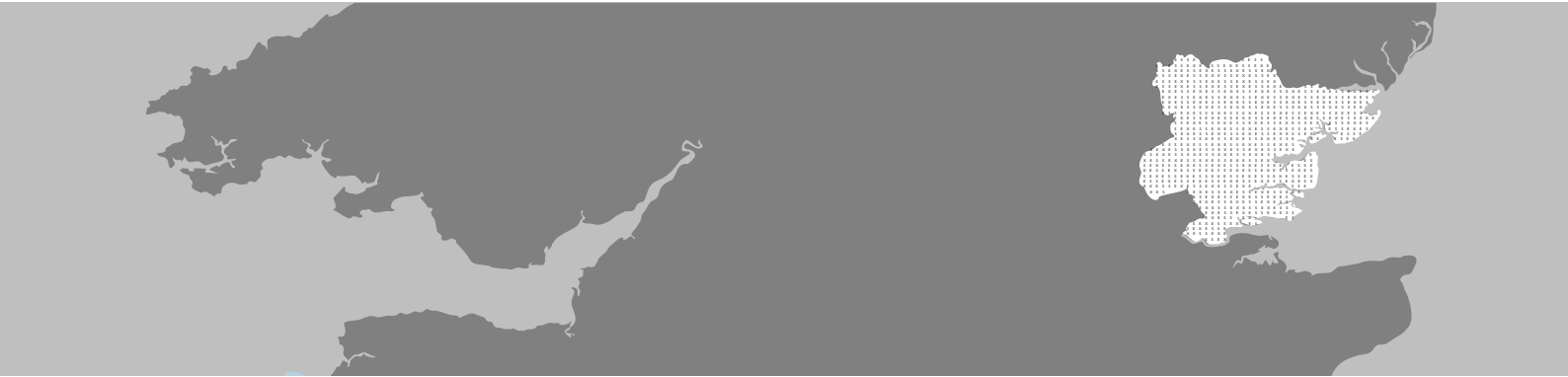


CPS ESSEX

THE INSPECTORATE'S REPORT ON
CPS ESSEX

AUGUST 2007



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Area Office

Chelmsford

Other Offices

Laindon, Colchester, Harlow, Southend

Magistrates' Courts

Basildon, Chelmsford, Colchester, Epping, Grays, Harlow, Harwich, Southend

Crown Court

Basildon, Chelmsford, Southend

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PREFACE

Her Majesty's Crown Prosecution Service Inspectorate (HMCPISI) was established by the Crown Prosecution Service Inspectorate Act 2000 as an independent statutory body. The Chief Inspector is appointed by, and reports to, the Attorney General.

HMCPISI's purpose is to promote continuous improvement in the efficiency, effectiveness and fairness of the prosecution services within a joined-up criminal justice system, through a process of inspection and evaluation; the provision of advice; and the identification of good practice. It works in partnership with other criminal justice inspectorates and agencies, including the Crown Prosecution Service (CPS) itself, but without compromising its robust independence.

The main focus of the HMCPISI work programme is the inspection of business units within the CPS – the 42 Areas and Headquarters Directorates. HMCPISI has now undertaken two cycles of inspection, and an overall performance assessment of CPS Areas. We are now undertaking a programme of risk-based Area effectiveness inspections during 2006-07. The Areas to be inspected include the four assessed as "Poor" in the overall performance assessments and those which had Poor aspects of performance within their assessment. A risk model has been developed and updated performance information has been used to identify the Areas to be the subject of inspection. Our new Area Effectiveness Inspection Framework is designed primarily to stimulate improvement in performance; and also enable assurance to be provided as to whether performance has improved since Areas were last assessed. We have incorporated requirements to ensure that our inspection process covers matters contained in the inspection template promulgated by the Commission for Racial Equality.

In 2005-06 we undertook the overall performance assessment (OPA) of all 42 CPS Areas and published a summative report examining the performance across the CPS as a whole. In those reports we assessed the individual CPS Areas as "Excellent", "Good", "Fair" or "Poor". We will seek to assess improvement in performance achieved by them. However, as our evidence base will be wider than in those assessments, and as our risk-based inspections will not cover the whole range of performance in those Areas, we will not draw direct comparisons or rate Areas in these terms. We propose to undertake a second programme of overall performance assessments in 2007-08 which will include transparent ratings.

This series of inspections will not cover all CPS Areas, in particular we will not be inspecting those assessed as Good or Excellent in our OPAs. Those Areas may nevertheless be visited in the course of a rolling programme of casework quality assessment or as part of thematic reviews.

The Government has initiated a range of measures to develop cohesion and better co-ordinated working arrangements amongst the criminal justice agencies so that the system overall can operate in a more holistic manner. Public Service Agreements between HM Treasury and the relevant Departments set out the expectations which the Government has of the criminal justice system at national level. However, it is our experience that the targets can frequently be achieved notwithstanding significant inefficiencies in the processes and without work necessarily being of a suitable standard. HMCPISI does not therefore necessarily accept that simply meeting the targets is indicative of satisfactory performance and we have made clear in our Framework the standards which we consider are applicable. The point also needs to be made that comparisons with the national average do not necessarily mean that the national average is considered an acceptable standard. If a particular aspect of performance represents a weakness across CPS Areas generally, it would be possible for an Area to meet or exceed the national average without attaining the appropriate standard.

The framework within which the criminal justice system (CJS) is managed nationally is reflected in each of the 42 criminal justice areas by a Local Criminal Justice Board. HMCPPI places great emphasis on the effectiveness of CPS relationships with other criminal justice agencies and its contribution to the work of these Boards. For this purpose, HMCPPI will work closely with other criminal justice inspectorates and conducts a number of joint inspections of CJS areas during each year.

The inspection process will focus heavily on the quality of casework decision-making and casework handling that leads to successful outcomes in individual cases. It will continue to extend to overall CPS performance. Consistently good casework is invariably underpinned by sound systems, good management and structured monitoring of performance. Inspection teams comprise legal and business management inspectors working closely together. HMCPPI also invites suitably informed members of the public, nominated by national organisations, to join the process as lay inspectors. These inspectors are unpaid volunteers who examine the way in which the CPS relates to the public, through its dealings with witnesses and victims, its engagement with the community including minority groups, its handling of complaints and the application of the public interest test contained in the *Code for Crown Prosecutors*.

HMCPPI has offices in London and York. The London office houses the Southern Group and the Northern and Wales Group is based in York. Both Groups undertake thematic reviews and joint inspections with other criminal justice inspectorates. At any given time, HMCPPI is likely to be conducting up to six geographically-based or Directorate inspections and two thematic reviews, as well as joint inspections.

The Inspection Framework we have developed can be found summarised at Annex A. The chapter headings in this report relate to the standards and the sub-headings relate to the criteria against which we measure CPS Areas.

The Inspectorate's reports identify strengths and aspects for improvement, draw attention to good practice, and make recommendations in respect of those aspects of the performance which most need to be improved. The definitions of these terms may be found in the glossary at Annex I.

I INTRODUCTION

- 1.1 This is Her Majesty's Crown Prosecution Service Inspectorate's (HMCPIS) report about CPS Essex (the Area) which serves the area covered by the Essex Police Force. It has five offices, at Basildon (Laindon Police Station), Chelmsford (County House), Colchester (Colchester Police Station), Harlow (Harlow Police Station), and Southend (Southend Police Station). The Area Headquarters (Secretariat) is based at County House, Chelmsford.
- 1.2 Area business is currently divided on geographical lines with four prosecution teams covering the North East, North West, South East and South West of Essex. Each team is split into a Criminal Justice Unit (CJU), which deals with magistrates' courts' work, and a Crown Court Unit (CCU), which covers the Crown Court. Each CJU has a Witness Care Unit (WCU) handling witness care on magistrates' courts' cases and there is a separate WCU for Crown Court cases. Each Prosecution Team is headed by a District Crown Prosecutor. They are supported by a District Business Manager and a District Administration Manager.
- 1.3 At the time of the inspection in January 2007, the Area employed the equivalent of 153.7 full-time staff. The Secretariat comprises the Chief Crown Prosecutor (CCP), Area Business Manager (ABM) and the full-time equivalent of 14.1 other staff. Details of staffing of the other teams are set out below. A detailed breakdown of staffing and structure can be found at Annex B.

Grade	NE Essex	NW Essex	SE Essex	SW Essex	WCUs	Secretariat
Level E	-	-	-	-	-	1
Level D	1	1	1	1	-	-
Level C lawyers	13.6	6.4	8.1	11.8	-	2
Legal trainee	1	-	-	-	-	-
Designated caseworkers	1.6	2	1	2	-	-
Level B2 caseworkers (District Business Managers)	1	1	1	1	-	-
Level B1 caseworkers	4.9	4	5	6	1	-
Level A caseworkers	10.4	6.8	6.4	7.7	6	5.5
Sub total	33.5	21.2	22.5	29.5	7	8.5
Level B3 administrators	-	-	-	-	-	2
Level B1 Case Progression Officer	1	1	1	-	-	-
Level B1 District Admin Manager/ Secretariat Manager	1	1	1	1	-	3.6
AI typists	3	2.1	2.1	1.4	1	-
Agency staff level A	1	2	1	4	4	-
TOTAL	39.5	27.3	27.6	35.9	12	14.1

1.4 Details of the Area's caseload in the year to December 2006 are as follows:

Category	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge decisions	13,990	35.9	34.3
Advice	0	0	0.1
Summary	15,589	40.0	40.6
Either way and indictable only	9,360	24.0	24.8
Other proceedings	38	0.1	0.2
TOTAL	38,977	100%	100%

1.5 These figures include the cases set out in the next table, as all Crown Court cases commence in the magistrates' courts. In 4,678 of the 13,990 pre-charge decisions (33.4%) the decision was that there should be no prosecution. The Area also has a significantly higher than average proportion of pre-charge decisions which are recorded as "admin finalised" where there is uncertainty about the outcome of the advice (13.1% compared to 5.8% nationally). Overall, decisions not to prosecute account for 12% of the Area's caseload. Where pre-charge advice results in the institution of proceedings, the case will also be counted under the relevant category of summary or either way/indictable in the caseload numbers.

1.6 The Area's Crown Court caseload in the year to December 2006 was:

Crown Court cases	Area numbers	Area % of total caseload	National % of total caseload
Indictable only	610	18.6	28.6
Either way offences	1,374	41.8	43.1
Appeals against conviction or sentence	485	14.8	10.8
Committals for sentence	818	24.8	17.5
TOTAL	3,287	100%	100%

1.7 A more detailed table of caseloads and case outcomes compared to the national average is attached at Annex C, and a table of caseload in relation to Area resources at Annex D. These identify the continuing increases in budget provided to CPS Essex to drive up performance and deliver new initiatives. It has benefited from an increase of 39.6% in budget since our last inspection (in May 2003), from £4,997,864 to £6,976,877. Overall staff numbers have increased from 132.2 to 156.4 and the number of lawyers in post has increased from 39.9 to 47.9. The number of cases the subject of prosecution has fallen from 28,048 to 24,987 and the number of contested magistrates' courts' trials per lawyer has decreased from 34.8 to 34.4. However, an increase in the number of Crown Court cases has seen a rise in the number of committals or "sent" cases from 32 to 46 per lawyer. The Area has a considerably lower number of indictable only cases than the national average.

The report, methodology and nature of the inspection

- I.8 The inspection process is based on the Inspection Framework summarised at Annex A. The chapter headings in this report relate to the standards and the section headings relate to the criteria against which we measure CPS Areas. The italicised sub-headings identify particular issues within those criteria.
- I.9 There are two types of inspection. A full one considers each aspect of Area performance within the Framework while a risk-based inspection considers in detail only those aspects assessed as requiring scrutiny. This is based on our overall performance assessment (OPA) and other key data.
- I.10 The OPA of CPS Essex, undertaken in November 2005, assessed the Area as "Poor". As a result of this it was determined that the inspection should be a full one.
- I.11 Our OPA report identified a total of 56 aspects for improvement. In the course of this inspection we have assessed the extent to which these have been addressed and a synopsis is included at Annex E.
- I.12 Our methodology combined examination of 137 cases finalised between July-September 2006 and interviews with members of CPS staff at all levels, criminal law practitioners and local representatives of criminal justice agencies. Our file sample was made up of pre-charge decision cases, magistrates' courts and Crown Court trials (whether acquittals or convictions), and some specific types of cases. A detailed breakdown of our file sample is shown at Annex F.
- I.13 We make a number of assessments about the quality of decision-making and case handling in the course of the file examination. Key assessments are shown in tables at the start of Chapters 3, 4 and 5. The Area's performance is compared to the findings across the inspections we have carried out in the programme to date.
- I.14 A list of individuals we met or from whom we received comments is at Annex G. The team carried out observations of the performance of advocates and the delivery of service at court in both the magistrates' and the Crown Court. We also carried out observations at charging centres.
- I.15 Inspectors visited the Area between 8-15 January 2007. The lay inspector for this inspection was Michael Gray, who was nominated by the Witness Service. The role of the lay inspector is described in the Preface. He examined files that had been the subject of particular public interest considerations or complaints from members of the public and considered letters written by CPS staff to victims following the reduction or discontinuance of a charge. He also visited some courts and had the opportunity to speak to some of the witnesses after they had given evidence. This was a valuable contribution to the inspection process. The views and findings of the lay inspector have been included in the report as a whole, rather than separately reported. He gave his time on a purely voluntary basis, and the Chief Inspector is grateful for his effort and assistance.
- I.16 The purpose and aims of the Inspectorate are set out in Annex H and a glossary of the terms used in this report is contained in Annex I.

2 SUMMARY OF INSPECTION FINDINGS AND RECOMMENDATIONS

- 2.1 This summary provides an overview of the inspection findings as a whole. It includes sub-headings that mirror the chapters in the report, which are based upon our Inspection Framework, developed taking into account key issues across the criminal justice system and CPS initiatives (see Annex A). Other sub-headings deal with the extent to which the CPS adds value within the local criminal justice system and equality and diversity issues.

Overview

- 2.2 CPS Essex has made progress since the “Poor” rating in the overall performance assessment (OPA) in November 2005. It has embarked on a comprehensive programme of change and improvement, and a clear vision has been set and communicated to staff. The management team has changed and is now rather more cohesive and focussed on improving performance across the board. There had been some improvements in staffing through recruitment, but loss of staff and high sickness levels have reduced the impact of this and the balance of staff and caseloads between prosecution teams are uneven. The Area is about to undertake a significant programme of change, which managers believe should give better flexibility and resilience of staff, and return the processing of key administrative functions back to the CPS. There is a high risk to this and the change process needs to be effectively managed and controlled, with more structured assessment of risks and benefits.
- 2.3 The quality of advice to police and decisions on charging have improved and the Area is starting to see some of the benefits from statutory charging. The conviction rate in the magistrates’ courts and in the Crown Court has continued to improve since the OPA, but is still well below the national average in the Crown Court. The collation and assessment of performance management information has improved significantly, however, the inaccuracy of case finalisations is significantly hampering the Area’s assessment of its own performance. Budgetary controls have improved and payment of fees is undertaken expeditiously.
- 2.4 The quality of decision-making in both the magistrates’ courts and Crown Court file sample was variable. Whilst some cases demonstrated thorough early review and case progression, others were poorly considered, reviewed inadequately and late. This is a significant contributing factor to the adverse outcome rate and can undermine public confidence. Lack of clear case ‘ownership’ and lawyer and Crown Court caseworker shortages hamper effective case review and progression. The handling of disclosure is generally late and some disclosure failures were apparent. There are long periods between listing for trial and the trial date itself in the magistrates’ courts, which can impact adversely on victim care and the attendance of witnesses.
- 2.5 There is a lack of formal performance monitoring undertaken by District Crown Prosecutors (DCPs). Casework Quality Assurance (CQA) reviews and adverse outcomes analysis are not used effectively to address trends in performance on a team or Area level. Compliance with judges’ orders is not monitored effectively and as a result repeated failures are often missed.

2.6 Under specific headings our findings were as follows:

Pre-charge advice and decisions

2.7 Essex piloted pre-charge advice in 2002 and moved to statutory charging in December 2005. Since then good progress has been made. The quality of advice given on bail cases has improved, but remains variable, and the practice of conditional charging has been eradicated. These factors have led to an improving monthly trend in the key performance measures during 2006. Sustained improvement will require more effective 'gate keeping' and quality assurance systems, and improvement in the quality of action plans and post-charge review in custody threshold test cases.

2.8 Face-to-face advice to the police is provided in eight charging centres, but a recent review has concluded that not all sites are being fully utilised. The Area has recently undertaken a review of the scheme and has secured agreement with the police to merge coverage of a number of the charging centres to increase its efficiency. It has recognised the risk to the development of the 'prosecution team' ethos between police and CPS and considers that the prosecution team performance management structure is capable enough to resolve any issues or frictions that arise from the changes. This will need to be monitored.

Casework in the magistrates' courts

2.9 The performance in the magistrates' courts is generally at the national average or slightly better. The quality of summary trial reviews is variable both within individual teams and across the Area as a whole. Only limited review of adverse outcomes is undertaken. There has been an increase in the rate of convictions to 84.2% and the Area remains better than the national average of 83.9%. Discontinuance rates also remain better than the national average.

2.10 The cracked trial rate is considerably better than the national average. Performance with regard to reducing ineffective trials has declined recently, with performance at 21.8% compared to the national average of 19.4%. However, the number of cases where this is attributed to prosecution fault remains better than the national average. Performance in regard to the target for persistent young offenders has been consistently very good, most recently standing at 48 days from arrest to sentence and at 60 days for the year 2006.

Casework in the Crown Court

2.11 The quality of review and decision-making in the Crown Court is very variable. Late receipt and preparation of papers hampers effective review and case progression. The rate of convictions has improved to 74.5%, but remains worse than the national average of 77.3%. There is only limited analysis of the reasons for case failure. The standard of instructions to counsel remains very poor, with only superficial case analysis and consideration of alternative pleas.

2.12 Systems for ensuring compliance with court orders are not working effectively and correspondence handling is not always timely. Nevertheless, improved performance in reducing the number of ineffective trials has been achieved by effective partnership working, resulting in performance that has been consistently better than national average, at 8% compared to 12.7%.

- 2.13 CPS Essex, in conjunction with the police, have recovered proceeds of crime to the extent of £506,719 in the year to December 2006, exceeding its financial target for 2006-07.

Presenting and progressing cases at court

- 2.14 The quality of in-house advocacy observed by inspectors was good, and prosecutors are committed to progressing cases in court. The practice of briefing counsel in the Crown Court on the morning of the plea and case management hearings, and the late arrival of case files for agents in the magistrates' courts adversely affects the quality of their case presentation. There is no systematic monitoring of advocates.
- 2.15 The standard of facilities for CPS advocates in some magistrates' courts is poor; although facilities seen in all Crown Courts were generally good.

Sensitive cases and hate crime

- 2.16 Sensitive cases are dealt with appropriately including homicide, rape, child abuse, racially and religiously aggravated and homophobic cases and the principles of the Code for Crown Prosecutors and CPS policy are correctly applied.
- 2.17 The Area has taken the lead in the proposals for setting up a domestic violence court in Essex, which is to commence in April 2007.

Disclosure of unused material

- 2.18 The Area's overall compliance with the duty of disclosure of unused material has declined since the last inspection in 2003. There was significant variation in the quality of disclosure decisions and endorsements seen within the file sample. In a number of files, the provision of initial disclosure was late, which affected progress of the case. In the Crown Court failure to disclose unused material is a key contributing factor to ineffective trials due to the prosecution, and the proportion of cases where this occurs is worse than the national average.

Custody time limits

- 2.19 The handling and monitoring of custody time limits (CTLs) has improved and no failures have been reported since November 2005. A comprehensive review and training programme was delivered in February 2006 and further training has since been carried out. DCPs undertake 'dip sampling' and report some improvement on CTL handling.
- 2.20 Examination revealed two cases where time limits had been calculated incorrectly. Fortunately, they were concluded prior to the date being reached.
- 2.21 Protocols covering the handling of CTLs in both the magistrates' courts and the Crown Court have recently been signed, which is a positive move.

The service to victims and witnesses

- 2.22 The standard of care provided to victims and witnesses in Essex is good, with effective implementation of the No Witness No Justice initiative and timely and effective provision of information. The Witness and Victim Experience Survey, undertaken in August 2006, demonstrated consistently high levels of satisfaction with the way witness needs had been met.
- 2.23 Letters are not always sent to victims following the dropping or substantial alteration of a charge and the quality of the letters is variable. Victim personal statements were not always present in relevant files for prosecutors to consider or place before the court. The Area has raised this issue with the police.
- 2.24 The provision of witness availability to the courts and to the Witness Service is variable, with some delays in submission of the information affecting early court listing and the provision of witness care.

