08 stood at 20.8%. Although this marks an improvement on the 30% ineffective call rate in 2006-07, and may partly be attributable to the more widespread use of EROs, it still remains relatively high. Of the calls which were ineffective in 2007-08, 13.4% were inappropriate requests for advice and in 25.6% the police were not ready to seek charging advice. In a further 13.4% the caller abandoned or dropped the call.

- 4.25 There are some forces where rate of ineffective calls is substantially higher than the national average. The rates for each police service area in 2007-08 are set out in Annex J and range from 13.6% to 40.5%.
- 4.26 Specific liaison would improve the successful call rate percentage still further. It is clear that the police continue to have some difficulties in using the service and CPSD needs to work with its police partners to address these.

RECOMMENDATION

CPS Direct should work with police partners to reduce the number and reasons for ineffective calls.

Appeals

- 4.27 There is a procedure for the police to appeal against a duty prosecutor’s decision which is designed to ensure that cases can be resolved promptly. In the first instance, cases are referred to the CPSD shift manager and most are resolved in this way. Any which are not are referred to another shift manager and, thereafter, to the Unit Head.
- 4.28 The escalation arrangements are well documented in the CPSD guidance, which was widely circulated when CPSD was introduced and is available on its website. Whenever a duty prosecutor declines to charge the officer is told that he can appeal the decision if he wishes to do so. The low number of appeals may suggest that there are general levels of satisfaction with decisions, However, a substantial majority of officers seen during observations did not know that there was a process to challenge decisions and only a few of those who were aware could explain what the process was. None had seen the guidance and rarely was it visibly available or displayed. All the EROs interviewed knew how to appeal against the decision but said there was rarely a need to do so. In one force, all the officers spoken to were aware of their ability to challenge decisions. This was almost certainly as a result of some proactive work by a CPSD manager following a complaint about a decision.
- 4.29 CPSD managers resolve one or two appeals against decisions made by CPS area lawyers when the local area manager cannot be contacted.
- 4.30 During observations and interviews, two officers separately stated that if they were unhappy with a CPSD decision they would bail the defendant and seek local advice afresh. This is inappropriate and area managers should take positive action when this occurs.

Appeals and outcomes

	2006-07	2007-08
Number of appeals	420	449
Appeals upheld	170	171
Caseload (MG3s completed)	127,911	135,813
Appeals as a % of total caseload	0.33%	0.33%
Appeals upheld as a % of total caseload	0.13%	0.13%

- 4.31 The table overleaf sets out the number of appeals and their outcomes for 2006-07 and 2007-08. The number of appeals which were successful in both years tends to indicate that cases of disagreement are those which are finely balanced. Not many cases reach the second tier of the escalation procedure and very few are then sent on to the Unit Head. All escalated cases are noted on the shift report and quality checked by the Unit Head. Prosecutors are notified of the result and feedback given. Appeals occasionally identify the significance of particular local issues. Where this has happened, CPSD has alerted duty prosecutors so that proper consideration can be given in future instances.

STRENGTH

The process for appeals is structured and proportionate and appeals are viewed as opportunities to learn lessons.

Handovers between areas and CPSD

- 4.32 The daytime statutory charging service runs from 9am-5pm on weekdays. There is no formal handover to CPSD or back to the CPS area, nor is there a need for one. There have been occasional instances where area lawyers advise CPSD that they suspect an officer who is unhappy with their decision will try to contact CPSD in the hope of getting a different decision. This information is posted on the CPSD bulletin board or circulated via email so that if the officer telephones they are given the appropriate advice. If such an instance occurs the matter is recorded on the shift log and should be referred to the liaison manager with responsibility for that police force. More common, albeit also anecdotally presented, are instances where work could or should have been dealt with by the local CPS area, or where officers delay deliberately to seek CPSD advice. Feedback from police officers (and supported by entries on the shift reports) shows that advice from the local CPS area is sometimes impossible because the local lawyer has left early, or there is otherwise not a lawyer available to give charging advice, or that the area lawyer is too busy. Figures produced by CPSD show that in some areas there is a three or four fold increase in workload at 5pm compared with at other times.
- 4.33 The level of early demand tends to support the contention that officers are broadly happy to consult CPSD.

Police views on the level of service

- 4.34 During this inspection, the overwhelming feedback about the timeliness of answering calls and the quality of the duty prosecutors' decisions was positive.
- 4.35 The training manual for new CPSD lawyers includes specific guidance to ensure that decisions are explained fully. CPSD lawyers have a good reputation for their courteous and professional manner and their explanations of points of law and reasoning are seen as compensating for any drawbacks in the provision of advice not being face-to-face. Duty prosecutors have received letters of thanks concerning individual cases and some officers specifically commended individuals during the course of the inspection. One prosecutor was singled out for praise for continuing to give advice on a very serious case throughout a weekend and outside their shift.

- 4.36 A CPSD customer survey in 2006, commissioned by senior managers as part of the CPS performance review process, showed that 89.6% of customers (police operational, evidential review and custody officers) were satisfied or very satisfied that decisions were explained effectively. The degree of positive feedback reflects well on prosecutors' professionalism and skills.
- 4.37 The police expressed dissatisfaction about having to remain on the phone while the prosecutor reviewed the case. Under the current system prosecutors do not log off the call management system except where a call is likely to be unusually long. This enables better management of call times and overall call handling.
- 4.38 Clearly, however, current arrangements are of particular concern for the police. Whilst the observations indicated that some officers are able to put the time to good use, that is by no means always the case and time is then wasted waiting for the prosecutor to read the papers. Further discussions are needed to work out arrangements within CPSD and in forces which are more efficient for the police. CPS London has recently introduced a call centre arrangement to deal with backlogs in diarised appointments and is allowing the lawyer to log off to read the papers and call the officer back. However, the unit is dealing solely with bail cases and gives advice on significantly fewer cases per prosecutor per shift or day than CPSD duty prosecutors.
- 4.39 CPS and police representatives expressed varied views about whether officers preferred to deal with their area statutory charging service or CPSD. Factors influencing their views included how easy it was to get to their local charging centre from the police station at which they were based, approachability, and timeliness, as well as the quality of decision. There are complaints about inconsistency in the levels of evidence sought by area and CPSD lawyers, and in what circumstances additional enquiries will be requested. There were some officers who thought CPSD required more evidence than their local area lawyers, but most recognised that much of the additional work identified by CPSD would also have to be done for area lawyers.
- 4.40 Many considered that CPSD were more likely to make a robust decision whether to charge or not without deferring for further enquiries which were unlikely to affect the ultimate decision. A possible explanation for this is the limited function carried out by CPSD prosecutors. Unlike local prosecutors, CPSD staff are employed only to provide charging decisions. They do not, for example, prepare cases for trial or deal with ongoing disclosure of unused material issues, nor do they present cases in court except on the occasions when they return to CPS areas as part of arrangements for maintaining their advocacy skills. The Joint Review of the New Charging Arrangements found that daytime prosecutors may ask for further work to be done because they needed to be confident that it would be completed in good time, so that the prosecution would be in a position to deal properly with matters arising at the first hearing under the Criminal Justice: Simple, Speedy, Summary (CJSSS) scheme. Nevertheless, the approach adopted by CPSD is the right one.
- 4.41 Although CPSD has provided leaflets and posters to police forces setting out useful guidance to assist the process and reduce time spent on calls, it is not always followed even when visibly available. Duty prosecutors do not adopt a too rigid approach and assist officers as much as they can to ensure that calls are effective though sometimes their efforts are frustrated by the circumstances. It is understandable that CPSD should wish to have clear and structured parameters within which cases might be submitted. Arrangements must be responsive to operational needs and acknowledge that it may not always be possible to comply with the full demands of the system, although the mandatory elements of the process and the requirements of the DPP's Guidance must always be complied with. It is therefore essential that CPSD and the police service should work together to achieve a balanced approach which ensures that there are no unnecessary barriers to charge authorisation and advice when reasonably needed.

- 4.42 The majority of officers are confident that statutory charging can continue to be delivered effectively by CPSD in standard cases, albeit that service delivery would be improved if the IT issues were resolved. Where CPS areas have more difficulty meeting the daytime demand, officers were more likely to welcome an expansion of CPSD service to daytime. In some police forces this could significantly reduce the delays in receiving charging decisions and the numbers of offenders currently released on bail pre-charge. Officers of all ranks considered, however, that local lawyers should still be available for long or specialised cases or those involving significant video evidence.

5 THE QUALITY OF DECISION-MAKING

Compliance with threshold and full Code tests

- 5.1 It is a priority for the CPS to strengthen the prosecution process by getting cases right first time and working with the police to advise them and support the investigation of a case where appropriate. The file examination conducted as part of this inspection showed that in 97.0% of cases (64 out of 66) the decision on whether to charge was in accordance with the Code for Crown Prosecutors. The observations by inspectors and the casework quality assurance (CQA) checks undertaken by CPSD show similar high standards. The CPS has structured arrangements requiring regular sampling of cases against a standard criteria. CPSD's analysis of its compliance with full or threshold tests for 2006-07 and 2007-08 were 97.9% and 97.4% respectively. This level of performance is largely supported by inspectors' findings.
- 5.2 Casework is quality assured robustly. Each shift manager reviews four files per prosecutor per month; one review is carried out contemporaneously on the prosecutor's shift. Feedback is given quickly and if any concerns are identified these are dealt with appropriately. The system is further monitored by the Unit Head who checks a proportion of the managers' reviews. The principal assurance sought is whether the decisions made accord with the appropriate threshold or full Code tests. Other information is checked to ensure the accuracy of the MG3 and that all ancillary and casework flagging issues are covered appropriately.
- 5.3 For all serious, sensitive, high profile and long call cases the MG3s, and sometimes the evidence relied upon, are sent to the duty manager. These cases are, time permitting, reviewed immediately and are entered on the shift report for later consideration by the Unit Head. In addition, the CPSD rape coordinator drafts a quarterly report for national Headquarters which typically includes around 15 cases. Feedback from all these reviews goes back to the individual lawyer and, if appropriate, to the relevant line manager.
- 5.4 There is a high level of legal knowledge amongst CPSD prosecutors and their managers and recruitment standards and training ensure that this quality is maintained. There is a brisk exchange of legal knowledge and discussion of legal issues via the bulletin boards and email, while the duty prosecutors are working, and there is effective and consistent management support on each shift. The Unit Head ensures ready access to comprehensive guidance notes on pertinent subjects.
- 5.5 Staff in CPS areas are generally content with the standard of decisions made by CPSD colleagues. Some were highly complimentary particularly where serious cases were concerned. There were few adverse comments on the files examined. Where issues had arisen and had been fed back to the relevant CPSD manager, swift action was taken. In one instance a CPSD manager visited a police station to apologise to an individual police officer where a decision was considered poor. Where there is a more proactive approach from both the area and CPSD, difficulties are dealt with effectively. Some areas, however, had little or no contact with CPSD and would rarely report back on discontinued or weak cases or those they considered were attributable to poor decisions.

The choice of charge(s)

- 5.6 The generally high standard of decision-making extends to the identification of the charges on which cases proceed. The correct charge was identified by the duty prosecutor in 56 out of 57 relevant cases in the file sample. Inspectors' observations confirmed this high standard. There were some cases within the sample where the charge was subsequently amended or reduced but this was normally where further information became available after the duty prosecutor had advised. The majority of cases dropped were domestic violence incidents where the victim later retracted the initial complaint. The feedback from officers indicates that the police are broadly satisfied with the level of charges.
- 5.7 Observations and file examination showed that charges were drafted by duty prosecutors when this was appropriate or, where a police charging code was sufficient, this was used. This is as it should be, although practice across the CPS does not always achieve this. In one complex deception case the charge was drafted in full. There was no suggestion in any of the cases in the file sample that officers were unclear what the charges should be. In one instance during observations an officer called to check a charge advised by another prosecutor, and the duty prosecutor who took the return call was able to direct the officer to the relevant police charging code.

