

THE INSPECTORATE'S REPORT ON CPS HAMPSHIRE AND THE ISLE OF WIGHT

REPORT 7/01

MARCH 2001

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PREFACE

Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) was established by the Crown Prosecution Service Inspectorate Act 2000, which came into effect on 1 October 2000, as an independent statutory body. Previously, the Inspectorate had been a unit within the Crown Prosecution Service (CPS) Headquarters. The Chief Inspector is appointed by and reports to the Attorney General.

HMCPSI's role is to promote the efficiency and effectiveness of the CPS through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice. It achieves this primarily through an Area inspection programme operating a two-year cycle during which it visits and publishes reports on each of the 42 CPS Areas and the Casework and Policy Directorates at CPS Headquarters. It also maintains a programme of thematic reviews and each year conducts a number of inspections jointly with other criminal justice inspectorates.

Although the inspection process focuses mainly on the quality of casework decision-making and casework handling, the Inspectorate also looks at matters that go to support the casework process. Business management inspectors are specialists in the fields of management, human and financial resources, and corporate planning; they examine aspects of the Areas' performance based on themes relating to management and operations; these are in addition to the more casework-orientated themes that are examined by legal inspectors.

HMCPSI also invites suitably informed members of the public nominated by national organisations to join the inspection 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 victims and witnesses, its external communication and liaison, its handling of complaints and its applications of the public interest test contained in the Code for Crown Prosecutors.

HMCPSI employs 37 members of staff and has offices in London and York. The London office has two groups which undertake Area inspections in the Midlands and Wales, and in Southern England. The group based in York undertakes Area inspections of Northern England. Both offices undertake thematic reviews and joint inspections with other criminal justice inspectorates. At any given time, HMCPSI is likely to be conducting six Area inspections and two thematic reviews, as well as joint inspections with the other criminal justice inspectorates.

The Inspectorate's reports commend high quality work, identify good practice and make suggestions and recommendations where CPS performance needs to be improved. The distinction between recommendations and suggestions lies in the degree of priority that HMCPSI considers should be attached to the proposals, with those matters meriting highest priority forming the basis of recommendations.

INTRODUCTION

- 1.1 This is HMCPSI's report about CPS Hampshire and the Isle of Wight.
- 1.2 When the CPS was established in 1986, Hampshire and the Isle of Wight were combined with Dorset to form one of 31 Areas. With national restructuring of the CPS in 1993, the number of Areas was reduced to 13, and the three Branches in Hampshire and the Isle of Wight became part of CPS South-East. We inspected one of the Branches, Portsmouth, in 1998 during the previous Branch-based inspection programme.
- 1.3 In April 1999, CPS Hampshire and the Isle of Wight became an Area in its own right as part of Government policy that criminal justice agencies should, so far as practicable, be structured on 42 co-terminous areas.
- 1.4 The Area is diverse, covering large conurbations such as Portsmouth, Southampton and Basingstoke, as well as rural areas, including the New Forest, and popular holiday resorts with their seasonal population fluctuations.
- 1.5 The Area is well advanced in the process of internal re-organisation resulting from the recommendations in the Review of the CPS by Sir Iain Glidewell (the Glidewell Report). This will result in the creation of trials units (TUs) dealing with committals and Crown Court casework and criminal justice units (CJUs) dealing with magistrates' courts casework.
- 1.6 The Newport office was re-organised into a combined TU/CJU with co-located CPS and police staff on 5 October 2000. It is anticipated that the Area re-organisation will be completed by June 2001, with a further two TUs and four CJUs.
- 1.7 We are conscious of the fact that the new structure will undoubtedly have an impact on the Area's casework, and we have commented on this where appropriate in this report.

Staffing and structure

- 1.8 At the time of the inspection, the Area comprised three Branches at Basingstoke, Eastleigh and Portsmouth. The Portsmouth Branch had a sub-Branch office in Newport, Isle of Wight.
- 1.9 In addition to the Chief Crown Prosecutor (CCP) and the Area Business Manager (ABM), the Area staffing as at 30 November 2000 is set out in the table below. It is appreciated that staffing structure will change substantially over the next few months as the Area completes its re-organisation. All staffing is expressed in terms of full time equivalents.

	Area Secretariat	Basingstoke	Eastleigh	Portsmouth
Prosecutors (including DCWs)		14.7	19.4 (including Special Casework Lawyer)	22
Caseworkers	6.4	13.8	19.6	25
Administrative staff	1	6	6.8	9
TOTALS	7.4	34.5	45.8	56

Caseload

- 1.10 The figures we refer to are for the year 2000. Charts and tables showing the types of case, how they were dealt with and the case results in both the magistrates' courts and the Crown Court can be found in Annex 1.
- 1.11 The Area handled 1,043 pre-charge advice cases and 41,980 cases in the magistrates' courts comprising:

Category	Area number	Area % of total caseload	National % of total caseload
Pre-charge advice to police	1,043	2.4	3.5
Magistrates' courts defendants finalised	41,951	97.5	95.5
Other proceedings	29	0.1	1.0

- 1.12 The overall caseload was weighted very similarly to the national pattern, although the balance is significantly different between the Branches, with much heavier weighting of cases in the Eastleigh and Portsmouth Branches. The Area figures are:

Offence type	Area %	National %
Summary motoring	36.3	37.4
Other summary	22.3	18.3
Either way and indictable only	38.9	39.8

- 1.13 The Area handled 4,269 cases in the Crown Court, of which 74.9% were committals for trial. This is higher than the national average of 70.7%. The weight of the caseload is also above average in those cases that proceed to the Crown Court, where 25.2% (compared with the national average of 23.1%) were indictable only offences.
- 1.14 The Area also has a higher proportion of not guilty pleas in the Crown Court (35.3% compared with the national average of 26.7%). Having to prepare for such a number of trials increases the burden on the Area.

Performance against targets

- 1.15 Performance against measures adopted by the CPS nationally or applicable to Government departments generally and the criminal justice system is shown in the following table.

CPS PERFORMANCE MEASURES	National target	National outcome	Area target	Area outcome
<p>Objective: To deal with prosecution cases in a timely and efficient manner in partnership with other agencies</p> <p>Committal papers sent to the defence within agreed time guidelines</p> <p>Briefs delivered to counsel within agreed time guidelines</p>	<p>2000-2001</p> <p>66%</p> <p>73%</p>	<p>Apr – Dec 2000</p> <p>76.5%</p> <p>77.1%</p>	<p>2000-2001</p> <p>68%</p> <p>75%</p>	<p>Apr – Dec 2000</p> <p>68%</p> <p>81%</p>
<p>Objective: To ensure that the charges proceeded with are appropriate to the evidence and to the seriousness of the offending by the consistent, fair and independent review in accordance with the Code for Crown Prosecutors</p> <p>Cases dismissed on a submission of no case to answer in the magistrates' courts which are attributable to failures in the review process (self assessment by CPS)</p> <p>Non-jury acquittals in the Crown Court which are attributable to failures in the review process (self assessment by CPS)</p> <p>Prosecution decisions examined during inspection by HMCPSI complying with the evidential test set out in the Code for Crown Prosecutors (random sample)</p> <p>Prosecution decisions examined during inspection by HMCPSI complying with the public interest test set out in the Code for Crown Prosecutors (random sample)</p> <p>Advices given to police and examined during inspection by HMCPSI complying with the tests set out in the Code for Crown Prosecutors</p> <p>Decisions to discontinue examined during inspection by HMCPSI complying with the tests set out in the Code for Crown Prosecutors</p> <p>Cases in the adverse sample examined during inspection by HMCPSI, where the outcome was foreseeable, but no remedial action was taken</p>	<p>2000-2001</p> <p>0.009%</p> <p>0.7%</p> <p>AA</p> <p>AA</p> <p>AA</p> <p>AA</p> <p>BB</p>	<p>Apr – Dec 2000</p> <p>0.008%</p> <p>0.6%</p> <p>Inspection cycle 2000-2002</p> <p>98.4%**</p> <p>99.8%**</p> <p>96.6%**</p> <p>94%**</p> <p>17.7%**</p>	<p>2000-2001</p> <p>0.012%</p> <p>0.9%</p> <p>This inspection</p> <p>100%***</p> <p>100%***</p> <p>100%***</p> <p>96.7%***</p> <p>21.8%***</p>	<p>Apr – Dec 2000</p> <p>0.04%</p> <p>0.5%</p> <p>This inspection</p> <p>100%***</p> <p>100%***</p> <p>100%***</p> <p>96.7%***</p> <p>21.8%***</p>
<p>Objective: To enable the court to reach just decisions by fairly, thoroughly and firmly presenting prosecution cases, rigorously testing defence cases and scrupulously complying with the duties of disclosure</p> <p>Advocates who fail to meet the CPS standards of advocacy, as assessed by HMCPSI</p>	<p>Below 2.5%</p>	<p>Inspection cycle 2000-2002</p> <p>0.6%**</p>	<p>This inspection</p> <p>0%***</p>	<p>This inspection</p> <p>0%***</p>

	National target	National outcome	Area target	Area outcome
Cases where the prosecution has properly discharged its statutory duties regarding primary disclosure	AA	74.7%**		80%***
Cases where the prosecution has properly discharged its statutory duties regarding secondary disclosure	AA	67.8%**		86.1%***
Objective: To meet the needs of victims and witnesses in the CJS, in co-operation with other agencies	2000-2001	Apr – Dec 2000	2000-2001	Apr – Dec 2000
Witness expenses paid within 10 days	98%	97.9%	100%	99.45%
Complaints replied to within 10 days	89%	91.6%	95%	100%
Improving productivity:				
Undisputed invoices paid within terms or 30 days	100%	96.6%	100%	96%*
Reduce sickness absence rate per member of staff	8.5 days by 31/03/01		7.8days	15.2days Jan – Dec 2000
Citizens' Charter Commitment				
MPs' correspondence replied to within 15 days	100%	97.6%	100%	100%

* Denotes performance of Service Centre and is not specific to Area.

** Average performance of Areas inspected in inspection cycle 2000-2002 based on samples of cases examined and observations at court.

*** Area performance based on sample of cases examined and observations at court in this inspection.

AA The CPS constantly seeks to improve its performance and to increase the percentage of these cases, but has set no targets.

BB The CPS undertakes self-assessment (see above) of such cases which are attributable to failures in the review process.

CJS PERFORMANCE MEASURES (shared between Home Office, Lord Chancellor's Dept and CPS)	National target	National outcome	Area target	Area outcome
		Quarter ending Sep 2000		Quarter ending Sep 2000
Youth Justice To halve the time from arrest to sentence for persistent young offenders from 142 days to 71 days by 31 March 2002	71 days	95days	71 days	71days

The inspection process

- 1.16 Our methodology combined examination of 431 cases finalised between June and August 2000 and interviews with members of CPS staff at all levels, criminal law practitioners and local representatives of the criminal justice agencies. Details of the file sample are at Annex 2 and a list of people other than CPS staff who were interviewed is at Annex 3.
- 1.17 The core team of five inspectors carried out its on-site work between 27 November and 15 December 2000. During this time the team was able to carry out observations of the performance of advocates in both the magistrates' courts and the Crown Court.

The lay inspector

- 1.18 The lay inspector for this inspection was Peter Ellis, who was nominated by the National Association of Citizens' Advice Bureaux. He scrutinised public interest decisions in a number of cases and examined files that had been the subject of complaints from members of the public. He also visited courts and was able to speak to some witnesses after they had given evidence.
- 1.19 This is a valuable contribution to the inspection process, and the views and findings of the lay inspector have been incorporated into 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.

Overview

- 1.20 CPS Hampshire and the Isle of Wight appears historically to have had a lower proportion of resources allocated to it than most other CPS Areas. Some perceive that this has contributed to a low standard of performance in some respects.
- 1.21 The difficulties facing the Area, particularly the Eastleigh Branch, were recognised by the new CCP and ABM who have resolved to improve the performance of the Area as a whole. They made an early assessment that performance needed to be improved in a number of significant respects. As a result, assistance was sought from Management Audit Services (MAS), an internal department of the CPS, who undertook an appraisal of the Eastleigh Branch.
- 1.22 This resulted in a number of recommendations being made, and initiatives being introduced. One major concern was the large backlog of cases that were waiting to be finalised. This was draining resources from current work, and also preventing the Area from getting a true picture of its performance.
- 1.23 Much work has been done to alleviate this and other problems, which we comment on in Chapter 6, but representatives of other criminal justice agencies still perceive that there has been little or no improvement in the standard of work. Some recorded measures (originating from other agencies as well as the CPS) indicate that there has been significant improvement in many respects, and the other agencies' critical view of the local CPS may be coloured by a frustration built up over a long period of time of having to cope with poor performance. Nevertheless, we observed instances of failure to get files to courts, late delivery of instructions to counsel, and failure to link post to files, which have an adverse impact both on the quality of service delivery and on others' assessment of the CPS.