Delivering change

- 2.25 There is a comprehensive Business Plan, harmonised with those of criminal justice partners and with national and local targets addressed. Staff objectives are linked to the plan, but business planning could be extended usefully to the four geographic prosecution teams. Joint initiatives with partners have been successful, assisted by incisive reviews. Other collaborative projects are ongoing and several inter-agency protocols have been agreed during the year.
- 2.26 To improve efficiency managers have decided to revert from co-location with police as this is now considered to be an impediment to further sustained progress. A centralisation programme is currently being implemented, but planning and benefits monitoring need to be more clearly developed and defined as the risks to the administration capability are considerable.
- 2.27 Priority legal training has been given and administrative staff are becoming multi-skilled by 'on-the-job' training. This would be assisted by more formal contextual training, which should be delivered by Area champions. Staff understand their roles and good induction is provided.

Managing resources

- 2.28 There are robust financial management procedures and periodic reports are prepared for consideration by the Strategic Management Team. For the current financial year (2006-07) there is an under spend on the non-ring fenced administrative budget, mainly due to the low number of lawyers employed. Although recruitment is ongoing, gains have been offset by staff attrition and sickness. The prosecution costs budget is under spent at present as additional sums have been allocated for high cost cases in progress.
- 2.29 Some aspects of value for money are covered by the Business Plan and improvement initiatives have led to better performance. Higher Court Advocate usage and related earnings are good. However, there is scope for increasing the number of designated caseworkers. The low numbers of CPS lawyers and designated caseworkers have resulted in high agent usage. The staff/work ratio between the four prosecution teams is not well balanced, with some staff carrying high caseloads and working excessively long hours. Sickness levels are high and the management procedure is not being applied fully; however there has been some improvement over recent months.

Managing performance to improve

- 2.30 Senior managers have extended the CPS Headquarters performance reporting system into the prosecution teams, supported by a comprehensive Area performance report. Steady progress has been made in improving performance and Essex is meeting a number of its own and shared targets. Finalisation backlogs are being addressed but action is required to improve data quality. Responsibilities for reviewing/checking work need to be strengthened at team level. Casework Quality Assurance and adverse case analysis needs to be undertaken more effectively.
- 2.31 The Area collaborates effectively with partner criminal justice agencies, with staff participating at Essex Criminal Justice Board and action team level; there is also constructive bilateral working with the police and courts.

Leadership

- 2.32 A comprehensive programme of change and improvement is underway in response to the "Poor" OPA, and a clear vision has been set and communicated to staff. A governance pack has been produced to improve transparency of management and what is expected of staff. Senior managers are committed to improvement; this is recognised by criminal justice partners and there is effective collaborative working. Collegiate management arrangements at strategic and operational level are satisfactory, however, more corporacy is required to bring effect to performance and delivery policies at team level.
- 2.33 The Area has decided to revert from the co-location arrangements with Essex Police and is engaged on a comprehensive change programme to give it greater control over its own processes and to improve its ethos. More attention needs to be given to the new staffing profile and its affordability.
- 2.34 The Chief Crown Prosecutor acts as the Equality and Diversity Champion and these issues are integrated into the Area's People Policy. A race equality document has been produced which sets out actions and work is ongoing with local groups.

Community confidence

- 2.35 The Area has become more pro-active in its effort to secure community confidence and has addressed this within its Business Plan. The Area Business Manager is now responsible for co-ordinating all community engagement activities. Steps are being taken to engage more with community groups and there are clear signs of a commitment to drive the initiative forward.
- 2.36 There is no separate measure of the public confidence in the CPS, but public confidence in the ability of criminal justice agencies in bringing offenders to justice in Essex had fallen back to 40% in September 2006, from 44% in March 2006. Whilst this still meets the national target of 40% it is below the national average of 44%.
- 2.37 Responses to complaints are undertaken by DCPs and are generally timely, and complaints are analysed to secure improvement. A more consistent approach across the Area would help raise public confidence.

Added value of the CPS locally

- 2.38 Essex CPS has played an active part in the development and delivery of local criminal justice initiatives. Senior managers work collaboratively with other criminal justice agencies, and the focus and achievement of the Essex Criminal Justice Board has secured improvement through joint working in reducing cracked and ineffective trials and in the setting up of a specialist domestic violence court. The Area's focus, jointly with the police, on the recovery of the proceeds of crime ensured the target for 2005-06 was met, and the financial target for 2006-07 has also been reached.
- 2.39 The benefits of CPS pre-charge decision-making are starting to be seen. Resources are now being deployed more effectively and systems for monitoring performance are effective. Higher Court Advocates are generally held in high regard and contribute to the smooth running of plea and case management hearings. However, further value can be added by more focussed and timely review and case progression in the Crown Court, by scrupulous compliance with the duties of disclosure of unused material, and consistently high standards of case preparation.

Equality and diversity issues

- 2.40 Area policy and expectation with regard to equality and diversity is fully integrated into its People Policy. The workforce is representative of the Essex community as a whole in terms of gender, ethnicity and disability; in particular it has been successful in increasing the proportion of prosecutors from minority ethnic communities, with representation now above the local benchmark. It is recognised that further progress needs to be made concerning representation amongst administrative staff and targets have been set. Steps are being taken to engage with local interest groups and minority communities, with a view to increasing their confidence in the criminal justice system. There is recognition of good performance and staff are aware of their own contribution towards Area performance and improvement.

Follow-up from previous report

- 2.41 We identified 56 aspects for improvement (AFIs) at the time of the OPA. Three are no longer relevant; five have been fully achieved, with substantial progress made in another 17; there was limited progress in 25 and none in the remaining six. Some aspects of poor performance, such as improvement in the quality of instructions to counsel have been flagged as requiring attention since the inspection in November 2003.

Recommendations and aspects for improvement

- 2.42 We make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance, which we consider to merit the highest priority.
- 2.43 We have made nine recommendations to help improve the Area's performance.

-
- I Duty prosecutors are more proactive in identifying evidential defects, setting clear action plans and advising on ancillary matters.

Managers systematically quality assure pre-charge decision cases, including those where no further action is advised (paragraph 3.11).

-
- 2 Area managers should develop systems to increase the continuity of prosecutor in pre-charge advice cases and to support case ownership following the decision to charge (paragraph 3.19).
-
- 3 Crown Court prosecutors provide good quality instructions to counsel and District Crown Prosecutors monitor this effectively (paragraph 5.29).
-
- 4 District Crown Prosecutors ensure that all agents and counsel are properly instructed in advance of each hearing (paragraph 6.5).
-
- 5 Lawyers should comply with the duties of disclosure of unused material in all cases and District Crown Prosecutors should monitor this effectively and provide feedback to individuals (paragraph 8.10).
-
- 6 The Chief Crown Prosecutor ensures that to facilitate the major changes in Area structure and staff location:
- work stream planning is completed;
 - quantified business calculations are undertaken and staff/work imbalances across all disciplines and between teams are taken into account;
 - there is documenting and tracking of main risks; and
 - a performance baseline is established as at October 2006 and adverse changes during implementation are monitored (paragraph 11.9).
-
- 7 Senior managers should continue to recruit lawyers and secure additional staff, and use long term secondments from preferred sets of chambers, wherever possible (paragraph 12.7).
-
- 8 The Chief Crown Prosecutor and Area Business Manager ensure that responsibilities for operational effectiveness are fully defined by clear terms of reference for District Crown Prosecutors and the Secretariat Manager. These terms of reference should be included in the Area governance pack (paragraph 13.7).
-
- 9 The Chief Crown Prosecutor and District Crown Prosecutors adopt a meaningful approach to Casework Quality Assurance and implement it with determination (paragraph 13.17).
-

2.44 We additionally identified 21 aspects for improvement.

- 1 Discharged committal cases should be analysed by a District Crown Prosecutor; considered for re-instatement, and lessons learned (paragraph 4.20).
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-
- 2 Files should be delivered to agents to allow sufficient time to prepare for trial (paragraph 4.28).
-
- 3 The timeliness of file preparation, correspondence handling and compliance with judges' orders and directions (paragraph 5.21).
-
- 4 The monitoring of prosecution advocacy in the magistrates' courts by District Crown Prosecutors needs to be systematic and recorded (paragraph 6.13).
-
- 5 There are inadequate facilities for prosecution advocates at three magistrates' courts (paragraph 6.13).
-
- 6 The roles and duties of Area champions should be fully defined and form part of the individuals' forward job plans (paragraph 7.13).
-
- 7 Accurate calculation of custody time limits in all relevant cases (paragraph 9.8).
-
- 8 Requests for victim personal statements are made in all appropriate cases (paragraph 10.4).
-
- 9 The timeliness of special measures applications (paragraph 10.5).
-
- 10 Ensuring counsel and agents undertake the advocate's duty under the Prosecutors' Pledge in relevant cases (paragraph 10.11).
-
- 11 Prosecution team plans are needed to address variations in performance (paragraph 11.4).
-
- 12 Area champions to be more active in producing more formal contextual training for administrative staff (paragraph 11.12).
-
- 13 Area managers review deployment issues to maximise staff availability between the teams and to ensure effective lawyer development (paragraph 12.11).
-
- 14 Designated caseworker staffing needs to be increased to meet available session allocation (paragraph 12.11).
-
- 15 The Area needs to review the sickness handling process to ensure records are complete and appropriate actions are timely, and should consider setting achievable team sickness absence targets (paragraph 12.12).
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- 16 District Crown Prosecutors to undertake thorough review of case outcomes and systems drawing out learning points and trends, for sharing with criminal justice partners and staff (paragraph 13.7).
-
- 17 Area data is cross-checked using wider sources including the Essex Criminal Justice Board (paragraph 13.11).
-
- 18 Finalisation accuracy needs to be improved and specific monthly dip sampling checks need to be undertaken by team managers to improve data quality (paragraph 13.16).
-
- 19 A more focussed approach to informing staff of performance achievement against targets needs to be considered (paragraph 13.16).
-
- 20 During the change programme the Area needs to publish and maintain the answers to frequently asked questions to provide a definitive source of information for staff (paragraph 14.10).
-
- 21 Training for all District Crown Prosecutors in drafting responses to complaints should be provided (paragraph 15.8).
-

Good practice and strengths

2.45 We have identified one aspect of good practice that might warrant adoption nationally.

1. The Area has extended the CPS Headquarters quarterly performance reporting system into the four geographical prosecution teams and the assessment criteria is revised and agreed each year by the Strategic Management Team. In preparation for the quarterly reviews, team managers self assess performance and the Chief Crown Prosecutor and Area Business Manager scrutinise progress with team managers at the review meeting (paragraph 13.3).
-

2.46 We also found nine strengths.

- 1 There are good joint working relationships between the police and CPS at county and district level (paragraph 3.22).
-
- 2 Good, consistent file 'housekeeping' across the Area (paragraph 5.3).
-
- 3 The Area's handling of complex casework (paragraph 5.13).
-
- 4 Area performance on asset recovery (paragraph 5.18).
-

5 Area performance on increasing effective trials and reducing cracked and ineffective trials.

The positive trial readiness assessment meetings (paragraph 5.32).

6 The quality of higher court advocacy is good (paragraph 6.13).

7 The quality and timeliness of support and information to witnesses provided by the Witness Care Units (paragraph 10.9).

8 A comprehensive performance report underpins Area reviews (paragraph 13.7).

9 The creation of the Area governance pack (paragraph 14.10).

3 PRE-CHARGE ADVICE AND DECISIONS

The Area piloted pre-charge advice in 2002 and moved to statutory charging in December 2005. Since then good progress has been made. The quality of advice given on bail cases has improved, but remains variable, and the practice of conditional charging has been eradicated. These factors have led to an improving monthly trend in the key performance measures for the last quarter of 2006. Sustained improvement will require more effective quality assurance systems and improvement in the quality of action plans and post-charge review in custody threshold test cases.

Face-to-face advice to the police is provided in eight charging centres, but a recent review has concluded that not all sites are being fully utilised. The Area has recently undertaken a review of the scheme and has secured agreement with the police to merge coverage of a number of the centres to increase efficiency. The Area has recognised risk to the development of the 'prosecution team' ethos between police and CPS and considers that the prosecution team performance management structure is capable enough to resolve any issues or frictions that arise from the changes. This will need to be monitored.

Quality of advice and decisions

- 3.1 We examined a sample of case files from the Area and our findings on the quality of pre-charge advice and decisions are set out in the table below.

Pre-charge and initial review	Performance in the inspection programme to date	Area performance
Advice and decisions complying with evidential test in the Code	96.2%	94.5%
Advice and decisions complying with public interest test in the Code	98.7%	100%
Appropriate alternative disposals and ancillary orders were considered and acted upon	65.9%	28.6%
Prosecutor was active in identifying and remedying evidential defects	74.5%	67.2%

- 3.2 We found the quality of pre-charge decisions (PCD) to be variable. In our file sample, the evidential Code for Crown Prosecutors (Code) test was correctly applied in 120 out of 127 relevant cases (94.5%) and there was compliance with the public interest Code test in all 120 relevant cases (100%).

- 3.3 In custody cases, where the threshold test was applied we found that in four out of 14 cases (28.6%) the test was applied inappropriately or there was a failure to follow up with a timely full Code test review. In addition we found that the charging lawyer was proactive in remedying evidential defects by setting clear and structured action plans in only 67.2% of relevant cases. The quality of action plans seen on-site showed some improvement, but managers should monitor this aspect of pre-charge advice, because of the impact this has on the ability of the police to provide an evidential file sufficient for a timely full Code test review to be conducted, and it contributes to subsequent unsuccessful outcomes.
- 3.4 In 24 out of 91 cases (26.4%) the charging decisions were not properly recorded on the MG3 (the form used to record the duty prosecutor's decision). This was mainly due to historical IT problems, which now appear to have been resolved. Duty prosecutors observed on-site used the case management system (CMS) effectively and provided MG3s which generally covered the evidence seen and advice given, along with the suspect's ethnicity code and the unique reference number.
- 3.5 The selection of charges is good and mostly matches the gravity of the offending behaviour. Cases proceeded to successful outcome without significant amendment in 89.5% of the file sample cases and in 96.7% the initial charges were the ones that best reflected the nature and gravity of the offending behaviour. Despite complaint of undercharging from some external sources, others praised what we found to be an increasingly robust approach from duty prosecutors.
- 3.6 Victim and witness needs are generally considered by prosecutors during PCD. However, early consideration of ancillary matters such as restraint and confiscation applications under the Proceeds of Crime Act and applications for anti-social behaviour orders was provided in only four out of ten relevant cases.
- 3.7 Within the file sample there were no examples of 'conditional charging', whereby advice is given to charge subject to the police obtaining further evidence without further reference to the duty prosecutor. This was confirmed during our observations in the charging centres, which suggests that the Area has now dealt successfully this issue following its migration to statutory charging.
- 3.8 We examined seven cases where the duty prosecutor had advised that no further action (NFA) be taken against a known suspect and in each of these we found the advice to be compliant with the Code. We also observed that duty prosecutors were generally robust in advising police officers to take no further action in appropriate cases. However, one of the cases involved an allegation of rape and there was no indication that the matter had been referred to a specialist lawyer for a second opinion. We were advised that the Area has now reverted to the advice file system for rape cases to ensure that correct procedures are followed.
- 3.9 At present police managers quality assure all PCD cases where NFA is advised. For the year to 31 December 2006 the NFA rate was 33%, but it varied substantially between charging centres and the higher rates merit systematic monitoring by DCPs. Cases where there is disagreement with the decision of NFA are passed to the relevant DCP and analysis is undertaken at local and county prosecution team performance management (PTPM) meetings.

- 3.10 There is no systematic quality assurance system for pre-charge advice cases where the suspect is charged. The frequency and quality of Casework Quality Assurance analysis by DCPs is too variable to provide reliable monitoring.

Bail/custody decisions

- 3.11 Cases in the file sample where the suspect was in custody showed a clear understanding of when it was appropriate to apply the threshold test and decisions relating to custody/bail issues generally appeared sound.

RECOMMENDATION

Duty prosecutors are more proactive in identifying evidential defects, setting clear action plans and advising on ancillary matters.

Managers systematically quality assure pre-charge decision cases, including those where no further action is advised.

Operation of the charging scheme

- 3.12 In the year to December 2006 the Area made pre-charge decisions in 10,489 cases. The split of work between the four CPS offices and charging centres is illustrated in the following table (these figures are adjusted to take account of cases dealt with by CPS Direct, which are not included in the table).

Charging centre	CPS office	Daily prosecutor coverage	Total caseload	Consultations per day
Braintree	North East	0.6	913	} 6.25*
Clacton	North East	0.4	712	
Chelmsford	North East	1	1,267	4.9
Colchester	North East	1	883	3.4
Grays	South West	1	1,132	4.4
Harlow	North West	1	1,714	6.6
Southend	South East	1.5	1,912	7.4
Basildon/ Rayleigh	South East/ South West	1.5	1,956	7.5
Total		8	10,489	40.45

* treated as a single duty prosecutor

- 3.13 All duty prosecutors have attended the initial Proactive Prosecutor Programme and this has clearly had an impact in encouraging robust decision-making. Duty prosecutors appeared to be respected and trusted by investigating police officers.

- 3.14 The Area operates a 45 minute appointment system to provide face-to-face charging advice between 9am and 5pm on weekdays. At least one appointment is kept free every afternoon so that custody cases can be slotted in if necessary. This system provides good cover, but the workload varies between 3.4 and 7.5 cases per day per prosecutor. The Area has recently undertaken a review of the scheme and has secured agreement with the police to merge coverage of a number of the charging centres to increase efficiency. However, this will bring a risk to the development of the prosecution team ethos between police and CPS, which will need to be monitored.
- 3.15 In addition to the cover provided under the charging scheme, Essex CPS is willing to provide the police with advice and assistance in exceptionally sensitive and serious cases. It has also provided early advice in relation to major policing incidents. This has been extremely well received by the police who commended the support provided on these cases.
- 3.16 There is an issue with regard to inappropriate referrals for advice by the police. In a number of these cases prosecutors decline to complete the MG3 advice and no record is kept of the referral. In other cases the decision is recorded as NFA or administratively finalised. The full extent of this problem is therefore unknown, but it is considered to impact on the effective operation of the scheme. Efforts to improve the gatekeeping systems currently in place were circulated in December 2006 in the form of flow charts. The effectiveness of these need to be monitored and improvement secured.
- 3.17 There is a lack of continuity of prosecutor on return appointments for advice, as well as on the post-charge review and handling of the case. This creates unnecessary duplication and does not assist effective case building. Magistrates' courts' cases are allocated on a rotational basis and no effort is made to retain ownership. More effort is made to secure ownership of Crown Court cases, however the late receipt of files means that this is often not achieved. The Strategic Management Team needs to develop its Area-wide system in order to support continuity of lawyer and accountability.
- 3.18 Systems to chase requests for further evidence rely heavily on the police and are not effective. Failures by police to comply with charging advice and/or action plans are reported to police quality control managers by the CPS project manager. These reports should be followed up by CPS managers and the results considered at local PTPM meetings.
- 3.19 The charging project manager has a good relationship with CPS Direct and issues are dealt with at quarterly meetings.

RECOMMENDATION

Area managers should develop systems to increase the continuity of prosecutor in pre-charge advice cases and to support case ownership following the decision to charge.

Realising the benefits of pre-charge decision-making

3.20 The Area is realising some of the benefits of the charging scheme. The most recent key outcomes against which the CPS measures performance are shown in the table below, on the basis of the year to 31 December 2006.

	<i>Magistrates' courts' cases</i>				<i>Crown Court cases</i>			
	National target March 07	National performance 2006	Area target March 07	Area performance 2006	National target March 07	National performance 2006	Area target March 07	Area performance 2006
Discontinuance rate	11%	15.9%	15%	16%	11%	13.3%	12%	15.8%
Guilty plea rate	52%	68.8%	67%	70.6%	68%	65.9%	69%	64.1%
Attrition rate	31%	22.4%	31%	22%	23%	22.6%	23%	25.6%

3.21 In the year to 31 December 2006 pre-charge advice cases (including those referred to CPS Direct) accounted for 35.9% of the Area's overall caseload. It has improved performance in all key aspects, although only two of the six national targets have been achieved. Performance in the magistrates' courts is ahead of target on the rates of guilty pleas and attrition and magistrates' courts' discontinuance matches the national average. However, Crown Court case guilty plea, discontinuance and attrition rates remain worse than the national average.