Sensitive and complex cases, including hate crime

Allocation of cases

- 5.8 Duty prosecutors are recruited specifically to be experienced in handling all cases referred, partly because the present call management system cannot allocate cases based on experience or specialist knowledge. The only exception is in cases of rape, since national CPS policy requires that all such cases must be dealt with throughout by a rape specialist. Within CPSD this is not problematic as more than 80% of duty prosecutors are rape specialists. Most were trained and recognised as such within the CPS area from which they came. Because CPSD prosecutors are responsible only for the initial advice, CPSD has recognised some other lawyers as being fit to provide advice in rape cases because they have appropriate experience and training. Any non-specialist who receives a call on an alleged rape posts a request to the shift team for the next specialist lawyer who is free. This system appears to work well and all the cases of rape within the file sample were dealt with by specialists.
- 5.9 Where managers know in advance of any other complex or unusual case, they may seek a volunteer or may allocate the case directly to someone who is remaining on shift long enough to deal with it. On rare occasions a lawyer has sought to pass a case to a colleague whom they have felt to be more experienced. Where this happens, the individual's line manager is informed in case a training need has been identified. There is usually more than one manager available on each shift to give assistance to duty prosecutors. This is of great help to lawyers appointed more recently who may be dealing with an area of law with which they are unfamiliar.
- 5.10 Many CPS areas have formal arrangements with the police to ensure that homicide cases are dealt with locally, but these are not always used and CPSD deals with some of the murders charged out-of-hours. In occasional cases, which are usually high profile or sensitive, an area lawyer may have been working with the police on the case for some time and may have given early advice but may then be unavailable when the suspect is arrested. Unless the CPSD lawyers receive a full note either by a previous MG3 or via an email they may be unaware of the history and significant time can be wasted.

5.11 The establishment of complex casework units across the recently established CPS area groups is an opportunity for this liaison to be more uniform and mutually beneficial. In some areas there have been attempts to establish protocols for these situations and some have been established with departments such as CPS London’s Homicide Unit. However, the contact details of key area individuals held by CPSD should be updated regularly.

Specific categories of sensitive cases

5.12 Overall in 2007-08, cases advised on by CPSD achieved a higher rate of successful outcomes than the average for the 42 geographical CPS areas. The rate of successful outcomes in magistrates’ courts’ cases is almost the same; the higher rate is in Crown Court cases which are the more serious, and often more complex, cases on which to provide charging advice. In hate crime cases in the magistrates’ courts CPSD performed slightly better than the national average for domestic violence and racially or religiously aggravated and homophobic offences and worse on rape and disability hate crime. In Crown Court cases CPSD under-performed slightly in domestic violence, and was worse for rape offences, but did better than nationally for the other categories of hate crime.

5.13 Performance in domestic violence cases has improved since 2006-07, as has that in homophobic offences in the magistrates’ courts and rape in the Crown Court. The rate of successful outcomes in racially and religiously aggravated offences has worsened since 2006-07, but by more in the Crown Court, and this clearly needs assessing to see what caused the decline.

5.14 File examination and inspectors’ observations confirmed that sensitive and hate crime cases were dealt with appropriately. Analysis by the duty prosecutor was detailed and particular attention was paid to victim and witness issues and needs.

Successful outcomes in hate crime cases 2007-08

	% successful outcomes		% share of cases	
	National	CPSD	National	CPSD
Magistrates’ courts’ cases				
Total magistrates’ courts’ cases	79.1	79.0	72.5	27.5
Domestic violence	67.2	67.4	54.6	45.4
Racially or religiously aggravated	75.4	78.6	79.8	20.2
Homophobic	77.0	82.1	81.3	18.7
Rape	48.0	26.0	71.8	28.2
Disability	73.5	72.2	85.0	15.0
Crown Court cases				
Total Crown Court cases	78.6	80.8	75.3	24.7
Domestic violence	71.9	71.5	58.0	42.0
Racially or religiously aggravated	72.7	75.1	85.5	14.5
Homophobic	81.6	81.8	76.8	23.2
Rape	60.7	54.2	74.1	25.9
Disability	69.2	100	70.3	29.7

5.15 Annex K sets out the table above together with the comparable data for 2006-07.

- 5.16 Several factors impact on the proportion of cases advised on by CPSD that result in a successful outcome. Threshold test cases form a significant proportion of caseload (22%). These are cases where not all the evidence is available, but the suspect is to be held in custody if charged. Although the national data is not captured, it is likely that offending patterns and CPSD's hours of operation mean that it deals with a higher proportion of threshold test cases as a percentage of the total workload than the geographical areas. Domestic violence cases also form more of CPSD's caseload than nationally, as do rape cases, almost all of which are finalised in the Crown Court. These cases routinely attract higher discontinuance and unsuccessful outcome rates. In addition, those suitable for bail are usually referred to the CPS area so no decision is made until any missing evidence has been obtained.
- 5.17 The CPSD rape coordinator monitors a sample of rape cases and any failings identified are discussed and circulated. CPSD devised a rape prosecution plan and this has been commended by some of the unit heads in CPS areas. The CPSD rape coordinator uses the bulletin boards to update lawyers on developments. Some of the lessons learnt have included paying greater attention to the need for third party material and a need for greater discussion on the issue of consent.
- 5.18 Specific work has been done to evaluate CPSD's outcomes on domestic violence cases, partly as a result of wider checks of quality and outcomes. This work has led to a reconsideration of the way that such cases are handled within CPSD and the production of a domestic violence prompt within MG3s dealing with such cases. This directs duty prosecutors to all relevant issues they should consider, such as the availability of evidence from 999 calls and neighbours, previous reported incidents, and the possibility of a victimless prosecution. There was a suggestion from the police that CPSD lawyers demand more evidence than their area colleagues in domestic violence cases. Domestic violence logs (detailing previous incidents involving the victim and suspect) and medical evidence are routinely requested rather than relying on the officer's account. Inspectors found no evidence that the detail required was inappropriate.
- 5.19 Upon completion of a charging decision on a homicide case, a shift manager reviews the MG3 and sometimes the evidence itself will be faxed to them by the duty prosecutor. In addition to this quality assurance, the MG3 will also be attached to that day's shift report. Managers also review MG3s for a range of other sensitive cases and information has been circulated to all lawyers on, for example, 'honour' crimes.

Hate crime scrutiny panel

- 5.20 CPSD receives £10,000 per year from central CPS funds (started in 2006-07) to establish and run a hate crime scrutiny panel. It has held two meetings and consists of members from a variety of backgrounds, including educational and charitable organisations. It considers a number of cases involving hate crime, including domestic violence, and identifies possible aspects for improvement and good practice. An inspector's observations at one of the panel's meetings confirmed that the discussions were in-depth and wide-ranging. The findings are recorded on a standard template and a report on these and the minutes of the meeting are then fed back to the strategic management team (SMT). It is still too early to evaluate whether any service delivery improvement has resulted given the limited role played by CPSD in cases overall. Managers will need to undertake a cost benefit analysis at the earliest suitable opportunity.

Consideration and recording of the issues

Recording decisions

- 5.21 Duty prosecutors' decisions are usually explained well and inspectors observed that, where cases were refused charge, the MG3 was particularly detailed and the decision verbally explained to the officer carefully, with the appeal arrangements outlined. CPSD's quality assurance framework measures the standard of MG3s against the expectations set out in the manual for duty prosecutors and shows that the standard has improved over time and that more care is taken to ensure that ancillary issues are covered. For example, in 2006-07 the results showed that 63.0% of MG3s included appropriate instructions to associate prosecutors, but in 2007-08 this rose to 92.4%. Inspectors found that appropriate instructions were given in 96.6% of cases.
- 5.22 In the file sample advice given by duty prosecutors on the merits of an appeal under the Bail (Amendment) Act 1993, in the event of the magistrates granting bail at the initial remand hearing, was consistently sound. Guidance on dealing with cases where there may be a Proceeds of Crime Act 2002 (POCA) application is available to all CPSD lawyers, as is guidance on human rights issues. Where they were relevant, they were recorded appropriately in all cases within the file sample.
- 5.23 Duty prosecutors ensure that the MG3 properly records details of the gender and ethnicity of defendants. They are reliant on the police providing the information but data for the last two years (2006-07 and 2007-08) shows that the suspect's name, date of birth and ethnicity were completed in over 95% of cases.
- 5.24 Occasional examples of MG3s were seen where the advice was presented less clearly due to the use of different fonts or sizes of text, particularly where auto-text had been used. Auto-text enables the duty prosecutor to type a few words and have the rest of the sentence or paragraph fill in automatically and is commonly used to deal with standard aspects of a review, such as to confirm consideration of relevant policy or guidance. Stock text can have some value but care needs to be taken to avoid the impression that there has been little consideration of the issues in the specific case. This should continue to be monitored.

Unused material

- 5.25 Unused material was considered in 19 out of 20 cases in the file sample where it was appropriate to do so. In most instances, this was no more than a routine acknowledgment that no unused material had been referred to the duty prosecutor for consideration. In fact the purpose of submitting unused material at this stage is for its impact on credibility of witnesses to be taken into account and for any obvious problems to be identified at an early stage. Formal disclosure comes at a later stage and is handled by the relevant area. Observations confirmed that duty prosecutors consistently request and receive details of witnesses' previous convictions in order to make a more informed decision on credibility.
- 5.26 Training on unused material was provided to lawyers in the spring of 2007 with an update issued that July. This was a restatement of current practice and procedure but illustrates the desire to ensure duty prosecutors have a bank of legal materials. It was augmented by an update, disseminated more recently, reminding prosecutors of their statutory responsibilities and referring to the relevant training materials.

Victim and witness issues

- 5.27 It is not possible at present for the duty prosecutor to view a victim's statement where it has been taken by video. These cases are correctly referred to the local area where the suspect is suitable for bail. For threshold cases the duty prosecutor is reliant on the summary provided by the police officer. If the suspect is to remain in custody it is important that there is an early referral to an area lawyer to view the witness statement and assess the credibility of the witness. However, this review and the Joint Review of the New Charging Arrangements suggest that full Code test reviews are not routinely conducted after a threshold test by the area or CPSD. An appropriate recommendation has been included in our parallel report.
- 5.28 Observations and the file examination showed that duty prosecutors are generally proactive in the early identification of cases in which applications to allow bad character and hearsay evidence may be required. They frequently remind officers of the need to obtain details of the needs of victims and witnesses and are proactive in the consideration of whether special measures are needed to assist victims in giving evidence. This is an area in which performance has improved. In 2006-07 67% of cases complied with the obligations of the No Witness No Justice (NWNJ) policy. In 2007-08 this rose to 95% and inspectors' file examination and observations confirm this trend. Given the high percentage of domestic violence and rape cases dealt with by CPSD compliance with the policy must be, and is, seen as a priority.

CPS policy and charging standards

- 5.29 CPS national policy bulletins are issued to prosecutors on a regular basis. Lawyers frequently draw the attention of their colleagues, by means of the bulletin boards, to any policy issue which may arise during a consultation and which may have wider relevance. This is a significant contributory factor to the collegiate approach of duty prosecutors. CPSD's own quality assurance shows a high compliance with CPS policy and charging standards – 98.4% in 2006-07 and 96.6% in 2007-08. There was evidence that CPS policy was properly considered in all relevant cases within our file sample. Inspectors observed that many MG3s contained specific reference to policy issues, especially in domestic violence cases (including where incidents were witnessed by children) as well as reference to appropriate charging standards.

The overall standard of cases

- 5.30 Inspectors' examination of cases included an assessment of the overall standard of the work done on each case by the prosecutor. The results indicated a generally high standard, with 67.7% being rated as good, 30.7% adequate and only one (1.6%) poor.

STRENGTH

The standard of decisions is good and they are explained well in MG3s, with relevant ancillary matters addressed thoroughly.

Action plans and bail

- 5.31 In cases where further enquiries or additional evidence is required before a charging decision can be made, the prosecutor should specify the nature of each particular item of evidence or information and set out an action plan showing target dates by which the information should be obtained. Action plans may also be required in threshold test cases or, where charge is advised, to assist the file building process in readiness for the first court hearing and any potential trial.

- 5.32 CPSD's quality assurance results showed a significant improvement in action plans with appropriate target dates completed by prosecutors, from 58.0% in 2006-07 to 89.6% in 2007-08. Our file sample showed similar results overall, but also revealed considerable variance in the performance and approach of individual prosecutors.
- 5.33 Some cases had exceptionally detailed action plans which assisted the police and area. Other plans were brief, omitting some actions which would have added value to the investigation and leaving additional work for the local area to request. This may flow from a lack of consistency in file building standards by the police across the country, the more so since the DPP's Guidance streamlined process (which aims to ensure that file preparation is proportionate to the likely plea) had been introduced in some areas but not all. Occasionally plans were found in the body of the advice and were not clearly identified as such. This is unhelpful for the police and for CPS area staff who may be tasked with checking on the completion of the actions.