- 1.24 Despite these difficulties, overall the relationships with other agencies are good, and this has enabled some significant successes to be achieved. The successful implementation of the initiatives arising from the recommendations in the Review of Delay in the Criminal Justice System (the Narey report) was assisted by the introduction of fast-track files some considerable time before, thus easing the stress of transition. The joint work on speeding up youth justice has also been particularly successful.
- 1.25 The Area is progressing rapidly with its internal organisation to implement the Glidewell recommendations that we have already referred to. This has been possible by careful planning and forethought. This demands a high level of co-operation between a number of agencies, and we were pleased to see that this was present in Hampshire and the Isle of Wight.
- 1.26 Whilst the new structures and places of work may be unsettling initially, we hope that they may be an avenue to achieving greater cohesiveness and uniformity throughout the Area. At present the branches are very different in character with a variety of systems and working practices in place. A greater attempt to determine and adopt best practice, and adopt it in all branches, should bring about significant improvements.
- 1.27 Our main concern arising from the file sample, and our observations on-site, was what we would describe as a lack of ‘grip’ on cases. In some instances this results from administrative failure, such as failing to manage staff absence effectively or, simply, to track files properly. In others, it results from prosecutors and caseworkers being reluctant to take responsibility for the conduct of cases. We comment on these aspects in detail later in the report.

Structure of the report

- 1.28 Our scrutiny of casework focuses on four main themes: provision of pre-charge advice; the review of cases; case preparation; and case presentation. Chapters 2 to 5 examine each of those issues. We set out in relation to each them what we were looking for and our findings. Chapter 6 looks at management and operational issues.
- 1.29 In our suggestions and recommendations we often refer to Branch Crown Prosecutors (BCPs) as they were the managers of the Branches. As the Area continues with its transition to TUs and CJUs, the BCPs will be replaced by Unit Heads who will undertake the lead CPS management roles for their units. Where, therefore, we refer to BCPs this should be taken to include or relate to Unit Heads where appropriate.

PROVIDING ADVICE

Introduction

- 2.1 Our inspection was concerned primarily with the quality and timeliness of the advice provided. We also examined the arrangements between the CPS and the police for ensuring that the right cases are being submitted for advice and that the advice given informally is properly recorded. It is important that CPS resources are focused on those cases that most require them. Care is needed to prevent excessive caution, or other factors leading to the submission of cases where the police should properly make the decision without assistance. Conversely, the police should be encouraged to seek assistance in those cases where legal or evidential issues arise at an early stage and may influence the later handling of the case. Sometimes it may be appropriate for the CPS to bring in counsel at an earlier stage than normal.
- 2.2 In 2000, advice files made up 2.4% of the Area's caseload, compared with 3.5% nationally, although there were significant variations between the Branches. In Basingstoke the proportion was 3.5% which is the national average, whereas it was considerably lower in Eastleigh and Portsmouth (2.1% and 2% respectively).

Quality of advice

- 2.3 We were only able to make an assessment of the quality of advice in 21 of the 30 cases that we examined, because in the others the majority of the case papers had been returned to the police, and only a copy of the advice letter retained.
- 2.4 The Code tests had been properly applied in all of the cases where we were able to make an assessment. Many of the advices were full and well set out, although in some instances the reasons were not fully explained. In one case, the explanation of the evidential and public interest tests was somewhat blurred, but the actual advice was correct.
- 2.5 Police representatives told us that in general they were satisfied with the quality of advice received, although they had concerns about timeliness. We were pleased to be told that in the limited number of cases dealt with by the Area which originated from the National Crime Squad, advice has been of both appropriate quality and timeliness.

Timeliness of advice

- 2.6 The CPS has agreed nationally with the police a time guideline for dealing with requests for advice of no more than two weeks from receipt of an adequate file. We found that 16 out of the 28 cases where we could ascertain timeliness (57.1%) were returned within 14 days.
- 2.7 We noted that there is no Area system to monitor the timeliness of advice. Two Branches did not keep any logs, and at Portsmouth the log was not kept up to date. It recorded only four of the last 36 cases (going back to September 2000) as having been dealt with. Of those four, only one was shown as having been returned within 14 days.

- 2.8 As we have mentioned above, the police were concerned that advice was not being returned in a timely manner, and they considered that this was deterring some officers from seeking formal advice. We were told that in some cases advice could be outstanding for several months, and was only given after considerable chasing by the police. It is noteworthy that the Basingstoke Branch, which had achieved the best timeliness standards, received the largest number of advice files, and had developed a good working relationship with police. The other branches should seek to achieve this, whilst recognising their larger and more heavily weighted caseload.
- 2.9 We recommend that the CCP and BCPs implement an effective system to ensure that advice is provided to the police within 14 days (in all save the most substantial cases).**
- 2.10 We also noted that rather than allocating each advice file to a specific prosecutor to deal with, it was a common practice for advice files to be left in a location within the office, from which prosecutors would take and deal with advice files as when they were in a position to do so.
- 2.11 We were concerned that this was not an effective system to ensure that all advice cases were dealt with in a timely manner, and that some files may not receive appropriate attention in sufficient time. We consider that prosecutors should either have specific responsibility for advice files from certain police divisions, or have files allocated to them individually.
- 2.12 The CCP changed the position with effect from 15 January 2001, and advice files will henceforth be allocated by leading prosecutors to individual prosecutors.

Appropriateness of advice

- 2.13 There is no formal agreement between the Area and the police as to the types of case and quality of files that should be submitted for advice, but we were not told of any significant concern that inappropriate cases were being submitted. Although all of the cases appeared, on the basis of the allegations, to be suitable for submission for advice, in one case involving only summary offences the statutory time limit for commencing a prosecution had expired.
- 2.14 With the low proportion of cases submitted, however, there might be cases that ought to be submitted for advice before charge, but are not. Prosecutors told us that they did, on occasion, prosecute cases that raised complex or difficult issues that would have benefited from pre-charge advice, but this was not raised as a serious problem.
- 2.15 Another factor that may contribute to the low recorded advice rate is the level of advice that is given informally, and not recorded.

Advice given informally

- 2.16 We were given varying opinions as to the level of advice given informally. Branch managers told us that prosecutors generally discouraged police officers from seeking advice informally, encouraging them to submit appropriate files for consideration. The police, on the other hand, valued the opportunity to seek advice informally as this avoided the difficulties of timeliness we have already referred to.
- 2.17 At present, such advice is often sought on the telephone or by an officer approaching a prosecutor at court. With the creation of CJUs, where CPS and police staff will be working together in the same premises, it is clear that the incidence of seeking advice informally is likely to increase, as many police officers view this as an obvious avenue for obtaining timely advice.
- 2.18 In one of the cases in our sample there was a record of advice that had been given informally, and properly recorded by the prosecutor. In another, however, it was clear that advice had been sought informally in relation to a serious offence involving conspiracy to defraud and no record had been kept. It was also evident from this file that there was no record kept of the advice.
- 2.19 It is essential that an Area has an effective system so that appropriate records of oral advice are properly made and a copy sent to the police. This reduces the possibility of misunderstandings and enables the volume of advice to be monitored.
- 2.20 Area managers are aware of this and told us that a new form is being prepared to record advice given informally, and that the importance of its use will be stressed to all prosecutors.
- 2.21 We recommend that the CCP and BCPs implement an effective system to ensure that an appropriate record is made of advice given informally to the police.**

Advice from counsel

- 2.22 We were told of a small number of cases where advice had been sought from counsel before charge or before committal, and these appeared to be appropriate cases for such advice to be sought.
- 2.23 Counsel told us that they were sometimes instructed to prosecute cases that would have benefited from their earlier involvement, although we did not find any such cases in our sample.

Recent developments

- 2.24 Many of the issues in this chapter were raised during the course of the inspection. Since then, the CCP has issued guidance to Area staff. It is too soon to assess whether this has had any impact on performance.

REVIEWING CASES

Introduction

- 3.1 We examined the quality and timeliness of the decision-making at various stages in the progress of the cases within our file sample and some that featured in our on-site observations. Prosecutors are required to take all such decisions in accordance with the principles set out in the Code for Crown Prosecutors (the Code) promulgated by the DPP under section 10, Prosecution of Offences Act 1985. The most fundamental aspect of the Code is the twin criteria for the institution or continuation of proceedings: first, there must be sufficient evidence to afford a realistic prospect of conviction; secondly, the circumstances must be such that a prosecution would be in the public interest. Apart from the Code there is also specific guidance relating to other issues such as mode of trial.
- 3.2 The decision whether to institute proceedings rests, other than in exceptional circumstances, with police albeit they may seek advice from the CPS before taking the decision. Following the institution of proceedings, the police submit a file to the CPS that should be subject to initial review to see whether it should be accepted for prosecution. In some cases this may lead to a decision to terminate the proceedings at the outset. Where a case proceeds, it must be subject to continuous review. The initial assessment may have an element of provisionality about it, especially if it occurs before the police have concluded and submitted the report of an investigation; the evidential position or surrounding circumstances may change during the life of any case and the CPS must respond quickly and positively to review the case again and reassess it.
- 3.3 Our file sample covered the full range of cases, but focused especially on certain categories of cases that consistently attract a high degree of public interest (e.g. discontinued cases) or those that have proved problematic and may hold important information about the quality of decision-making. We usually refer to the latter as “adverse cases”. They fall into four broad categories namely cases:
- (i) discharged by magistrates following consideration of evidence and a ruling that it is insufficient to justify committal to the Crown Court;
 - (ii) where all charges are dismissed by magistrates on the basis that there is no case to answer at the conclusion of the prosecution case;
 - (iii) where a trial judge at the Crown Court orders that an acquittal should be entered following a decision by the prosecution prior to the empanelling of a jury that the case should not proceed. These are called “judge ordered acquittals” (JOAs); and
 - (iv) where a trial judge in Crown Court proceedings rules, following the commencement of the evidence, that it is insufficient for the Crown to proceed and directs the jury to acquit. These are called “judge directed acquittals” (JDAs).

- 3.4 We try to assess whether the outcome of adverse cases reflects a deficiency in the initial decision to prosecute or whether it is attributable to a change in the evidential position or other circumstances. We also consider at what point the likelihood of an adverse outcome became foreseeable and whether CPS staff identified and responded in a timely fashion to those changed circumstances so that any necessary termination took place at the earliest appropriate moment. Although the public interest requires that offenders be prosecuted fairly and firmly, it is also important to avoid continued unnecessary public expenditure on prosecutions which have ceased to be viable.
- 3.5 We examined not only the substantive decision whether to prosecute but a number of ancillary decisions, such as whether to oppose bail. Other issues considered are the extent to which the police succeed in identifying the correct charge at the outset and, if not, how effective prosecutors are in making timely rectification; the handling of particularly sensitive categories of offence; how effective the Area is in ensuring that lessons from cases are shared with all prosecutors; and the soundness of its systems for recording decisions and reasons on files.
- 3.6 Assessing the quality of legal decision-making is difficult. Decisions frequently turn on legal or evidential issues which are essentially matters of professional judgement. It frequently occurs that different lawyers do, for perfectly proper reasons, take different views in relation to the same case. Our assessment in relation to quality of decision-making therefore consider whether the decision taken was one which was properly open to a reasonable prosecutor having regard to the principles set out in the Code and other relevant guidance. A statement that we disagree with a decision therefore means that we consider it was wrong in principle; we do not “disagree” merely because inspectors might have come to a different conclusion. Against this background, we set out our findings.

The quality and timeliness of initial review decisions

- 3.7 We examined a random sample of 119 cases, but in five, papers had been returned to the police, leaving insufficient material upon which to assess the application of the Code tests. In the remaining 114 cases, both the evidence and public interest tests had been properly applied. In our experience, these figures are good and indicate a high standard of decision-making.
- 3.8 In two cases, the reviewing prosecutor made the correct decision that the case should not proceed, but the review record was ambiguous, and blurred the distinction between the evidential and the public interest factors. Prosecutors need to ensure that they record and explain their decisions clearly in order to avoid giving an impression of confusion.
- 3.9 It is apparent that all of the files being dealt with under the Narey initiative are reviewed before the first hearing in court. These reviews are recorded on a sheet of paper that is attached to the original file, but we were not always able to find this document in the files in the sample. Nevertheless, where the document could be found or where we observed cases on site, the review record dealt with the main issues and often identified other issues that would need to be considered as the case progressed. This related to cases that had been reviewed by lawyers or by designated caseworkers (DCWs) who are entitled to review and prosecute certain categories of cases in the magistrates’ courts. It was not always evident, however, that these additional issues had been properly dealt with at later stages. The CCP and BCPs will want to check the operation of the system to ensure that the review record is retained on the file.