3.22 The conviction and unsuccessful outcome rates in the magistrates' courts remained steady in 2006 in relation to pre-charge decision and all other cases. The conviction rate was 80.4% in pre-charge decision cases in December 2006 and 85.5% overall. In the Crown Court the pre-charge decision conviction rate has risen from 55% in January 2006 to 77.1% by that December, with a less accentuated rise in convictions generally. During the same period Crown Court unsuccessful outcomes on pre-charge decision cases have fallen from 45% to 22.9%.

STRENGTHS

There are good joint working relationships between the police and CPS at county and district level.

4 CASEWORK IN THE MAGISTRATES' COURTS

The performance in the magistrates' courts is generally at the national average or slightly better. The quality of summary trial reviews is variable both within individual units and across the Area as a whole. Only limited review of adverse outcomes is undertaken. There has been an increase in the rate of successful outcomes and Essex remains better than the national average, with discontinuance rates also remaining better than the national average.

The cracked trial rate is considerably better than the national average. Performance with regard to reducing ineffective trials has declined recently, at 21.8% compared to the national average of 19.4%, however the number of cases where this is attributed to prosecution fault remains better than the national average. Performance in regard to the target for persistent young offenders has been consistently good, most recently standing at 56 days.

Quality of case decisions and continuing review

4.1 We examined 72 case files from the Area and our findings are set out in the following table.

Magistrates' courts and youth court casework

	Performance in the inspection programme to date	Area performance
Case preparation		
Cases ready for PTR/CMH	79.1%	82.6%
Court orders complied with on time, or application made to court	86.0%	96.7%
Correspondence from the defence dealt with appropriately	78.5%	69.8%
Instructions to agents were satisfactory	77.8%	N/A (0 cases)
Level of charge		
Charges that were determined by the prosecutor and proceeded without amendment	89.0%	89.1%
Cases that proceeded to trial or guilty plea on the correct level of charge	98.2%	94.8%
Discontinuance		
Discontinuance was timely	78.6%	56.3%
Decisions to discontinue complying with the evidential test	93.0%	100%
Decisions to discontinue complying to the public interest test	96.0%	100%
Discontinued cases where the prosecutor properly sought additional evidence/information before discontinuing the case	77.3%	77.8%

	Performance in the inspection programme to date	Area performance
Cracked and ineffective summary trials		
Cracked or ineffective trials that were foreseeable and the CPS took action to avoid the outcome	68.8%	60.0%
Summary trial		
Decisions to proceed to trial complying with the evidential test	95.3%	95.3%
Decisions to proceed to trial complying with the public interest test	99.2%	100%
Cases with timely summary trial review and properly recorded	61.5%	71.9%
No case to answers that were foreseeable, and the CPS took action to avoid the outcome	34.6%	0% (0 out of 2 cases)

4.2 The quality of the summary trial reviews and their timeliness varies considerably across the Area. The file sample examination shows that the evidential and public interest Code tests were correctly applied at summary trial review in 95.3% and 100% of cases respectively. These figures are comparable to the average for the current inspection programme, at 95.2% and 100% respectively. We saw some excellent file reviews, and performance with regard to the timeliness and recording of summary trial review was better than the national average at 71.9% compared to 61.5%. However, we found that some cases were handled very poorly and reached the trial stage without any indication of an effective review, other than the initial one. In two cases reviewing lawyers had used emotive or inappropriate language to describe either the defendant or the defendant's version of events. Lawyers should review cases fairly and dispassionately.

Successful outcomes

4.3 The overall conviction rate in the magistrates' courts is 84.2%, which is slightly above the national average. The key outcomes are shown in the following table.

Case outcomes in the magistrates' courts

	National performance year to Dec 2006	Area performance year to Dec 2006
Discontinuance and bindovers	11.0%	9.8%
Warrants	2.7%	3.6%
No case to answer	0.3%	0.3%
Dismissed after trial	1.9%	1.8%
Discharged committals	0.2%	0.3%
Overall conviction rate	83.9%	84.2%

- 4.4 The Area has performed better than the national average in terms of the number of cases that were discontinued or dealt with by bindover; discontinuing 9.8% of cases compared to the national average of 11.0%.
- 4.5 Performance was broadly in line with the national average for the year to December 2006 in respect of no case to answer (NCTA) outcomes and cases that were dismissed after trial. However, there is considerable variation in performance between the Criminal Justice Units (CJUs).
- 4.6 There were two cases where the NCTA was foreseeable but appropriate action was not taken to avoid this in either. In one of them, the initial reviewer said the case could not be proved if the defendant denied the charge. Despite this the case was allowed to proceed to trial.
- 4.7 DCPs are not consistently analysing adverse outcomes on a monthly basis; there is only limited analysis and feedback to the lawyers on their teams. We saw a number of examples of poor case preparation which, whilst not necessarily the cause of the adverse outcome, had not been picked up and addressed during the managers' analysis of the case.
- 4.8 The CPS has set itself a target for reducing the combined rate of unsuccessful outcomes in magistrates' courts and Crown Court cases. We have transposed this in the table below into terms of successful outcomes, that is the overall conviction rate.

Successful outcomes (as a % of completed magistrates' courts and Crown Court cases)

National target 2006-07	83%
National performance April-December 2006	83.5%
Area performance April-December 2006	84%

- 4.9 The successful outcome rate has improved from 81.5% (against a national average of 82.4%) in the year to March 2006, to 84.2% (against 83.9%) in the year to December 2006. Performance varies across the teams within the Area.
- 4.10 In our file sample, we found a number of cases that had been incorrectly finalised. The Area are aware of this and in the South East Team the District Business Manager is now coding all completed cases to ensure they are correctly finalised on CMS. From December 2006 this system was implemented Area-wide.

Offences brought to justice

- 4.11 The target for increasing the number of offences brought to justice (OBTJ) is shared with criminal justice partners. The performance is largely driven by the police, although there is scope for the CPS to influence it.

Offences brought to justice

	CJS area performance 2005-06	
Against 2001-02 baseline	+ 67.8%	
Number	17,558	
Offences Brought to Justice made up of	National average to Sep 2006	Area figure to Sep 2006
Convictions	49%	46.7%
Taken into consideration	10%	10.8%
Cautions	26%	31.8%
Fixed penalty notice	9%	8.8%
Formal warnings for drugs	6%	1.9%

- 4.12 Essex criminal justice area is well above the target for bringing offences to justice, with 17,558 against a rolling target of 15,828. An improvement of +67.8% against the 2001-02 baseline figure has been achieved. Nevertheless, convictions constitute a lower proportion than the national average.

Discontinuances in the magistrates' courts

- 4.13 The rate of discontinuance in the magistrates' courts is 9.8% in the year to December 2006, compared to a national average of 11.0%. This is an improvement on the year to March 2006 when the rate was 10.9% (national 10.8%).
- 4.14 One-third of discontinued cases had been the subject of pre-charge decision. The magistrates' courts' cases seen within the file sample did not reveal any where the decision to discontinue was unreasonable. Some of the later decisions to discontinue were as a result of unforeseen changes to the evidence on the file. However, in other cases, late discontinuance was due to a lack of earlier positive decision-making and therefore could have been avoided or should have been dealt with sooner.
- 4.15 The decision to discontinue a case was often taken by a different lawyer to the one who made the PCD. Although all discontinuances are required to be agreed with the DCP, it would improve consistency and reduce duplication if the lawyer who made the PCD was also the subsequent reviewing lawyer.
- 4.16 There is only very limited sharing of information with other agencies or case analysis regarding discontinued cases.

Committal preparation and discharged committals

- 4.17 The discharged committals rate for the year to December 2006 was 0.3% compared to the national average of 0.2%. For this period, out of 1,374 cases to be committed to the Crown Court, 59 (4.3%) were discharged. Most discharged committals occur in a few – mainly metropolitan – CPS Areas, with many having none. In numerical terms therefore, Essex's performance is not good when compared to other similar Areas.
- 4.18 There is a system of dedicated committal courts, which are covered by Crown Court Unit lawyers from each of the four teams. Some of the discharged committal cases seen within the file sample should really have been discontinued before the committal hearing date, as they were in fact CPS decisions to no longer proceed with the case.
- 4.19 Procedures for handling discharged committals rely heavily on the police to monitor action and chase the additional evidence which was missing at the time of committal. Whilst Area policy is that all discharged committal files should be reviewed by the DCP to enable a decision to be taken as to whether or not the case should be re-instated, in practice this did not always happen. We were aware from correspondence that cases had been discharged, re-instituted and then later discontinued.
- 4.20 Systems and procedures for the preparation of committal files are handled by the Crown Court Units and are therefore dealt with in Chapter 5.

ASPECTS FOR IMPROVEMENT

Discharged committal cases should be analysed by a District Crown Prosecutor; considered for re-instatement, and lessons learned.

Youth cases

- 4.21 Youth cases are generally dealt with expeditiously. This is assisted by good liaison between the courts and the CPS. Each CJU has a dedicated youth specialist who ensures prompt progress of these cases. Youth remand courts are prosecuted, wherever possible, by CPS lawyers rather than agents. Proceedings are handled well and cases progressed swiftly, with CPS prosecutors contributing effectively.

Persistent young offenders

- 4.22 The Government pledged to halve the time taken in 1996 to deal with cases involving persistent young offenders (PYOs) to 71 days from arrest to sentence. This was achieved nationally in 2001. The table below shows recent performance data.

Overall PYO performance (arrest to sentence)

National target	71 days
National performance (3 month rolling average to December 2006)	72 days
Area performance (3 month rolling average to December 2006)	48 days

- 4.23 Performance in respect of PYOs has consistently been good for four years, with the most recent performance at 56 days compared with the national average of 72, and the national target of 71 days from arrest to sentence. Youth specialists prioritise cases involving PYOs ahead of other cases.

Case progression and effective hearings

- 4.24 The data collected by HM Courts Service on time intervals indicates that Essex is performing better than the national average for initial guilty pleas in both the magistrates' and youth courts, with 88.4% of magistrates' courts' guilty pleas being within 59 days (national average 85.3%) and 96.6% of youth court guilty pleas being within 59 days (national average 89.1%).

Time intervals/targets for criminal proceeding in magistrates' courts charged cases only, July–September 2006

	Initial guilty plea target 59 days		Trials target 143 days		Committals target 176 days	
	Cases within target (%)	Sample size (no. of defendants)	Cases within target (%)	Sample size (no. of defendants)	Cases within target (%)	Sample size (no. of defendants)
National	85.3	6,249	65.8	2,452	92.6	1,019
Area	88.4	129	52.1	48	Not available	28

Time intervals/targets for criminal proceeding in Youth Courts charged and summoned cases only, July–September 2006

	Initial guilty plea target 59 days		Trials target 176 days		Committals target 101 days	
	Cases within target (%)	Sample size (no. of defendants)	Cases within target (%)	Sample size (no. of defendants)	Cases within target (%)	Sample size (no. of defendants)
National	89.1	5,331	86.8	3,043	88.1	237
Area	96.6	145	91.5	47	Not available	6

- 4.25 Only 52.1% of magistrates' courts' trials are reached within 143 days compared to the national average of 65.8%. At the time of the OPA the Area were performing ahead of the national average, at 73% compared to 66%. Some of this delay can be attributed to the wait between the date of fixing the trial and the trial itself. In the youth court, the timeliness is 91.5% compared to the national average of 86.8%, which is a fall from 96% at the time of the OPA.

Case preparation

- 4.26 Lawyers carry a higher than average caseload owing to vacant posts and long-term illness. This increases pressure on individuals and reduces the time they have in the office to review and prepare cases and can mean that reviews are not done in as much detail as lawyers would wish. On the file sample, 71.9% of summary trial reviews were said to be timely, however, magistrates' courts' staff and defence solicitors considered that the late review of files was problematic.

- 4.27 Correspondence from the defence was dealt with appropriately in 69.8% of cases in our file sample (30 out of 43 cases).
- 4.28 We observed one instance where the trial advocate, who was an agent, only received the file from the CPS on the morning of a one and a half day trial. We were advised by several court users that this is a not uncommon occurrence. This allows inadequate time for an advocate to prepare for the trial.

ASPECTS FOR IMPROVEMENT

Files should be delivered to agents to allow sufficient time to prepare for trial.

Effective, ineffective and cracked trials

- 4.29 There is a shared target to reduce the rate of ineffective trials, which adversely affect victims and witnesses if they have attended court, and delay the conclusion of the individual cases. We consider it important to raise the rate of effective trials and reduce the rate of cracked trials.

Trial rates in the magistrates' courts

	National target 2006-07	National performance year ending Dec 2006	Area target 2006-07	Area performance year ending Dec 2006
Effective	N/A	43.7%	N/A	46.5%
Ineffective	19.4%	19.4%	21%	21.8%
Cracked	N/A	36.9%	N/A	31.7%

- 4.30 The effective trial rate is better than the national average for the year to December 2006, and the cracked trial rate is significantly below the national average, at 31.7% compared to 36.9%. This suggests that cases are being prosecuted on the charges that were originally advised at PCD and lawyers are being robust in their approach to alternative pleas offered at a late stage.
- 4.31 The ineffective trial rate in Essex is worse than the national average, above the Area target, and has deteriorated since the OPA. However, those which are due to the prosecution are significantly better than the national average. The main reasons for ineffective trials were either the defendant not attending court or the defence seeking an adjournment. In a number of cases, the ineffective trial was caused by the failure of a civilian prosecution witness to attend at court. Whilst delays have reduced gradually during the year, the long delay between fixing a trial date and the trial itself undoubtedly contributes to civilian witnesses not attending court for trial.
- 4.32 In the early part of 2006-07 one of the main reasons for ineffective trials was over listing of cases at court. This problem has reduced significantly in recent months.

- 4.33 The magistrates' courts require both the CPS and defence to file certificates of readiness for trial at least 21 days before the trial date. If these forms are not filed, then the courts are proactive in chasing the defaulting parties and will either list a case for a review or cancel a trial if the certificates are still not forthcoming. CJU case progression officers undertake CPS completion of the certificates. This system helps to ensure that the CPS is trial ready.
- 4.34 In our file sample we found six instances where it was foreseeable the CPS would offer no evidence. In four of them the CPS took some action to avoid this. One of these was a domestic violence case where the victim had from the outset refused to make a statement and the lawyer at PCD determined a bind over would be acceptable. Nevertheless, the defendant was charged with common assault and it was not until the trial that a bind over was accepted.
- 4.35 There is only limited analysis of cracked and ineffective trials. This is at a superficial level and little is done on a case-by-case basis. The headline figures are discussed at management meetings, but there is little in-depth analysis either at these meetings or by DCPs.

Use of the case management system – Compass CMS

- 4.36 Use of CMS has improved substantially since the time of the OPA. At that time, the full file review was recorded in only 44% of cases (compared to a national average of 69%); usage has improved to 82% compared to a national average of 85.1%.
- 4.37 In 67.8% of cases in the magistrates' courts' sample all information was entered adequately on CMS. This needs to be monitored by managers. We found one example of a case hearing having been recorded upon CMS but not endorsed on the paper file.
- 4.38 Since this inspection Area managers have attended a CMS for Managers course to enable better use of the management functions of CMS.

5 CASEWORK IN THE CROWN COURT

The quality of review and decision-making in the Crown Court is very variable. Late receipt and preparation of papers hampers effective review and case progression. The rate of successful outcomes has improved, but remains worse than the national average. There is only limited analysis of the reasons for case failure. The standard of instructions to counsel remains very poor, with only superficial case analysis and consideration of alternative pleas.

Systems for ensuring compliance with court orders are not working effectively and correspondence handling is not always timely. Nevertheless, improved performance in reducing the number of ineffective trials has been achieved by effective partnership working, resulting in performance that has been consistently better than national average, at 8% compared to 12.7%.

The Area, in conjunction with the police, has recovered proceeds of crime to the extent of £506,719 in the year to December 2006, exceeding its financial target for 2006-07.

The quality of case decisions and continuing review

- 5.1 We examined 65 Crown Court cases from the Area and our findings are set out in the following table.

Crown Court casework

	Performance in the inspection programme to date	Area performance
Committal and service of prosecution papers		
Decisions to proceed at committal or service of prosecution case stage complying with evidential test	96.4%	89.3%
Decisions to proceed at committal or service of prosecution case stage complying with public interest test	99.5%	100%
Cases with timely review before committal, or service of prosecution case	82.5%	83.0%
Instructions to counsel that contained case summary and adequately dealt with issues	63.1%	11.9%
Instructions to counsel that contained satisfactory guidance on pleas	39.3%	3.8%
Case preparation		
Cases ready for PCMH	92.5%	89.7%
Court orders complied with on time, or application made to court	88.6%	64.8%
Correspondence from defence dealt with appropriately	90.4%	70.7%

	Performance in the inspection programme to date	Area performance
Cracked and ineffective trials		
Cracked or ineffective trials that were foreseeable and the CPS took action to avoid the outcome	70.0%	25% (1 out of 4 cases)
Level of charge		
Indictments that were appropriate and did not require amendment	80.8%	89.8%
Cases that proceeded to trial or guilty plea on the correct level of charge	97.4%	98.4%
Judge ordered and judge directed acquittals		
JOA/JDAs that were foreseeable and the CPS took action to avoid the outcome	50.0%	22.2% (2 out of 9 cases)
Trials		
Acquittals that were foreseeable and the CPS took action to strengthen the case (or drop it sooner)	35.0%	50.0% (3 out of 6 cases)

- 5.2 The quality of decision-making in the Crown Court is very variable. In some cases, the quality of review was excellent, demonstrating a clear evaluation of the evidence and focussed case building and ongoing review. The handling of complex cases was praised by the judiciary. In other cases, however, late and superficial review has led to late applications for the admission of bad character and hearsay evidence or for special measures, and a few cases proceeded to the Crown Court with insufficient evidence, resulting in the foreseeable failure of the case.
- 5.3 File endorsements were generally clear and logical, with a copy of the CMS review usually attached to the paper file. There are generally good file housekeeping arrangements in place. All files are divided into different coloured plastic wallets containing evidence, unused material, correspondence, witness care issues and so on. This gives an Area-wide consistency to file handling.

STRENGTHS

Good, consistent file 'housekeeping' across the Area.

Successful outcomes

- 5.4 The Area's overall conviction rate in the Crown Court is 74.5%, which is worse than the national average of 77.3%, but shows improvement from the OPA when performance stood at 71.7%. The improvement has occurred since April 2006, and whilst more progress is required, it can be linked to CPS involvement in advising police and pre-charge decision-making. The key outcomes are shown in the following table.

Case outcomes in the Crown Court

	National performance December 2006	Area performance December 2006
Judge ordered acquittals and bind overs	13.2%	15.3%
Warrants	1.4%	1.7%
Judge directed acquittals	1.5%	1.5%
Acquittals after trial	6.5%	7.0%
Overall conviction rate	77.3%	74.5%

- 5.5 The proportion of cases where the judge stops the case after the jury has been sworn (judge directed acquittals - JDAs) remains close to the national average. For the year to December 2006 performance matched the national average of 1.5%. This demonstrates improvement over the previous year (2005-06) from 1.7% and from the OPA at 2.4%.
- 5.6 We examined six JDAs; in one of the cases a lack of identification evidence meant the reasons for its failure were apparent right from the start and the case should not have been prosecuted. Three were threshold test cases and there was a failure to address evidential defects at the PCD stage.
- 5.7 Only limited analysis of all adverse cases is undertaken by the DCPs. Forms are completed by the allocated caseworker before being passed to the reviewing lawyer for comment. Whilst some forms demonstrated an acceptance of review deficiencies, many contained very brief endorsement, with some containing no comment at all. DCPs seldom compared the files with the forms received and there was only limited evidence of learning points on an individual or team level. Whilst the headline data is discussed at prosecution team performance management (PTPM) meetings with the police, no trending of results is done, and some DCPs were unaware of the disproportionate level of adverse and unsuccessful outcomes for their team. Failure to check all adverse cases has also meant that inaccurate finalisations have gone uncorrected, often to the detriment of performance figures. At the most recent meeting with counsel's chambers, counsel agreed to provide feedback on failed cases.

Discontinued cases and judge ordered acquittals

- 5.8 The proportion of judge ordered acquittals (JOAs) at 15.3% in the year to December 2006, is worse than the national average of 13.2%. There is some indication of continuing improvement and performance in the last three months to December 2006 was down to 13.3%. There is significant variation in the performance between teams, with the number of JOAs in the South East and South West Teams being over 17%.