RECOMMENDATION

CPS Direct should ensure that the standard and clarity of action plans are consistent and high.

- 5.34 Some duty prosecutors were scrupulous about checking with the officer how long they expected the additional work to take, but challenged this in appropriate instances and set shorter dates if the time sought seemed too long. This is *good practice*.
- 5.35 Some cases referred to CPSD have insufficient evidence to make a charging decision and are deferred for further work, requiring the suspect to be bailed to return later. These cases are a minority - just 11.8% in 2007-08. These relatively small numbers accord with the view expressed by many (but not all) officers that CPSD prosecutors are normally prepared to make a decision rather than send officers away with a 'shopping list' of further work. One of the screening questions asked by the duty prosecutor of the officer is the time left to run on the PACE 'custody clock'. Where there is time and missing information can be readily ascertained, observations showed that prosecutors made good use of the remaining time in preference to automatic bailing and adding unnecessary delay.

Local issues

- 5.36 Whilst generally CPSD is a national service, providing a consistent national standard of advice, cases do arise with local influences. In some, matters such as the prevalence of particular offences in a locality might make prosecution more imperative in circumstances where a case could otherwise be dealt with by some appropriate alternative disposal. Duty prosecutors must, of course, apply the Code for Crown Prosecutors to all decisions which means that any prosecution must not only be sound evidentially but must also be in the public interest. It is proper in some circumstances to take account of such issues. CPSD lawyers are aware of this and, as officers spoken to during the inspection confirmed, do so when it is appropriate.
- 5.37 In some parts of the country legal issues and considerations arise which are not commonly encountered elsewhere. For example, some offences in Cumbria may give rise to cross-border issues with Scotland and Kent deals with cases involving jurisdictional considerations in respect of offences committed on channel crossings. If such cases arise out-of-hours, they will be routed

to a CPSD prosecutor who is expected to deal with them and provide advice as in any other case. If prosecutors are consulted on an issue outside their normal experience there is sufficient support to obviate most problems and queries can be dealt with via email or the bulletin boards. Others are dealt with by more formal training and all CPSD lawyers quickly develop the skills needed to deal with all offence categories and particular local variations.

Alternative methods of disposal

- 5.38 Conditional cautioning has represented a challenge to CPSD because the available conditions vary significantly across the country and even within a particular criminal justice area. It is clearly not possible to acquaint all prosecutors with the details of the many local schemes, so they have to rely on the officer in the case to give them information about the types of conditions that are available in that area. The guidance given to prosecutors was sound and they have responded well to the challenge. Where a conditional caution is a significant possibility the officer does not need to send the normal evidence. So that appropriate cases can be disposed of speedily, it is sufficient to provide an oral report accompanied by a summary of the case on an MG3 detailing the conditions possible and with a clear indication that the suspect admits the offence and would agree to the caution and proposed conditions. Inspectors observed one instance where the police wished CPSD to consider a number of offenders arrested for drunkenness for a conditional caution requiring them to attend an alcohol referral group. The prosecutor made good use of her time and dealt with four cases in 35 minutes on this basis. In another instance, although the case was not as clear cut, a conditional caution was sensibly imposed.
- 5.39 Basic cautions are rare, given that straightforward cases of low seriousness with full admissions made by the suspect usually do not need CPS or CPSD charging advice. However, those that do come to CPSD are dealt with satisfactorily.

Youths and persistent young offenders

- 5.40 CPSD prosecutors have a good understanding of the law and principles relating to the handling of youth suspects and deal with them well, as the file sample confirmed. There is a wealth of reference materials available to the lawyers governing the principles in prosecutions of youths and persistent young offenders (PYOs). A youth case digest is sent to lawyers and issues are discussed on the bulletin board and via email. The guidance given by duty prosecutors to area prosecutors as to the likelihood of a court concluding that an allegation is a grave crime (which determines whether the case is heard in the Youth Court or Crown Court) is sound. Warnings and reprimands are appropriately given to youths.

Safeguarding children

- 5.41 The principles of safeguarding children are designed to ensure that children are free from abuse or neglect. Different agencies have different responsibilities and the CPS role is in safeguarding children as victims and witnesses and ensuring that young offenders are dealt with appropriately. This includes ensuring high standards of advice and decision-making. The file sample included a number of cases of domestic violence where children were present and witnessed the events. It was clear from these cases that duty prosecutors were well aware of the issues and dealt with them appropriately. The presence of a child in these circumstances was usually referred to in the case analysis on the MG3 as a factor influencing the decision to charge. Where children were victims, or of sufficient age to be witnesses, special measures were always considered.

6 MANAGEMENT OF FINANCIAL AND HUMAN RESOURCES

Budget

- 6.1 The budget allocation for CPSD was £11,788,000 in 2006-07 and £12,768,656 in 2007-08. The majority of costs, over 95%, are for salaries with the remainder being general running costs, travel and subsistence, training, and equipment such as law books. Costs for telephony, IT and furniture are met from CPS central funds.
- 6.2 Financial controls are in place and meet the needs of the department. The budget is reviewed monthly and is considered at each meeting of the SMT. Given the small proportion of the budget that is allocated to non-staff expenses, there is little scope for devolving responsibility. However, the central support team (which provides administrative and other support in CPSD) monitors expenditure by prosecutors and other outgoings and checks that travel and subsistence claims are reasonable. A number of measures have been put in place to ensure value for money on training (such as the use of online resources and team meetings to deliver training) and running costs.
- 6.3 With most of the budget being required to meet staff costs, the primary financial control and method of obtaining value for money is through the deployment and productivity of staff, most of whom are lawyers. Staff costs are high partly because of the premium payments made to lawyers for out-of-hours working. The full-time duty prosecutors' standard week is 37 hours and they are allocated shifts in a four week rota period accordingly. Premium payments are made to the basic salary of 25% for hours worked between 5pm-11pm or 5am-9am Mondays-Fridays, 33% for hours between 11pm-5am Mondays-Fridays, 50% for Saturdays, and 100% on Sundays. Prosecutors revert to basic pay when unfit to work. Overall, the average cost per lawyer in CPSD is approximately 30% more than a lawyer in a CPS area. The initial business case for the national charging project suggested that there would not need to be any additional payments made to prosecutors working out-of-hours; it is now accepted that this was unrealistic.

Workload

- 6.4 There are two sets of figures for the number of cases dealt with by CPSD, which comes about through having two different recording systems. CPSD keep their own records of the number of charging advices given which are recorded on an MG3. Within each CPS geographical area the number of MG3s completed by CPSD, as opposed to the area's own lawyers, is also recorded when the case is registered and it is this information which feeds into the CPS national management information system (MIS). It is recognised that not all areas record the number of CPSD-generated MG3s accurately. The degree of difference between an area's records and CPSD's varies significantly from area to area. The closest match during 2007-08 was CPS Merseyside, whose figure for CPSD MG3s is 99% of those recorded by CPSD and the furthest apart was CPS Wiltshire at 48%. For 2007-08 MIS recorded 87% of the number of MG3s recorded by CPSD, a difference of some 17,000. The accuracy of data entry has improved over time, but over and under-recording continues to impact on the ability to forecast workloads accurately from MIS.
- 6.5 The data produced by the CPSD recording system is inherently more reliable and the CPS national Finance Committee has recognised this in adopting CPSD data on calls and MG3s for the purposes of determining staffing levels and budget allocation. It may however be that CPS areas are also receiving credit for charging advice which they are not, in fact, undertaking. This situation has been allowed to exist for some time. Although CPSD collects the data for its own purposes, continuing reconciliation of flawed data is inefficient and should be addressed within the CPS by national managers.

Staff deployment

- 6.10 As well as a mix of permanent staff and those seconded from areas CPSD also has access to a small number of 'occasional' lawyers, who work full-time in their own area, but do a small number of hours when needed for CPSD.
- 6.11 The deployment of staff is constantly being refined. It is important to ensure that prosecutors are deployed effectively. If not enough are on duty at any one time, calls have to be placed in a queue waiting for a prosecutor to become available. On the other hand if too many are on duty they may be waiting for some time between calls and not being used effectively. However, there are inherent difficulties in producing the lawyers' rota. Prosecutors and managers are not all contracted to work 37 hours a week; some are part-time and some have agreed specific shift patterns, working at certain times or on certain days of the week. Logistically it is a very difficult task, but one that is handled with skill by the rota team, who use a workforce model developed by CPSD. The model analyses workloads at daily, weekly and annual levels and uses them to determine the optimum number of duty prosecutors and managers to be deployed to each shift. The pattern of distribution of calls from the police for 2007-08 is shown in Annex M. The model has been in place for a number of years and is updated to reflect seasonal fluctuations. It is based on the premise that it will take between 66 and 74 minutes to give charging advice to the police on each case and aims to keep the percentage of call backs below 3% of the total number of calls. An average time of 70 minutes is used to calculate the number of duty prosecutors who will be needed to achieve that aim. The average time taken for a call which leads to a charging decision is actually 43 minutes, but this does not include ineffective calls or reflect the time allowed for other activities by prosecutors and managers such as administration and training. Our observations showed that the level of staffing was well-matched to the demand, with few instances where calls could not immediately be taken and few instances where prosecutors' time was not being utilised effectively.
- 6.12 Staffing levels can quickly be adjusted. Where increased demand is unexpected, for example if staff are sick, the shift manager will consider whether cover is required and can call on lawyers who have said they are willing to work at short notice. In one observation, a prosecutor logged back in after the end of his shift to take a call back because he had noticed them building up. This is indicative of the degree of commitment the inspection found, which is commendable. The readiness of lawyers to take a shift in this way shows flexibility and a team working ethos. Conversely, where a shift is quieter than expected managers will ask for volunteers willing to be released early.
- 6.13 CPSD can adjust the cover to meet anticipated increased demand from events such as police operations, football matches, festivals and demonstrations, and for long term or anticipated sick leave, such as for pre-planned surgery. Where CPSD is notified of significant police operations managers will, if necessary, allocate lawyers with particular skills to provide adequate cover, continuity and specialised knowledge. Recently, assistance was given to the Border and Immigration Agency in a pre-planned enforcement operation. CPSD's ability to reflect these peaks in demand is dependent on being notified, however, and there have been instances where planning for police operations has not considered the impact on CPSD, which has made tailoring staffing levels to the demand more problematic.

- 6.14 CPSD has also demonstrated its ability to meet unexpected emergencies. In the aftermath of the bombings on the London transport system on 7 July 2005 managers immediately deployed a number of lawyers to ensure that, despite the disruption caused by the bombings, charging advice was available across the capital the following day. This flexibility to meet the emergency need was impressive.

STRENGTH

CPSD and its staff are flexible and meet sudden changes to demand for its services with speed and efficiency.

- 6.15 Despite the skill with which working patterns have been managed, there has been a need to review staff deployment to ensure it meets the business need. When CPSD was introduced a need to recruit staff quickly led to some lawyers being allowed to determine their preferred shift patterns and this has led to a wide range of differing patterns which did not meet the business need or provide sufficient flexibility. In addition, some shifts could be as long as ten hours, which was considered to be too long. A large scale consultation process was carried out, during which shift patterns were standardised, save where special requirements for particular duties were justified. New rota arrangements have been in place since April 2008, which more closely match the prosecutor resource to the workload on any given shift and is easier to administer. The new arrangements appear to be working effectively and have the potential to deliver improved value for money through more efficient deployment of staff.
- 6.16 Prosecutors are credited with six hours (pro-rata for those working part-time) each four week rota period to cover for extra time working on a case after the shift is finished and for professional development, policy and administrative tasks.

Induction and training

- 6.17 Induction in CPSD is comprehensive and all levels of staff expressed their satisfaction. New starters are assigned mentors who sit alongside them for their first shifts if necessary. Lawyers spoke appreciatively of this. Managers' induction includes some time spent in the central support team (CST) to gain understanding of the work processes.
- 6.18 Lawyers working within CPSD are experienced in all aspects of casework. The recruitment process is specifically designed to test their legal knowledge. The wide range of cases they deal with and the demanding environment in which they operate means that the need for training and remaining up-to-date is fundamental. There are a number of barriers to effective delivery of training within CPSD, principally the lack of a permanent single base, although managers arrange training opportunities at the two day team meetings held twice a year for all staff. This is not enough to deliver all training requirements.
- 6.19 Training is undertaken where there is a business need but developmental training is more sporadic. Budget restrictions preclude some developmental training, but other routes are used where possible. There is some use made of coaching and one member of staff is given specific tasks and the time to do them as part of her national vocational course. In-house experience is drawn on and opportunities to act in place of a senior manager have been made available to staff.