Continuing review

- 3.10 Overall, cases are being properly and effectively reviewed at the initial stages, but we have some concerns about the effectiveness of continuing review in a small, but significant, number of cases. In some instances the lack of review was due to poor case administration, but in other cases it resulted from prosecutors failing to maintain a robust and pro-active approach to the management of cases.
- 3.11 In some cases it was apparent that lack of effective continuing review had resulted in evidence not being properly considered or evaluated. In a case involving an allegation of rape there was no evidence that significant issues and the effect these would have on the prospect of conviction, had been considered. This case resulted in an acquittal.
- 3.12 In other cases, reviews were not effective: the reviewer had identified insufficiency of evidence, but had not taken steps to stop the case. In a theft case, the reviewer had made a number of endorsements correctly identifying that there was insufficient evidence to proceed, but allowed the case to be committed to the Crown Court before the prosecution offered no evidence.
- 3.13 Sometimes, it was clear that when full files had been received from the police, the evidence had simply not been scrutinised properly, and cases failed because of evidential difficulties which could easily have been resolved if there had been effective review. We saw cases where simple issues such as the identification of property in cases of theft or dishonestly handling stolen goods had not been dealt with properly, and the cases resulted in adverse results.
- 3.14 We recommend that the CCP and BCPs ensure that prosecutors undertake effective continuing review in both magistrates' courts and Crown Court cases, including taking appropriate actions in accordance with that continuing review.**

Selection of appropriate charges

- 3.15 The initial police charge was correct in 101 cases of the 114 cases (88.6%) where we could make an assessment. The CPS reviewer had correctly amended the charge at the earliest opportunity in 11 of the 13 cases (84.6%).
- 3.16 The CPS and the police nationally have agreed charging standards for assaults, public order offences and some driving offences. We were told that in some instances the police charged offences that were above the agreed standard, particularly by inappropriately charging affray. We were also told that prosecutors sometimes proceeded on charges that were below the agreed standard. In our sample, the police had correctly applied the appropriate charging standard in all but one of 33 relevant cases, and the reviewer had correctly amended the charge in that case at the first review.
- 3.17 These findings lend weight to our assessment that the standard of decision-making in the Area is fundamentally sound.

Mode of trial

- 3.18 In general, prosecutors adopted the correct approach in determining whether a case should be dealt with in the magistrates' courts or the Crown Court, when making representations to the magistrates. However, we were told that in some cases prosecutors were reluctant to commit themselves to making positive representations either way, which benches did not find helpful, although we did not observe any cases where this happened in our court observations.
- 3.19 In our sample, prosecutors in 73 out of 75 relevant cases (97.3%) made appropriate decisions about mode of trial. In our experience this is broadly in line with the standards in other CPS Areas. In both the remaining cases, a prosecutor had indicated that the matters were suitable to be dealt with by the magistrates' court. In both cases the magistrates decided that the cases should be dealt with in the Crown Court.
- 3.20 In relation to youth offenders, there have been occasions where magistrates have decided that cases are so serious that they are 'grave' offences. This means that cases normally dealt with in the youth court are so serious that they are committed to the Crown Court.
- 3.21 In some instances, the judge in the Crown Court disagreed with the decision about the seriousness of the offence, and remitted the matter back to the youth court.
- 3.22 Whatever the merits of the individual cases, this is clearly an unsatisfactory state of affairs. We are pleased to note that the Clerk to the Justices and the CCP have recently prepared guidance on the issue of grave offences. This guidance is primarily for the assistance of the courts' legal advisers, but it is also available to CPS prosecutors.
- 3.23 We **commend** the Area on its part in the preparation of the guidance on grave offences, as both effective inter-agency liaison and a pro-active response to an issue that could adversely affect the administration of justice.

Bail

- 3.24 In our sample, prosecutors had made the correct decision as to whether it was appropriate to apply for a remand in custody in all 37 relevant cases. In a further 31 cases, again all the relevant cases, they had made the correct decision about the suitability of conditional bail.
- 3.25 Concerns were expressed to us, however, that in some cases prosecutors did not provide all the information that was needed by the magistrates to make a proper decision. We were able to observe some applications for remands in custody, and there were two instances where the application amounted to little more than a recital of the defendant's previous convictions.
- 3.26 In both cases, the prosecutor had sufficient information to make much fuller representations, and should have provided more assistance to the bench to enable them to evaluate the merits of the prosecution application. We deal with issues of case presentation in Chapter 5.

3.27 File endorsements about bail were not always adequate, and this can lead to later confusion. The grounds upon which the prosecutor relied to oppose bail were only recorded in eight out of 19 cases (45.1%), whilst the grounds upon which the court refused bail were recorded in 13 of the 19 cases (68.4%). Where conditional bail was granted, the conditions were only properly recorded in 16 of the 31 cases (51.6%).

3.28 We recommend that prosecutors ensure that they make full and comprehensive records of grounds for opposing bail and bail decisions on files for every defendant.

Discontinuance

3.29 In the year ending September 2000, the Area's discontinuance rate was 9.2% of its caseload. This is lower than the national average of 12.8%.

3.30 We examined 125 cases that were stopped by the prosecution in the magistrates' court in September 2000, specifically to ascertain the reasons for discontinuance and whether the police were consulted.

3.31 Fifty-seven were discontinued by formal notice under section 23, Prosecution of Offences Act 1985, with 19 being withdrawn at court and no evidence offered in 48 cases. In one case we were unable to establish how the case had been discontinued. The reasons for discontinuance are set out in the table below:

Discontinued for evidential reasons		Discontinued for public interest reasons		Prosecution unable to proceed		Driving documents produced at court	Not known
Legal element missing	24	Nominal penalty likely	14	Victim fails to attend court	15		
Identification difficulties	8	Effect on victim's health	3	Witnesses fail to attend court	10		
Conflict of evidence	6	Defendant's ill health or age	3	Victim refuses to give evidence	15		
Inadmissible evidence	2	Caution more suitable	3	Case not ready and adjournment refused	6		
Unreliability of witnesses	2	Loss/harm very minor	2				
		Delay	1				
TOTALS	42		26		46	5	6
33.6%		20.8%		36.8%		4%	4.8%

- 3.32 We were unable to ascertain the reason for discontinuing six of the cases, and this supports our recommendation relating to endorsements recording review decisions at paragraph 3.57. Although the number of such cases is small, they represent a pattern which has emerged in other Areas' inspections to date. The Chief Inspector's Annual Report 1999/2000 draws attention to the prevalence of this and its impact on proper accountability. This Area is no different to others in this respect.
- 3.33 In our sample the police were consulted in 89 cases, and raised an objection in only 2 of them.
- 3.34 The police considered that they were often consulted at a late stage, leaving little time to consider the issues and respond appropriately. We did see a small number of cases in the sample where it would have been appropriate for the police to be given earlier notification.
- 3.35 We suggest that prosecutors ensure that the police are consulted in a timely manner where discontinuance is being considered, wherever practicable.**
- 3.36 In the 11 cases where the police were not consulted, the reason for the discontinuance was only revealed at the hearing. We were unable to ascertain whether the police had been consulted in the remaining 25 cases.
- 3.37 The high number of cases discontinued because of witness difficulties is a cause for concern. Managers, prosecutors and caseworkers are all aware of this and it is reflected in adverse cases as well as discontinued cases.
- 3.38 A brief analysis shows certain types of offence are more prone to witness 'failure' than others. We found that 23 of the 40 cases with witness difficulties related to allegations of violence, and witnesses (particularly victims) in these cases might benefit from more targeted care during the progress of a case.
- 3.39 We suggest that the CCP and BCPs liaise with other agencies, including the police, Victim Support and the Witness Service, to ensure that victims and witnesses in particular categories of cases are afforded appropriate and effective witness care, with a view to reducing the number of cases which have to be discontinued or result in adverse findings through witness difficulties.**
- 3.40 We examined 30 cases in more detail to determine whether the Code tests had been applied correctly. The tests had been properly applied in all but one case, where the reviewer in a case involving criminal damage had added a charge of affray. This charge was inappropriate, and in a later review, the decision was taken to withdraw it and proceed only on the original charge. In the event it appears that both charges were withdrawn at court and we could find no reason for this.
- 3.41 In nine cases, the discontinuance should have taken place earlier, and this is a reflection of the lack of effective case management that we have referred to earlier in this report.

Adverse cases

Foreseeability

- 3.42 Our report on the Review of Adverse Cases (Thematic Report 1/1999) found that in 31.8% of cases examined, the adverse finding was foreseeable. We found that in this Area, the adverse finding was foreseeable in 27 out of 78 cases (34.6%). We also found that the CPS should have taken more action to avoid the acquittal in 17 of the cases (21.8%).
- 3.43 By contrast, the assessment made by the Area for the purposes of CPS performance indicators of the number of adverse cases where the outcomes were attributable to review failures suggests that for the six months ending in September 2000, only ten cases were so attributable (equivalent to five cases per quarter compared to the 17 cases per quarter referred to above). The Area's self-assessment is based on a similar test to that set out in paragraph 3.6 and so only a decision to proceed that was clearly wrong will be captured. Our test of foreseeability is based upon what a suitably experienced prosecutor ought to have foreseen and taken some remedial action or if necessary dropped the case sooner. This narrow interpretation of a review failure on the part of the CPS would explain why the Area's assessment of the number of cases is in contrast to our findings.

Adverse cases in the magistrates' courts

- 3.44 The Area had no committals discharged after evidence had been tendered during the period covered by our inspection.
- 3.45 The Area's statistics show that in 2000, the rate of cases where the magistrates found no case to answer was the same as the national average (0.2%). We examined 16 cases and found that the Code tests had been properly applied in 14 of the cases.
- 3.46 One of the two cases where the test had not been properly applied, involved charges of theft and arson, and the reviewer had identified there was insufficient evidence to show that the defendant was responsible for the offence. No action was taken, however, to discontinue the case.
- 3.47 In the other case, a licensing offence, careful review would have revealed that there were obvious discrepancies in the evidence.
- 3.48 We found that in six of the other 14 cases, better review and case management might have avoided the difficulties that led to the acquittal. In some cases lack of sufficient evidence had been noted, but no action was taken to obtain further evidence, or discontinue the case. In others, evidential details had been overlooked, so that, for example, property had not been properly identified or conflicts in the evidence had not been considered.

Adverse cases in the Crown Court

- 3.49 The rates of JOAs (12.2%) and JDAs (3.7%) in the Area are both higher than the national averages (11.9% and 2.5% respectively).
- 3.50 We examined 44 JOAs and 18 JDAs. We found that the Code tests had been applied correctly in 42 of the JOAs and 15 of the JDAs.
- 3.51 The common thread that ran through the two JOAs and three JDAs where the tests were not properly applied, is the lack of effective review. In four cases, the reviewers failed to assess the strength of the evidence available to the prosecution, and allowed the cases to continue to the Crown Court. In one case of theft, a JOA, the reviewer had indicated that there was insufficient evidence, but had continued to allow the matter to be committed to the Crown Court, before it was properly stopped.
- 3.52 These findings, coupled with our findings in relation to the cases stopped at half-time in the magistrates' courts (paragraphs 3.45–3.48) lend further weight to our recommendation in relation to continuing and effective review at paragraph 3.14.
- 3.53 We noted that 21 of the 44 JOAs were stopped because witnesses either refused to attend court or refused to give evidence. In 14 cases, the charges related to offences of violence. We dealt with the need for detailed analysis and greater witness care and support at paragraph 3.39 in relation to discontinued cases.

Review endorsements

- 3.54 In the case of reviews of files submitted under the Narey initiative, we found that there was invariably a short but succinct record of the review identifying the issues in the case. Although it was often clear that further review had taken place, this was less frequently recorded.
- 3.55 We found that in 82 of 114 cases (71.9%) the evidential factors had been satisfactorily recorded, and the public interest factors were recorded in 65 cases (57%). Mode of trial considerations were recorded in 42 out of 75 relevant cases (56%).
- 3.56 In our experience, these figures are good, but it is important that all review decisions are adequately recorded, so that colleagues dealing with files will have sufficient information concerning the issues in the case, as well as the reasons for decisions taken. Furthermore, in light of the implementation of the Human Rights Act 1998 on 2 October 2000, records of review decisions may be subject to increased scrutiny. It is of significance that the comparatively much poorer endorsements about public interest factors, combined with failure to record reasons for discontinuance in a number of cases (see paragraph 3.32), contributed to considerable concern on our part, including the lay inspector, as to the transparency and accountability of the decision-making.
- 3.57 We recommend that prosecutors make full records of review decisions on files.**

Learning from experience

- 3.58 The Area places great weight on its ability to learn from experience. It holds separate monthly management committee (HMC) and casework committee (HCC) meetings, because it was found that casework issues were neglected at joint meetings. We view the use of this separate committee to ensure that there is a separate agenda for casework as **good practice**, although care needs to be taken that excessive resources are not devoted to this.
- 3.59 There is a danger, however, that the efforts being made to improve casework practices are being undermined by failures in continuing review and administrative failures in case management.
- 3.60 Failed case reports relating to all adverse cases are seen and collated by the CCP, and considered by the casework committee. The case reports are generally completed satisfactorily, although we did note cases where fault had not been properly accepted or where there was variance with our findings about foreseeability.
- 3.61 When issues need to be disseminated to Area staff, this is done in writing, or through Branch or team meetings. We discuss the adequacy of internal communications in Chapter 6.
- 3.62 Where training needs are identified, training is planned and initiated, for example, as with the training on disclosure.
- 3.63 The Area managers are also aware of the important role of joint performance management of file quality and timeliness with the police. They appreciate that in order to be fully effective, it is essential that prosecutors complete the appropriate assessment forms (TQ1s) so that they can be returned and collated by the police.
- 3.64 The return rate is now about 60%, and this is a considerable improvement on earlier performance when as few as 20% were sometimes returned. Efforts continue to be made by the Area managers to stress the importance of this, and the improvement is evidence of some success.