- 5.9 We examined a total of 20 JOAs. Of those, seven were indictable only cases which had been sent to the Crown Court and which were discontinued before the service of the prosecution papers. All seven had been the subject of PCD. We disagreed with the decision to discontinue in one of them. In three others there had been no material change since the PCD and the decision was based on a different interpretation of the strength of the evidence. Whilst neither the decisions to charge nor those to discontinue were unreasonable, positive, consistent approaches and more proactive attempts to strengthen the cases at an early stage would have perhaps resulted in different outcomes. In one domestic violence case, the provision of early witness care and support might have prevented the subsequent retraction of the victim's complaint; no effort was made to involve the domestic violence liaison officer until three months after the first court appearance.
- 5.10 The decisions to offer no evidence on the 13 JOA cases seen complied with the Code. However, in five of those we considered the decision was foreseeable and that action should have been taken earlier. In one case repeated failures to address the issue of the capability of a child witness resulted in the decision to offer no evidence not being taken until the morning of the trial. Evidential difficulties were apparent at an early stage in three other cases but were never addressed. Further evidence should have been sought before the decision to charge had been taken in the fifth case. In all five the evidential Code test had not been passed at committal review.
- 5.11 Procedures for consultation with the police and victims in cases that the CPS is considering dropping need to be strengthened. Late decisions to discontinue cases in any event limit the amount of time for consultation. In some cases there was little indication that any effort was made; in others, whilst no formal notices of proposed discontinuance were seen, efforts were made to discuss the case with the police either by telephone or via e-mail.

Serious and complex cases

- 5.12 Until recently the most complex cases had been handled by the Complex Casework Lawyer (CCL). Due to his temporary appointment as DCP, some of these cases are now dealt with by other experienced lawyers. There are effective systems for the allocation of serious and complex cases to prosecutors and caseworkers of suitable experience and arrangements are in place for their involvement on these cases pre-charge. Prosecutor involvement in the handling of these is more extensive than in other casework and their handling was praised by both the police and judiciary.
- 5.13 Examples were given of cases which had benefited from being considered by the Area case management panel. This involves the CCP, relevant DCP, allocated lawyer, caseworker and the Area Secretariat Manager:

STRENGTHS

The Area's handling of complex casework.

Youth cases

- 5.14 The limited number of youth cases in the Crown Court are allocated to youth specialists. There is good liaison with the Crown Court listing officers which ensures these are progressed swiftly. Where necessary, priority listing of these cases is arranged to minimise any delay.

Appeals and committals for sentence

- 5.15 There are effective systems for preparation of committals for sentence and appeals. Whilst each Crown Court Unit practice varies slightly, each case is allocated to an administrator or caseworker who will prepare the brief and arrange for witnesses to be warned. The majority of these cases are prosecuted by counsel.

References to the Court of Appeal in relation to unduly lenient sentences

- 5.16 No cases in our file sample involved a sentence being referred to the Court of Appeal on the grounds that it was unduly lenient. Lawyers and caseworkers were, however, aware of the procedures and tight timescales involved in such referrals, and counsel's chambers were reminded of the need for vigilance in the identification of these cases at the most recent six monthly meeting. All applications are managed by the CCL. There had been five referrals to the Attorney General in the last 14 months, one of which resulted in the defendant's sentence being increased.

Asset recovery (proceeds of crime)

- 5.17 Performance on asset recovery has been consistently strong. In 2005-06 £524,072 was recovered through a total of 50 confiscation orders, exceeding both the numerical target of 29 orders and the financial target of £338,660. The financial target for 2006-07 has already been met, with total assets recovered currently standing at £506,719 against a target of £455,766. This was recovered through a total of only 24 orders, so that the numerical target of 58 is unlikely to be met. More stretching financial targets are already proposed for 2007-08.
- 5.18 Comprehensive Proceeds of Crime Act (POCA) refresher training was delivered jointly by the police and CPS to all relevant staff at the Area Training Day in September 2006. This also included training on the use of the form MG3B on all pre-charge cases in order to raise awareness and prompt early consideration of asset recovery issues. Some proactivity was seen on PCD cases examined in the file sample, with awareness of the need for selection of appropriate charges seen on some of the files. The Area has an effective POCA Champion and was recruiting a caseworker (now in post) to oversee the administration and management of POCA cases. Performance against the targets is included in the Area performance pack and discussed at quarterly performance meetings.

STRENGTHS

Area performance on asset recovery.

Case progression and effective hearings

- 5.19 Progression of individual cases is the responsibility of the allocated caseworker and lawyer. Detailed plea and case management hearing (PCMH) forms are completed during the hearing by the caseworker in court and then passed to the allocated caseworker for actioning and completion. A copy of the form is also provided to the District Business Manager (DBM) so that compliance with court orders and overall progress of the case can be monitored.
- 5.20 The prosecution were ready for PCMH in 89.7% of cases, although we saw a few within the file sample where repeated applications for extensions for time to serve the papers had been made, and in two cases, the PCMH had to be adjourned due to lack of service of the papers.
- 5.21 Compliance with judges' orders occurred in only 64.8% of cases. Failure to comply was generally due to the lack of evidence received from the police, but in other cases it was due to the unavailability of the allocated member of staff to process correspondence and undertake necessary action. Some cases had been listed for mention by the defence and threats of wasted costs orders made, and on occasions CPS and police staff had been called to give a personal explanation for the failure to the judge. The handling of defence correspondence was found to be satisfactory in only 70.7% of cases.

ASPECTS FOR IMPROVEMENT

The timeliness of file preparation, correspondence handling and compliance with judges' orders and directions.

Case preparation

- 5.22 Following a re-structuring at the end of 2004 new systems to address the quality and timeliness of Crown Court casework were put in place. At the time of the inspection file building was undertaken by police and CPS administrators, with some differences in systems for file preparation across the teams. Statements and interviews are all typed by CPS typists. However, late receipt of evidence and a shortage of typists to cover the increasing workloads have meant that cases are not passed to lawyers for committal preparation until very shortly before the hearing date, and some have been committed without the statements having been typed. (Since the inspection, the police contribution to file building has become limited.)
- 5.23 The allocation of files to lawyers and caseworkers is undertaken by the DBMs who take account of the current workloads, specialism, and experience and expertise of the team. However, shortages of both lawyers and caseworkers have meant that there is only limited case ownership, which results in unnecessary duplication and some inconsistency in file handling and decision-making.

- 5.24 Except in very complex cases, caseworkers are not usually allocated until after the PCMH (although this varies between teams) and therefore have no involvement in the preparation of the case up to that point. Post-PCMH the position is reversed and there is only limited involvement of the reviewing lawyer; with most of the work being undertaken by the caseworker and counsel. It was apparent that lawyers had not always attended conferences with counsel, although this is now less of an issue. Counsel were able to make use of e-mail to contact lawyers and discuss the case more easily than previously. Earlier involvement of caseworkers would reduce the pressure on the lawyers and give more time for proactive working with counsel. Area managers acknowledge that the systems currently in place are significantly hampering effective case review, preparation and ownership, and the further re-structuring planned for 2007 aims to address this. However, the Area needs to analyse why cases which have all key evidence to pass the full Code tests at PCD subsequently take so long to be converted into a typed full committal file.
- 5.25 Lack of pre-committal preparation means that applications for special measures, bad character and hearsay are not routinely drafted at the time of the service of the papers, but are done so subsequently by caseworkers. On a number of files we saw initial disclosure had not been made prior to PCMH.
- 5.26 Of the cases we examined 89.8% proceeded on the original indictment. The amendments made to the original charges advised at PCD were generally to correct minor errors rather than significant flaws. However, the lateness of preparation meant that in many cases seen on site, the indictment had only just been lodged with the court prior to the PCMH. In some cases, the amendments to the indictment were not made until counsel was instructed.
- 5.27 The Area has developed strong links with its preferred sets of chambers and regular meetings are held with the Heads of Chambers. The system for handling returns is monitored. In complex cases early involvement of counsel is sought, however, most cases are covered to PCMH by CPS Higher Court Advocates (HCAs). Whilst all cases seen at court were suitably allocated, some would benefit from early input from the nominated trial counsel.
- 5.28 Allocation of cases to HCAs is done from the PCMH list by administrative staff, with any surplus ones being sent out to counsel. Due to the lateness of allocation and unavailability of HCAs, this system is resulting in a number of counsel being briefed at court. This practice was occurring at all the PCMH courts observed on site, and late briefing of counsel for PCMH courts was raised as a particular concern by judges. The Area needs to ensure that the system for briefing HCAs and counsel provide sufficient time for effective preparation of the case.
- 5.29 Case analysis and the provision of information on acceptable pleas in the instructions to counsel remain poor. In many files there were no specific instructions to counsel seen at all. In the last inspection report (November 2003) it was found that instructions to counsel contained sufficient information in only 50% of cases and we recommended that action was taken to improve quality. This was also raised as an issue in the OPA. In this inspection, only seven cases (11.9%) had instructions to counsel that dealt with the issues satisfactorily and only two relevant cases (3.8%) dealt with the acceptability of pleas satisfactorily. We were advised that in many cases counsel are sent a copy of the lawyer's review and a photocopy of the file jacket, albeit these are not listed or referred to in the instructions.

RECOMMENDATION

Crown Court prosecutors provide good quality instructions to counsel and District Crown Prosecutors monitor this effectively.

Effective, ineffective and cracked trials

- 5.30 There is a shared target with criminal justice system (CJS) partners to reduce the level of ineffective trials, which adversely affect victims and witnesses if they have attended court, delay the conclusion of individual cases and waste available court time.

Trial rates in the Crown Court

	National target 2006–07	National performance year ending Oct 2006	Area target 2006–07	Area performance year ending Oct 2006
Effective	N/A	48.3%	N/A	58.7%
Ineffective	14.2%	12.7%	15.0%	8.0%
Cracked	N/A	39.2%	N/A	33.3%

- 5.31 In spite of the case preparation problems referred to above, performance in reducing cracked and ineffective trials has improved considerably and the rate of effective trials is comparatively high. Performance is significantly better than the national averages for effective, ineffective and cracked trials. Readiness for trial is assessed at the two weekly trial readiness assessment meetings (TRAMS), one for the north of the county and one for the south, which are attended by the relevant DBMs, Witness Care Unit Manager and the Court Listing Officer. The informative and frank discussions about readiness to proceed and any witness concerns or difficulties assists the listing process and has played a substantial contribution in reducing the number of cracked and ineffective trials. There is, however, still a perception amongst the judiciary that too many cases are listed to address witness availability issues and that too many ineffective trials are caused by problems with witness warning.
- 5.32 Forms are completed by the relevant parties in cracked or ineffective trials and analysis is undertaken. This is discussed at the county case management action team meetings and learning points are disseminated.

STRENGTHS

Area performance on increasing effective trials and reducing cracked and ineffective trials.
The positive trial readiness assessment meetings.

Use of case management system – Compass CMS

- 5.33 The standard of reviews seen on CMS was variable; whilst some were excellent, others were limited or non-existent. Although overall usage has improved, the Area is not currently meeting the target for completion of Crown Court reviews on CMS. Whilst two CCUs exceeded the target, poor compliance in the other two meant that performance in December 2006 stood at 84.4% compared to a national target of 90%. In interview lawyers felt that their ability to make best use of CMS was improving. Performance on CMS usage is monitored. In some teams there are significant backlogs of outstanding tasks.
- 5.34 Only limited use is made of the administrative and management functions of CMS due to the lack of knowledge of managers, and they attended a course in February 2007 in order to address this. Some DBMs use CMS to ensure fair allocation of work. The Area Performance Officer has created some templates for use in the CCUs in order to capture management information.

6 PRESENTING AND PROGRESSING CASES AT COURT

The quality of in-house advocacy observed by inspectors was good and prosecutors are committed to progressing cases in court. The practice of briefing counsel in the Crown Court on the morning of the plea and case management hearings and the late arrival of case files for agents in the magistrates' courts adversely affects the quality of their case presentation. There is no systematic monitoring of advocates.

The standard of facilities for CPS advocates in some magistrates' courts is inadequate, although facilities seen in all Crown Courts were generally good.

- 6.1 The CPS has set standards for its advocates, internal or external. These National Standards of Advocacy were updated in August 2003 and contain standards, guidance and prompts. Paramount is that prosecution advocates act, and are seen to act, in the public interest, independently of all other interests, fairly, fearlessly, and in a manner that supports a transparent system that brings offenders to justice, respects the rights of the defendant and protects the innocent. We assess advocates against these standards, bearing in mind that the court sessions will vary from trials to bail applications to pleas of guilty and remand courts.

Advocates ensure cases progress and hearings are effective

- 6.2 External sources praised CPS in-house advocates for their positive approach to progressing cases in court, which was confirmed by our observations. Advocates were generally well prepared to assist the court on all issues including matters ancillary to sentence. They arrive at court early and make themselves available to discuss matters with the defence and other interested parties. File endorsements are generally satisfactory and assist case progression. In the magistrates' courts advocates prepare trials at least three days in advance, and all youth court remand hearings are conducted by in-house advocates. In the Crown Court, HCAs are generally well prepared for PCMHs.
- 6.3 The Area liaises well with the courts to allow efficient use of designated caseworkers (DCWs) and HCAs. Listing issues are discussed with magistrates' courts at Area level and the deployment of DCWs is therefore relatively efficient. However, listing indictable only cases for potential sending to the Crown Court in courts where the advocate is a DCW needs to be addressed to avoid delay.
- 6.4 Magistrates and their legal advisers told us that agents are less effective at progressing the case in court than in-house advocates. Sometimes they arrive ill-prepared or late and we observed some instances of this. The problem is most acute at Harwich Magistrates' Court, which is farthest from London and Chelmsford. Although barristers are block-booked by DBMs well in advance, chambers return work late from time to time and some counsel under-estimate the distance of some courts from London and Chelmsford. Counsel are regularly instructed on the morning of the PCMH court at both Chelmsford and Basildon Crown Court. This clearly hampers effective case preparation, progression and presentation.

- 6.5 We observed instances of agents taking appropriate action to deal with evidential problems at court to minimise the need for an adjournment, However not all agents are familiar with the standing instructions on non-attendance of witnesses.

RECOMMENDATION

District Crown Prosecutors ensure that all agents and counsel are properly instructed in advance of each hearing.

The standard of advocacy

- 6.6 We observed 27 advocates in different courts. Our findings are set out in the table below.

		CPS advocates/ designated caseworkers in the magistrates' courts	Counsel/ solicitor agents in the magistrates' courts	Higher Court Advocates and other CPS advocates in the Crown Court	Counsel in the Crown Court
Advocacy standards	Level	Number	Number	Number	Number
Assessed as above normal requirements	1 2	0 2	0 0	0 1	0 1
Against CPS National Standards of Advocacy	3+ 3 3-	1 5 0	2 2 0	2 1 0	1 9 0
And those assessed as less than competent	4 5	0 0	0 0	0 0	0 0

Assessment:

1 = Outstanding; 2 = Very good, above average in many respects

3+ = Above average in some respects; 3 = Competent in all respects

3- = Technically competent, but lacking in presence or lacklustre

4 = Less than competent in many respects; 5 = Very poor indeed, entirely unacceptable

- 6.7 We observed 27 prosecution advocates conducting a range of hearings from first appearances to full trials in the magistrates' courts and Crown Court. The experience and level of advocate was generally appropriate for the type of hearing. Three out of four HCAs seen in the Crown Court were above average in some respects. The lawyers and DCW observed in the magistrates' courts were all fully competent and well prepared.
- 6.8 The judiciary and other external sources considered that the quality of prosecution advocacy was comparable to that of the defence. Issues relating to competence were rare and problems with conduct or professionalism were even less frequent. Defence solicitors complimented the skills and professionalism of their prosecution counterparts.

- 6.9 Although we found the quality of agents in the magistrates' courts to be generally satisfactory, magistrates and their legal advisers told us that poor quality agents had occasionally appeared for the CPS. However, CPS Essex reacts promptly to any complaint from the courts. We were also made aware that the Area Secretariat has a constructive relationship with preferred sets of chambers who are themselves responsive to any complaints from the CPS.
- 6.10 External sources confirmed our finding that counsel instructed in the Crown Court are generally competent. However, some counsel, even in serious cases, decline to engage with victims at the most basic level. The Area has highlighted the commitment to personal contact with victims in instructions to counsel.
- 6.11 Mentoring of newly qualified advocates at court is undertaken and care should be taken in the selection of mentor to ensure the opportunity is maximised. There is no systematic monitoring of advocates, particularly in the magistrates' courts. Quality assurance is largely conducted by feedback; however this is insufficient, especially when the CPS is sometimes represented by very junior counsel.
- 6.12 Facilities for prosecution advocates were inadequate at three magistrates' courts. This is an issue that should be raised with HM Courts Service, especially in relation to Colchester where there is no dedicated telephone facility for prosecution advocates. Prosecutors need to have a reasonably private room, ideally with IT facilities, to maximise efficiency.
- 6.13 The judiciary were keen to compliment the CPS caseworkers for their hard work and dedication and this was supported by other sources. However, we were also told that coverage was sometimes insufficient to provide proper support to advocates.

STRENGTHS

The quality of higher court advocacy is good.

ASPECTS FOR IMPROVEMENT

The monitoring of prosecution advocacy in the magistrates' courts by District Crown Prosecutors needs to be systematic and recorded.

There are inadequate facilities for prosecution advocates at three magistrates' courts.

7 SENSITIVE CASES AND HATE CRIMES

The Area deals appropriately with sensitive cases, including homicide, rape, child abuse, racially and religiously aggravated and homophobic cases, applying the principles of the Code and CPS policy correctly.

It has taken the lead in the proposals for setting up of a domestic violence court in Essex which is to commence in April 2007.

Quality of advice and decisions

- 7.1 Sensitive cases include offences of homicide, rape, child abuse and domestic violence; hate crime includes racially aggravated and homophobic offences. CPS policy is that in rape cases the agreement of a rape specialist is required before it can be discontinued. It is also the Area policy that lawyers cannot discontinue any case, including sensitive or hate cases, without the agreement of the DCP.
- 7.2 We examined five homicide cases. The decisions made were in accordance with the Code in all of them. However in one, although the decision to accept a lesser plea was appropriate, the victim's family's views were not sought before the lesser charge was offered to the defence.
- 7.3 Fatal road traffic cases are dealt with by specialist lawyers and the Area has produced specific guidance for the handling of those cases that contain time limits for providing advice.
- 7.4 We examined four rape cases and found that, where appropriate, the CPS lawyer sought additional information from the police before making a decision. In one case we found that the victim's views had not been considered before a decision to discontinue was made, although the discontinuance decision was correct on the evidence available. Area practice with regard to seeking second opinions before advising discontinuance or no further action on rape cases was not applied consistently. This has been addressed in part by the recent decision to remove rape cases from the pre-charge advice scheme (except in custody cases) so that all advice is provided on a full file. We observed one rape case being prosecuted; trial counsel had retained the brief for the entirety of the case and to re-trial, and had been able to advice and progress the case throughout both trials.
- 7.5 In child abuse cases, it is vital that the reviewing lawyers views the video recorded evidence of the child and records their assessment of this evidence. Some of the files did not indicate this.
- 7.6 We examined four domestic violence cases in the magistrates' courts. In one instance a threshold test on charging was not subsequently followed up with a full Code test. There were only six homophobic cases finalised in Essex in the first three quarters of 2006-07, of these four were guilty pleas and the other two were convicted after trial. There were none in our file sample.

- 7.7 In the first three quarters of 2006-07 there were 81 race or religious hate cases finalised in Essex. Of these 60 (74.1%) resulted in convictions which compares well to a national average of 71.9%. We examined a total of eight race or religious hate cases. In all of them the PCD complied with the Code tests. Two of the four magistrates' courts' cases were discontinued as a result of a change of circumstances following PCD; the other two resulted in guilty pleas. In the Crown Court three cases resulted in guilty pleas and the remaining one was discontinued, again as a result of a change of circumstances.
- 7.8 The summary trial and Crown Court reviews correctly applied the evidential and public interest Code tests on all sensitive cases seen within the file sample.
- 7.9 In only five out of 15 relevant Crown Court cases and three out of eight magistrates' courts' cases were Direct Communication with Victims (DCV) letters sent when appropriate. This is poor in such sensitive cases.