- 6.20 Formal training is primarily through use of the online Prosecution College (a distance learning process comprising several e-learning modules). From CPSD's perspective the college has the merit of being flexible enough to meet the needs of remote shift workers. Despite working from home and being allowed the full-time requirement to complete particular courses, it is regarded by lawyers and some managers as a not entirely effective way of delivering training. The equipment in prosecutors' homes does not allow them to experience courses to the full and there was a consensus that there is too much reliance on this style of training. Many lawyers prefer to try to attach themselves to available area training courses but this is haphazard. Work is in progress to establish how CPSD can make more structured use of CPS area training. There was a feeling amongst lawyers that, given the specific needs of their work, more bespoke training should be provided. However, this may be viewed as one of the risks which has to be managed through adjustment of the length of time prosecutors are attached to CPSD and refreshment through periodic returns to their areas. Consultation with the Learning and Leadership department of the CPS should be undertaken as a priority to address these needs.
- 6.21 Training records are comprehensive and each manager is aware of the training their lawyers have undertaken, although the use of area training courses is not captured unless the individual member of staff advises the Learning and Development Manager. The monitoring of training has only recently been introduced and, whilst evaluation forms are completed, there is little evidence that they are reviewed, although CPSD produced a report on the impact of youth training delivered towards the end of 2007. CPSD is currently considering how best to assess the effectiveness of training on subsequent performance. There is no system for monitoring equality of access for training.

ASPECT FOR IMPROVEMENT

Effectiveness and equality of access to training are not monitored or ensured.

Sickness

- 6.22 Arrangements for the efficient management of sick leave are not yet fully established. Return to work interviews are undertaken by managers, but there are a number of staff who passed trigger points on their attendance records quite some time ago, but where action has been taken only recently.
- 6.23 Overall sickness levels are good; the rolling 12 month average was five days in March 2008, which is better than the target of seven days, but the trend is rising.

Reference materials

- 6.24 Legal reference materials are supplied online for all duty prosecutors, who also have access to training materials. The CPSD's online storage area, to which all staff have access, has a wealth of legal information and is kept up-to-date. This and the training material are reported to be helpful resources. Hard copies of a legal textbook, Archbold, are supplied to those of the permanent members of staff who are qualified higher court advocates (HCAs). CPSD's rationale for providing only permanent HCAs with their own copy of Archbold is to enable them to have it for reference when they conduct advocacy work in CPS areas.

- 6.25 We can see no reason for drawing this distinction given that whilst working for CPSD all the lawyers complete the same tasks and there are risks inherent in this policy. Some were working with books which were unacceptably out-of-date which is a source of considerable frustration to them. Whilst online resources are available, some find referring to a hard copy book quicker. Use of the CPS infonet search facility can be cumbersome and it is not entirely user friendly. There are also instances where online resources are not available to prosecutors, for example when there are power failures or technical faults. Maintenance carried out on the infonet is undertaken outside normal working hours to ensure the least disruption to the CPS. This, however, is when CPSD is working and means they cannot access sometimes vital information.
- 6.26 We are aware that CPSD senior managers have taken a policy decision in respect of this issue and are reluctant to make other provision, not only because CPSD is largely an IT-based organisation but also because duty prosecutors have almost instant access to their managers for advice and because of the high costs of providing books. However, given the levels of concern, managers need to think again about how to address this issue. Whilst recognising the budgetary constraints the provision of more, up-to-date, reference books would enable prosecutors to meet the needs of the role even when there are technical difficulties and could speed up the delivery of advice for those who find online research more difficult. CPSD may wish to consider negotiating with CPS Headquarters for some additional budget to meet the costs of legal reference materials and securing area agreement to seconded lawyers being supplied with a copy of Archbold before they transfer to CPSD.

ASPECT FOR IMPROVEMENT

Addressing the concerns of prosecutors about the provision of legal reference books.

Value for money

- 6.27 The CPS was provided with substantial additional funding under the government's Spending Review 2004 to implement a phased roll-out of the statutory charging scheme. Other agencies were not given similar funding as it was anticipated that the additional work would fall to the CPS. During the five years from April 2003-March 2008 the CPS allocated almost £140 million to its areas, including for the establishment of CPSD, to implement and maintain a statutory charging scheme that operated 24 hours a day, for 365 days a year.
- 6.28 It was anticipated that making the CPS responsible for charging decisions in more serious cases would lead to a quantifiable improvement in discontinuance, guilty plea and conviction rates and lead to efficiencies arising from the time saved. However, neither the CPS nor the police has assessed the actual costs of a charging decision now that the responsibility falls to the CPS. No cost per case calculations have been made.
- 6.29 Determining whether CPSD delivers value for money in the service it provides is slightly problematic. It is not possible to compare its costs with those of daytime coverage by CPS areas, where charging decisions are to a large extent delivered in face-to-face meetings with the police, because no assessment of the latter costs has been made. Additionally CPSD's own budget does not include the costs of providing and maintaining IT, telephony or other equipment in prosecutors' homes, as these are borne centrally. However, on a simple basis, taking CPSD's budget for 2007-08 and setting it against the number of charging decisions made, the cost of providing each charging decision was £94².

2 Budget 2007-08 £12,768,656, divided by number of actual charging decisions recorded on MG3 (135,813).

- 6.30 CPSD also deals with a proportion of calls from the police which do not result in a charging decision. These might be legitimate consultations but may also be ineffective for some reason. Again, on the basis of the budget for 2007-08, the cost per call was £74.48³.
- 6.31 The Joint Review of the New Charging Arrangements found that, although monitoring the spend on delivery of statutory charging to the last pound was neither practical nor productive, more attention should be given to financial considerations. In particular there appears to have been no analysis of the comparative costs of alternative delivery systems. With tighter budgetary constraints in the next three years, there will be a need to determine the most cost effective way to deliver the statutory charging service. The model and cost of CPSD should provide useful information in considering the way forward.

3 Budget 2007-08 £12,768,656, divided by number of calls recorded by CPSD telephony system (171,246).

7 PERFORMANCE MANAGEMENT

Performance management

- 7.1 CPSD has an impressive suite of quantitative performance measures derived from the IT software system for call handling. The data includes information on call times and lengths as well as, for example, the number of calls within the first 30 minutes of weekday shifts, abandoned calls, and the CPSD share of national charging caseload. This enables thorough analysis and feedback on call levels and duration which can be broken down by month, police force or duty prosecutor, and presented as raw data or percentages. The formal use of this data is embedded and has been refined over time. It is used to inform CPSD management discussions and to drive forward improvements in the performance of individual prosecutors and the organisation as a whole.
- 7.2 CPSD produces a monthly performance report that includes, for example, call data, levels of appeals and complaints, numbers of threshold or full Code tests, decisions, and the outcomes of decisions (charge, bail or no further action). Performance is also measured against the key performance indicators designed to assess whether the benefits of the statutory charging scheme are being realised (discontinuance, guilty plea and attrition rates on cases originally advised on by CPSD). Although performance is compared where relevant to that nationally, no use is made of historical data or trends and the outcomes of managers' quality assurance of decision-making are not given in the report. Quantitative data is discussed at all management meetings, but there is limited evidence that information regarding the quality of performance is discussed in the same depth, or that it is used to identify emerging trends or themes to the same degree. Additionally, it was not clear from the minutes of the strategic management meeting whether action points arising from previous meetings had been completed.
- 7.3 CPSD is subject to quarterly performance reviews, undertaken by the DPP and Chief Executive, in the same way as other CPS areas.

RECOMMENDATION

CPS Direct should ensure that performance management discussions include regular consideration of the findings from the quality assurance of casework.

- 7.4 Shift managers complete a monthly report of actions they have undertaken, including staff and performance management, and area and police liaison activity. Matters affecting individual prosecutors are fed back to them by their line manager and managers are expected to identify issues affecting their team or the police forces for which they are responsible and follow them up. Team performance is clearly relayed to the members of the relevant team either by email or in team bulletins. The report goes to the Unit Head. It is apparent from the conflicting evidence regarding the extent of liaison activity (set out in more detail in paragraphs 8.24 and 8.30) that more attention is needed to this aspect of managers' work.

Learning lessons and good practice

- 7.5 The standards expected of duty prosecutors are set out in CPSD's good practice guide, to which all staff have access. Some good practice and lessons learned are captured from various sources. Online discussions take place between managers and staff using the bulletin boards on best practice. This record of discussion is retained and often included in the good practice manual as standard procedure and policy. CPS policy is adapted for CPSD use and included in the good practice guide, which ensures that compliance is captured as part of managers' quality checks. Other identified good practice or aspects for improvement from external sources, such as HMCPSI reviews, are also incorporated into the manual.

Shift and team management

- 7.6 Performance is managed during shifts using the data available from the manager's console and inspectors found the shift management to be of a consistently high standard. The managers' manual gives clear information as to the expectations, including that managers will monitor logging on and off times, long calls, and high profile cases. Managers see MG3s for all long calls, and quality assure sensitive cases as discussed in paragraphs 5.9 and 5.17. Shift reports are compiled for each day, with anything out of the ordinary being recorded. Examples of good work and where lessons can be learned are included as appropriate. Duty prosecutors complete call logs during a shift, which are used to report significant aspects of a case, or any barriers to timely advice. They also highlight specific matters by email to their manager, so that they were taken into consideration.
- 7.7 Managers are accountable for the performance of their teams, for which the quantitative call data is readily available. The data for CPSD as a whole, and for teams, is shared with all staff. This enables an individual and their manager to compare performance against the team and CPSD averages. Managers also use the call data to help identify where further monitoring may be needed or those individuals who may need more support or training.
- 7.8 Managers undertake CQA checks on four cases per month for each prosecutor in their team. One is undertaken during the course of a shift with all evidence being forwarded to the manager for assessment along with the MG3. Observations confirmed that the CQA monitoring is in line with the guidance and that both good performance and areas for improvement are fed back to individuals. Managers maintain performance folders for each prosecutor, drawn from their own awareness of their team's work whilst managing shifts, CQA and the information available from the shift reports and call logs.
- 7.9 Management of the members of the CST is less structured than that of lawyers, but appears to be effective. At monthly team meetings and in some cases daily meetings, discussion of targets and deadlines takes place and work is allocated to achieve these. Some discussion of the team targets and their achievement takes place at the SMT meetings.

Realisation of benefits and outcomes

Key performance indicators

	2006-07		2007-08	
	National	CPSD	National	CPSD
Magistrates' courts' cases				
Discontinuance	15.4%	16.8%	14.3%	15.6%
Guilty pleas	68.7%	71.2%	71.8%	73.6%
Attrition	22.0%	21.9%	20.9%	21.0%
Crown Court cases				
Discontinuance	13.1%	13.1%	12.8%	13.2%
Guilty pleas	65.5%	70.9%	70.2%	74.5%
Attrition	22.9%	19.4%	21.4%	19.2%

N.B. National data excludes CPSD cases so represents the data for the 42 geographical areas.

- 7.10 As the table above shows, in 2007-08 five of the six key performance indicators show improvements, albeit some were slight. The rate of discontinuance for Crown Court cases has fractionally worsened since 2006-07. Performance on guilty pleas in all courts and on attrition in the Crown Court continues to be better than the average. Attrition in the magistrates' courts has not improved as much as the national performance and CPSD now performs slightly worse than nationally. The rate of discontinuance in all cases is slightly worse than the national average. However, the balance of casework in CPSD is different from that of the 42 geographical areas. It deals with a higher proportion of some types of cases where successful outcomes are harder to achieve, such as domestic violence and rape, and this can therefore impact on performance. The share of caseload for all hate crime is at Annex K and it, and outcomes in hate crime cases, are discussed in more detail at paragraphs 5.15-5.20.
- 7.11 CPSD does not have the same access as a geographical area to failed case reports. It could obtain these or the final outcome of each of its cases individually but an assessment found that the length of time it would take to retrieve the information case-by-case would be disproportionately long, with a consequent impact on costs. The degree to which events after charge and the area handling of a case impact on the outcome would also be difficult to factor out of any assessment. For these reasons, unsuccessful outcomes are not monitored in the same way as in an area. However, particular categories of case are quality assured.
- 7.12 CPSD receives feedback from some areas on the standard of decisions in individual cases, including some praise for good work or high quality MG3s. However, feedback is not universal or systematic across the CPS, as was clear from observations during this inspection and the joint review. Some areas have undertaken specific work to compare CPSD and area outcome rates, but it is not clear whether every area which has conducted such comparisons has fed the results back. The breakdowns in communication may be indicative of shortfalls in the liaison which we discuss at paragraphs 8.22-8.36. Where areas feed back on decisions or refer back specific failed cases, CPSD managers examine them and seek to learn lessons.