Youth justice and persistent young offenders

- 3.65 Youth justice has assumed a high priority within the criminal justice system, with the government setting targets to improve performance overall. A target has been set to halve the average time between arrest and sentence of persistent young offenders (PYOs) from 142 days (in January 1997) to 71.
- 3.66 In the Area, the average time to deal with PYOs in the last two recorded quarters (ending June and September 2000) met the target of 71 days. The national average for the quarter ending September 2000 was 95 days. We **commend** the Area for its achievement in reducing delay in this respect.
- 3.67 This is a significant achievement for all the agencies involved, and is a clear indication of good inter-agency co-operation.

- 3.68 For its part, the Area has introduced case tracking for PYOs and nominated youth specialists in each office to deal with youth justice generally, rather than just PYOs specifically. We have been told that the Eastleigh Branch has now divided into 3 prosecution teams, one of which is to deal specifically with youth cases.
- 3.69 The Area has introduced positive systems to identify and track cases involving PYOs, and to monitor the progress of their cases. We view this as **good practice**.
- 3.70 The Area has worked positively with the magistrates' courts and police in taking this forward. The Area may need to work more closely with the Crown Court when dealing with PYOs, particularly as by their very nature such cases will almost inevitably take longer to finalise.
- 3.71 We have already commended the joint guidance on dealing with grave crimes in youth courts at paragraph 3.23.

Sensitive and aggravated offences

General

- 3.72 The CPS nationally recognises that certain types of offence require particular care and attention because of their sensitive nature. The principal categories are cases involving child abuse, domestic violence and racially aggravated offences.
- 3.73 The Area has introduced a system of keeping these types of files in distinctively coloured file jackets to draw attention to their sensitivity. We **commend** the Area on this initiative. We were told that overall these types of case are properly managed and dealt with, supported by cross-agency co-operation.

Child abuse cases and child witnesses

- 3.74 The Area identifies cases involving child witnesses as well as child abuse cases as ones that require proper care and attention. We were told that these cases are generally well handled by the Area.

Domestic violence offences

- 3.75 It is recognised by all agencies that the victims in domestic violence cases can be under tremendous pressure to retract their allegations, and it is important that any such retraction is properly assessed. This should require the case being referred back to the police for a report on the reasons leading to the retraction and their assessment as to whether there has been undue pressure.
- 3.76 This can be a problem in fast-track cases where seeking information from the police would necessarily mean an adjournment which might be seen as contrary to the general drive towards speedier justice. The Area and the magistrates' courts have agreed a protocol, to the effect that, because of the special factors in domestic violence cases, cases will not be finalised at a first hearing. This reflects both good co-operation between agencies, and sensitive administration of justice.

3.77 We found that domestic violence cases in our sample were generally dealt with appropriately, and domestic violence monitoring logs were kept up to date in each Branch. In two cases the decision to discontinue seemed to be taken without proper consideration. In one the police were told that the case would be discontinued in the light of the victim's retraction unless they wanted to 'argue against' the decision. This does not reflect the CPS' aim to deal with these cases sensitively, and prosecutors will want to ensure that all such cases receive full consideration.

Racially motivated offences

3.78 We were told that the Area does not deal with a large number of racially motivated offences, but such cases are now properly recorded on the Area's racial incident register.

3.79 We found one case, however, which was handled poorly in a number of respects. Initially the case was discontinued because of insufficient evidence. Following a complaint from the victims' employer, a senior prosecutor concluded that the original decision was wrong and indicated that it would be recommended to the CCP that the proceedings should be re-instituted. Unfortunately it was three months before it came to the notice of the CCP who was properly critical of the delay. Nevertheless, he authorised re-instatement of the proceedings. Shortly afterwards, the defendant was sentenced to two years imprisonment on other offences, and a further decision was taken by the prosecutor that it was no longer in the public interest to pursue the prosecution. The delay prevented the case being dealt with at the same time as the others as it ought to have been.

3.80 To compound the matter, it appears that no explanation was provided to the victims. It was nearly six months later following a further enquiry from the employer about the outcome of the case, that they were informed that the case would not, after all, be re-instated. This example demonstrates poor case management, and does not carry forward the Area's aims in relation to the care and treatment of victims and witnesses. It is particularly concerning when the case falls within one of the sensitive categories. It also shows that poor case management is not only as a result of administrative failures; this is a clear example of Area prosecutors failing to maintain proper control of cases.

3.81 We appreciate that the decisions in the case were made some time ago (between October 1999 and March 2000) and we are assured by the Area that its procedures for dealing with these types of case have been improved. We were able to confirm for ourselves that the system for monitoring these types of cases had been introduced since the case was originally dealt with. Nevertheless, there is concern over the management of these sensitive cases.

3.82 We recommend that the CCP and BCPs ensure that racially motivated offences are afforded the appropriate level of case supervision by prosecutors and managers.

PREPARING CASES

Introduction

- 4.1 Good quality decision-making is of limited value if the subsequent handling of cases is not thorough and professional. In this section of our report we consider the performance of the Area in relation to specific stages in the progress of cases from institution of proceedings through to their conclusion. Some aspects of case handling relate only to cases in the Crown Court, whilst some relate to both. They range from the provision of advance information through compliance with prosecution obligations in relation to disclosure, committal preparation, quality of indictments, instructions to counsel, arrangements for plea and directions hearings (PDHs), to the presence of the CPS in the Crown Court.
- 4.2 In some respects the performance of the Branches differed, as did the nature of their casework. Where there are issues that do not relate to all of the Branches, we have made this clear.

Case and file management

- 4.3 We were told by the Area managers that there have been significant improvements in performance since mid-2000, and we were shown data to support this. Nevertheless, overall management of cases and files, particularly in the Eastleigh and Portsmouth Branches, remained a major concern for the other criminal justice agencies, and this was frequently reflected in our file sample.
- 4.4 Cases require action to progress them. This can range from simply dealing with correspondence through to more complex matters involving requesting further evidence from the police, warning witnesses for trials, or preparing cases for committal. In many cases in the Area, such actions are taken and cases progressed.
- 4.5 However, in a significant number of cases, these crucial steps were not taken and this invited criticism from the courts and other agencies, and in some cases resulted in cases not proceeding at all. We saw examples where the CPS knew that witnesses could not attend court, but had taken no action to notify any of the other parties involved in the case. This resulted in trials not proceeding and, in some cases, costs being awarded against the CPS.
- 4.6 Much criticism related to the lack of response to proper enquiries from the other agencies. Representatives of other agencies told us that they often had difficulty in contacting CPS staff by telephone, having to content themselves with leaving messages on the voice mail system, to which there was often no response. We were also told that letters repeatedly go unanswered and this, again, can lead to cases not progressing expeditiously, as unnecessary adjournments have to be requested.

- 4.7 We were assured that because of this criticism steps had been taken to check post at least daily to help overcome this problem. We were very disappointed, therefore, to find post relating to an important issue in a summary trial that had been listed to take place a month before, still in the post tray.
- 4.8 This position is aggravated in the Eastleigh Branch, in particular, by case-tracking failings that lead to prosecutors frequently having to attend court without all the files. In September 2000 the Branch records that it was unable to find 105 cases for court (the total figure for the Area was 118 files).
- 4.9 This problem is fully recognised by the Area and Branch managers who are making efforts to improve the situation, and in December 2000 the number of missing files had fallen to 20 (28 in the Area as a whole). The importance of dealing with this cannot be over-emphasised. It undermines the good work and improvements being made in relation to review. It has a corrosive effect upon the confidence of others within the criminal justice system in the CPS.
- 4.10 The figure for files not found for court in December, for example, although a five-fold improvement on performance three months before, is still significant, and can have profound effects on the outcome of the cases, as well as on the perception of the quality of performance by the CPS. We observed, in December, three cases in the same youth court which could not proceed because the prosecutor did not have the prosecution files. Two of the cases were dismissed because the court would not grant a further adjournment, and the third had to be adjourned until a later date.
- 4.11 Unfortunately the situation has developed to the point where there is an expectation on the part of other agencies and criminal practitioners that the CPS might well fail at some point in the life of a case. This is generating a lack of sympathy on the part of the courts for prosecution requests for adjournments perhaps even where there is little fault on the part of the CPS, and increased pleas of not guilty by defendants which, of course, places a greater burden on the prosecution. This is a vicious circle that must be a priority for the Area to tackle successfully.
- 4.12 File management and case tracking remain, therefore, in need of further improvement. We comment on particular aspects of case preparation that require attention in more detail later in this chapter, but it is important that these basic foundations are laid. This will enable the Area to continue to build upon its improvement in performance, as well as enabling other agencies to restore their confidence in the Area's performance overall.
- 4.13 **We recommend that the CCP and BCPs implement, as a priority, effective systems for tracking files to ensure that:**
- * **files can be readily found for the purposes of linking post or other material with them;**
 - * **files can be passed to prosecutors or caseworkers expeditiously, to enable them to implement any actions required to progress the cases; and**
 - * **prosecutors have all appropriate files at court on the due hearing date.**

Advance information

- 4.14 The prosecution are required to provide advance information in all either way cases, and the CPS has indicated that advance information should be given within five working days of receiving the file and being notified of the defendant's solicitor.
- 4.15 It has been agreed with the police in the Area that when they provide the CPS with a file under the Narey system, they will provide a copy of relevant material, to enable the prosecutor to provide advance information at the earliest opportunity. As a result, in the vast majority of cases advance information is now given to the defence in all cases, regardless of whether or not there is a legal requirement, and it is given in a timely manner.
- 4.16 Where we were able to ascertain timeliness, we found that the Area provided advance information within the CPS time guideline in 42 out of 46 cases (91.3%).
- 4.17 We were told, however, where it was not possible for advance information to be provided at the first hearing, there was often inordinate delay in providing the material to the defence. This appears to be another reflection of the poor case management, with letters requesting advance information not being linked to files or not being actioned, or appropriate material simply not being requested from the police.
- 4.18 It appeared from our file sample that where advance information was handed over at the first hearing there was often no record made of either when it was provided or what specific material was given. As a result, we were unable to ascertain timeliness in 45 cases and were only able to ascertain what material had been served in 42 out of 91 cases.
- 4.19 The requirement to give advance information is a continuing one. In many cases, further evidence is provided to the CPS during the life of a case, and, where the prosecution propose to rely upon that evidence, it is necessary to provide advance information about that evidence.
- 4.20 It is important therefore that a record is made of all material provided, so that prosecutors and caseworkers can assure themselves that all appropriate material has been served.
- 4.21 We recommend that prosecutors, when dealing with advance information, record on the file the material that has been provided and the date when it was provided to the defence.**

Disclosure

General

- 4.22 The Area, in common with a number of other Areas, has difficulties in dealing with disclosure of unused material to the defence. The Area's performance in this respect in both the magistrates' courts and the Crown Court has attracted criticism from other agencies. Many of the criticisms arise from poor case management and a lack of proactive supervision of the files, and we have dealt with this in our recommendation at paragraph 4.13.

- 4.23 Area managers told us they had identified a number of training needs in relation to disclosure, and had taken steps to deal with these issues. Although both the police and the CPS received initial training relating to the provisions of the Criminal Procedure and Investigations Act 1996, it was recognised by both agencies that further training was needed.
- 4.24 As a result, written comprehensive guidance on disclosure was provided to all prosecutors and caseworkers. Although this is a large document, it contains very useful information and gives practical guidance on such things as recognising shortcomings in schedules of unused material. Additionally, Area prosecutors have been involved in training for both CPS staff and the police.
- 4.25 We **commend** the Area for this positive approach to improving its performance in relation to disclosure through guidance and joint training.
- 4.26 The Area managers had also considered the Inspectorate's report on the Review of Disclosure of Unused Material (Thematic Report 2 of 2000), and drawn up an action plan to implement the recommendations and suggestions contained in the report.
- 4.27 One of the recommendations related to the use of a separate folder within each file to contain all material relating to disclosure. In some of the files we saw, separate folders had been inserted but frequently these did not contain all of the relevant material. This makes it difficult for other prosecutors and caseworkers to assure themselves that all appropriate steps have been taken in relation to disclosure.
- 4.28 Since visiting the Area, the CCP has issued instructions for a separate folder to be used exclusively for documents relating to disclosure, in both summary and Crown Court files.
- 4.29 Action sheets were attached to some of the folders. These were simple lists of the various stages of the case, including those relating to disclosure. Prosecutors and caseworkers should insert the various dates when particular actions are taken, for example, when primary or secondary disclosure is made, so that the sheet becomes a comprehensive - and easily read - record of the case progress.
- 4.30 We noted, however, that in most cases in our sample the sheets had not been completed. Whilst on site we observed files where the sheets had been completed, but, equally, we also saw files without any endorsements on this sheet.
- 4.31 The Area managers will, no doubt, want to assure themselves that these simple, but effective, records are properly completed by prosecutors and caseworkers, and that the separate folders are used appropriately.