Specialists and experts

- 7.10 Specialists and champions have been appointed for categories of sensitive and hate crimes, both at an Area level and within individual teams, and details are accessible on the IT system. However, interviews with lawyers revealed that with the exception of the Rape Champions and the anti-social behaviour order (ASBO) specialist, there was a lack of awareness of the identity of the relevant specialist.
- 7.11 The roles and the responsibilities are not defined, and there is no dedicated time for some of the roles. The dissemination of material from the champions varies considerably. The ASBO Champion provides regular and detailed briefings to all lawyers within Essex. Little monitoring of outcomes or adverse outcome analysis is done by the champions, either within the individual teams or at an Area level.
- 7.12 Rape cases are usually handled by specialists within the Crown Court Units. However, the procedures regarding who is able to decide not to prosecute a rape case at the pre-charge advice stage needs to be clarified.
- 7.13 Each magistrates' courts and Crown Court Unit has a specialist responsible for the youth cases within their unit. There is evidence of good liaison between the specialist, police and courts to progress youth cases.

ASPECTS FOR IMPROVEMENT

The roles and duties of Area champions should be fully defined and form part of the individuals' forward job plans.

Outcomes

- 7.14 The unsuccessful outcomes for hate crime figure is 34.6% for the year to December 2006. In the third quarter of 2006-07 the unsuccessful outcome rate was 32.9%; the Area has bettered the local target of 42% and is starting to match the national average of 33.2%.

Anti-social behaviour orders

- 7.15 The Area ASBO specialist has provided training and updates to lawyers and has made contact with appropriate community bodies and with the police.
- 7.16 Although numbers have reduced slightly applications are made in appropriate cases. Breach applications are prosecuted appropriately.

Identification and management of sensitive cases

- 7.17 Lawyers are required to identify sensitive and hate cases, as part of the PCD. However, there were a number of files we examined that had not been flagged for all appropriate categories. Racist incident data forms (RIDS) were not completed on all cases. Training in sensitive and hate crimes has been provided to lawyers and there is a clear system of allocation with regard to specialisms and experience in all Crown Court cases.
- 7.18 The performance management of sensitive cases relies upon the completion of the Casework Quality Assurance (CQA) process, but this is not done uniformly across the Area, with some DCPs placing more reliance on the CQA process than others. More focussed analysis by specialists has not been routinely undertaken, although some work is now being underway on rape cases. The Area shares data on adverse outcomes with other agencies, but there is no in-depth case analysis of unsuccessful outcomes. The headline data is considered in Strategic Management Team meetings, as part of the pack produced by the Area Performance Officer.
- 7.19 A specialist domestic violence court is due to commence at the beginning of April 2007 in the south west of the county. It is envisaged that if this is successful then courts will be set up across the Area. The CPS has played a very proactive role in the setting up of this court.

Safeguarding children

- 7.20 The identification of child witnesses and the need for special measures is part of the PCD process. The Area works with both the Witness Care Units and the Witness Service to ensure that children are safeguarded throughout the court proceedings. Nevertheless, we observed a domestic violence case where the video evidence of a child witness had not been agreed properly in advance and the start of the trial had to be delayed whilst the CPS prosecutor and the defence discussed the video evidence at court. In a Crown Court case, failure to assess the capability of a victim of child abuse meant that the decision to offer no evidence was not taken until the morning of the trial.
- 7.21 A specialist child abuse prosecutor has been appointed to deal with internet child pornography cases and there are additional specialists within in each unit.
- 7.22 The CCP has joined the Local Safeguarding Children Board to represent the CPS.

8 DISCLOSURE OF UNUSED MATERIAL

The overall compliance with the duty of disclosure of unused material has declined since the last inspection in 2003. There was significant variation in the quality of disclosure decisions and endorsements seen within the file sample. On a number of them the provision of initial disclosure was late, which affected case progression. In the Crown Court, failure to disclose unused material is a key contributing factor to the ineffective trials which are the fault of the prosecution, and the proportion of cases where this occurs is worse than the national average.

Decision-making and compliance with the duties of disclosure

8.1 The quality of decision-making and compliance with the duties of disclosure is fair, as illustrated below.

	Area performance in last inspection (November 2003)	Overall findings for all CPS Areas 2002–04 programme	Performance in the inspection cycle to date	Area performance in this inspection
Initial (or primary) disclosure dealt with properly in magistrates' courts' cases	81.8%	71.6%	64.8%	67.3%
Continuing (or secondary) relevant dealt with properly in magistrates' courts' cases	No assessment	No assessment	59.4%	57.1% (8 out of 14 cases)
Initial (or primary) disclosure dealt with properly in Crown Court cases	76.0%	79.9%	78.1%	71.2%
Continuing (or secondary) disclosure dealt with properly in Crown Court cases	73.3%	59.4%	79.6%	46.5%
Disclosure of sensitive material dealt with properly in magistrates' courts' cases	50.0%	60.0%	70.6%	52.2% (12 out of 23 cases)
Disclosure of sensitive material dealt with properly in Crown Court cases	50.0%	77.8%	69.2%	52.4% (11 out of 21 cases)

8.2 Performance in discharging the duties of disclosure of unused material has declined since the last inspection in both magistrates' courts and Crown Court cases. As with review decisions, we found substantial variations in the quality of decisions taken and the recording of them. Some of the disclosure record sheets (DRS) seen on the file sample provided a comprehensive and very thorough catalogue of all actions taken. On other files the information was either very limited or the DRS was not completed at all.

- 8.3 Essex has been without a Disclosure Champion since October 2006. However refresher training on unused material was provided to staff at the November training day, with some joint training of the police also being undertaken. The Area has recently asked for applications from lawyers for a three month disclosure secondment; the intention is for them to undertake a complete review of how all aspects of disclosure are handled.
- 8.4 On both Crown Court and magistrates' courts' files the quality of disclosure endorsements was poor, with clear and accurate endorsements seen in only 38.3% of cases. Items were offered for inspection or disclosure with no explanation as to why such disclosure was necessary. Blanket inspection of the unused material was offered to the defence on three of the 47 relevant Crown Court files seen. Some disclosure functions are being undertaken by caseworkers and DBMs. Remedial action to correct poor police scheduling was seen on some of the files inspected, although on others the quality of the schedules prepared by the police were of a high standard. Sensitive material schedules, however, were completed correctly in only 54.3% of cases.
- 8.5 The timeliness of both initial and continuing disclosure in the Crown Court is poor; in some cases initial disclosure had not been completed by the time of the PCMH. There were instances where repeated requests for continuing disclosure were ignored, prompting applications to the Judge, or no further consideration of unused material was apparent following the receipt of a defence case statement. In the Crown Court, failure to disclose unused material is a key contributing factor to the ineffective trials which are the fault of the prosecution, and the proportion of cases where this occurs is worse than the national average.
- 8.6 There was a reasonably effective system in place for the separate filing of unused material in all magistrates' courts and Crown Court files inspected. Compliance with the system was almost universal throughout the Area, with the completed DRS, disclosure schedules and copies of all non-sensitive material seen being filed within plastic wallets. On some files relevant correspondence was also included in the wallet, but in others the disclosure documentation was mixed in with general correspondence and therefore more difficult to locate.

Sensitive material

- 8.7 Sensitive material was reviewed and handled appropriately in only half the cases within the file sample (similar to the situation in 2003). Some had no MG6D schedule on the file at all and there was no indication that this was followed up with a request to the police. In a small number of files the MG6D was found in a sealed envelope, never having been opened by the reviewing prosecutor at all. In three cases, sensitive materials should have been reviewed and the impact of it on the cases assessed. There was no record that this had been undertaken at all and no endorsement on the MG6D.
- 8.8 One file within the sample contained sensitive material which required a public interest immunity (PII) application, which was handled appropriately. On another, highly personal material relating to a witness was handled with sensitivity and care with clear endorsement of the decisions taken and the storage of the material.
- 8.9 There are appropriate systems for the secure storage of sensitive material.

Action to improve

- 8.10 The CQA forms submitted by the Area for the inspection indicated a high compliance (93.9%) with the duty of disclosure. Managers must ensure that their own assessment of disclosure handling in their team is realistic and that suitable cases are selected for assessment.

RECOMMENDATION

Lawyers should comply with the duties of disclosure of unused material in all cases and District Crown Prosecutors should monitor this effectively and provide feedback to individuals.

9 CUSTODY TIME LIMITS

The handling and monitoring of custody time limits has improved and no failures have been reported since November 2005. A comprehensive review and training programme was delivered in February 2006 and further training has since been carried out. DCPs undertake dip sampling and report some improvement on handling.

Examination revealed two cases where time limits had been calculated incorrectly. Fortunately, they were concluded prior to the dates being reached.

Protocols covering the handling of custody time limits in both the magistrates' courts and the Crown Court have recently been signed, which is a positive move.

Adherence to custody time limits

- 9.1 Custody time limit (CTL) failures were found by inspectors in both the 2003 inspection and during the OPA in November 2005. No CTL failures have been reported by the Area since that time.
- 9.2 Twenty files were examined in which CTLs applied. In most of the Crown Court cases, whilst the dates had been appropriately calculated and endorsed on the Crown Court file jacket, there was no initial endorsement recorded on the magistrates' court jacket inside it. In two files, the expiry date had been incorrectly calculated. In each case the calculation had underestimated the length of the time limit and the inaccuracy had not been picked up during management checks.
- 9.3 In two of the recent Crown Court cases seen an application to extend the time limit had been made. The application was served in good time, and related chronologies had been appropriately drafted. However, a number of older chronologies were poorly drafted. In those cases, it was not clear if a lawyer had personally made the decision as to whether an extension was appropriate. In some teams it had not been usual practice for lawyers to make the decision, and applications were usually made by caseworkers as a matter of routine and without consideration of the relevant issues in individual cases. This was contrary to national instructions and the Area's own guidance. Following the re-issuing of CTL instructions in October 2006 we were advised that this practice had now ceased.
- 9.4 All the files seen were recorded in the manual diaries, but CMS is not being used effectively. Many of the tasks were showing as outstanding, which would hinder use of CMS to manage CTLs. In addition, checks carried out by inspectors found that the updating and recording of CTLs on CMS was poor.

Area custody time limit systems

- 9.5 The written system was revised and circulated in February 2006. However, the Area Custody Time Limit Champion undertook a thorough review of the system that June and found continuing weaknesses in relation to understanding and calculations.

- 9.6 Further guidance was issued in October 2006 and all DCPs have undertaken formal dip sampling and monitoring of the compliance with the system within their teams. DCPs have found some improvement in the way CTLs were now being calculated, endorsed and monitored, but some failures to properly endorse files were still apparent. Refresher training was provided to all staff at the November 2006 Training Day.
- 9.7 Administrative managers who oversee and operate the system are to provide monthly audits of CTL cases which encompass both the monitoring system and the files. CTL compliance is discussed as a standing item at all team performance meetings.
- 9.8 Until recently, the courts were not routinely securing involvement in the calculation and monitoring of expiry dates; protocols with both magistrates' courts and the Crown Court were signed in January 2007. We observed that dates were now being agreed in court. In addition expiry dates on individual cases were being discussed at the trial readiness assessment meetings and CTL expiry dates were recorded on all custody cases on the court lists for PCMHs.

ASPECTS FOR IMPROVEMENT

Accurate calculation of custody time limits in all relevant cases.

10 THE SERVICE TO VICTIMS AND WITNESSES

The standard of care provided to victims and witnesses in Essex is good, with effective implementation of the No Witness No Justice initiative and timely and effective provision of information. The Witness and Victim Experience Survey, undertaken in August 2006, demonstrated consistently high levels of satisfaction with the way witness needs had been met.

Letters are not always sent to victims following the dropping, or substantial alteration, of a charge and the quality of the letters is variable. Victim personal statements were not always present in relevant files for prosecutors to consider or place before the court. The Area has raised this issue with the police.

The provision of witness availability to the courts and to the Witness Service is variable, with some delays in submission of the information, affecting early court listing and the provision of witness care.

Meeting the needs of victims and witnesses

Case decision-making

- 10.1 Victim and witness needs and the impact of giving evidence at court are now generally being considered as part of the charging decision. We saw examples within the file sample of action plans and requests for further information on witness needs, which led to better support throughout the life of the case. On other files, however, the lack of information provided at PCD prevented early consideration of special measures.
- 10.2 There was evidence from the file sample that victims' views are not routinely sought when discontinuance was proposed, with this occurring in only 45.5% of relevant cases.
- 10.3 Consideration is routinely given to summoning reluctant victims to attend court to give evidence, especially in domestic violence cases, and occurred in 82.4% of relevant cases seen on the file sample. This is good, but from the files seen and from observations whilst on site, there appeared to be a lack of consistency in how this was applied.
- 10.4 Victim personal statements (VPS) were seen on some of the relevant files examined; on a serious domestic violence case a VPS was taken to obtain the views of the victim on a proposed bail application. In other cases no VPS was seen and we were advised that the practice is to incorporate the VPS into the main statement of the victim. Whilst this enables early consideration of the views of the victim, it might not always be appropriate for inclusion in an evidential statement. In addition, it can also mean that there is a lack of update of the impact of the crime to put before the court. The Witness and Victim Experience Survey (WAVES) undertaken in August 2006 found that only 44% of victims had been offered the opportunity to provide a VPS. The Area has raised this issue with the police.

ASPECTS FOR IMPROVEMENT

Requests for victim personal statements are made in all appropriate cases.

Special measures

- 10.5 The need for special measures is usually identified at an early stage and the quality and appropriateness of applications is generally good, but their timeliness is an issue. The lateness of file preparation means that many applications are made out of time. In more recent cases, judges have been requesting additional information before discretionary applications for special measures are granted. Due to the lateness of some of the applications, compliance with these requests so close to the trial date can cause additional concern to victims, who may well be apprehensive about the forthcoming trial.

ASPECTS FOR IMPROVEMENT

The timeliness of special measures applications.

Witness Care Units

- 10.6 All five Essex Witness Care Units (WCUs) went 'live' in November 2003 following an earlier piloting of No Witness No Justice. Four are co-located with the magistrates' courts' units, while Crown Court support is now provided by one WCU for the whole of the county, which is based at the Chelmsford office. The quality and timeliness of support provided to witnesses remains consistently good throughout the county and a number of aspects of good practice have been identified throughout the course of the reviews that have been undertaken.
- 10.7 There are effective systems in place between the WCUs and the courts for the early provision of results of cases, which are then passed on to victims and witnesses as appropriate.
- 10.8 The Crown Court WCU Manager attends all the trial readiness assessment meetings. The level of detail of information about witness needs and difficulties provided at the meetings is excellent and assists considerably in the appropriate listing of cases.
- 10.9 In the Crown Court the rate of ineffective trials due to witness issues is significantly improved, at 1.4% in December 2006 against its baseline 6.3%, measured on a rolling quarter basis. However in the magistrates' courts ineffective trial performance due to witness issues has declined since July 2006, but remains just inside the baseline measure (3.6%) at 3.5% for the rolling quarter to December.

STRENGTHS

The quality and timeliness of support and information to witnesses provided by the Witness Care Units.

The care and treatment of victims and witnesses at court

- 10.10 The Crown Court WCU is relatively effective in putting witnesses in contact with the Witness Service in the first instance, but not as good in providing a full briefing to the Witness Service at court. In order to provide effective support to prosecution witnesses, including pre-court visits and assistance on the day of trial, the Witness Service needs sight of the details of witnesses warned to attend court, along with a copy indictment and brief outline of the case. This essential documentation is often supplied late, or not at all, which places the Witness Service at a disadvantage when faced with a distressed, fearful or aggressive witness. The Witness Service at the Crown Court have difficulty contacting the WCU urgently, particularly during the lunch adjournment when information is often required in relation to witnesses who have been warned for the afternoon session.
- 10.11 Most prosecution counsel and agents introduce themselves to victims and witnesses at court, but a few are still reluctant. Appropriate action had been taken in relation to advocates who had declined to meet the victim before the start of the trial. The advocate's duty under the Prosecutors' Pledge, to promote and encourage two-way communication between victim and prosecutor at court, has been highlighted to counsel and agents (see paragraph 6.10), particularly in sensitive cases. Positive comments were received with regard to the level of support and contact provided at court by all CPS prosecutors and caseworkers.

 ASPECTS FOR IMPROVEMENT

Ensuring counsel and agents undertake the advocate's duty under the Prosecutors' Pledge in relevant cases.

Direct Communication with Victims

- 10.12 In the rolling quarter to 30 November 2006 performance against the proxy target, which provides an estimate of the number of letters required to be sent to victims in cases in which charges are dropped or reduced, was comparatively good at 79.7%. In the same period, 88.6% of Direct Communication with Victims (DCV) letters were sent within five days, compared well to 74.1% nationally. In contrast, our file sample revealed that 31 out of 55 were sent (56.4%) and in only eight out of 23 relevant sensitive cases were letters sent.
- 10.13 The quality of the letters seen was variable. Some were particularly well drafted providing a detailed explanation and with the needs of the victim in mind. However, others did not clearly or fully explain the reason for the decision, and some lacked empathy. There is some inconsistency throughout the Area as to who drafts the letters. Where they are drafted by administrators, managers need to ensure that they are seen by the lawyer who made the decision before the letter is sent out.
- 10.14 In the files examined the victim was notified and offered a meeting in 55.6% of relevant cases.

No Witness No Justice

- 10.15 The Area demonstrates a good level of commitment to victims and witnesses at a strategic level and contributes to joint analysis of the No Witness No Justice (NWNJ) scheme. Performance with regard to NWNJ and compliance with the Victims' Code is assessed on an inter-agency basis at the Victim and Witness Action Team (VWAT), which reports to the Essex Criminal Justice Board. There is a VWAT multi-agency protocol, which sets out the agreed responsibilities for each agency, all of whom are required to provide an update to VWAT in relation to the outcomes of the monitoring undertaken.
- 10.16 The national NWNJ review team undertook a final review of the scheme in Essex in September 2006. It identified a number of key achievements and commended the Area for the high levels of witness care provided, whilst identifying a number of risks to the project. The action plan for addressing these has been agreed with VWAT, and incorporated into the delivery plan for 2006-07, and into the Victims' Code compliance checks. Performance data, including primary and secondary measures, is collected and analysed.
- 10.17 The Area is currently migrating to the Witness Care Management System (WMS) for the handling and recording of victim and witness details and related case management. It was used in some of the cases we looked at and use of the WMS tracker is improving.

11 DELIVERING CHANGE

The Area's comprehensive Business Plan is harmonised with those of criminal justice partners and national and local targets are addressed. Staff objectives are linked to the plan, but business planning could be extended usefully to the four geographic prosecution teams. Joint initiatives with partners have been successful and this has been assisted by incisive reviews. Other collaborative projects are ongoing and several inter-agency protocols have been agreed during the year.

Managers have decided to revert from co-location with the police, as this is now considered to be an impediment to further sustained progress. A centralisation programme is currently being implemented, but planning and benefits monitoring need to be more clearly developed and defined. The risks to the administration capability are considerable.

Priority legal training has been given and administrative staff are becoming multi-skilled by on-the-job training. This would be assisted by more formal contextual training, which should be delivered by Area champions. Staff understand their roles, and good induction is provided.

Purpose and planning

- 11.1 The Area has developed a comprehensive Business Plan, which is aligned to the HMCPSI OPA criteria and managers are clear on what the Area needs to achieve and how it is going to do it. The plan is harmonised with those of criminal justice partners and links to CPS and Public Service Agreement targets. The implementation of the plan represented a significant challenge, and some milestones have been missed. Problems with finalisation accuracy and backlogs were not identified at an early stage, but were later picked up by the Operational Management Team (OMT) and are now being addressed.
- 11.2 The four prosecution teams do not produce linked business plans to set out specific improvement measures in order to maximise contribution to Area achievement. However, Area-wide team targets which are used to set staff objectives are used.
- 11.3 Considerable effort has gone into developing standards and an Area Standards Manual has been produced. This is a comprehensive document and could have been shared with staff earlier, in a more incremental way.
- 11.4 There is a thorough risk management plan which is reviewed and updated periodically. There are eight main risks and these are appropriate, with realistic ratings and considered counter-measures.

ASPECTS FOR IMPROVEMENT

Prosecution team plans are needed to address variations in performance.