8 LEADERSHIP AND GOVERNANCE

- 8.1 CPSD has a strategic management team made up of the CCP, Area Business Manager (ABM), Unit Head, Performance Officer, and CST Manager, which meets monthly. A managers' team attended by the CCP, ABM, Unit Head and all shift managers (currently 12) meets every three months. Each manager has responsibility for about 12-14 prosecutors. Within CST there are teams for dealing with the rota, performance and finance, and the team as a whole meets monthly.
- 8.2 National team meetings for all staff are held at three different locations across the country. Originally these were held three times a year, but are now to be twice, with the third replaced by separate meetings of the individual teams of prosecutors with their line manager.

Business planning

- 8.3 CPSD's business plans have clear links to national CPS priorities and have reflected CPSD and some national targets. Milestones relevant to CPSD business were included in the 2006-07 and 2007-08 plans, but some were not sufficiently specific or measurable. Separate business plans are in place for CST and some of the groups that make it up, but they did not all carry through the CPSD business plan objectives in sufficient detail.
- 8.4 There has been good work at managerial level to ensure that the CPSD 2008-09 plan better meets the business need and is more amenable to effective review. It tasks all managers with responsibility for key pieces of work, which is a clear improvement on previous years' plans. CST staff have clearly been involved in business planning and the plan also involves prosecutors and other staff in delivering tasks and objectives.
- 8.5 There is no evidence that the 2006-07 and 2007-08 plans were regularly and formally reviewed. However, a formal review process is being put in place for the 2008-09 plan, with managers reporting back to each of the management team meetings about progress on their allocated responsibilities. Where key dates or milestones are due, an automatic agenda item will be generated for those meetings. The plan will then be updated and circulated to all staff via the bulletin boards.
- 8.6 The risk registers in the last two years, despite suggestions from the CPS Business Development Directorate and comments in the DPP's quarterly reviews, have fallen short of best practice, and the register for 2007-08 was only revised to meet those concerns in February 2008. It did not include two key risks from the business plan (IT/telephony and partnerships) as risks in their own right. The reviews of the register were, like those of the business plan, not systematic or well documented. This, too, has now been resolved.

Change management

- 8.7 In general change is anticipated, planned for and managed well. For example, migration to a new IT server had the potential to be very disruptive but was subject to thorough planning with CPS centrally and the external provider. A pilot migration was used to test the transfer and the IT services to duty prosecutors were moved in batches so as to minimise the difficulties caused. Nearly all of the minor interruptions to service were later shown to be for reasons unconnected to the change over. Equally, the CCP moved quickly to realign liaison arrangements when the CPS nationally decided to organise areas into groups.

- 8.8 There is a proportionate continuity plan in case of loss of resources such as telephony, IT or duty prosecutors. CPSD is adept at responding quickly to peaks in demand caused by police operations or particular events, but would benefit from more consistent advance notice of planned activities. Emergencies and unexpected changes have been handled well and the impact from disruptions minimised. Managers are willing to learn from success and failure and each incident is followed by an assessment of the strengths and weaknesses of the CPSD response, to enable better action next time. In addition, where particular ways of working have been shown to be less effective, managers have reviewed them and made further changes where necessary.

Corporacy and cohesion

- 8.9 There is a corporate approach to the management of CPSD which is both vital and challenging given its nature, with remote working and very varied staff shift patterns. Considerable thought is given to the modes and styles of communication that work best given these challenges and guidance is made available to managers to help ensure that they adapt to the different working and management styles demanded by the organisation. There is scope to standardise the contents of and/or improve some communications, for example, team newsletters and CST team meetings.
- 8.10 There is a clear management structure and close liaison between managers; roles are largely understood. Recently, a long-running exercise to define the shift manager's role has culminated in a clearer expectation of managers and a revised managers' manual. This contains much useful guidance and advice and the manual has undoubtedly contributed to the consistent management of teams of duty prosecutors. Similarly, the comprehensive manual for prosecutors establishes a clear role for lawyers, which also assists managers as expectations are clearer. The role of the Unit Head is clearly articulated in the job description and, although awareness of this document appears to be patchy, the key responsibilities are clearly understood. The redefining of the manager's role, with more emphasis on proactivity, is already having visible impact with, for example, a reduction in the number of prosecutors logging off to complete a charging advice.
- 8.11 Feedback from staff demonstrated clearly that teams and the shifts of prosecutors feel part of a cohesive unit, supported by managers and colleagues, and work well together. This was confirmed by the inspectors' meetings with CPSD staff during focus groups and observations in prosecutors' homes and at team meetings. Since the CST has been included in team meetings there has been better understanding between their staff and duty prosecutors, leading to more positive relationships. Managers, and the senior management team as a whole, are respected and valued and satisfaction levels with CPSD's senior people are high. In the 2006 staff survey 74% of CPSD staff reported that their team was well managed, compared to an average across the CPS of 36%. The positive response rate increased in the smaller CPS Pulse survey in 2007 and again in CPSD's own staff survey at team meetings in early 2008; by then 87% of staff reported satisfaction with team management.

STRENGTH

Staff work well together and form strong teams. Satisfaction levels with the standard of management are very good.

Communication and feedback

- 8.12 Staff receive constructive feedback and real effort goes into ensuring that good performance is acknowledged. Feedback on charging advice is given immediately during shifts by the online managers and recorded in the daily shift reports. Instances of good work are recognised by the CCP in personal emails to the members of staff responsible. Staff were consulted about what reward and recognition schemes they prefer and by the results of the 2006 and 2007 staff surveys, which both recorded greater than average satisfaction levels with feedback and tackling of poor performance.

STRENGTH

The feedback and support given to duty prosecutors on casework matters.

- 8.13 Although managers have considered the outcomes of staff and customer surveys, there is less evidence of a structured response. An action plan said to derive from the 2006 CPS staff survey does not specifically relate to the findings and it, and the recommendations from the 2007 survey appear not to have been reviewed or followed up formally. CPSD's staff survey, conducted in early 2008, which generally showed improved results still identified communication as one of the aspects for improvement. All of these have been incorporated into another action plan and some steps (such as the introduction of a business update) have already been taken.
- 8.14 CPSD commendably ran its own survey of police users of the service in 2006, which led to largely positive feedback. Satisfaction levels were high for the process for accessing CPSD, quality of decisions, rationale and explanations given, and the professionalism of CPSD lawyers. The main issues for improvement concerned the technology and IT which support charging within the police and CPSD, clarity around responsibility for bail decisions, and where cases are suitable for charging by a custody officer. There were concerns expressed about the provision of information and guidance, in respect of which it was proposed that changes be made to the manual on statutory charging and that CPSD liaison officers work with their local CPS area contacts. The CPSD good practice guide was to be recirculated. However the local liaison response does not appear to have been effective, or followed up systematically, since the same concerns were apparent during this inspection. It is important that CPSD should engage fully in order to address issues such as the lack of awareness on the part of police of CPSD practices and procedures, and arrangements for keeping telephone lines open which can lead to practical difficulties for police.
- 8.15 CPSD makes good use of the internet and criminal justice system publications to promote itself, although one internal article was thought not to portray accurately the work undertaken. Its website contains a wealth of information for police, CPS areas and the public on the role and work of CPSD. It makes available performance information, sources of further help and clear guidance, and useful documents such as the good practice (duty prosecutors') manual. The information contained in the website is a useful tool for operational police officers and would improve general awareness of CPSD's role, however, it was clear from observations and interviews that a good majority of police officers and CPS area staff were unaware of the website.

Equality and respect

- 8.16 Equality and diversity are reflected in the objectives in CPSD's business plans and these issues were clearly considered when changes were made to the rota shift patterns. Where appropriate, lawyers were given rota commitments which reflected, for example, specific childcare needs, health issues or religious observances. However, the setting of equality objectives in staff personal development reviews and the levels for various grades for the core skills and valued behaviours are inconsistent.
- 8.17 There is data available to CPSD on key 'people' indicators, but it is broken down only into the broadest categories, including gender, full or part-time working, disability and ethnicity. As a result CPSD cannot accurately assess, for example, whether it has more or less part-time staff than CPS nationally or than the average workforce, whether the number of female part-time staff is disproportionate, or whether the preponderance of black and minority ethnic staff is at a particular grade.

ASPECT FOR IMPROVEMENT

CPSD senior managers should consider the priority given to equality issues and ensure that they are embedded into all its processes.

- 8.18 The results from the two national CPS staff surveys in 2006 and 2007 show a decline in CPSD staff feeling they are treated with dignity and respect. In 2006 the satisfaction level was 76% (compared to the national average of 64%) but in 2007 it was 47%, and worse than the national average of 57%. The result for the CPSD survey in 2008, however, showed satisfaction levels of 82% - a significant improvement.
- 8.19 The managers' manual offers useful guidance on how to address inappropriate emails or other conduct and observations confirmed that managers act quickly and appropriately.

Community engagement

- 8.20 CPSD has no direct links with the community as it is not aligned with a specific geographical area. Nevertheless some engagement activity is conducted, with sessions carried out as part of police training courses and information provided to schools, colleges and careers fairs. CPSD is currently working on ways to improve its profile and has a dedicated member of staff responsible for updating the internal and external community engagement logs, keeping the website current, liaising with the Press Office at CPS Headquarters on national publications and identifying other opportunities to promote CPSD and its work. Along with many other CPS areas, CPSD has yet to capture definitively service delivery improvements that result directly from community engagement.
- 8.21 The hate crime scrutiny panel, which has met twice to date, is discussed above at paragraph 5.20.

Liaison with partners

- 8.22 There was a mixed picture regarding liaison with partners. Each legal manager has responsibility for liaison duties with a CPS group, the individual areas within that group and the relevant police forces. Legal managers are required to spend 80% of their time on shift. The remaining 20% is devoted to management responsibilities as well as liaison activity.

8.23 It was clear that some CPSD liaison managers have made significant progress in establishing links with their partners, both police and CPS areas, and those managers were highly regarded by the police. However, this was not consistent across all managers and the inspection has identified a number of aspects where more structured arrangements and greater input would yield improvements in service delivery. Managers are required to report on liaison activity or any liaison issues which have arisen in their monthly reports. However, nil returns are accepted without further enquiry and the managers' reports have not, to date, been used to enable CPSD to become aware of any failings in liaison which have occurred. The inspection identified one area and force where there had been no liaison activity for a considerable period until early in 2008.

Liaison with the police

8.24 There was conflicting evidence as to whether liaison generally with the police was effective at operational level. Questionnaires completed by senior police officers showed a 91% satisfaction rate regarding clear direct lines of communication with CPSD managers. However, it is apparent that more work is needed with the police to ensure that information is disseminated to the right level and that the correct procedures for seeking CPSD advice are in place at the operational level.

8.25 Observations showed that a number of misconceptions and myths regarding CPSD persist amongst police officers dealing with cases and suspects. For example, many are unfamiliar with the criteria for referral, the threshold test, what papers will be required, and the appeals process. The proportion of calls that produce an MG3 varies from force to force and could help to identify where more work is needed. Myths persist that calls to CPSD are slow to be answered and take 90 to 120 minutes on average, despite the fact that performance information shows this is not the case, or that they cannot take cases where the suspect is suitable for bail. Observations also indicated that sufficient up-to-date guidance and performance information were not often readily available to help address some of these misconceptions.

8.26 Responses from senior police officers in the questionnaires referred to in paragraph 8.24 showed 87% considered that relevant performance information and analysis is shared with and by CPSD liaison managers. Whereas this represents a high proportion, efforts should be made to ensure a more consistent approach so that the information is available for every force.