Disclosure of unused material in the magistrates' courts

- 4.32 In our sample, we found that primary disclosure was made in the magistrates' courts in 34 out of 38 cases (89.5%). In eight of those cases, however, the primary disclosure consisted merely of a copy of the schedule of unused material received from the police that did not appear to have been properly considered or endorsed. Therefore in our assessment primary disclosure was dealt with properly in 26 out of 38 cases (68.4%).

- 4.33 In eight cases the primary disclosure had been made very close to the date of trial, or even at the trial.
- 4.34 It is unusual for the defence to serve a defence statement in the magistrates' courts, although we did see one case where this occurred. Unfortunately, there was no record of any action taken in relation to the statement, and secondary disclosure did not appear to have been considered. As a result of this the magistrates stopped the case.
- 4.35 Disclosure in the magistrates' courts in Hampshire has a higher profile than in some other areas that we have inspected. Because of this, it is the subject of criticism when there are failings. This is an issue that needs attention, and we make a suggestion at paragraph 4.41 in relation to disclosure generally.

Disclosure of unused material in the Crown Court

- 4.36 In our sample we found that where we could make an assessment, primary disclosure was dealt with properly in the Crown Court in 46 out of 52 cases (88.5%) and had been made at the time of the committal in 51 out of 54 cases (94.4%).
- 4.37 We found that a copy of the defence statement had been forwarded to the police for their consideration in 39 out of 41 cases. We were unable to ascertain whether this had occurred in the remaining two cases.
- 4.38 Secondary disclosure was dealt with properly in 31 out of 36 cases (86.1%) where we could make an assessment, and was served on the defence in a timely manner in 28 out of 37 cases (75.7%).
- 4.39 Again, these figures are, in our experience, significantly better than most other Areas, but in view of the continuing criticism from other agencies there is no room for complacency. Whilst a high proportion of cases are being dealt with properly, those that are not are a cause for considerable local concern. In an extreme case a judge may stay proceedings because the prosecution failed to deal with disclosure expeditiously. We saw one such case in the sample.
- 4.40 Area managers have already taken steps to improve its performance in relation to disclosure, and it is important that the benefits of the additional training that we commended at paragraph 4.25 is properly monitored.
- 4.41 We recommend that the CCP and BCPs continue to monitor the extent and timeliness of compliance with the prosecution obligations relating to primary and secondary disclosure in both the magistrates' courts and the Crown Court, with particular reference to recent guidance and training.**

Sensitive material

- 4.42 In some cases there is material that would normally fall to be disclosed but is particularly sensitive. This may result in an application to the courts for non-disclosure on the grounds of public interest immunity. This type of material has to be handled with appropriate care.

- 4.43 The Area appears to deal with a relatively high number of cases where there is material of this type – we found five cases in our sample (two from Eastleigh and three from Portsmouth). In all of those cases the material appeared to have been dealt with competently.
- 4.44 In practice, the police generally retain the actual material, but each Branch had different methods of dealing with the issue.
- 4.45 We recommend that the CCP and BCPs introduce a consistent system for dealing with sensitive material that is capable of properly recording all decisions, and at the same time safeguarding the sensitivity of the material.**

Third party material

- 4.46 One issue that may cause difficulties is the disclosure of material held by parties other than the police or the CPS, particularly in cases involving child abuse, where the local Social Services department might have very relevant, but very confidential or sensitive material about the child. This can lead to friction between the various agencies because of their conflicting obligations and interests.
- 4.47 The Area, the police and Social Services are aware of this potential conflict, and at the time of our inspection were in the process of agreeing a protocol for dealing with this material. We were told that the protocol will hopefully alleviate the difficulties relating to disclosure and might be used as a basis for a wider agreement and liaison between the CPS and the Social Services. We **commend** the Area for its role in this issue.

Upgraded files

- 4.48 When cases have to be prepared for summary trials or for committal, a full file is requested from the police to enable the necessary preparation to be undertaken.
- 4.49 In the majority of cases no record was made of when the full file was received from the police. This made it very difficult for us to assess whether or not some cases had been dealt with in a timely manner. The Area managers recognise the importance of timeliness, and take steps to measure it, but in order to ensure that the measurement is accurate it is essential that the date of receipt is properly recorded.
- 4.50 We suggest that the BCPs ensure that documents received from the police, particularly upgraded files, are date-stamped or otherwise effectively recorded to ensure that the timeliness of summary trial and committal preparation can be accurately measured.**

Summary trial preparation

- 4.51 In the magistrates' courts the number of ineffective trials (which have to be adjourned) and cracked trials (where the defendant pleads guilty or the case is otherwise concluded without a trial) is less than in many other Areas that we have inspected.

- 4.52 From figures provided by the courts, in the year 2000 of the 7,579 trial fixtures, 56.2% proceeded to trial. The cracked and ineffective trial rate was therefore 43.7%, of which 19.7% were ineffective and 24% cracked.
- 4.53 Of the 1,494 adjourned cases, 529 (35.4%) could not proceed because the defendant, his witnesses or his legal representative failed to attend. This compares with 412 cases (27.6%) that could not proceed because of prosecution difficulties. The remaining 553 cases were adjourned for various reasons, including 241 cases (16.1%) that could not proceed because of lack of court time.
- 4.54 Of the 1,823 cracked trials, late guilty pleas were entered by the defendants in 461 cases (25.3%). However, other trials cracked because the prosecution either discontinued the case (463 cases (25.4%)), or accepted pleas to some of the charges (218 cases (12%)) or to different charges (93 cases (5.1%)).
- 4.55 These figures are better than those found in most Areas and disclose an improving trend. This is encouraging. There remains, however, significant scope for improvement in the preparation of summary trials by the Area.
- 4.56 In practice the majority of summary trials are prepared by prosecutors who list the witnesses who are required to attend court and those whose statements should be served under section 9, Criminal Justice Act 1967 (which enables the defence to accept the evidence without the witnesses having to attend court). This information is then sent to the police for them to warn the appropriate witnesses.
- 4.57 In the file sample we found that the appropriate witnesses had been warned in all 49 cases, and in 41 cases they appeared to have been warned in good time. In four cases warning was late, and in the remaining four cases, we were unable to assess timeliness.
- 4.58 We found that in 38 out of 42 cases (90.5%) section 9, Criminal Justice Act 1967 had been appropriately used, and statements had been served in a timely manner in 36 of the 41 cases (87.8%) where we could assess timeliness.
- 4.59 We noted that it was common to both warn witnesses to attend and to serve their statement under section 9. The explanation we were given for this was two-fold – firstly, to ensure that comprehensive advance information had been given; secondly, because some responses from the defence requiring witnesses to attend were received late in the day, and it would be difficult to warn witnesses at short notice.
- 4.60 This approach might be more acceptable if there was effective case management. We saw a trial in which an officer who arrested one of two defendants had been called to give evidence. His statement had also been served on the defence. The defence had not indicated whether they required his attendance, but the officer gave no evidence that was essential to the case, and could have been tendered to the defence. In the event, the defence accepted his statement during the course of the proceedings and the officer was released having wasted time attending court. We were told that this type of occurrence is not unusual.

- 4.61 This results from a combination of lack of effective continuing review and poor case management. These have been dealt with in our recommendations at paragraph 3.14 and 4.13 respectively.
- 4.62 We also saw cases involving trials where there were outstanding issues, including witnesses not warned or essential information from the police still awaited. In some cases, the failure to deal with these issues resulted in the charges being dismissed. These and other issues should be identified and resolved in good time before the trial.
- 4.63 The Area managers accept that a pre-trial check at an appropriate time before the trial would have great benefits, and introduced a system for checking summary trial files 28 days before the trial date.
- 4.64 They were able to do this by using additional funds to employ agent prosecutors in court, releasing CPS prosecutors to deal with review work in the office. The additional funding was no longer available at the time we visited the Area, and we were told that such checks were no longer being comprehensively undertaken, or were not working effectively.
- 4.65 Such checks can substantially reduce the prospect of trials being ineffective although their optimum timing before trial can vary. They are very important in an environment where the CPS is being criticised for poor trial preparation. They are particularly important where so many summary trials are dealt with by agents who rely upon the quality of the file to enable them to prosecute the matter effectively.
- 4.66 We recommend that the CCP and BCPs implement and maintain an effective system to ensure that summary trial files are properly checked an appropriate time before the trial date, to ensure that any outstanding work is completed.**

Pre-trial reviews (PTRs)

- 4.67 In many cases, the courts hold PTRs that can clarify the issues and ensure that all necessary decisions are made and actions taken in good time. We found that the CPS had taken all appropriate steps before the PTR in 23 out of 25 relevant cases (92%).
- 4.68 We were told, however, that PTRs are not always effective because of the failure of parties, including the CPS to take subsequent action agreed at the PTRs. This could cover issues such as disclosure or service of section 9 statements.
- 4.69 We saw cases where the Area had not taken actions, with results ranging from criticism from the defence and the bench to trials being adjourned with consequent delay. The improved case management that we recommend at paragraph 4.13 would help to reduce the number of such cases.

Committal preparation

- 4.70 Area figures show that committal papers were prepared in a timely manner in 68% of cases in the last nine months of 2000. We have, however, discussed our concerns about the accuracy of these figures at paragraphs 4.48-4.50 above, as the date of receipt by the CPS was not clear on the files.
- 4.71 The figures are an improvement on the figure of 60.6% in the year ending March 2000. Area managers are anxious that this trend should continue.
- 4.72 Lawyers prepare all of the committals in the Area. This places a significant burden on them, particularly in an Area with a substantial number of committals. It can also deprive caseworkers of appropriate experience in the preparation of Crown Court cases.
- 4.73 We were told there are plans to change this in the future, subject to satisfactory training where appropriate.
- 4.74 We recommend that the CCP and BCPs ensure that caseworkers are involved in the preparation of committal files as much as is practicable.**
- 4.75 We were told that in some cases the committal papers contained inappropriate evidence, suggesting that insufficient thought and consideration had been put into their preparation. We found this in two cases, and see this as another reflection of the poor continuing review we referred to in our recommendation at paragraph 3.14.

Instructions to counsel

- 4.76 It is important that counsel instructed to appear in the Crown Court receive comprehensive instructions in a timely manner.
- 4.77 We found that there was a wide variation in the quality of instructions delivered to counsel both between individual prosecutors and individual Branches. In the sample, we found the following:

	AREA	Basingstoke	Eastleigh	Portsmouth
Instructions contained summary dealing with issues in the case	35/54 (64.8%)	17/19 (89.5%)	9/17 (52.9%)	9/18 (50%)
Instructions dealt with acceptability of alternative pleas	12/31 (38.7%)	6/12 (50%)	2/9 (22.2%)	4/10 (40%)
Instructions were satisfactory overall	34/54 (63%)	16/19 (84.2%)	9/17 (52.9%)	9/18 (50%)

- 4.78 In our experience the figures are generally encouraging, but are clearly capable of improvement.

- 4.79 We recommend that the CCP and BCPs ensure that instructions to counsel to prosecute in the Crown Court contain a summary that deals with the issues in the case and an indication of the acceptability of alternative pleas (where appropriate).**
- 4.80 As well as receiving proper instructions, it is also essential that counsel receive them in good time to enable the case to be properly prepared. The CPS and the Bar have agreed time guidelines, which require instructions to be delivered within 14 days of committal in most cases, or 21 days in more complex cases. The Area records that it delivered instructions in a timely manner in 81% of cases in the nine months ending December 2000. This is a substantial improvement on the figure of 56% in the year ending March 2000.
- 4.81 In the sample, we found that where we were able to ascertain timeliness the instructions were delivered in a timely manner in 76.1% of cases (35 out of 46), which is very similar to the figure (75.4%) recorded by the Area for the period covered. Again, in our experience these figures are encouraging, although capable of improvement.
- 4.82 The above findings relate to cases that had been committed for trial to the Crown Court. We found in the sample that in appeals or committals for sentence instructions were often delivered very shortly before the Crown Court hearing, or even delivered on the morning of the hearing. We observed instructions in cases that had been committed for sentence being handed to counsel at court, or in one case, left on the prosecution bench to await collection.
- 4.83 We recommend that the CCP and BCPs ensure that all instructions to counsel, including instructions in respect of appeals and committals for sentence, are delivered within agreed time guidelines.**

Indictments

- 4.84 CPS lawyers draft the majority of indictments, and we found that 14 out of 54 indictments (25.9%) required amendment at a later stage. Five of these were for minor errors that could have been prevented by more careful checking. Representatives told us that although indictments were frequently amended, this was not a major cause for concern.
- 4.85 The indictment was lodged within the required 28 days in all but one case in our sample.