Change management

- 11.5 The Area produces incisive reviews and sound action plans; these have assisted in making recent joint initiatives with partners successful. The statutory charging scheme has developed well since December 2006 and performance has been driven up. The No Witness No Justice project has improved witness care and attendance in the Crown Court.
- 11.6 There is collaboration with the magistrates' courts in holding additional courts to target trial delay issues. Initiatives for conditional cautioning and electronic case management interfaces are in hand. Protocols for bail management, media handling, joint agency victim and witness protocols, and custody time limit protocols, have been successfully negotiated.
- 11.7 In our last full inspection report of November 2003 and the OPA report of March 2006 we recorded some pressing issues related to staffing. Matters are complex and not easily solved, as they cannot be addressed in isolation from the Area's overall organisational design. The Area has actively recruited lawyers and designated and non-designated caseworkers, but there remains a need to ensure that there are sufficient numbers of caseworkers and lawyers, and this must be addressed as a priority.
- 11.8 Under the auspices of the County Prosecution Team, a co-ordinating body for the CPS and Essex Police, the Area has been reviewing the organisation design for delivery of criminal justice to seek a more optimal approach. Initially, the focus was on contested casework, but as the options were considered and future national initiatives were taken into account, it was clear there was no optimal solution for a partial change. The Strategic Management Team has decided to revert from the full co-location arrangements with the police, which have been in place for some years, and centralise CPS functions at the main office in Chelmsford. The CCP set out the business case in principle to the police. Inspectors were informed by managers that increased staff flexibility would be a main benefit. However, this seems to be anecdotal and merits quantification.
- 11.9 A project governance structure is in place, centred on project teams with the CCP as the Senior Responsible Officer. Project managers have been appointed, but at the time of the inspection planning documentation was not complete, as the full scope of work streams and related time dependencies are not set out. In addition, there are no business calculations for work volumes against staff numbers. Administrative staff will be invited to express a preference for particular roles; when this is complete, and planned process mapping has been undertaken, staff training can commence. We found concern at all levels of staff on the adequacy of planning. There is some risk mitigation as the change over is phased, but not all risks are identified.

RECOMMENDATION

The Chief Crown Prosecutor ensures that to facilitate the major changes in Area structure and staff location:

- work stream planning is completed;
 - quantified business calculations are undertaken and staff/work imbalances across all disciplines and between teams are taken into account;
 - there is documenting and tracking of main risks; and
 - a performance baseline is established as at October 2006 and adverse changes during implementation are monitored.
-

Staff skills and training

11.10 Training is overseen by the Area Learning and Development Delivery Group. The Training Plan draws on CPS Headquarters initiatives, the Business Plan and staff appraisals to identify training needs. Good support is provided to junior and administrative staff to develop their careers. Currently 12 members of staff are studying for recognised qualifications, and use is made of the CPS prosecution college e-learning facilities. When planning training, efforts are made to make adjustments for staff with disabilities and also for those working reduced hours. The Area was successful in gaining Investors in People (IiP) re-accreditation in June 2006.

11.11 Priority legal training has been delivered including disclosure, the Proactive Prosecutor Programme, Criminal Justice Act 2003 updates, and sensitive cases where a major theme has been domestic violence. There has also been functional training on sickness management and counsel fee processing. Administrative staff receive mainly on-the-job training, and the Area is in the process of multi-skilling these staff to undertake several roles. Staff have a good understanding of their roles and induction training is considered to be good.

11.12 In the financial year to December 2006, legal training amounted to 3.8 days per lawyer, 1.3 per caseworker and 0.8 days per administrator. The approach to training for administering custody time limits was not thorough and in general administrative staff would benefit from more formal contextual training, which could be delivered by the relevant Area champion.

ASPECTS FOR IMPROVEMENT

Area champions to be more active in producing more formal contextual training for administrative staff.

12 MANAGING RESOURCES

The Area has robust financial management procedures and periodic reports are prepared for consideration by the Strategic Management Team. For the current financial year (2006-07) the Area is under spending its non-ring fenced administrative budget, mainly due to the low number of lawyers employed. Although recruitment of lawyers is ongoing, gains have been offset by staff attrition and sickness. The prosecution cost budget is under spent at present, as additional sums have been allocated for high cost cases in progress.

Some aspects of value for money are covered by the Business Plan and improvement initiatives have led to better performance. Higher Court Advocate usage and related earnings are commendable, however, there is scope for increasing the number of designated caseworkers. The low numbers of CPS lawyers and designated caseworkers have resulted in high agent usage. The staff/work ratio between the four prosecution teams is not well balanced, with some staff carrying high caseloads and working excessively long hours. Staff sickness is high and the management procedure is not being applied fully; however there has been some improvement over recent months.

Use of resources and budget control

- 12.1 There are robust financial management procedures in place with expenditure and monitoring designed around six Area cost centres. District Crown Prosecutors have devolved budgets for certain cost codes including staffing, agents spend and travel and subsistence. Much of the financial information is processed centrally and regular reports are produced for consideration by the Strategic and Operational Management Teams. There are good systems in place for tracking committed spend, and payroll reports are checked monthly for inconsistencies.
- 12.2 The Area kept within its non-ring fenced administrative budget during 2005-06 with an outturn of 98%. This corrected a significant over spend the previous year where the outturn was 110%. The year to date spend to December 2006 was 89.9% pro-rata against the budget, compared to the national average of 99.4%. The principal source of the under spend is the low number of legal staff employed. (The final outturn for 2006-07 was 96.25%.)
- 12.3 The prosecution cost spend was within budget for 2005-06 with an outturn of 93%. For 2006-07, the year to date spend as at December 2006 is 68.7%. This includes an additional sum of £1.25 million allocated by CPS Headquarters in November 2006 for high cost cases which are yet to be paid.
- 12.4 Following a period of poor timeliness for paying counsel fees the Area reviewed the end-to-end process and provided staff training. As a result there has been significant improvement in timeliness, with 98% of payments in December relating to cases completed in the preceding four month period, and 63% relating to the previous month. This compares well against a national average of 90% and 61% respectively.

Value for money principles

- 12.5 Elements of the value for money policy are set out in the Business Plan. These focus on improving the quality of pre-charge decisions and increasing the deployment and range of work of HCAs and DCWs in order to reduce the considerable reliance on agents, and bring additional income from CPS Crown Court advocacy. Where possible, agents are block booked to improve case continuity. Good use has been made of additional monies allocated to charging, the Effective Trial Management Programme, No Witness No Justice and anti-social behaviour issues, with improving performance as a result.
- 12.6 From April to December 2006, agent usage in the magistrates' courts was 46.6%, which does not compare well with the CPS national agent usage of 20.4%. In two CJUs agent usage is significantly higher - at 56.4% in the North East Essex Team and 48.3% in South East Essex. For these teams during the month of December agent use increased markedly to 71.1% and 57.1% respectively, whereas the national average for agent use in December was 19.7%. This situation of course reflects the lack of lawyers and DCWs, the imbalance between the CJUs, and short and medium term absences.
- 12.7 Whilst the high use of agents gained some adverse feedback in previous reports, the block booking arrangements of regular sets of chambers appears to have helped maintain performance. Nevertheless, the lack of trial advocacy is de-skilling experienced lawyers and for some of the more inexperienced lawyers is significantly reducing their ability to give effective pre-charge advice, focussed actions plans and effective case building advice.

RECOMMENDATION

Senior managers should continue to recruit lawyers and secure additional staff, and use long term secondments from preferred sets of chambers, wherever possible.

Staff deployment

<i>Designated caseworker deployment (as % of magistrates' courts' sessions)</i>			<i>Higher Court Advocate savings (per session)</i>	
National target 2006-07	National performance Q1-Q3 2006-07	Area performance Q1-Q3 2006-07	National performance Q1-Q3 2006-07	Area performance Q1-Q3 2006-07
17.2%	13.7%	9%	£311	£704

- 12.8 The Area demonstrates good HCA usage, with progressive increases in the number of sessions completed. In addition, the value per session has also continuously improved, increasing from £342 in 2004-05, to £704 in the three quarters to December 2006. One case completed in November was for £20,000, which pushed the outturn for the third quarter to £1,000 per session. The Area has an HCA counsel fee saving target of £166,000 for 2006-07 and at December 2006 had achieved £145,000, which is well above the pro-rata target of £124,000.

A significant proportion of this is as a result of the policy to use HCAs for plea and case management hearing courts. Whilst there is a benefit in having experienced HCAs progressing cases at these hearings, care should be taken to ensure that the instructing of counsel on more complex cases is not delayed.

12.9 There is a weekly court coverage policy for lawyers of at least three days in court or on charging duties, with two days in the office, and similarly for DCWs. The Strategic Management Team wants more transparency regarding the expectation of court coverage by legal staff and this is addressed in the Area Standards Manual.

12.10 Staff balances are not optimal within or between teams. Workload and case allocation vary considerably between different grades of staff within teams and, overall, between teams. Approximately 27% of staff work reduced or compressed hours; stress levels are high in some teams with long hours being worked and some feelings of lack of ability to cope. Efforts are made to provide temporary support when peaks occur, but these are not always successful as there is little spare capacity in other teams. Some pre-authorised overtime had been arranged to assist teams with managing workloads.

12.11 The Area started the year with 4.6 DCWs, but not all of these could be fully deployed due to sickness. Numbers had at the time of the inspection increased to 6.6 DCWs; however, efforts to secure timely training for the new recruits were not successful, which resulted in achievement of only 9% session cover by December 2006, against a local deployment target of 15%. In order to improve deployment flexibility, DCWs were made an Area-wide resource covering all teams. The deployment rate achieved was 4.8 sessions per deployable DCW per week, against a target of six sessions. There are 54 court sessions available per week which should represent a serviceable capacity for approximately 10.5 DCWs. However, the distribution of sessions is not optimum across the working week. The Area is in discussion with HM Courts Service to revise session allocation to enable better utilisation.

ASPECTS FOR IMPROVEMENT

Area managers review deployment issues to maximise staff availability between the teams and to ensure effective lawyer development.

Designated caseworker staffing needs to be increased to meet available session allocation.

Sickness absence (per employee per year)

National target 2006	National performance 2006	Area performance 2006
7.5 days	8.5 days	13.1 days

12.12 Local managers are responsible for managing sick absence and refresher training has been provided. Sickness absence in 2006 was exceptionally high at 13.1 days per person. From April to December 2006, the figure was approximately 11 days per person. This equates to a loss of nine full-time equivalent staff. Where appropriate, medical referrals have been made to assist managers. Sickness absence reports are meant to be provided monthly to line managers; however, these have not been circulated frequently and when they are returns to the Secretariat are poor.

ASPECTS FOR IMPROVEMENT

The Area needs to review the sickness handling process to ensure records are complete and appropriate actions are timely, and should consider setting achievable team sickness absence targets.

13 MANAGING PERFORMANCE TO IMPROVE

Senior managers have extended the CPS Headquarters performance reporting system into Essex's four prosecution teams, supported by a comprehensive Area performance report. Steady progress has been made in improving performance, and the Area is meeting a number of its own and shared targets. Finalisation backlogs are being addressed, but action is required to improve data quality. Responsibilities for reviewing/checking work need to be strengthened at team level. Casework Quality Assurance and adverse case analysis needs to be undertaken more effectively.

The Area collaborates effectively with partner criminal justice agencies, with staff participating at board and action team level; there is also constructive bilateral working with the police and courts.

Accountability for performance

- 13.1 Managing performance is about practical ways to improve how things are done in order to deliver better quality services and to improve accountability. It is not just about information systems, targets, indicators and plans; but also about getting the right focus, leadership and culture in place. There are some key issues in developing effective performance management arrangements:
- focus and strategy;
 - defining and measuring achievement;
 - reviewing and learning to sustain improvement; and
 - managing activities and resources.
- 13.2 The main focus of quarterly reviews with the four teams is the progress towards Area targets, but there is merit in giving more consideration to each team's relative contribution to overall performance. In some cases managers were not aware of how their individual team's performance against some specific key targets was impacting on overall Area performance.
- 13.3 The Area has an established performance management strategy and has extended the CPS Headquarters quarterly performance reporting system into the four prosecution teams. The assessment criteria is revised and agreed each year by the Strategic Management Team (SMT). In preparation for the quarterly reviews, team managers self assess performance and the Chief Crown Prosecutor and Area Business Manager scrutinise progress with them at the review meeting. This is **good practice**.
- 13.4 To underpin the quarterly reviews a comprehensive performance framework has been defined and a report recording achievement is produced each month by the Performance Officer. The framework covers a wide range of performance at Area and team level.
- 13.5 Reviewing casework and systems and identifying learning points to sustain improvement is not well developed. DCPs do not systematically look at all relevant outcomes and processes and as a result there is no in-depth analysis to pick up individual learning points and trends.

- 13.6 The Secretariat Manager needs to be accountable for its processes and the role/responsibilities of Area champions need to be fully defined, particularly in relation to performance management and improvement.
- 13.7 Area-wide team targets have been published; these are used to set personal objectives for staff and this has been implemented well. The majority of staff have had annual appraisals, but in one team only there were difficulties following the departure of the DCP, and the counter-signing officer discussed issues with those staff affected. The CPS Headquarters Invest scheme has been implemented.

STRENGTHS

A comprehensive performance report underpins Area reviews.

ASPECTS FOR IMPROVEMENT

District Crown Prosecutors to undertake thorough review of case outcomes and systems drawing out learning points and trends, for sharing with criminal justice partners and staff.

RECOMMENDATION

The Chief Crown Prosecutor and Area Business Manager ensure that responsibilities for operational effectiveness are fully defined by clear terms of reference for District Crown Prosecutors and the Secretariat Manager. These terms of reference should be included in the Area governance pack.

Joint performance management with criminal justice system partners

- 13.8 The Area works well with other CJS partners; the CCP attends the Essex Criminal Justice Board (ECJB) and the County Prosecution Team meetings. Area staff participate regularly in the six ECJB action teams and in other groups with the police and courts. There is effective cross-agency sharing of information, with the CPS providing prosecution team performance, proceeds of crime and hate crime data for discussion at action teams meetings. However, the adverse case information from the Area consists of brief case information rather than analytical summaries and quantified trends.
- 13.9 The Area generally makes good use of information received from other agencies. However, at present, the Area Performance Officer does not receive a copy of the ECJB performance report. The Area would benefit from cross-checking information from a wider range of sources including the Criminal Justice Management Information System, and more use of the CPS Corporate Information System.

- 13.10 Shared criminal justice targets for offenders brought to justice, Crown Court ineffective trials, persistent young offenders and proceeds of crime confiscation values are being met. Targets are not being met for the magistrates' courts' ineffective trial rate, public confidence, and confiscation orders numbers.
- 13.11 Joint working with the police has brought benefits. Since moving to statutory charging, Area performance has improved and for the year ending December 2006 two out of the six measures for statutory charging exceeded national targets.

ASPECTS FOR IMPROVEMENT

Area data is cross-checked using wider sources including the Essex Criminal Justice Board.

Performance information and analysis

- 13.12 Compass Management Information System (MIS) reports are produced regularly and used to monitor performance. More case management system training is planned to increase the effectiveness of managers. The Area should also consider re-allocating its third MIS licence to the Secretariat Manager; so that more support can be provided to the Performance Officer.
- 13.13 The Area is meeting most of its locally agreed targets; however some of these are less demanding than the Service average. During the year the Area has made progress in reducing the gap between its performance and the national average for all categories of unsuccessful outcomes.
- 13.14 During the year some teams had accumulating backlogs of finalisations and, at one point, in one team it rose to 4,000 cases. Most of these were magistrates' courts' cases which were not always seen by CPS staff after court. In addition, in our file sample we found a significant proportion of files with incorrect finalisation codes. The Area is aware of this and monthly procedures are now in place to check and verify the accuracy of certain priority performance indicators. We also saw evidence on CMS that cases had been re-opened and the finalisation code changed. However, there are no specific management checks undertaken by team managers of other finalisation codes and further work is required to address data quality issues. Poor recording of case outcomes, combined with the backlogs, is significantly reducing information accuracy and distorting performance figures. Systems have been recently introduced to monitor progress of backlogs and stock takes are now required more frequently, with progress being monitored by the Operational Management Team. At the time of the inspection the backlogs were much reduced.
- 13.15 Crown Court Units maintain a log of Crown Court vacated trials and reasons for them and there is a similar log for cracked and ineffective trials. This enables informed discussion with partner agencies for optimising practices and has contributed to the sound performance in the Crown Court. The approach is being adapted for use in the magistrates' courts.

- 13.16 Performance information is disseminated to staff at meetings, training days and by e-mail and there has been one recent newsletter. The CCP and ABM also update staff on performance when visiting each team. However, unit performance achievement is given orally at meetings and not all staff attend. Circulation of the minutes of meetings is not always timely. The approach to informing staff of Area and team performance needs to be considered.

ASPECTS FOR IMPROVEMENT

Finalisation accuracy needs to be improved and specific monthly dip sampling checks need to be undertaken by team managers to improve data quality.

A more focussed approach to informing staff of performance achievement against targets needs to be considered.

Casework Quality Assurance and improvement

- 13.17 The application of the Casework Quality Assurance (CQA) system is inconsistent and, whilst there has been some improvement with lawyers receiving feedback, DCPs consider the system to be ineffective, as case ownership is not well developed. There is little trend analysis emanating from CQA and meaningful discussion within teams and at the Strategic Management Team is limited. When pressed, most DCPs thought CQA could work if more care was taken in selecting files for assessment. The Area achieved a return rate of 71.4% compared with a national average of 76.4% for the year to December 2006, but our file sample showed judgements were inaccurate and not robust.

RECOMMENDATION

The Chief Crown Prosecutor and District Crown Prosecutors adopt a meaningful approach to Casework Quality Assurance and implement it with determination.

14 LEADERSHIP

In 2005 Essex was rated as “Poor” in our overall performance assessment. In response, it has embarked on a comprehensive programme of change and improvement and a clear vision has been set and communicated to staff. A governance pack has been produced to improve transparency of management and what is expected of staff. Senior managers are committed to improvement and this is recognised by criminal justice partners, with whom there is effective collaborative working. Collegiate management arrangements at strategic and operational level are satisfactory. However, more corporacy is required to bring effect to Area performance and delivery policies at unit level.

The Area has decided to revert from the co-location arrangements with Essex Police and is engaged on a comprehensive change programme to give it greater control over its own processes and to improve Area ethos. More attention needs to be given to the new staffing profile and its affordability.

The Chief Crown Prosecutor acts as the Area’s Equality and Diversity Champion and these issues are integrated into the Area’s People Policy. A race equality document has been produced which sets out Area actions and work is ongoing with local groups.

Vision and management

- 14.1 In 2005 Essex was rated as “Poor” in our overall performance assessment (OPA). In response, the present CCP has embarked on a comprehensive programme of change and improvement, which is reflected in the Business Plan for 2006-07, framed around the OPA criteria. The plan and other Area strategies set out a clear vision which has been communicated to staff by managers.
- 14.2 The Strategic Management Team (SMT) is now more cohesive than at the last inspection and performance management is more robust, bringing greater accountability. However, management within the four prosecution teams is weak and more corporacy is required at the middle management level. A recommendation to improve clarity of roles and responsibilities is made at paragraph 13.7.
- 14.3 Managers are approachable and generally make themselves available to staff. However, in some teams communication is hampered by the current geographical split between Criminal Justice and Crown Court Units. Team meetings are generally held regularly but minutes are often not timely, which does not assist those staff unable to attend.
- 14.4 Senior managers and other staff are proactive in supporting the work of the Essex Criminal Justice Board and its sub groups. Senior managers are well regarded by partners, who acknowledge the Area’s determination to improve performance. Effective partnership working, including work with preferred chambers, is contributing to improvement. The CCP leads some work groups; however, lead participation needs to be increased amongst DCPs.

Governance

- I4.5 An effective management structure has been established with the SMT (CCP, ABM and DCPs) setting direction and co-ordinating policy, and the Operational Management Team (ABM and District Business Managers) focusing on implementing strategies to assure delivery and performance.
- I4.6 To underpin change a governance pack has been produced, and at the time of the inspection, work was well advanced to revise and update Area standards. This gives greater transparency as to how the Area is managed and what is expected of staff.
- I4.7 The Area was an early implementer of cross-agency initiatives, including the full co-location of working practices as recommended in the Glidewell Review. Some of these preceded CPS national policy. Whilst the initiatives were innovative and fitted the vision of the CPS at the time, senior managers now consider them to be limiting the Area's scope for evolving its business model in an optimal way.
- I4.8 The national CPS staff survey in 2006 indicated that morale in Essex was low and workloads insufficiently balanced, which supports our findings on site, although in other respects the survey was more positive than that carried out in 2004.
- I4.9 Managers consider that prosecution teams are not resilient. However, a significant factor in this is the low number of lawyers (and also designated and Crown Court caseworkers) employed. Senior managers have decided to revert from co-location with Essex Police. We consider that the decision to revert should have been made in the light of a preferred staffing profile, which took into account a full number of DCWs, the number of lawyers to be employed and realistic utilisation levels. The affordability of the revised structure could then have been assessed. The absence of such calculations may be prejudicial to future budgetary management.
- I4.10 Many staff solidly support the case for change, but not all are convinced and there are some concerns about how working practices and workloads will be affected, and about the location of individuals and travelling arrangements between the CPS office and charging centres and courts. The CCP has visited all teams to explain about the need to centralise Area activities, but some misinformation continues to circulate and this needs to be addressed.