8.27 Whilst some police forces tell CPSD about planned operations or events that could impact on demand, not all consider CPSD in their planning processes. For example, the role of CPSD was not considered as part of the operation for the increase of police staff for the Olympic torch procession through London. Better liaison could encourage the sharing of such information and would enable CPSD to make assessments as to whether more or less staff will be needed. In some instances police officers are abstracted from normal duties to deal with security and public order and this reduces the number of arrests and therefore charging decisions sought.

8.28 Where appeals or complaints are raised by the police they are dealt with promptly and effectively. There is a documented structured system for appeals but the awareness of it amongst police is not satisfactory. Escalation of appeals to the Unit Head or CCP is rare. Any other complaints are logged, and all complaints were dealt with in accordance with CPS targets in 2007-08. There is a central log of complaints, which does not indicate if they were upheld, but each legal manager also keeps a register of those made regarding members of their team and the outcome and actions taken as a result are recorded.

Liaison with CPS areas

- 8.29 Again there is a conflict of evidence regarding the extent of liaison between CPSD and other CPS areas. The results from questionnaires sent to CCPs indicated an almost universal satisfaction level with liaison. Feedback from the meetings between the group chairs and CPSD's CCP is also positive.
- 8.30 Observations and interviews at the operational level paint a different picture. During this inspection areas were often unaware of who among their staff was responsible for liaising with CPSD, or assumed that the role was filled by whoever was the statutory charging champion. In a few instances, area charging champions were unaware that this was part of their role, or were unaware who the CPS liaison officer was and one reported that their first contact with CPSD had been at their joint instigation just prior to the inspection visit.
- 8.31 Performance information ought to be shared, but again there are a number of gaps in the contact points for areas and there were reports received of no information being provided to unit heads within CPS areas. Some CPSD managers are proactive in working with partners but managers acknowledge that liaison is better in some areas than others. A number of the aspects for improvement, such as inconsistent sharing of information on outcomes or comparative work done, the standard of decisions and lessons to be learned, or previous work done by area lawyers on complex cases, would be addressed or assisted by more effective liaison.
- 8.32 CPSD has recently arranged for all its liaison officers to attend CPS group strategic board meetings on a quarterly basis. This will enable performance information to be shared and discussed at a strategic level, but it is equally important that a similar emphasis is established and maintained at area level if service delivery improvements are to be achieved.

National liaison

- 8.33 There are a number of impediments to effective provision of charging advice by CPSD, of which they and the police are well aware, and which need a national approach in order to resolve them. While some efforts have been made to impact on national policing and the current and previous CCPs have pushed for improvements, there remain barriers to significant improvements in service delivery, primarily the patchy use of electronic media to transfer evidence, reliance on fax machines, the variance in police MG3 formats, and the inconsistent provision of the necessary equipment to operational officers. CPSD has been arguing for better use of IT to exchange evidence and documents and were hoping to pilot a shared online document storage area, called collaborative space, as part of the virtual courts project. This would enable the shared space to be accessible to police and CPSD to upload and view documents securely and would obviate the need to fax papers and email MG3s. It would also enable duty prosecutors to review any audio or visual evidence in an electronic format, such as photographs from a digital camera, voice messages and texts downloaded from a mobile phone, or electronic files of video and DVD evidence. However, at national level, there are no plans to give CPSD access to the collaborative space until the pilot has established whether it works and any cost implications.
- 8.34 CPSD has not been at the forefront of CPS thinking on issues that affect it. For example, nationally the CPS did not involve CPSD at the earliest stages of planning for CJSSS, or the Director's Guidance streamlined process, both of which impact on how charging is delivered out-of-hours just as much as during weekdays. The central business directorate seem to have limited awareness of factors that impact on CPSD's performance or data, such as the disparity in recording their cases by areas on the national case management system.

8.35 The challenge for CPSD is to position itself as a key player within the CPS and criminal justice system so as to ensure that it is informed and consulted on key initiatives nationally and can influence the outcome of deliberations on the future of statutory charging. At present, that is not the case.

8.36 There have been references at various stages in this report to the need to improve the liaison links and their effectiveness at local and national level; other issues will assuredly arise as charging and CPSD's role in it move forward. At present, the liaison structures are not adequate to seize the potential improvements in service delivery of which it is already aware nor to support future developments.

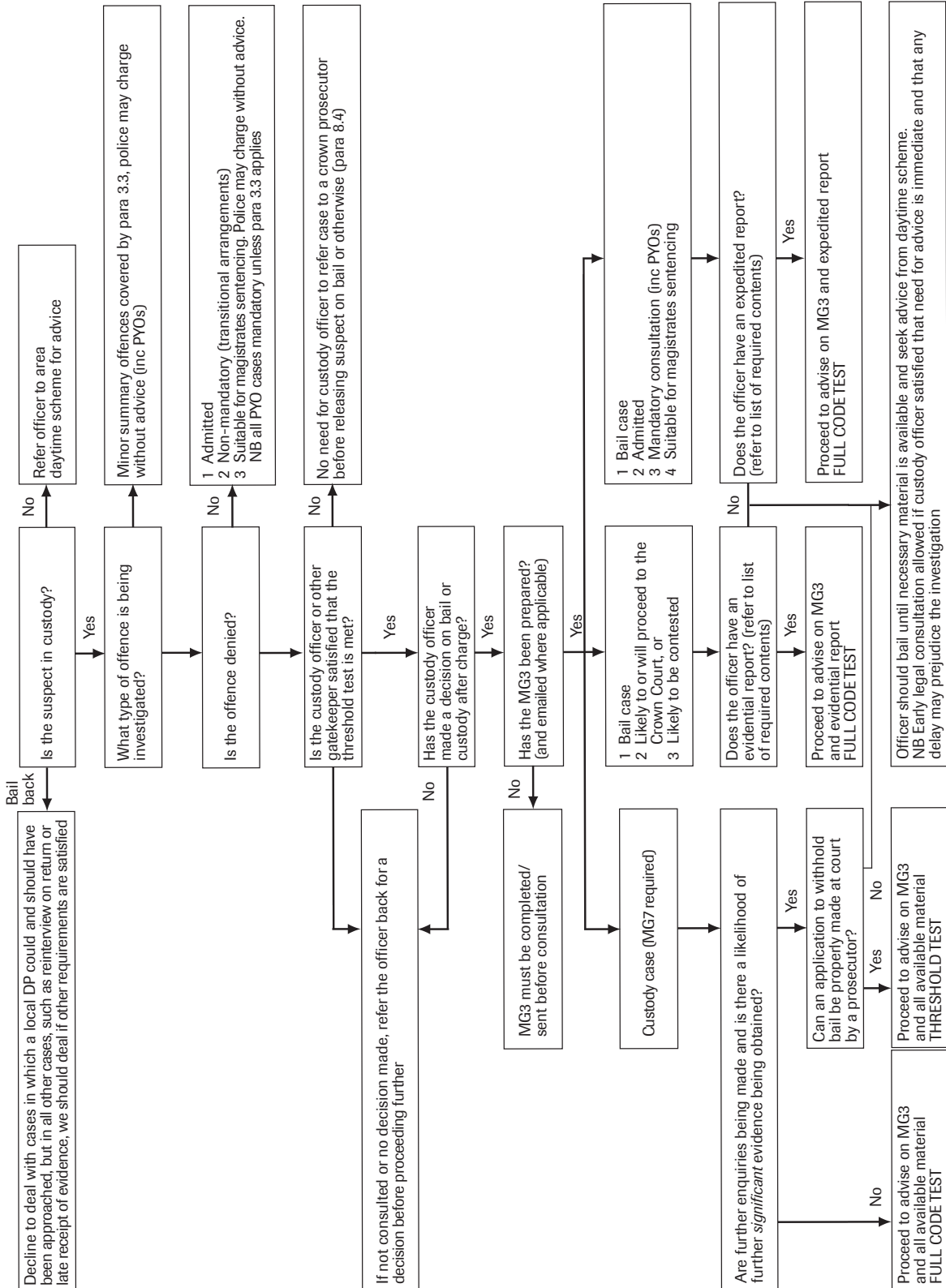
RECOMMENDATION

CPS Direct senior managers should ensure that:

- liaison mechanisms are in place and that liaison is carried out effectively across all areas and groups; and
 - it engages with the police and CPS at a national and strategic level more effectively to secure service delivery improvements.
-

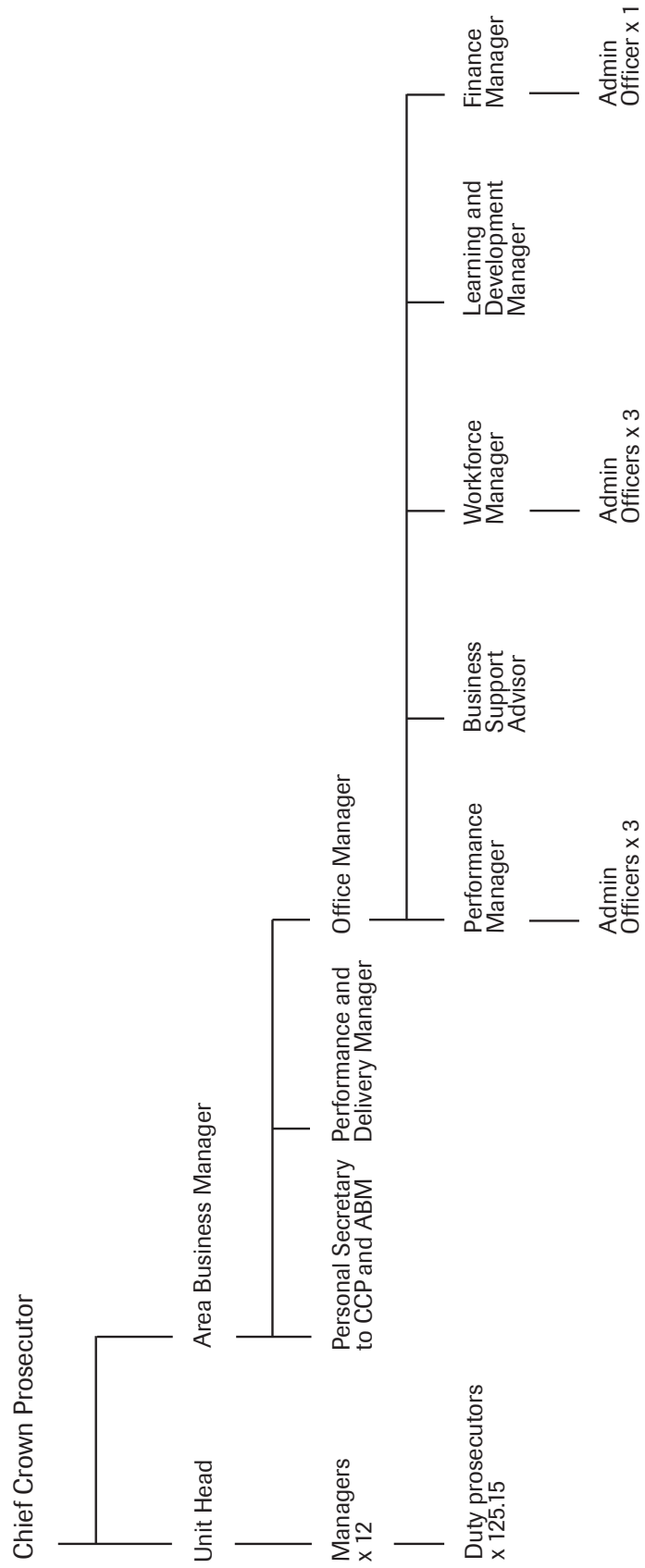
ANNEX A: CHARGING FLOWCHART

Flowchart to determine whether CPS Direct advice should be given in Director's Guidance cases



Note: Under paragraph 9.1 police may administer a caution (or reprimand or final warning for a youth) in any case other than an indictable only offence. This includes offences that would otherwise be mandatory if a charging decision was sought.