Plea and directions hearings

- 4.86 PDHs are an opportunity to deal with issues relating to a case. We were told that the Area frequently fails to comply with directions in a timely manner, which results in cases being listed for mention unnecessarily or in cases being adjourned.
- 4.87 We found that directions were complied with in 38 out of 41 cases (92.7%), but they were complied with in a timely manner in 32 (78%). We also found that the lack of timeliness was directly attributable to CPS in five of the cases (12.2%).

- 4.88 We saw cases where there was evidence of steps being taken to comply with directions only after enquiries had been received from staff at the Crown Court or from the defence.
- 4.89 Area managers are aware of this, and have set targets to reduce the number of failures. Their figures show an improvement in performance over the past few months, reducing the number of failures from at least 40 in August 2000 to 12 in December 2000. This is an achievement, but the Area should persevere to maintain this improvement.
- 4.90 We suggest that the CCP and BCPs ensure that the improvement in performance in relation to compliance with Crown Court directions continues.**

The CPS in the Crown Court

- 4.91 It is important that CPS lawyers attend the Crown Court as a means of broadening their practical experience of Crown Court casework. We were told that whenever possible a lawyer attends the Crown Court, particularly on PDH days, to be available to give advice and guidance on the conduct of cases generally, and to discuss with counsel alternative pleas in particular.
- 4.92 In Portsmouth CPS lawyers deal with a large proportion of the applications for bail that are held in chambers. This is not the case with the other two Branches, both of which are some distance from their local Crown Court centre.
- 4.93 We appreciate the impracticality of sending a lawyer to deal specifically with a bail application, but the lawyers who attend the Crown Court do not deal with these applications. We consider that the duty lawyers would gain the optimum benefit from their attendance at the Crown Court if they also dealt with any bail applications, and this would have the added benefit of making their presence more visible to the judiciary.
- 4.94 We suggest that prosecutors, when attending the Crown Court for other purposes, take the opportunity to deal with bail applications in chambers.**
- 4.95 We were told that caseworkers normally cover two, or possibly three, courtrooms at the Crown Court. We observed one occasion when there was only one caseworker in the Crown Court when five courtrooms were sitting. We also noted a tendency for caseworkers to stay in the CPS room rather than sit in court, or rotate between courts.
- 4.96 This low coverage is aggravated by the lack of case ownership and handling at court. When making enquiries about particular cases we were told on more than one occasion that the caseworker handling the case at court had little knowledge of the case itself. We also observed that during the course of a trial, different caseworkers had been allocated to cover the case in court, with no apparent continuity being evident.
- 4.97 We recommend that the CCP and BCPs take steps to improve the coverage and continuity of case handling in the Crown Court by caseworkers.**
- 4.98 The amount of work undertaken in the Crown Court by CPS Higher Court Advocates (HCAs) differed between the Branches when we visited the Area, but we were told that all HCAs are now expected to attend the Crown Court for at least one session per week.

Appeals

- 4.99 Appeals comprise 11.6% of the Area's Crown Court caseload. This is similar to the national average (11%).
- 4.100 We examined 19 appeals against conviction and found that the Code tests had been properly applied in all cases. At the Crown Court, eight were allowed in full, and one in part.
- 4.101 In the Crown Court sitting at Portsmouth one appeal was allowed in full because the witnesses for the Crown failed to attend at the first hearing, and an adjournment was refused. In contrast, five cases could not proceed through lack of court time, and had to be adjourned.
- 4.102 We have already commented on the timeliness of delivery of instructions to counsel in these cases and made a recommendation at paragraph 4.83. We are concerned that lack of opportunity for thorough preparation is contributing to the successful defence appeals.

Custody time limits

- 4.103 Custody time limits (CTLs) regulate the length of time during which an accused may be remanded in custody. Failure to monitor the time limits, and, where appropriate, to make an application to extend them, may result in a defendant being released on bail who should otherwise remain in custody.
- 4.104 The Area has appointed one person with overall responsibility for the management of the CTLs, and the Branches each have a similar system for monitoring them. Part of the system involves checking a sample of the files, and we saw a file in our sample where such a check had been carried out, and a wrong expiry date had been corrected.
- 4.105 We looked at ten files in each Branch, but found that in Portsmouth four of the expiry dates were incorrect, and these had not been detected in the Branch. As far as we could ascertain this was a fault resulting from a failure to implement the Branch system, possibly because of lack of training for the appropriate personnel dealing with the matter.
- 4.106 We also saw another file where there had been a failure to properly monitor a case where CTLs applied, resulting in a failure to give notice of an application to extend the custody time limits in good time. In this case the appropriate action dates (which should prompt review of the CTLs) had not been recorded in the diary. As a result the lack of notice only came to light on the day before the expiry date. Consequently, notices were faxed to the defence and the court after 5pm on the day before the hearing. The judge subsequently refused to extend the custody time limits.
- 4.107 In fact, the CTLs had been extended less than a month before, when the judge had directed that if there was to be any further application to extend the CTLs appropriate notice should be given. This case highlighted not only the failure to monitor the CTLs but also the overall lack of case control that led to our recommendation at paragraph 4.13.

4.108 We recommend that the ABM undertakes, as a matter of urgency, an examination of the system to deal with CTLs, with a view to identifying and rectifying any defects.

File endorsements

4.109 We have already commented on review and bail endorsements. Good clear file endorsements relating to the progress of a case generally are essential if good case management is to be achieved. We found that the proportion of satisfactory endorsements in the file sample was as follows:

	AREA	Basingstoke	Eastleigh	Portsmouth
Court endorsements in magistrates' courts files	77/106 (72.6%)	31/36 (86.1%)	22/36 (61.1%)	24/34 (70.6%)
Out-of-court endorsements in magistrates' courts files	83/106 (78.3%)	35/36 (97.2%)	21/36 (58.3%)	27/34 (79.4%)
Court endorsements in Crown Court files	50/54 (92.6%)	19/19 (100%)	17/17 (100%)	14/18 (77.8%)
Out-of-court endorsements in Crown Court files	51/54 (94.4%)	19/19 (100%)	16/17 (94.1%)	16/18 (88.9%)

4.110 Whilst recognising that these figures can be improved, in our experience they are comparatively good. Again we note that we make these assessments as experienced practitioners. Our lay inspector (and similar comments have been made in other Areas) found the overall records very difficult to follow. The same may be true for agents who receive the files. It will also make the work of CPS staff more difficult if the endorsements are not easy to follow.

Providing information for pre-sentence reports

4.111 The CPS has agreed nationally that it will provide the Probation Service with details of the case and the previous convictions of the defendant where magistrates order a pre-sentence report or the defendant is committed to the Crown Court. This information assists the Probation Service in preparing a balanced report for the court when sentencing the defendant.

4.112 We were told, and it was apparent from the sample, that if the file is being dealt with under the Narey initiative, the information is generally provided. In other instances, however, the lack of provision of this material was described to us as a constantly recurring problem. Once again we feel that this is another reflection of poor case management.

- 4.113 Youth Offending Teams (YOTs) write reports for young offenders but they have more difficulty if the information is not available at the court. Where the information is provided later it is still sent to the Probation Service for onward transmission to the YOTs. This builds in further delay, and we were told that some reports have been written without the benefit of the information.
- 4.114 We suggest that the CCP, in conjunction with the Probation Service, examines the procedure for providing information for pre-sentence reports to the Probation Service and YOTs, with a view to ensuring that it is provided in all appropriate cases, in a timely manner.**

PRESENTING CASES

Advocacy standards

- 5.1 The Inspectorate uses the CPS National Standards of Advocacy to assess all advocates observed during inspections.
- 5.2 We observed 41 advocates, including CPS lawyers, DCWs, agents and counsel, prosecuting in the magistrates' courts, youth courts and the Crown Court.

The quality of advocacy in the magistrates' courts

Crown Prosecutors

- 5.3 We were told that the standard of advocacy was generally good. All the advocates we observed were competent, with some notable examples of confident advocates presenting cases to a high standard. In general the advocates were well prepared and this was reflected in the standard of their advocacy.
- 5.4 We did observe some advocates, however, who were less well prepared in comparatively straightforward cases, and in some instances they had difficulty in dealing with issues raised in cases.
- 5.5 We saw a number of applications for remands in custody, but saw that in some cases the prosecutors' applications were limited as to the amount of information that was provided to the magistrates. Prosecutors will want to ensure that, when presenting these applications, they fully explain the prosecution position and provide the magistrates with all the relevant information.
- 5.6 The CCP and the BCPs aim to prosecute cases in the magistrates' court regularly, although this has not always been possible recently, because of the increased need to manage the organisational changes. Nevertheless, we would support this practice as it enables them to monitor the quality of CPS casework, the advocacy performance of members of staff, and to represent the Area or Branch in the various magistrates' courts.

Designated caseworkers

- 5.7 We received very positive feedback regarding the standard of DCWs from other court users. We observed two of the five DCWs in the Area, and they were both competent, and with more experience their standard would continue to improve.
- 5.8 The court lists are arranged to ensure that they are able to deal with whole court lists, and this is indicative of the co-operation between the Area and the magistrates' courts locally. At present this enables the Area to employ the DCWs effectively for most of the week, and the Area is seeking to negotiate the introduction of further courts that can be dealt with by DCWs to maximise their effectiveness.

Agents in the magistrates' courts

- 5.9 Most of the agents used by the Area are junior counsel, although a small number of experienced solicitors are used.
- 5.10 The use of agents increased substantially during August-November 2000. This was to free up lawyers to increase the amount of time available to review and prepare cases, and to support the Crown Court Units where appropriate. This had been well received by lawyers and had improved matters on a temporary basis. However, we were concerned that there was already talk whilst we were on site of returning to the pressurised position in earlier times.
- 5.11 There was a perception by representatives of the magistrates' courts that too many poor quality or poorly briefed agents were being instructed by the CPS. At the time of our visit fewer agents were being used, and the Area, we were told, was generally able to be more selective as to the agents it employed.
- 5.12 We were able to observe 12 agents, two solicitors and ten junior counsel. We found that all except one junior counsel were at least competent and in a number of cases displayed high standards of advocacy. We observed a confident and pro-active approach to their roles and some provided very sound positive advice.
- 5.13 We were concerned with the standard of one agent, who we were told had already been identified as a poor performer by the Area. We were somewhat surprised, therefore, that the agent had been instructed without any steps being taken to monitor properly the agent's performance.
- 5.14 Individual agents and chambers adopt their own practices with regard to obtaining files. Whilst some are sent via courier or DX, the majority are collected from the CPS offices. Despite the fact that Branches now try and have files ready 48 hours before a court, it is not uncommon for the paperwork to be collected on the morning of the trial.

Agents in the youth courts

- 5.15 Suitably experienced CPS prosecutors deal with all youth remand courts, but trials in the youth courts are frequently dealt with by agents.
- 5.16 Representatives of other agencies have concerns about the competence of some agents to deal with cases in this relatively specialised field. It is accepted that the CPS uses agents to deal with youth trials but it is essential that agents with appropriate experience are instructed to deal with such cases.
- 5.17 All the agents we observed in the youth courts were very well prepared and presented their cases properly, but Area managers will want to assure themselves that only appropriately experienced agents are used in the youth courts.

The quality of advocacy in the Crown Court

Crown Prosecutors

- 5.18 We were unable to observe any of the Area's HCAs presenting cases in the Crown Court, as none appeared at the Crown Court during the on-site phase. We were told, however, that the HCAs were highly regarded by other court users and the judiciary. We have already commented on the Area's commitment to employ the HCAs more regularly in the Crown Court.
- 5.19 We were told that CPS lawyers from the Portsmouth Branch often deal with bail applications held in chambers in the Crown Court at Portsmouth. Again, we did not observe any during the on-site phase, but were told that they were well prepared and presented their cases well.
- 5.20 We have made a suggestion at paragraph 4.94 that more CPS lawyers should take the opportunity to deal with these bail applications.