STRENGTHS

The creation of the Area governance pack.

ASPECTS FOR IMPROVEMENT

During the change programme the Area needs to publish and maintain the answers to frequently asked questions to provide a definitive source of information for staff.

Ethics, behaviours and the approach to equality and diversity

- 14.11 The CCP has actively promoted a dignity at work ethic and senior managers are expected to act as role models for their teams, demonstrating behaviour which is consistent with Area aims and values. These issues were covered at an Area Leadership Event in 2006, which was informed by a bespoke Essex staff survey.
- 14.12 The analysis of survey returns showed the Area scored favourably for giving purpose and direction, building effective teams and learning and improvement, but less favourably for getting the best from people and making a personal impact. Here the analysis showed staff thought managers were weak in challenging poor performance and inappropriate behaviour, and gave insufficient attention to monitoring team and individual performance. Managers have now been trained in sickness absence management and all staff have agreed, measurable, personal objectives. Staff have raised issues relating to inappropriate behaviour and managers have taken action.
- 14.13 The Area provides good support to staff who seek to develop their careers, but more effective arrangements are required for the training of administrative staff. Meritorious work is recognised by managers.
- 14.14 The CCP acts as the Equality and Diversity Champion and related matters are integrated into the Area's People Policy, which is superintended by the SMT. A complaint regarding racial discrimination is being dealt with. The Area has produced and distributed a race equality document, which explains actions being taken by it to move forward.
- 14.15 The workforce is representative of the Essex working community as a whole in terms of gender, ethnicity and disability. In particular the Area has been successful in increasing the proportion of prosecutors from minority ethnic communities and representation is now above the local benchmark. It is recognised that further progress needs to be made concerning representation amongst administrative staff and targets have been set.

15 SECURING COMMUNITY CONFIDENCE

The Area has become more proactive in its effort to secure community confidence and has addressed this within its Business Plan. The Area Business Manager is now responsible for co-ordinating all community engagement activities. The Area is now taking steps to engage more with community groups and there are clear signs of a commitment to drive the initiative forward.

There is no separate measure of the public confidence in the CPS, but public confidence in the ability of criminal justice agencies in bringing offenders to justice in Essex has fallen back to 40% in September 2006, from 44% in March 2006. Whilst this still meets the national target of 40% it is below the national average of 44%.

Responses to complaints are undertaken by District Crown Prosecutors and are generally timely, and complaints are analysed to secure improvement. A more consistent approach across the Area would help raise public awareness.

Engagement with the community

- 15.1 The Area plays a full part in the community engagement activities of the Essex Criminal Justice Board. The Area Business Plan has community engagement objectives contained within it, together with clear actions, timescales and accountabilities. All community engagement work undertaken is recorded in a community engagement log which is updated regularly. Quarterly performance is reviewed at the appropriate management meeting.
- 15.2 The ABM co-ordinates the work done by the Area on community engagement. A Communication and Community Engagement Officer has recently been appointed, to be responsible for maintaining the recording and evaluation of community engagement activities and developing activities in line with the Area strategy.
- 15.3 The Area is still building foundations for effective community engagement. Progress has been made in establishing and building on contacts with community groups. The CCP and some DCPs undertake a considerable amount of community engagement activity, as do the local anti-social behaviour order co-ordinators. Community groups that we spoke to welcome the engagement with the CCP. The DCPs attend the Hate Crime Panel meetings within their team areas. The Area management team recognises that it would be beneficial to widen the number of staff who participate in community engagement activity.
- 15.4 The Area has fully participated with the Inside Justice open days at several local courts.

Minority ethnic communities

- 15.5 As part of its strategy for community engagement in the current year, the Area aims to target community engagement as part of a range of measures to improve the confidence of black and minority ethnic (BME) witnesses. This is in addition to the participation in Hate Crime Panels and meetings with the Essex Race Equality Council.

- 15.6 As part of the community engagement strategy, the Area has an objective to identify issues and concerns of minority groups and has taken part in multi-agency presentations to the Essex Race Equality Council.

Complaints

- 15.7 Responses to complaints are undertaken by DCPs and are generally timely. The letter writers show different degrees of empathy and understanding with the complainants and a more consistent approach would help raise public confidence.
- 15.8 A log of all complaints received is kept, including the date of the complaint and the date any response was sent, with copies of all the complaints and responses filed with it. The replies provided are usually thorough and cover all the relevant points. The ABM undertakes analysis of complaints across the Area which is shared at SMT level, so that cross-Area learning points can be taken forward.

ASPECTS FOR IMPROVEMENT

Training for all District Crown Prosecutors in drafting responses to complaints should be provided.

Public confidence in the criminal justice system

Public confidence in effectiveness of criminal justice agencies in bringing offenders to justice (British Crime Survey)

CJS area baseline 2002-03	Most recent CJS area figures year ending September 2006
37%	40%

- 15.9 There is no measure of public confidence specific to the CPS, but it contributes to the public's confidence in the CJS through undertaking its prosecution functions, and by engaging with the public directly and through the media. There has been a significant improvement in public confidence in the CJS in Essex from its 2002-03 baseline, and the area's performance is currently on target at 40%, but this had fallen from the year ending March 2006 when the figure was 44%.
- 15.10 The CPS Area has been to some extent re-active as far as the media is concerned. However, a Communication and Community Engagement Officer was appointed in October 2006 to take responsibility for dealing with media enquiries and to develop a proactive relationship with local media. The CCP has undertaken a number of interviews and spoken on local radio. Additionally, media training has just been undertaken for relevant staff.
- 15.11 The Area has arrangements in place with Essex Police to deal with the release of charging decisions to the press and for the handling of complaints relating to the performance of the prosecution team. The Essex Criminal Justice Board's Communications Officer publicises board news to the local media and circulates success stories for the agencies to use.

ANNEX A: AREA EFFECTIVENESS INSPECTION FRAMEWORK

STANDARDS AND CRITERIA

1 Pre-charge advice and decisions

Standard: *Pre-charge advice and decisions are of high quality; an effective pre-charge decision scheme has been fully implemented and resourced within the Area; and benefits are being realised.*

Criteria 1A: Pre-charge advice and decisions are of high quality, in accordance with the Director's Guidance, the Code, charging standards and policy guidelines.

Criteria 1B: Pre-charge decision-making operates effectively at police charging centres and is accurately documented and recorded.

Criteria 1C: The Area is realising the benefits of the charging scheme.

2 Case decision-making and handling to ensure successful outcomes in the magistrates' courts

Standard: *Magistrates' courts' cases are reviewed, prepared and managed to high standards so that the proportion of successful outcomes increases, and hearings are effective.*

Criteria 2A: Case decisions are of high quality and successful outcomes are increasing.

Criteria 2B: Cases progress at each court appearance.

Criteria 2C: The Area contributes effectively to reducing cracked and ineffective trials and increasing the proportion of effective trials.

Criteria 2D: The Area uses CMS to contribute to the effective management of cases.

3 Case decision-making and handling to ensure successful outcomes in the crown court

Standard: *Crown Court cases are continuously reviewed, prepared and managed to high standards, so that the proportion of successful outcomes increases, and hearings are effective.*

Criteria 3A: Case decisions are of high quality and successful outcomes are increasing.

Criteria 3B: Cases progress at each court appearance.

Criteria 3C: The Area contributes effectively to reducing cracked and ineffective trials, and increasing the proportion of effective trials.

Criteria 3D: The Area uses CMS to contribute to the effective management of cases.

4 Presenting and progressing cases at court

Standard: *Prosecution advocates ensure that every hearing is effective, and that cases are presented fairly, thoroughly and firmly, and defence cases are rigorously tested.*

Criteria 4A: Advocates are active at court in ensuring cases progress and hearings are effective.

Criteria 4B: The standard of advocacy is of high quality and in accordance with national standards.

5 Sensitive cases and hate crimes

Standard: *The Area makes high quality decisions and deals with specialised and sensitive cases, and hate crimes effectively.*

Criteria 5A: Area advice and decisions in specialised and sensitive cases, and hate crimes are of high quality, in accordance with the *Code* and policy guidance.

Criteria 5B: The Area identifies and manages sensitive cases effectively.

6 Disclosure

Standard: *The Area complies with the prosecution's duties of disclosure of unused material and disclosure is handled scrupulously.*

Criteria 6A: The Area's decision-making and handling of unused material complies with the prosecution's duties of disclosure.

7 Custody time limits

Standard: *In all cases, custody time limits are adhered to.*

Criteria 7A: Custody time limits are adhered to in all relevant cases.

Criteria 7B: Area custody time limit systems comply with current CPS guidance and case law.

8 The service to victims and witnesses

Standard: *The Area considers victims' and witnesses' needs throughout the entirety of the prosecution process and appropriate liaison, information and support is provided at the right time.*

Criteria 8A: The Area ensures timely and effective consideration and progression of victim and witness needs.

Criteria 8B: The Area, with its criminal justice partners, has implemented the "No Witness No Justice" scheme effectively.

9 Delivering change

Standard: *The Area plans effectively, and manages change, to ensure business is well delivered to meet CPS and CJS priorities.*

Criteria 9A: The Area has a clear sense of purpose supported by relevant plans.

Criteria 9B: A coherent and co-ordinated change management strategy exists.

Criteria 9C: Area staff have the skills, knowledge and competences to meet the business need.

10 Managing resources

Standard: *The Area allocates and manages resources to deliver effective performance and provide value for money.*

Criteria 10A: The Area seeks to achieve value for money, and operates within budget.

Criteria 10B: All Area staff are deployed efficiently.

11 Managing performance to improve

Standard: *The Area systematically monitors, analyses and reports on performance, and uses performance information to promote continuous improvement and inform future decisions.*

Criteria 11A: Managers are held accountable for performance.

Criteria 11B: The Area is committed to managing performance jointly with CJS partners.

Criteria 11C: Performance management arrangements enable a complete assessment of Area performance, and information is accurate, timely, concise and user-friendly.

Criteria 11D: Internal systems for improving/raising the quality of casework are robust and founded on reliable and accurate analysis.

12 Leadership

Standard: *The behaviour and actions of senior managers promote and inspire CPS staff and CJS partners to achieve Area and national objectives.*

Criteria 12A: The management team communicates the vision, values and direction of the Area well.

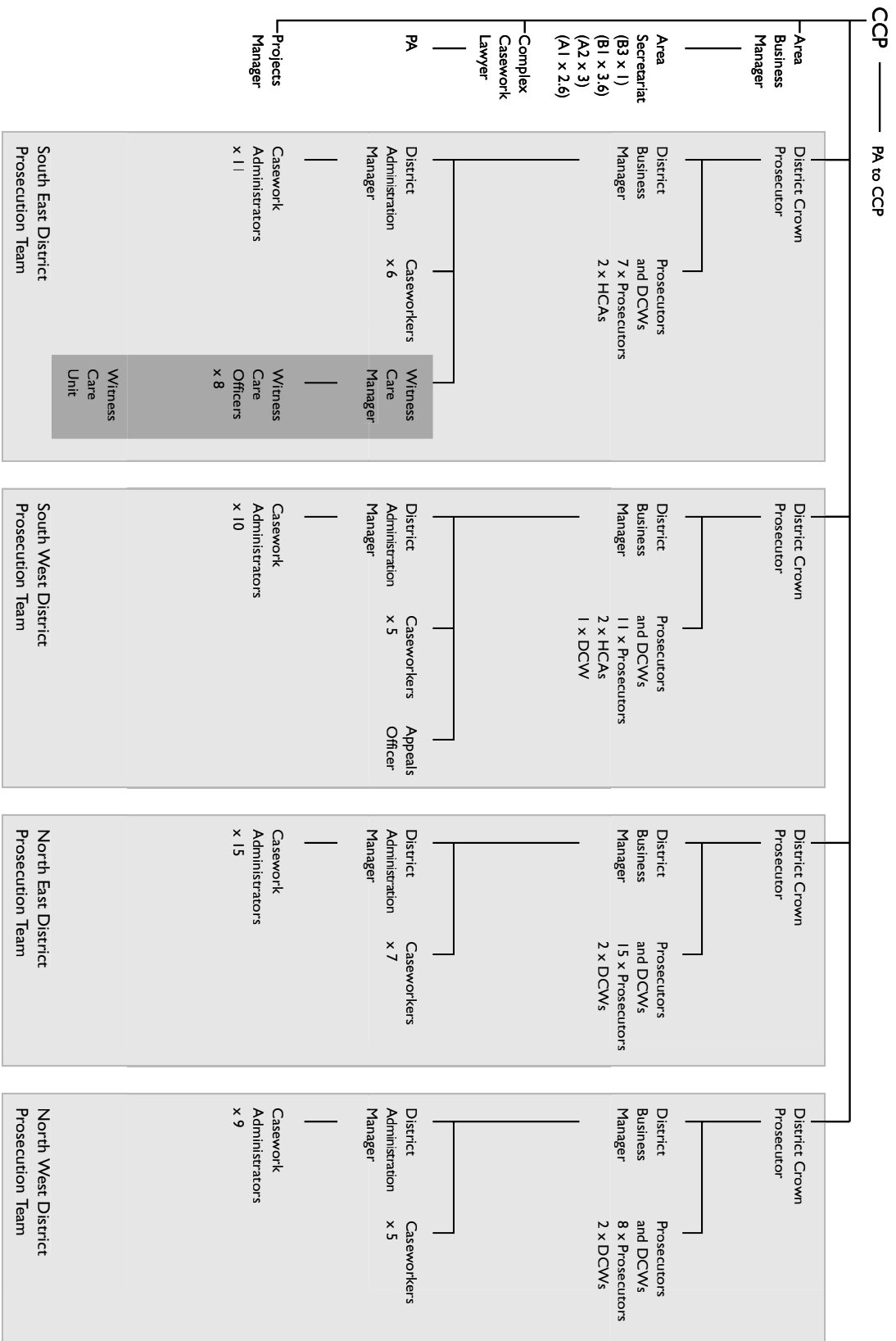
Criteria 12B: Senior managers act as role models for the ethics, values and aims of the Area and the CPS, and demonstrate a commitment to equality and diversity policies.

13 Securing community confidence

Standard: *The CPS is engaging positively and effectively with the communities it serves, and public confidence in the criminal justice system is improving.*

Criteria 13A: The Area is working pro-actively to secure the confidence of the community.

ANNEX B: ORGANISATION CHART



ANNEX C: CASEWORK PERFORMANCE DATA

Caseloads and outcomes for the year to the end of December 2006

	Number	ESSEX Percentage	Number	NATIONAL Percentage
1. Magistrates' Courts - Types of case				
Pre-charge decision	13,990	35.9	577,254	34.3
Advice	0	0.0	1,795	0.1
Summary	15,589	40.0	683,435	40.6
Either way and indictable	9,360	24.0	417,113	24.8
Other proceedings	38	0.1	4,019	0.2
Total	38,977	100.0	1,683,616	100.0
2. Magistrates' Courts - Completed cases				
Discontinuances and bind overs	2,275	9.8	112,571	11.0
Warrants	836	3.6	28,031	2.7
Dismissed no case to answer	60	0.3	2,568	0.3
Acquittals after trial	409	1.8	18,972	1.9
Discharged	59	0.3	2,400	0.2
Total Unsuccessful Outcomes	3,639	15.8	164,542	16.1
Convictions	19,460	84.2	856,739	83.9
Total	23,099	100.0	1,021,281	100.0
Committed for Trial in the Crown Court	2,203		91,329	
3. Magistrates' Courts - Case results				
Guilty pleas	15,248	76.5	654,026	74.5
Proofs in absence	3,035	15.2	155,473	17.7
Convictions after trial	1,177	5.9	47,240	5.4
Acquittals after trial	409	2.1	18,972	2.2
Acquittals no case to answer	60	0.3	2,568	0.3
Total	19,929	100.0	878,279	100.0
4. Crown Court -Types of case				
Indictable only	610	18.6	35,696	28.6
Either way defence election	247	7.5	5,291	4.2
Either way magistrates' direction	1,127	34.3	48,629	38.9
Appeals; committals for sentence	1,303	39.6	35,277	28.3
Total	3,287	100.0	124,893	100.0
5. Crown Court - Completed cases				
Judge ordered acquittals and bind overs	311	15.3	12,288	13.2
Warrants	34	1.7	1,290	1.4
Judge directed acquittals	31	1.5	1,366	1.5
Acquittals after trial	143	7.0	6,066	6.5
Total unsuccessful outcomes	519	25.5	21,010	22.7
Convictions	1,513	74.5	71,749	77.3
Total	2,032	100.0	92,759	100.0
6. Crown Court – Case results				
Guilty pleas	1,269	75.2	60,558	76.5
Convictions after trial	244	14.5	11,191	14.1
Acquittals after trial	143	8.5	6,066	7.7
Judge directed acquittals	31	1.8	1,366	1.7
Total	1,687	100.0	79,181	100.0

ANNEX D: RESOURCES AND CASELOADS

<i>Area caseload/staffing CPS Essex</i>		
	January 2007	May 2003
Prosecution cases	24,987	28,048
Staff in post	156.4	132.2
Lawyers in post (excluding CCP)	47.9	39.9
Pre-charge decisions/advices per lawyer (excluding CCP)	292.1	180
DCWs in post	6.6	4.6
Magistrates' courts' cases per lawyer and DCW (excluding CCP)	458.5	632.7
Magistrates' courts' contested trials per lawyer (excluding CCP)	34.4	34.8
Committals for trial and "sent" cases per lawyer (excluding CCP)	46	32
Crown Court contested trials per lawyer (excluding CCP)	8.7	8.9
Level B1, B2, B3 caseworkers in post (excluding DCWs)	37.5	26
Committals for trial and "sent" cases per level B caseworker	58.8	49
Crown Court contested trials per level B caseworker	11.2	13.6
Level A1 and A2 staff in post	64.4	61.7
Cases per level A staff	605.2	573
Running costs (non-ring fenced)	£6,976,877	£4,997,684

NB: Caseload data represents an annual figure for each relevant member of staff. Crown Court cases are counted within the magistrates' courts' cases total. Where the advice is that proceedings should be instituted, that case will also be included as a summary/either way/indictable case in the statistics relating to the magistrates' courts or the Crown Court as appropriate.

Cases = magistrates' courts' cases excluding pre-charge decisions and advices.

ANNEX E: IMPLEMENTATION OF ASPECTS FOR IMPROVEMENT FROM REPORT PUBLISHED IN MARCH 2006

Aspects for improvement	Position in January 2007
IA1 Lack of URNs from police and inadequate use of CMS for MG3 production.	Substantial progress. CMS now used effectively by all duty prosecutors in all charging stations. PTPM 2 shows 100% CMS recorded PCD consultations against national performance of 94.3%.
IB1 Too many cases where police make inappropriate referrals, by-pass the scheme inappropriately or fail to follow action plans.	Limited progress. Police take-up of the scheme has improved significantly. Investigation Support Units manage the PCD appointments diary, however, too many cases that do not pass the threshold test are referred to duty prosecutors.
IB2 Conditional charging.	Achieved. No evidence of conditional charging was seen in the file sample or in the charging stations.
IC1 Lack of positive joint data analysis.	Limited progress. County and local PTPMs are beginning to analyse PTPM data effectively, but a more detailed approach is needed.
IC2 Inadequate recording of PCD data.	Substantial progress. 36% of Area caseload now recorded as going through PCD as opposed to 4% at the time of OPA.
IC3 Key performance indicators.	Limited progress. In 2004-05 magistrates' courts' indicators were worse than national performance. In the year to December 2006 performance was better than the national average and improving. Crown Court performance in the fourth quarter of 2004-05 met the national average; however in the year to 31 December 2006 all are worse than the national average but improving. The Area is meeting two out of six national targets.
2A1 Local liaison with police was too informal.	Achieved. CPS project manager has good formal relationship with police Quality Control Officers. DCIs and DCPs attend monthly PTPM meetings.
2A2 The discharged committal rate was too high (26 in the first quarter of 2004-05).	Limited progress. There were 59 discharged committals in the year to 31 December 2006. This averages out at 15 per quarter and represents 0.3% of cases which is 0.1% behind national performance.