ANNEX B: CPS DIRECT STRUCTURE



ANNEX C: THE CPS DIRECT INSPECTION FRAMEWORK

Standards and criteria

- 1 *CPSD ensures that pre-charge decision-making operates efficiently out-of-hours and that arrangements with Areas and the police service are proportionate and work well*
 - 1.1 Calls for advice are picked up in a timely manner
 - 1.2 Advice is provided within a reasonable time
 - 1.3 Only appropriate cases are referred to CPSD
 - 1.4 There are effective arrangements to ensure that sensitive or complex cases are dealt with by suitably qualified lawyers
 - 1.5 There are effective arrangements to appeal decisions and to escalate disagreements where appropriate
 - 1.6 The handover from area to CPSD is handled effectively
 - 1.7 The handover arrangements with out-of-hours pilots in areas are appropriate and understood by all relevant staff
 - 1.8 Operational officers are satisfied with the level of service
 - 1.9 Any specific local needs, e.g. police operations, are reflected in CPSD's service delivery and are proportionate and effective
 - 1.10 The arrangements are user friendly; guidance is available to police officers, the requirements to be met before advice is given are proportionate and understood
- 2 *CPSD ensures that advice and decisions are of high quality, consider all relevant matters, and comply with the Code and all applicable guidance and policy*
 - 2.1 Decisions meet the threshold or Code tests
 - 2.2 Decisions are properly recorded
 - 2.3 There is proper consideration of relevant unused material (i.e. duty prosecutors consider material which may undermine or assist, per Director's Guidance)
 - 2.4 Ancillary matters (e.g. POCA applications, European Court of Human Rights issues) are considered where appropriate
 - 2.5 There is proper recording of ethnicity and gender of defendants

- 2.6 Relevant victim and witness issues (e.g. vulnerability, the need for special measures, victims' views) are considered and addressed where appropriate
 - 2.7 There is evidence of the consideration of relevant CPS policy or charging standards
 - 2.8 Action plans are used properly to add value (i.e. to identify further lines of enquiry or manage further investigation, with appropriate target dates)
 - 2.9 Pre-charge bail is used appropriately to build cases; there is no evidence of bail or action plans being used as prevarication or devices to avoid difficult decisions
 - 2.10 In the case of youth suspects, there is proper identification of the status of the suspect, timely processing of cases, and any action planning and target dates take account of PYO targets
 - 2.11 Alternative methods of disposal (including taken into consideration, caution or conditional caution) are considered where appropriate; duty prosecutors are made aware of the conditions available for cautions locally and relevant local public interest factors
 - 2.12 There is proper account taken of the police information as to local issues (e.g. PYOs, prolific offending, the impact of anti-social behaviour locally, or police operations) when giving pre-charge advice, without becoming overly dependent on police views
 - 2.13 The charge(s) and level of charge selected are appropriate both at charging and during the life of the case
 - 2.14 The decisions in sensitive and complex cases and in hate crime are of high quality
 - 2.15 Decisions reflect the need to safeguard children where appropriate
 - 2.16 Prosecutors receive the appropriate training, including on law and procedure (including for example, disclosure, Proactive Prosecutor Programme, domestic violence)
- 3 *Systems for managing performance are robust, performance information is reliable, managers are accountable for performance, and improvements result*
- 3.1 The proportion of successful outcomes in CPSD cases is improving
 - 3.2 The quality of decision-making is regularly monitored and assured
 - 3.3 Performance data is captured and analysed for key measures, including case outcomes, no further action rates, and appeals
 - 3.4 Usage of the threshold test is monitored and reviewed
 - 3.5 There is effective management of individual performance, including of the work done by some staff in their home area
 - 3.6 Lessons are identified and good practice captured, and fed back at the appropriate level within CPSD (see 4.2 for external)

- 3.7 Performance information contributes to improvements at individual, team and CPSD levels
 - 3.8 CPSD captures information about any differences in workloads and performance outcomes from area to area, and work is done to identify possible causes for any differences
 - 3.9 Outcomes for hate crime⁴ are monitored and analysed and outcomes are improving
 - 3.10 CPSD ensures that practice is consistent with CPS policy and HMCPSI thematic reviews
- 4 *Liaison with partners is proportionate, timely and at the correct level, and contributes to improvements in service delivery*
- 4.1 Sufficient guidance is made available to the police and CPS areas to ensure proper understanding of CPSD's role in statutory charging
 - 4.2 Performance data and information and any resulting analysis, lessons, and good practice are shared with CPS areas and Headquarters and with the police
 - 4.3 Senior managers are proactive in working with partners to drive forward improvements in the service and implement change
 - 4.4 Senior managers are responsive to concerns raised by the police or areas regarding service delivery
 - 4.5 Any formal complaints are handled effectively
 - 4.6 A community engagement strategy is in place (with particular reference to the planning for, and introduction of, the hate crime scrutiny panel)
- 5 *CPSD deploys resources efficiently, works within budget, and strives to achieve value for money*
- 5.1 Staff are deployed effectively and deployment meets the needs of the police service
 - 5.2 There is regular planning and review of staff numbers, coverage and structures
 - 5.3 Recruitment procedures ensure that staff with the appropriate skills and resources are appointed
 - 5.4 Appropriate induction and training are delivered to enable CPSD to meet its objectives, and are evaluated
 - 5.5 Systems are in place to ensure appropriate working conditions and the compliance with relevant health and safety provisions for home and office-based staff
 - 5.6 Available IT and equipment are used effectively by staff and managers in the performance of their duties

⁴ Hate crime for the purpose of this framework consists of disability hate crime, domestic violence, homophobic offending and racially or religiously motivated crime.

5.7 There are sound financial controls in place, budgets are delegated to the appropriate level and CPSD operates within its budget

5.8 The cost of the service represents value for money

6 *Leadership and governance are visible, structured, and effective*

6.1 CPSD has a clear vision and purpose supported by relevant plans which are regularly reviewed

6.2 Senior managers adopt a corporate approach to the management of work and staff

6.3 The governance structures and arrangements facilitate proper supervision and management of staff and resources

6.4 Responsibilities for key tasks or aspects of delivery (including performance, change projects and new initiatives, and equality issues) are clearly established, with targets and milestones set and monitored

6.5 Senior managers anticipate change or the need for change and plan effectively

6.6 Senior managers are willing to learn from success and failure

6.7 Equality and diversity issues are embedded; they are integrated into plans and are implemented effectively; recruitment, deployment and other human resources policies and practices meet the CPS's equality duties; under-representation in the workforce is addressed appropriately; flexible working is introduced and managed appropriately

6.8 Senior managers ensure that staff treat each other with respect

6.9 Good performance is acknowledged

6.10 There is regular and appropriate two-way communication within CPSD, including regular team meetings

ANNEX D: AGENCIES AND ORGANISATIONS WHO ASSISTED IN OUR INSPECTION

Police

Avon and Somerset Constabulary

Gwent Constabulary

Humberside Constabulary

Lincolnshire Constabulary

Nottinghamshire Constabulary

Metropolitan Police Service

Merseyside Constabulary

Thames Valley Constabulary

CPS areas

Avon and Somerset

Gwent

Humberside

Lincolnshire

London

Nottinghamshire

Merseyside

Thames Valley

The team is also grateful for the information from defence practitioners, Chief Constables and Chief Crown Prosecutors provided by the team conducting the Joint Review of the New Charging Arrangements.

ANNEX E: OBSERVATIONS

	17.00 – 00.00	00.00 – 09.00	09.00 – 17.00
Police stations (20 cases in 27 sessions)			
Tues 5.2.08	0*	-	-
Wed 6.2.08	0	0	-
Fri 7.3.08	0	-	-
Thurs 3.4.08 (2 observers)	2	-	-
Fri 4.4.08	0	1	-
Sat 5.4.08 (2)	-	-	0
Wed 9.4.08 (5)	7	-	-
Thurs 10.4.08 (2)	0	-	-
Fri 11.4.08 (3)	2	-	-
Sat 12.4.08 (2)	-	-	1
Thurs 17.4.08 (2)	4	-	-
Fri 18.4.08 (2)	2	-	-
Sat 19.4.08	1	-	-
Total cases	18	1	1
Duty prosecutors (44 cases in 12 sessions)			
Mon 3.3.08 (2)	7	-	-
Tues 4.3.08 (2)	8	-	-
Fri 7.3.08	5	-	-
Sat 8.3.08	5	manager 22.00 - 05.00	-
Sun 9.3.08	3	-	-
Sun 16.3.08	-	-	7
Mon 24.3.08	-	-	4
Sat 29.3.08	-	-	5 plus 1 manager 13.00-15.00
Total cases	28	0	16

* Where the entry is 0, an observation was conducted but no cases were seen.

ANNEX F: FILE EXAMINATION RESULTS

Consultation	
Cases falling within the Director's Guidance for statutory charging	100%
Duty prosecutor's (DP) advice	
Advice contains instructions to enable the prosecutor/associate prosecutor to deal effectively with the first hearing	96.6%
The DP's advice was well presented clearly and concisely	96.9%
The advice dealt with appropriate ancillary issues such as victim and witness needs (including special measures), hearsay and bad character evidence, confiscation of assets	93.8%
The DP ascertained the nature and significance of any available unused material	95.0%
The advice added value to the investigation process	98.3%
Action plans	
The action plan included realistic review/action dates	91.1%
The action plan was used to assist file building	89.2%
Threshold test	
The threshold test was appropriately applied	81.6%
The threshold test criteria had been properly considered by the DP	89.5%
A decision to charge was made applying the threshold test	49.2%
Full Code test	
The evidential test was properly applied	97.2%
The public interest test was properly applied	97.2%
Relevant CPS policy was correctly considered	100%
European Court of Human Rights issues were dealt with correctly	100%
Mode of trial was properly dealt with for either way cases	93.8%
Evidence	
The DP's decision was appropriate to the evidence and information provided by the police	96.9%
The DP considered the credibility of the evidence	100%
The DP sought to establish that the police account of the CCTV evidence was realistic in the context of the other available evidence and information	100%
The DP sought to establish that the police account of any achieving best evidence interview recordings was realistic in the context of the other available evidence and information	100%
Defences raised in interview or reasonable lines of enquiry that may point away from the suspect were considered by the DP	61.1%
The police provided additional evidence after charge which should have been requested by the DP	6.6%
Additional evidence after charge	
Later information or evidence provided by the police should have been requested by the DP during the charging consultation	3.0%
Trial issues	
The DP considered the likelihood of retraction or failure to attend court	78.3%
Issues relating to bad character or hearsay were considered	92.9%
Charging decisions	
The authority to charge should have been given	96.6%
Outcomes	
The correct charges were drafted	98.2%
Overall, was the DP's advice was: good	67.7%
average	30.7%
poor	1.6%

ANNEX G: GLOSSARY

Area Business Manager (ABM)

Senior business manager responsible for finance, personnel, business planning and other operational matters.

Action plan

A list of instructions to the police outlined by the duty prosecutor together with completion dates.

Appeals

A process by which a police officer may seek a more senior lawyer's opinion on a charging decision made by the duty prosecutor.

Aspect for improvement

A significant weakness relevant to an important aspect of performance (sometimes including the steps necessary to address this).

Associate prosecutor

A senior caseworker who is trained to present straightforward cases on pleas of guilty, or to prove them where the defendant does not attend the magistrates' court. Formerly called designated caseworkers, their remit is being expanded.

Call back

A call back occurs when all duty prosecutors are engaged on other calls. The next call will be answered by a telephone operator who will take contact information and a few details about the case and posts this information in a communal email inbox. When the next duty prosecutor becomes available they will check the call back list and ring the police officer back.

Charging scheme

The Criminal Justice Act 2003 took forward the recommendations of Lord Justice Auld in his Review of the Criminal Courts, so that the CPS will determine the decision to charge offenders in the more serious cases. 'Shadow' charging arrangements were put in place; the statutory scheme then had a phased roll-out across priority areas and subsequently all 42, the last being in April 2006.

Chief Crown Prosecutor (CCP)

One of 42 chief officers heading the local CPS in each area; is a barrister or solicitor. Has a degree of autonomy but is accountable to the DPP for the performance of the area.

Code for Crown Prosecutors (the Code)

The public document that sets out the framework for prosecution decision-making. Crown prosecutors have delegated to them the DPP's power to determine cases, but must exercise the power in accordance with the Code and its two tests – evidential and public interest. Cases should only proceed if, firstly, there is sufficient evidence to provide a realistic prospect of conviction and, secondly, if the prosecution is required in the public interest.

Conditional caution

A caution which is given in respect of an offence committed by the offender and which has conditions attached to it, such as to pay a sum of money in compensation to the victim. If an offender fails without reasonable excuse to comply with the conditions, criminal proceedings can be instituted and the caution cancelled.

CPS Direct (CPSD)

The CPS business unit which provides charging advice and decisions out-of-office hours to the police under the statutory charging scheme. Lawyers are available on a single national telephone number and the service is available to all police forces.

Discontinuance

The dropping of a case by the CPS in the magistrates' courts, whether by written notice, withdrawal, or offer of no evidence at court.