Counsel

- 5.21 Generally counsel are selected by caseworkers, although in the more serious or complex cases, lawyers will be involved in the selection.
- 5.22 CPS staff expressed a fairly high level of satisfaction with the quality of counsel instructed, although some external agencies were not quite as confident, and expressed the view that defence counsel were sometimes more experienced and competent than the prosecutor. Others were happier with the standards of counsel but felt that continuing improvement in the quality and timeliness of briefs, together with better caseworker coverage in court were crucial.
- 5.23 We observed nine counsel in the Crown Court, and all of them were satisfactory, appearing to be properly prepared and confident in the presentation of their cases. Nevertheless, the CCP will want to ensure that counsel of the right calibre are always instructed on behalf of the prosecution in the light of the observations made to us by other court users.

Monitoring of advocacy standards

- 5.24 We consider that the value of regular and effective monitoring, coupled with appropriate feedback, cannot be underestimated, given its intrinsic benefit to the performance of the individual concerned, as well as to the Area as a whole. Furthermore, the CPS has agreed with the Bar revised arrangements for the selection of advocates in the Crown Court, and the extent of monitoring to be undertaken.
- 5.25 We were told that at present there is no effective system of regular monitoring in place, for either CPS advocates or other advocates, although when adverse feedback is received, steps are taken to monitor particular advocates.

- 5.26 We were told that this has been effective in the past, with the Area ceasing to instruct two particular advocates. However, we received conflicting information as to the effectiveness of monitoring on this basis.
- 5.27 We recommend that the BCPs introduce effective monitoring to assess the quality of Area advocacy, so that poor performance can be identified and appropriate action taken, including the provision of training where appropriate.**

Returned briefs

- 5.28 We found that 15 out of 36 counsel originally instructed appeared to prosecute at the trial, and trial counsel appeared at the sentencing hearing in 11 out of 19 cases. In our experience this is by no means a high rate of returned briefs when compared with some other Areas.
- 5.29 We appreciate that a number of factors, including listing practices and late changes of plea, can contribute to this result. Nevertheless, the CCP will want to ensure that the standard of advocacy in the Crown Court is not adversely affected by the rate of returned briefs, and, if necessary, take remedial action. It is particularly important that returns are made to counsel of appropriate experience and calibre.

MANAGEMENT AND OPERATIONAL ISSUES

Management of the Area

- 6.1 At the time of the inspection, the Area was heavily involved in implementing its Glidewell strategy, and one combined CJU and TU with co-located police and CPS staff was already up and running, with another CJU which started on 15 January 2001. The timing of the reorganisation is such that a few aspects of the report that would otherwise have attracted recommendations, will not do so, as it is accepted that they will be resolved by the Glidewell implementation.
- 6.2 Parts of the Area have experienced long-term difficulties, and we have taken this into account in the interests of giving a balanced evaluation of current performance.

Strategy and Planning

- 6.3 The CCP and the ABM have been heavily involved with other agencies in formulating strategies and plans for a 'joined up' criminal justice system throughout the Area. Their efforts in this work are recognised and appreciated by other agencies.
- 6.4 The Area has developed a good overall business plan, which is supported by a synopsis of key points. Details of the major objectives had been cascaded to staff and all staff interviewed had a clear understanding of the key priorities for the year, as identified by the management committee. These were:
- * early implementation of Glidewell recommendations in terms of achieving co-located operations with the police;
 - * achieving agreed national performance standard targets;
 - * monitoring and improving performance on some local key indicators; and
 - * clearing backlogs of work (primarily at Eastleigh).
- 6.5 The plan is pitched at an Area level and a decision was taken not to prepare branch plans during the current year. Nevertheless individual branches clearly have different issues and the ABM may wish to consider if branch plans would be helpful in focusing even further the attention of staff in each location on local issues. It may be valuable for each branch to define its short-term focus and share this with other agencies.
- 6.6 We suggest that the ABM and BCPs agree the local priorities for the next three to four months and share these with relevant CJS partners.**
- 6.7 The Area was well advanced in terms of Glidewell implementation and was on schedule to complete the roll out of co-located CJUs and TUs by June 2001. The ABM has been very heavily involved at the strategic planning level with the project board, and this activity has been or will be supported by local implementation groups at the appropriate times. A preference exercise was completed some time ago and staff were advised of the outcome although an unfortunate error detracted from the benefit of this approach.

- 6.8 The major cause of concern was the lack of administrative staff who want to work in Aldershot CJU. As with most Areas, there was still a feeling of uncertainty amongst staff as to how the changes would affect them personally. There had clearly been a lot of effort by both the police and the CPS on a strategic level in planning and the Area plans have been discussed in both Whitley Council meetings and at the Area Sounding Board. However, until such time as the local implementation groups get involved, staff will probably continue to feel somewhat detached from the process.
- 6.9 There was evidence of compromise and innovative thinking being used jointly with the police to overcome obstacles and we **commend** the Area for its collaborative approach. The early signs were encouraging in that, after the initial ‘shock’, the teams were working well together and most staff fears were not realised. It is to be hoped that this continues as the roll out progresses, and that any issues identified by the first sites can be rectified quickly.
- 6.10 It is also important, in order to maintain the momentum of achievement, that staff should be well motivated. The strong and effective leadership we found in the Area, which is well respected by externals and CPS staff, is generally beneficial in this regard. But care is necessary to avoid this giving rise to a style which is so forthright as to create anxiety or stifle innovation or participation by staff.
- 6.11 Some staff expressed concern that the Area was trying to achieve too much, too soon, and that unrealistic expectations were being made of them, without the resource levels to support changes. This is a difficult issue, in that, despite the good progress made in many problem areas, there was still clearly a lot which needed to be done. The CCP and ABM will need to ensure that they can retain the focus on the key priorities which require further work and do not dilute their efforts by attempting to deal with too wide a range of issues, some of which are less crucial by their nature.

Organisation and structure

- 6.12 The Area had effected the functional split into Crown Court and magistrates’ courts teams in October 1999 and was operating with an interim structure pending the outcome of the appointment of permanent Unit Heads, which was imminent at the time of the inspection. We were pleased that, for the most part, the level and spirit of co-operation between the units was considered good by staff.
- 6.13 Both the management and the casework committees meet on a monthly basis, and we have drawn attention to the implementation of the casework committee as good practice (paragraph 3.58) to ensure that appropriate management focus is retained on ‘legal’ matters. Both committees meet on a monthly basis.
- 6.14 A re-organisation had taken place shortly before the inspection, which meant that two of the BCPs had held their current position for a very limited time. The siting of the desk of the new BCP at Eastleigh on the ‘shop floor’ has been received positively by staff, and should help overcome any perceptions of remoteness.

- 6.15 The Area had a slightly unusual management structure with level B2 managers responsible for more than one office and a 'central column' structure of the administration, whereby all level A and B staff report via a line manager or direct to the ABM rather than to a leading prosecutor in the individual branch.
- 6.16 In order to ensure that individual branch performance could be better understood, a much greater focus had been placed on the role of the Branch Office Manager (BOM). The reporting line for the BOM and the B2 manager is direct to the ABM as part of the Area's 'central column' structure. This structure was adopted to reduce the time devoted to management (in particular by lawyers), to utilise resources better, and to provide clearer information to the ABM. Nevertheless, the structure has also caused some confusion and misunderstandings.
- 6.17 Leading prosecutors (formerly prosecution team leaders) and lawyers had less interplay with administration and support staff than is usually seen. This was specifically designed to enable them to concentrate on casework and legal issues. This meant there was a wide span of control for B2s and in practice less control being exercised over caseworkers by local managers than would have been expected. This was most noticeable in Portsmouth, where we felt that day-to-day management and guidance to caseworkers had been allowed to slip, resulting in it being unclear as to who was doing what at any given time. Information in a diary about staff allocation did not appear reliable. We support the aim of caseworkers managing their own allocated cases both within the office and at court, but this was not the case. There was a lack of clarity about their roles and workload.
- 6.18 With the provision of casework support through the central column system, there must be good levels of communication and co-operation between the prosecuting teams/managers and the BOM and B2 managers to ensure that operational requirements are not compromised by conflicting objectives or priorities. Prosecutors, caseworkers and support staff are, and will continue to be in the new structures, interdependent. At the time of the inspection, leading prosecutors were finding it difficult to devote much time to management responsibilities, and they generally attributed this to having personal caseloads and dealing with ensuing problems. This lack of direction was contributing to the problems being experienced (particularly in Portsmouth) and was causing some concern to staff.
- 6.19 We recommend that the CCP and ABM improve clarity and understanding about the responsibilities of branch management and the central column team.**
- 6.20 Two branches have 'shared' a B2 line manager and this has not worked particularly well for the staff in Basingstoke, which is normally covered for one day per week. It is accepted that this should be remedied by the reorganisation as the Glidewell roll out continues.
- 6.21 The Area has a significant number of serious cases and has recently appointed a Special Casework Lawyer (SCL) and senior caseworker to deal with the most serious, complex and sensitive cases. The SCL was new in post at the time of the inspection and we understand that he will be expected to develop a wider role.

Performance management

- 6.22 In recognition of the severe problems at Eastleigh, the CCP invited the CPS Management Audit Services (MAS) team to conduct a review of processes and systems used in the branch in November 1999. A number of recommendations and ideas expressed by the MAS team had since been implemented and this has helped improve performance in some matters. Most notable had been the clearance of a backlog of approximately 4000 old cases, both in terms of finalisations on SCOPE and dramatically reducing the cluttered nature of the working environment. The Area also received assistance from other CPS Areas and this is a good example of how a national service can assist a particular Area without compromising the integrity of the Area concerned.
- 6.23 However, whilst there has been solid improvement in a number of issues at Eastleigh of late, there are clearly some very basic problems which still need to be resolved - most notably, the ability to produce the file at court at the right time. The Area was experiencing difficulty in recruiting and retaining staff at level A, and this doubtless contributes to the ongoing problems in getting basic administrative issues right. We recognise that the Area has held regular and frequent recruiting exercises. Additionally, uncertainty about the budget had tended to inhibit the recruitment of permanent staff, and the use of casual appointments does not encourage long-term stability.
- 6.24 We recommend that the ABM endeavours to resolve the staffing problems at level A in Eastleigh as a matter of urgency.**
- 6.25 The CCP had introduced a wide range of local measures and targets aimed at monitoring and improving performance across the Area. These are produced in spreadsheet format and can be used to identify and thereby improve issues of concern in each branch. We **commend** the Area for its efforts in collating and analysing this data, although we had a slight concern that some local managers were not as alert to the issues as might have been expected.
- 6.26 We saw instances whereby remedial action had been taken which had radically improved performance. An example would be the new system, including designated responsibilities, for dealing with timely compliance with PDH directions at Eastleigh, which had resulted in a dramatic improvement in performance (65 failures to comply with judges' directions on time in June – September down to 11 failures in October – December). Again we were concerned to find that this had not had the impact or gained the recognition from external agencies that it merited. This appears to be another example of expectations of poor performance being difficult to overcome. On the other hand the Area must be alert to carrying this improved preparation through to the moment of presentation of the case when the impact is truly felt.
- 6.27 Whilst Eastleigh clearly had the biggest problems, the other branches had their own weaknesses and it is important that these do not get overlooked. Portsmouth branch had a number of issues of concern including outstanding fees and non-compliance with court directions, which had not been helped by the lack of local management direction. In Basingstoke (which had a significantly lower ratio of serious crime than the other branches), the issue of outstanding fees was acute. We understand that the programme to address this issue has continued with further improvement since the end of the inspection and the publication of this report.

- 6.28 On an overall basis we felt that the Area, driven by the CCP and ABM, was making great effort and solid progress in bringing about improved performance albeit from a low start point in some aspects. It is to be hoped that the progress made so far can be sustained, as it is easier to bring performance up to standard than it is to change from satisfactory to consistently high performance.
- 6.29 It is important that the improvements shown on the internal indicators quickly translate into actual improvements in court, as the external agencies were still clearly feeling a level of frustration at the performance of the CPS. In order to achieve this the CCP and ABM will want to ensure that improved performance is recognised by the other agencies.
- 6.30 The Area has also made good progress in the timely serving of committal papers and briefs to counsel and the timeliness of responding to complaints. We had slight concerns that the senior management drive to raise performance had led some staff to be so focused on achieving the timeliness targets that quality could be put at risk. The CCP will wish to ensure that the ‘spirit’ of the target is not overlooked.

Management of financial resources

- 6.31 The Area perceives that it has been affected by long-term under-funding, and they do appear to have been less generously treated than most other CPS Areas. On 1 April 2000, the Area was only allocated 87.2% of the funding which, had all Areas been resourced equally on a weighted workload basis, it should have received. Whilst it is clear that the large backlog of finalisations will not have helped their funding, it was the view of inspectors that the Area had some of the busiest courts they had observed, and a higher than normal rate of serious cases.
- 6.32 The Area has benefited significantly from additional monies throughout the current financial year, but like many CPS Areas, has found it difficult to make best use of the funds or to plan effectively with the drip feed of funding, most of which was not guaranteed for the future. In the event, recent decisions about the funding of the CPS as a whole provide a much brighter outlook.
- 6.33 The Area was allocated £220,000 through the Performance Improvement Programme (PIP). Plans were drawn up and discussed at the HMC as to how the money should be used, and it was decided that much of the funds should be used to secure additional agents, to relieve the pressure on prosecutors and to facilitate an improvement in the review of cases. The money was allocated on a branch basis and good controls were put in place to monitor the use of the funds. Money was also set aside to recruit some casual staff to help with the administration problems of the Area.
- 6.34 Feedback from staff suggested that there had been some real benefits in the period when agent funding was available, but that there would be no long lasting improvement and things might well ‘return to normal’ as soon as the funding was exhausted. From our observations there is concern that the CPS has not obtained best value for a considerable investment, although we are reassured by the prospect that the funding available to the CPS generally during the next financial year will enable performance improvement to be approached on a more consistent basis rather than on the basis of initiatives being taken as and when funding is available.