Aspects for improvement

Position in January 2007

2A3	Two wasted costs orders 2004-05.	Substantial progress. One wasted costs order in the Crown Court but none in the magistrates' courts.
2C1	Variable CMS usage and monitoring, also lack of benefit from police staff taking over administrative functions.	Limited progress. All CMS entries and finalisations are made by CPS staff. Recording of key events is still variable, as is management monitoring. (Management training since undertaken in February 2007.)
2C2	44% CMS usage against 69% nationally.	Limited progress. The file sample showed 66% effective CMS usage in the magistrates' courts whereas the September 2006 usage report showed 91% combined performance. Too many cases in the file sample refer to full file review on paper file.
3A1	Too many Crown Court cases adjourned because prosecution not ready.	Limited progress. The Crown Court TRAMS system automatically lists cases for mention unless they are declared trial ready, which has significantly improved the cracked and ineffective trial rates. However, case progression is hampered by a lack of lawyers and caseworkers and applications to extend the time for service of papers are made regularly. In 86% of cases in the file sample the CPS were ready for PCMH and in 65.5% the court's directions were complied with on time.
3A2	Briefs to counsel lack summaries and instructions on alternative pleas.	No progress. 11.9% of the file sample contained a suitable summary and 3.8% contained instructions on alternative pleas.
3A3	Both POCA targets missed.	Substantial progress. The POCA financial target for 2006-07 has already been exceeded; however, the numerical target is likely not to be reached.
3A4	Timeliness in youth cases committed to Crown Court.	No longer applicable. There are no equivalent figures available.
3B1	Ineffective trials rate of 22.3% against national performance of 15.8% in 2004-05.	Substantial progress. Ineffective trials rate was 8% against national performance of 12.7% in October 2006.
3C1	Only 30% of indictments prepared on CMS.	No longer applicable. No current data on PTPM.

Aspects for improvement**Position in January 2007**

4A1	Crown Court adverse outcomes are worse than national performance with no sign of improvement, as are acquittals and no case to answer in the magistrates' courts.	Substantial progress. Crown Court conviction rate (74.5%) and all Crown Court adverse outcome rates have improved against OPA, although all are still short of national performance. All adverse outcome rates in the magistrates' courts are now better than national performance, except discharged committals.
4A2	No systematic process to identify underlying trends.	No progress. Adverse outcome analysis is still infrequent and unsystematic.
5A1	Poor CMS flagging in sensitive cases.	Limited progress. There were a number of files examined that had not been flagged for relevant categories.
5A2	Some specialist casework not allocated to specialist lawyers.	Substantial progress. Systems for allocation of sensitive cases well defined in all teams.
5A3	Limited guidance and mentoring from champions in sensitive casework.	Limited progress. Low visibility of champions except in relation to rape and ASBOs.
5A4	Lack of outcome analysis in sensitive cases. RIDS forms are not systematically analysed.	Limited progress. Lack of completed RIDS forms in file sample but headline data on sensitive work is considered at Area level and shared with agencies.
5A5	Lack of Area-wide approach to domestic violence cases.	Substantial progress. Area now has a higher profile in DV issues; they now Chair the ECJB DV sub group, have an active DV champion, have completed the full roll-out of DV training, and have worked successfully for a specialist DV court.
6A 1-5	Lack of systems and training for custody time limit compliance.	Substantial progress. Compliance systems have been developed and disseminated. Progress in ensuring accuracy and accountability has been slow, but is now showing improvement.
7A1	In Crown Court disclosure issues cause 1.4% of ineffective trials against 0.4% nationally.	No progress. File sample showed initial disclosure compliance at 67.3% against 71.2% in the four Areas inspected to date in this cycle.
7A2	Late receipt of disclosure material from the police.	Substantial progress. In 81% of the file sample a disclosure officer's report and certificate was on file, against 88% in the four Areas inspected to date in this round.
7A3	One in five files had a correctly completed disclosure record sheet.	Limited progress. 31.8% of the file sample had correctly completed file record sheets.

Aspects for improvement

Position in January 2007

8A1	DCV system not consistent or embedded.	Limited progress. DCV letters were sent in only 56.4% of relevant cases in the file sample, against 68% in the four Areas inspected to date in this cycle. 70% of DCV letters were sent within five days. NB DCV proxy dropped from 156 letters per month in 2005-6 to 149 in 2006-7, then 95 in the third quarter.
8A3	Special measures applications generally late.	No progress. A number of files examined had late applications for special measures. In addition the lateness of applications was raised as a concern by Crown Court users.
9A1	High agent usage at 50.2% for 2004-05 against national average of 26.9%.	Limited progress. Agent usage stands at 46.6% compared to national usage of 20.4%.
9A2	No systematic monitoring of advocacy standards.	Limited progress. Monitoring tends to be informal and ad hoc.
9A3	Lack of consistent standing instructions to agents.	Achieved. Area-wide standing written instructions to agents and counsel are standard.
10A1	Shadow charging scheme ineffective.	Substantial progress. The quality of PCD systems and advice has much improved since migration to statutory charging.
10A2	Staff imbalances between CPS and police at Criminal Justice Units.	No longer applicable. Area is re-centralising and re-balancing administrative staff duties between the police and CPS.
10B1	Specific change programmes need to be linked to maintain momentum.	Limited progress. Re-centralisation of the Area is expected to provide impetus to the NWNJ scheme and other projects.
10B2	Lack of risk management ability among senior management.	Substantial progress. The Area has a risk register which is regularly updated by senior management.
10C1	Training plans need to be timetabled and linked to business need.	Limited progress. Milestones have been put in place.
10C2	Insufficient training evaluation.	Limited progress. Evaluation of some training has been done.
11B1	Administrative staffing levels higher than necessary.	Substantial progress. Administrative staffing levels are converging to "should take" figures. However, the Area will need to assess all staffing levels to ensure the effectiveness of the planned re-structuring.

Aspects for improvement**Position in January 2007**

I1B2 Under-staffed in terms of legally trained personnel.	Limited progress. DCW training and lawyer recruitment has redressed the balance somewhat but there is still a significant shortfall. Whilst more DCWs have been recruited the Area was unable to secure timely training owing to insufficient national training.
I1B3 No formal expectations for lawyer deployment.	Achieved. Area standards document sets out expectations.
I1B4 High level of agent usage.	No progress (see 9A1 above).
I1B5 Under-usage of DCWs at 5.7% of court sessions.	Substantial progress. Magistrates' courts' lists have been re-negotiated to allow DCWs to use their full powers. Recruitment has been successful, however; deployment has been hampered by a lack of available national training. Usage had risen to 9% in the year to December 2006.
I1B6 Poor sickness levels at 10.2 days per member of staff.	No progress. Sickness levels for 2006 were 13.1 days per person, although improving during the year.
I2A1 Standard systems need to be developed to ensure compliance with changes.	Limited progress. The Area is attempting to standardise systems across all four geographical teams and is developing an Area Standards Manual. Some standard systems such as DCPs authorising PCD discontinuance work well. There is still a significant amount of variation.
I2C1 Lack of benchmarking to other Areas.	Limited progress. Many parameters are compared against national averages but more could be done to benchmark against peer Areas.
I2D1 Insufficient CQA compliance and analysis.	Limited progress. DCPs are undertaking CQA, however the files selected do not assist with effective performance management, and there is little feedback on team or individual performance.
I2D2 CQA forms no part of the Area performance management regime.	Limited progress. As above.
I3A1 Lack of corporacy.	Limited progress. Changes to the senior management team have been used to develop a more cohesive management structure. Corporacy has improved at senior management level and the re-centralisation should ensure further dissemination.

Aspects for improvement

Position in January 2007

I 3B1 Lack of responsible officer for equality and diversity management.	Substantial progress. This is now led by the ABM and overseen by the SMT.
I 3B2 No staff reward strategy.	Substantial progress. Efforts of staff are recognised in SMT meeting minutes and by a bonus scheme.
I 4A1 Limited commitment to securing community confidence.	Substantial progress. CCP and senior management have a much higher community profile. Involvement of staff at lower levels needs to be improved.
I 4A2 No named officer to co-ordinate community engagement.	Achieved. ABM is the senior officer responsible. Reports are made to the SMT.
I 4A3 Key community confidence milestones in Business Plan not yet met.	Limited progress. Area has now developed a community engagement log recording involvement. A community engagement strategy has been prepared.
I 4A4 British Crime Survey showed 3% increase (to 40%) in public confidence in 2004 when 4% achieved nationally.	Limited progress. Public confidence improved earlier in the year and stood at 44% in March 2006. The most recent survey showed a decline to stand at 40%.

ANNEX F: TOTAL NUMBER OF FILES EXAMINED FOR CPS ESSEX

	Number of files examined
Magistrates' courts' cases	
Pre-charge advice/decision	7
No case to answer	5
Trials	26
Youth trials	5
Discontinued cases	23
Discharged committals	4
Race crime	4
Domestic violence cases	4
Fatal road traffic offences	0
Cases subject to custody time limits	5
Crown Court cases	
Discontinued (sent cases dropped before service of care)	7
Judge ordered acquittals	12
Judge directed acquittals	6
Trials	22
Child abuse cases	5
Race crime	4
Homicide	5
Rape cases	4
Cases subject to custody time limits	5
TOTAL	153

ANNEX G: LOCAL REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES AND ORGANISATIONS WHO ASSISTED IN OUR INSPECTION

Crown Court

His Honour Judge Ball QC

His Honour Judge Clegg

His Honour Judge Gratwicke

Her Honour Judge Taylor

His Honour Judge Worsley

Magistrates' Courts

District Judge Cooper

District Judge Gray

Mr C Dixey JP, Chair of South West Essex Magistrates' Panel

Mrs M Goldsmith JP, Chair of North East Essex Magistrates' Panel

Mr W Hall JP, Chair of Mid North Essex Magistrates' Panel

Mrs S Horton JP, Chair of Mid North West Essex Magistrates' Panel

Mr R Ram JP, Chair of Essex Magistrates' Panel

Mr B Wellman JP, Deputy Chair of Mid South Essex Magistrates' Panel

Mr M Littlewood OBE, Area Director, HM Courts Service

Ms T Szagun, Justices' Clerk Essex Area & Director of Legal Services

Mr F Garland-Collins, Clerk to the Magistrates

Mr I Gill, Clerk to the Magistrates

Mr D Whitehead, Clerk to the Magistrates

Ms J Foster, Court Business Manager

Ms V Reed, Lead Crown Court Manager for Essex Magistrates

Police

Mr R Baker, Chief Constable

Chief Superintendent A Adams

Chief Superintendent G Bull

Chief Superintendent S Coxall

Chief Superintendent D Folkard

Chief Superintendent D Hudson

Defence Solicitors

Mr M Warren

Mr Baker

Counsel

Mr W Clegg QC

Miss S Farrimond

Probation Service

Mrs M Archer, Chief Probation Officer

Witness Service

Ms B Hobbs, Witness Care Manager

Mrs F Kramer, Senior Witness Service Manager

Mrs F Sharp, Witness Care Manager

Victim Support

Mr T Elliot, Victim Support Area Manager

Youth Offending Teams

Mrs T Gillett, Head of Essex Youth Offending Services

Community Groups

Dr J Freeman, Chair of Essex Against Domestic Violence

Mr C Mardner, Director of Essex Race Equality Council

Ms P Ward, Co-ordinator, Essex Against Domestic Violence

Members of Parliament

Mr D Amess MP

Other Members of Parliament with constituencies in Essex were invited to participate.

ANNEX H: HMCPSI VISION, MISSION AND VALUES

Vision

HMCPSI's purpose is to promote continuous improvement in the efficiency, effectiveness and fairness of the prosecution services within a joined-up criminal justice system through a process of inspection and evaluation; the provision of advice; and the identification of good practice. In order to achieve this we want to be an organisation which:

- performs to the highest possible standards;
- inspires pride;
- commands respect;
- works in partnership with other criminal justice inspectorates and agencies but without compromising its robust independence;
- values all its staff; and
- seeks continuous improvement.

Mission

HMCPSI strives to achieve excellence in all aspects of its activities and in particular to provide customers and stakeholders with consistent and professional inspection and evaluation processes together with advice and guidance, all measured against recognised quality standards and defined performance levels.

Values

We endeavour to be true to our values, as defined below, in all that we do:

consistency	Adopting the same principles and core procedures for each inspection, and apply the same standards and criteria to the evidence we collect.
thoroughness	Ensuring that our decisions and findings are based on information that has been thoroughly researched and verified, with an appropriate audit trail.
integrity	Demonstrating integrity in all that we do through the application of our other values.
professionalism	Demonstrating the highest standards of professional competence, courtesy and consideration in all our behaviours.
objectivity	Approaching every inspection with an open mind. We will not allow personal opinions to influence our findings. We will report things as we find them.

Taken together, these mean:

We demonstrate integrity, objectivity and professionalism at all times and in all aspects of our work and that our findings are based on information that has been thoroughly researched, verified and evaluated according to consistent standards and criteria.

ANNEX I: GLOSSARY

Adverse Case

A NCTA, JOA, JDA (see separate definitions) or one where magistrates decide there is insufficient evidence for an either way case to be committed to the Crown Court.

Agent

Solicitor or barrister not directly employed by the CPS who is instructed by them, usually on a sessional basis, to represent the prosecution in the magistrates' court.

Area Business Manager (ABM)

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

Area Management Team (AMT)

The senior legal and non-legal managers of an Area.

Aspect for improvement

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

Compass CMS

IT system for case tracking and case management used by the CPS. Compass is the new comprehensive system used in all Areas.

Caseworker

A member of CPS staff who deals with, or manages, day-to-day conduct of a prosecution case under the supervision of a Crown Prosecutor and, in the Crown Court, attends court to assist the advocate.

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 in Areas; and the statutory scheme had a phased roll-out across priority Areas and subsequently all 42 Areas, 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 Director of Public Prosecutions 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 the DPP's power to determine cases delegated, but must exercise them in accordance with the Code and its two tests – the evidential test and the public interest test. 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 (see also "Threshold test").

Co-location

CPS and police staff working together in a single operational unit (*TU* or *CJU*), whether in CPS or police premises – one of the recommendations of the *Glidewell* report.

Committal

Procedure whereby a defendant in an either way case is moved from the magistrates' court to the Crown Court for trial, usually upon service of the prosecution evidence on the defence, but occasionally after consideration of the evidence by the magistrates.

Court Session

There are two sessions each day in the magistrates' courts, morning and afternoon.

CPS Direct

This is a scheme to supplement the advice given in Areas to the police and the decision-making as to charge under the charging scheme. Lawyers are available on a single national telephone number out of normal office hours so that advice can be obtained at any time. It is available to all Areas.

Cracked trial

A case listed for a contested trial which does not proceed, either because the defendant changes his plea to guilty, or pleads to an alternative charge, or the prosecution offer no evidence.

Criminal Case Management Framework

The Framework provides practitioners with a consistent guide to their own, and their partners' roles and responsibilities, together with operational guidance on case management.

Criminal Justice Unit (CJU)

Operational unit of the CPS that handles the preparation and presentation of magistrates' courts' prosecutions. The *Glidewell* report recommended that police and CPS staff should be located together and work closely to gain efficiency and higher standards of communication and case preparation. (In some Areas the police administration support unit is called a CJU.)

Custody time limits (CTLs)

The statutory time limit for keeping a defendant in custody awaiting trial. May be extended by the court in certain circumstances.

Designated caseworker (DCW)

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. Their remit is being expanded.

Direct Communication with Victims (DCV)

The CPS writes directly to a victim of crime if a case is dropped or the charges reduced in all seriousness. In some instances a meeting will be offered to explain this.

Disclosure, Initial and continuing

The prosecution has a duty to disclose to the defence material gathered during the investigation of a criminal offence, which is not intended to be used as evidence against the defendant, but which may be relevant to an issue in the case. Initial disclosure is given where an item may undermine the prosecution case or assist the defence case. In the magistrates' courts the defence may serve a defence statement and

this must be done in the Crown Court. The prosecution has a continuing duty of disclosure in the light of this and developments in the trials. (Duties of primary and secondary disclosure apply to cases investigated before 4 April 2005.)

Discontinuance

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

Early Administrative Hearing (EAH)

Under *Narey* procedures, one of the two classes into which all *summary* and *either way* cases are divided. EAHs are for cases where a not guilty plea is anticipated.

Early First Hearing (EFH)

Under *Narey* one of the two classes into which all *summary* and *either way* cases are divided. EFHs are for straightforward cases where a guilty plea is anticipated.

Effective Trial Management Programme (ETMP)

This initiative, involving all criminal justice agencies working together, aims to reduce the number of ineffective trials by improving case preparation and progression from the point of charge through to the conclusion of a case.

Either way offences

Those triable in either the magistrates' court or the Crown Court, e.g. theft.

Evidential test

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

Glidewell

A far-reaching review of CPS operations and policy dating from 1998 which made important restructuring recommendations e.g. the split into 42 local Areas and the further split into functional units - *CJUs* and *TUs*.

Good practice

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

Higher Court Advocate (HCA)

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

Joint performance monitoring (JPM)

A management system which collects and analyses information about aspects of activity undertaken by the police and the CPS, aimed at securing improvements in performance. Now used more often generically to relate to wider aspects of performance involving two or more criminal justice agencies.

Indictable only offences

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

Ineffective trial

A case listed for a contested trial that is unable to proceed when it was scheduled to start, for a variety of possible reasons, and is adjourned to a later date.

Judge directed acquittal (JDA)

Where the judge directs a jury to find a defendant not guilty after the trial has started.

Judge ordered acquittal (JOA)

Where the judge dismisses a case as a result of the prosecution offering no evidence before a jury is empanelled.

Level A, B, C, D, E staff

CPS grades below the Senior Civil Service, from A (administrative staff) to E (senior lawyers or administrators).

Local Criminal Justice Board

The Chief Officers of police, probation, the courts, and the CPS, a local prison governor and the Youth Offending Team manager in each criminal justice area who are accountable to the National Criminal Justice Board for the delivery of PSA targets.

MG6C, MG6D etc

Forms completed by police relating to unused material. MG is the national Manual of Guidance used by police and the CPS.

Narey courts, reviews etc

A reformed procedure for handling cases in the magistrates' court, designed to produce greater speed and efficiency.

Narrowing the Justice Gap (NTJG)

It is a Government Criminal Justice Public Service Agreement target to increase the number of offences for which an offender is brought to justice; that is offences which result in a conviction, a caution or which are taken into consideration when an offender is sentenced for another matter, a fixed penalty notice, or a formal warning for possession of drugs. The difference between these offences and the overall number of recorded offences is known as the justice gap.

No Case to Answer (NCTA)

Where magistrates dismiss a case at the close of the prosecution evidence because they do not consider that the prosecution have made out a case for the defendant to answer.

“No Witness no Justice” (NWNJ):Victim and Witness care project

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 (ACPO) and also involves Victim Support and the Witness Service. Jointly staffed Witness Care Units were introduced into all CPS Areas by December 2005.

Persistent young offender

A youth previously sentenced on at least three occasions.

Pre-trial review

A hearing in the magistrates' court designed to define the issues for trial and deal with any other outstanding pre-trial issues.

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 Team Performance Management

Joint analysis of performance by the CPS and police that has largely replaced the system of *JPM*.

Public Interest test

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

Public Service Agreement (PSA) targets

Targets set by the Government for the criminal justice system (CJS), relating to bringing offenders to justice, reducing ineffective trials and raising public confidence in the CJS.

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 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.

Section 9 Criminal Justice Act 1967

A procedure for serving statements of witnesses so that the evidence can be read, rather than the witness attend in person.

Section 51 Crime and Disorder Act 1998

A procedure for fast-tracking *indictable only* cases to the Crown Court, which now deals with such cases from a very early stage – the defendant is sent to the Crown Court by the magistrates.

Sensitive material

Any relevant material in a police investigative file not forming part of the case against the defendant, the disclosure of which may not be in the public interest.

Specified proceedings

Minor offences which are dealt with by the police and the magistrates' courts and do not require review or prosecution by the CPS, unless a not guilty plea is entered.

Strengths

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

Summary offences

Those triable only in the magistrates' courts, e.g. most motoring offences, common assault etc.

Threshold test

The Code for Crown Prosecutors 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. 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, to meet the test. A number of factors, including the likelihood and nature of further evidence to be obtained must be considered.

TQI

A monitoring form on which both the police and the CPS assess the timeliness and quality of the police file as part of *joint performance monitoring* (largely superseded by *PTPM*).

Trial Unit (TU)

Operational unit of the CPS which prepares cases for the Crown Court.

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