Director of Public Prosecutions (DPP)

The DPP is responsible for determining any charges and prosecuting criminal cases investigated by the police in England and Wales. The DPP makes decisions about the most complex and sensitive cases and advises the police on criminal matters. He reports to the Attorney General, the government Minister who answers for the CPS in Parliament.

DPP's Guidance

Guidance to police officers and crown prosecutors on charging. Issued by the DPP under section 37A of the Police and Criminal Evidence Act 1984.

Duty prosecutor

Lawyers (either a barrister or solicitor) who give advice to the police and make the decision as to charge under the charging scheme.

Evidential review officer

Members of the police who are employed to provide an early review on case files prepared by the police officer and to determine that it is ready for the duty prosecutor to make a charging decision. They may also be the person who acts as the 'gatekeeper' between the police and CPS charging advice.

Evidential test

The first limb of the test under the Code – is there sufficient evidence to provide a realistic prospect of conviction on the evidence?

Full Code test

The full Code test has two stages. The first is consideration of the evidence. If the case does not pass the evidential stage it must not go ahead no matter how important or serious it may be. If it passes the evidential stage, crown prosecutors must proceed to the second stage and decide if a prosecution is needed in the public interest.

Good practice

An aspect of performance upon which the Inspectorate not only comments favourably, but considers reflects a manner of handling work developed by an area which, with appropriate adaptations to local needs, might warrant being commended as national practice.

Hate crime scrutiny panel

A panel with independent members who independently review a number of 'hate crime' cases and how they have been handled by the CPS to identify good practice and aspects for improvement.

Higher court advocate

In this context, a lawyer employed by the CPS who has a right of audience in the Crown Court.

Indictable only offences

Offences triable only in the Crown Court e.g. murder, rape, robbery.

Ineffective calls

Telephone calls made to CPSD which, for a number of reasons, do not result in a charging decision being made.

Infonet

An internal website used by the CPS.

Management team meetings

Management team meetings which include the strategic managers of CPSD and shift and senior administrative managers.

MG3

The form initially completed by the police to request a charging decision, then updated by the CPS to record their charging. MG refers to the national Manual of Guidance used by the police and CPS.

Management information system (MIS)

The CPS IT system used for collecting and reporting performance management data.

No further action

Where a charge cannot be advised due to lack of evidence or where a prosecution would not be in the public interest, the file will be finalised as no further action.

No Witness No Justice (NWNJ)

This is a project to improve witness care: to give them support and the information that they need from the inception of an incident through to the conclusion of a criminal prosecution. It is a partnership of the CPS and the Association of Chief Police Officers and also involves Victim Support and the Witness Service. Jointly staffed witness care units were introduced into all areas by December 2005.

Persistent young offender (PYO)

A youth previously sentenced on at least three occasions within the last three years. All PYO cases must be referred to the CPS for a charging decision.

Proceeds of Crime Act 2002 (POCA)

This Act contains forfeiture and confiscation provisions and money laundering offences, which facilitate the recovery of assets from criminals.

Prosecution College

The CPS online training system which includes modules on both legal and non-legal matters.

Public interest test

The second test under the Code - is it in the public interest to prosecute this defendant on this charge?

Rape specialist

A duty prosecutor who has the appropriate knowledge and experience to deal with rape cases. A specialist in CPSD will not have the same duties as a specialist in a CPS area.

Recommendation

This is normally directed towards an individual or body and sets out steps necessary to address a significant weakness relevant to an important aspect of performance (i.e. an aspect for improvement) that, in the view of the Inspectorate, should attract the highest priority.

Review: initial, continuing, summary trial etc

The process whereby a crown prosecutor determines that a case received from the police satisfies and continues to satisfy the legal tests for prosecution in the Code. One of the most important functions of the CPS.

Safeguarding children

The CPS role in safeguarding children is delivered through: high quality casework and advocacy; witness care in child abuse cases; considering all issues when using children as witnesses; and making considered decisions in relation to child offenders.

Strategic management team (SMT)

The most senior legal and non-legal managers of CPSD.

Strengths

Work undertaken properly to appropriate professional standards i.e. consistently good work.

Threshold test

The Code provides that where it is not appropriate to release a defendant on bail after charge, but the evidence to apply the full Code test is not yet available, the threshold test should be applied. This requires that there must be at least a reasonable suspicion that the suspect has committed an offence and it is in the public interest to charge the suspect.

ANNEX H: TIMELINESS OF CALLS

	2006-07	2007-08
Number of calls received by CPSD	183,034	171,426
Number of calls answered within 15 seconds	150,575	159,838
Percentage of calls answered within 15 seconds	82.3%	93.2%
Average time taken to give charging advice	42.6 mins	43.0 mins
Percentage of ineffective calls	30.1%	20.8%
Percentage of calls abandoned by police officers holding for more than 30 seconds	0.7%	2.7%

ANNEX I: OBSERVED DISRUPTIONS TO CPS DIRECT CALLS

Problem	Number observed
<i>Duty Prosecutor observations</i>	
Problems with police fax machine	7
MG3 not sent in advance by the officer	3
Officer fax number wrong	1
Problems faxing photos	1
Officer not having access to email, so having to fax MG3	2
Officer typing forms during the phone call	3
DP having to type MG3 as faxed and not emailed	4
MG3s having to be cut and pasted	2
Officer leaving the phone unmanned	1
DP allowing excessive time for self to read papers	1
Noisy fax machine, meaning it could not be utilised during calls	1
<i>Police observations</i>	
Problems with CPSD fax machine	1
Fax sited in different room to phone etc	1
No instructions on CPSD process	4
Call terminated by CPSD for minor updates to forms to be made by officer	1
MG3 had to be faxed to officer	1
Delay in finding fax number of police machine	1

ANNEX J: INEFFECTIVE CALL DATA 2007-08

Police force	% of ineffective calls
Avon and Somerset	19.27%
Bedfordshire	18.19%
Cambridgeshire	18.97%
Cheshire	17.66%
Cleveland	17.01%
Cumbria	15.45%
Derbyshire	17.31%
Devon and Cornwall	14.17%
Dorset	15.08%
Durham	21.77%
Dyfed Powys	18.75%
Essex	20.58%
Gloucestershire	18.66%
Greater Manchester	16.25%
Gwent	31.60%
Hampshire and Isle of Wight	20.30%
Hertfordshire	14.63%
Humberside	18.68%
Kent	20.75%
Lancashire	19.63%
Leicestershire	25.33%
Lincolnshire	25.83%
London (Metropolitan Police)	17.50%
Merseyside	21.04%
Norfolk	23.43%
Northamptonshire	25.53%
Northumbria	19.29%
North Wales	18.36%
North Yorkshire	21.05%
Nottinghamshire	18.42%
South Wales	25.74%
South Yorkshire	16.26%
Staffordshire	18.33%
Suffolk	18.41%
Surrey	16.00%
Sussex	13.62%
Thames Valley	20.85%

Police force	% of ineffective calls
Warwickshire	22.78%
West Mercia	22.94%
West Midlands	22.97%
West Yorkshire	15.81%
Wiltshire	19.67%
British Transport Police	40.47%
National	20.77%

National reasons for ineffective calls	
Police not ready	25.6%
Inappropriate referral	13.4%
Call abandoned/ phone went dead	13.4%
Early advice or guidance sought	17.4%
Call back posted	2.0%
Appeal/complaint	2.5%
Call for another DP (e.g. to ask for copy of MG3)	12.1%
IT or equipment failure	4.3%
Other	19.1%

ANNEX K: SUCCESSFUL OUTCOMES IN HATE CRIME CASES

	% successful outcomes				% share of cases			
	<i>National</i>		<i>CPSD</i>		<i>National</i>		<i>CPSD</i>	
	06-07	07-08	06-07	07-08	06-07	07-08	06-07	07-08
Magistrates' courts' cases								
Total magistrates' courts' cases	78.0	79.1	78.1	79.0	79.3	72.5	20.7	27.5
Domestic violence	64.1	67.2	63.6	67.4	65.1	54.6	34.9	45.4
Racially/religiously aggravated	77.9	75.4	82.7	78.6	80.0	79.8	20.0	20.2
Homophobic	67.8	77.0	78.7	82.1	86.6	81.3	13.4	18.7
Rape	50.0	48.0	34.4	26.0	79.5	71.8	20.5	28.2
Disability	*	73.5	*	72.2	*	85.0	*	15.0
Crown Court cases								
Total Crown Court cases	75.2	78.6	80.6	80.8	81.6	75.3	18.2	24.7
Domestic violence	69.7	71.9	69.8	71.5	69.4	58.0	30.7	42.0
Racially/religiously aggravated	73.0	72.7	84.4	75.1	86.3	85.5	13.7	14.5
Homophobic	79.4	81.6	95.7	81.8	84.6	76.8	15.4	23.2
Rape	56.0	60.7	54.1	54.2	79.5	74.1	20.5	25.9
Disability	*	69.2	*	100	*	70.3	*	29.7

* Disability data not available for 2006-07

N.B. National data excludes CPSD cases so represents the data for the 42 geographical CPS areas. Share of cases is the proportion of total cases for each category of sensitive case which is taken by CPSD or by the 42 areas.

ANNEX L: CASELOAD AND STAFFING

	2006-07	2007-08
Number of calls answered by CPSD	183,034 (CPSD)	171,426 (CPSD)
Number of charging decisions (MG3) issued by CPSD	127,911 (CPSD)	135,813 (CPSD)
	88,357 (MIS)	114,006 (MIS)
Percentage of calls resulting in a charging decision	70.0% (CPSD)	79.2% (CPSD)
Full time equivalent (FTE) staff (all staff inc CCP, level E, D, C and CST etc)	148.6 (Apr 07)	154.15 (Mar 08)
FTE legal managers (level E and D)	13 (Apr 07)	14 (Mar 08)
FTE duty prosecutors (C2s etc excl level D and E managers)	permanent 53.41 (Apr 07)	53.43 (Mar 08)
	secondees 69.19 (Apr 07)	71.72 (Mar 08)
Budget allocation	£11,788,000	£12,768,656

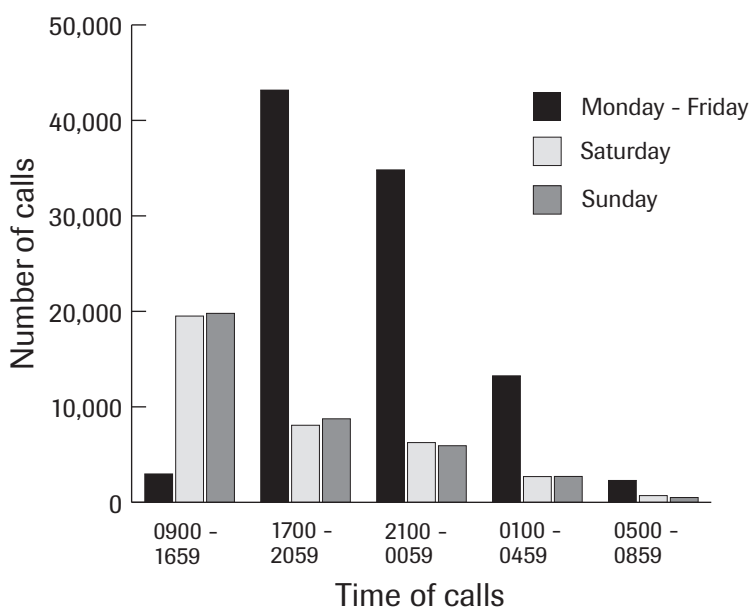
ANNEX M: CALL DISTRIBUTION

Number of police telephone calls to CPS Direct during 2007-08

	Police call time (hours)					Total calls
	0900-1659	1700-2059	2100-0059	0100-0459	0500-0859	
Monday - Friday	2,973	43,171	34,818	13,251	2,290	96,503
Saturday	19,508	8,072	6,257	2,697	704	37,238
Sunday	19,792	8,749	5,930	2,711	503	37,685

Percentage of police telephone calls to CPS Direct during 2007-08

	Police call time (hours)				
	0900-1659	1700-2059	2100-0059	0100-0459	0500-0859
Monday - Friday	3.1%	44.7%	36.1%	13.7%	2.4%
Saturday	52.4%	21.7%	16.8%	7.2%	1.9%
Sunday	52.5%	23.2%	15.7%	7.2%	1.3%



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