- 6.35 The Area had a fairly high overspend in the previous financial year, albeit that this had been notified to CPS headquarters in advance. Additional controls had been put in place by the ABM to prevent a recurrence of this problem. These included better control and understanding of committed spend, and caps on agent and courier expenditure. At the midway point in the current financial year, the Area had spent 47.6% of its budget as against the national average of 48.1%. The CCP and ABM were confident of returning an 'on budget' performance this year but, whilst acknowledging the additional short term funding, felt that there was clearly a need for long term CPS budget allocation improvement.
- 6.36 The Area had recognised that a backlog had developed in terms of the payment of counsel fees and had targeted this as one of the internal key performance measures. After a relatively slow start, there were signs of some real progress being made towards the end of the calendar year and the backlog had been reduced from 300+ in June to 60 by December, and we have been told there has been further substantial reduction in January 2001.
- 6.37 The problem was most acute at Basingstoke, and this was partly attributable to the lack of a full time B2 manager for that branch. We were also concerned that some less experienced B1 caseworkers were still not too comfortable in the overall fees management process. Since June 2000, the Area has undertaken four training sessions devoted to dealing with counsel fees to improve the understanding of the caseworkers. Nevertheless, the ABM will want to keep a careful eye on the situation pending the set up of the combined TU at Eastleigh.
- 6.38 Costs against the CPS was another aspect of prosecution costs which caused us concern. External agencies had clearly felt frustration at the long-term poor administrative performance of the CPS in certain courts, and had used what was believed to be the only sanction open to them. At the time of the inspection these costs amounted to almost £50,000 which represented almost one third of the costs against the entire CPS.
- 6.39 Failures still occur too frequently in the magistrates' courts and we were told there had been a substantial number of wasted costs orders made against the prosecution. Paradoxically, the cracked and ineffective trial rate in the magistrates' courts for the area was one of the lowest encountered so far by inspectors (less than 50% when others are as high as 80%). It is to be hoped that the improvements recorded in the internal performance indicators will quickly lead to noticeably better performance in court with the consequential reduction in awards against the CPS.
- 6.40 In common with many other CPS Areas, the Area did not regularly deploy its HCAs in the Crown Court, as it was felt that they could be better utilised by preparing cases for the Crown Court or prosecuting in the magistrates' courts. With almost £20,000 of new funding available (vired from Prosecution Costs), the Area had agreed a target of 98 sessions by the end of March 2001, and intends to deploy each HCA on average once per week.

- 6.41 The Area was not particularly well resourced in terms of equipment, both within its own branches and at court. An aspect of particular concern to staff was the need to share one colour photocopier between three branches as well as with two other CPS Areas, which had led to operational difficulties and delays. Staff also believed that they would benefit from more fax machines and particularly PCs. With the upcoming restructuring as Glidewell is implemented, together with the recently announced increase to budgets, the ABM will wish to review the levels of equipment available (taking into account the timetable for implementing the Connect 42 Information Technology project in the Area).

Management of human resources

- 6.42 The Area operates a formal recognition system, whereby appreciation of individual good performance is acknowledged in writing to the individual concerned. With the recipient's consent, the recognition is published on notice boards and internal communications. Managers felt this was well received by staff.
- 6.43 Hampshire has suffered long term budgetary concerns and operational difficulties, many of which pre-date the forming of the Area in April 1999, and these have, not surprisingly, had an impact on the morale of staff. Some staff were still feeling a degree of stress, despite the steps taken in the Area to combat this.
- 6.44 There were some signs of improvement in recent months, particularly amongst prosecutors who will have benefited as a result of PIP funding, although there was still some way to go in achieving an Area-wide team of highly motivated staff.
- 6.45 Area managers have an ideal opportunity over the next few months to accelerate this progress, and should strive to capitalise on the new structures, managers, processes, premises and budgets as catalysts for positive change.

Training and development

- 6.46 Despite the operational difficulties that have been faced, it was pleasing that the Area had made a concerted effort to train and develop its staff. Performance appraisals were completed in a more timely fashion than most (80% by 16 June 2000 against a national average of 68%), but more importantly, considerable commitment had been made to the ongoing review of objectives and progress made. There was still some room for development in terms of focusing on more personalised (less generic) individual and team objectives.
- 6.47 The same level of commitment was apparent in the vital area of training, and this was recognised by the Investors in People (IiP) team that assessed and accredited the Area. There is an Area Training Committee, which meets every two months to discuss and agree actions. The priorities have been identified as general administrative staff and caseworkers, which is consistent with the difficulties being experienced in operational delivery by the Area. A training needs analysis had been developed by means of self completed questionnaires and analysis of Personal Development Plans (PDPs) and Forward Job Plans (FJPs).

- 6.48 In addition to the standard national and regional programmes, on which most Areas tend to rely, the Area was providing additional training and development activity based on local specific needs. This included work on:
- * NVQs;
 - * training days;
 - * planning on the new system for sending indictable cases to the Crown Court and witness liaison; and
 - * counselling skills.
- 6.49 We **commend** the Area on its committed approach to staff development and training.
- 6.50 The Area through its own evaluation process identified induction training as being capable of improvement. Work had since been undertaken which resulted in the induction programme being extended from one to two days. Whilst this had improved the quality of training provided, it had proved more difficult to release staff, with the result that some people had been in post for some time before formal training was provided.
- 6.51 Induction packs were available for new joiners, but these would only be truly effective if local managers and mentors find the time to support the new member of staff. Feedback suggested that this support was not always forthcoming, and this was having a negative impact on the quality of work.
- 6.52 This was particularly true in Eastleigh, where there was a very high turnover of staff at level A, and a very inexperienced team to support one another. Therefore, whilst we have commended the Area for its efforts in training, this must be balanced with the fact that shortages of staff in some areas have led to continuing poor performance, and further work is still needed.
- 6.53 In light of the possibility that the Area may be recruiting additional staff as a result of new funding, and the possible changes to working practices that will be brought about by Glidewell, the induction process will be increasingly important.
- 6.54 **We suggest that the Area Training Officer continues to monitor the effectiveness of the induction process and training.**

Internal communication

- 6.55 Effective communication is a real challenge in multi branch Areas and the Area had developed a communications strategy designed to meet the challenges. Considerable efforts were being made to keep staff at all levels informed of relevant issues. A number of written ‘publications’ were a feature of the strategy, including CCP bulletins, Glidewell updates, Area Newsletters, minutes of meetings etc. However, as with other Areas, there had been some breakdown in the provision of oral feedback to staff.
- 6.56 Team meetings were generally held fairly sporadically, and whilst there were some examples of informal feedback from meetings such as HCC and HMC, it was more normal for the minutes and memos to be the main source of information. This had resulted in some staff feeling that they suffered from a ‘paper overload’, although it is

recognised that it is far better to have a written record than no information at all. This perception may also be linked to the volume of data, including performance data, that is available in the Area, which is generally more comprehensive than in other CPS Areas.

6.57 We recommend that the BCPs ensure that oral feedback mechanisms are in place that will make sure that key issues are known to all staff.

6.58 There had been a great increase since November in terms of meetings held by BOMs to try and bring focus and priority to the administration functions in both Eastleigh and Portsmouth. In one branch this had led to weekly sessions, whereas the other had opted for short daily 10 minute meetings (“daily prayers”) to agree key activity for the day in question. We **commend** this activity, with the caveat that care must be taken to ensure that activities planned are in alignment with the needs of the branch as a whole, and that they do not take place simply for the sake of holding a meeting.

6.59 As previously stated, we were somewhat concerned that there was some confusion over the management of B1 caseworkers and DCWs and this had led to them being missed out in terms of communication on occasion, and our recommendation at paragraph 6.57 should help resolve this problem.

Distribution of workload

6.60 In the view of inspectors, Area staff were busy and processed more transactions per prosecutor and caseworker than other Areas seen with a similar caseload. This was driven primarily by budgetary constraints, although there was generally a good work ethic amongst staff. Whilst good from an efficiency viewpoint, there had clearly been a knock-on impact in terms of quality.

6.61 There were some substantial differences between branches in terms of gravity of cases, pressure, and experience of staff. The CCP and ABM will want to target carefully how next year’s budget will be prioritised, giving particular attention to the impact of Glidewell changes and the difficulties in the administration at Eastleigh.

6.62 The allocation of files (both advice and prosecution) to prosecutors in some parts of the Area was handled by a ‘self selection’ process which had no management controls to ensure equitable distribution of work. Whilst we did not observe any overt abuse of the system, it was clear that appropriate thought did not go into prioritising cases, and there was plenty of scope for unfair divisions of labour. Some clearer form of allocation through managers, or in the first instance by alignment to courts or police divisions, would enhance personal responsibility and case management. We make the following suggestion on the basis of what we observed, although we have been told that these systems have been changed since the inspection.

6.63 We suggest that the BCPs review the file allocation process in order to ensure the fair distribution of work.

- 6.64 As previously mentioned we had some difficulty in understanding the priorities and activities being undertaken by some caseworkers, who we considered would have benefited from better leadership and direction. They were primarily left to their own devices, and whilst recognising that they are experienced members of staff, we were concerned that their activities may not be fully aligned to the needs of the branch. Again, we would prefer to see clear systems that support individual responsibility and case management.
- 6.65 We were also concerned at the large amount of flexi time that had been accrued by some caseworkers, and managers will want to take steps to assure themselves that there are solutions in place that will prevent this from being an ongoing problem.
- 6.66 We recommend that the CCP, ABM and BCPs improve the clarity and understanding of the operational management and direction provided to caseworkers and DCWs.**
- 6.67 Leading prosecutors did not seem to exercise as much influence over day-to-day activities as one would have expected. We felt that in some cases the shift to the ‘central column’ for administration services had bordered on abdication of duty as opposed to delegation. A prime example would be the non-input to the rostering process, with the result that junior (albeit capable) members of staff were left to deal with dissatisfied prosecutors who did not like a proposed allocation. Our recommendation at paragraph 6.19 should help minimise our concerns in this area.

Sickness absence

- 6.68 The figures quoted in the national statistics indicated a low sickness rate of 6.3 days per member of staff in the last financial year. Unfortunately, these figures were not correct, as an error had occurred, which had resulted in the stated figure being less than half the correct rate.
- 6.69 It was disappointing that updated figures on current performance, obtained from the Service Centre, were still palpably inaccurate. There were clearly some very high levels of absence within the administrative teams at Eastleigh, which when linked to the difficulty in recruiting and retaining staff, would have played a major part in the difficulties of the branch.
- 6.70 We were told that it would not be unusual for work to go unattended in the case of unplanned absence, as colleagues would often have pressures of their own. This is usually blamed on lack of resources. The Area is in the process of implementing Glidewell, which will lead to some smaller, more discrete units that are likely to be more seriously impacted by staff absences, as cover by colleagues will be even less readily available.
- 6.71 We suggest that the ABM and BCPs implement an improved system for processing work when staff are absent.**

Victims and witnesses

- 6.72 As with many Areas, there was a noticeable difference between the service provided to victims and witnesses in magistrates' courts and the Crown Court, mainly due to the Witness Service representation in the Crown Court.
- 6.73 As part of the inspection process, a number of witnesses were interviewed by the lay inspector. They were generally supportive of the Witness Service, but seemed not to be as aware of the involvement of CPS staff in meeting their needs. The lay inspector formed the view that sensitive cases were handled well, but that the criminal justice system as a whole treated witnesses more casually in 'run of the mill' cases. They might be kept waiting in the hope that court space be found, or asked to return a second or third time. Greater participation in the listing process by the CPS may help this.
- 6.74 One of the branches in the Area was participating in the Victim Scoping Study, although they felt it was too early to draw any conclusions as to the benefits or otherwise of the work undertaken.
- 6.75 A survey of witnesses had recently been conducted, but this did not identify any major areas of dissatisfaction. However, there had been complaints about failure to apply for compensation and this is a matter that should be addressed generally.
- 6.76 We note that there is a Service Level Agreement in existence between the agencies in the area about the care and treatment of victims and witnesses, but we were disappointed that there was little or no awareness of this in practice. The CCP will want to ensure that it is an up to date and living document.

Magistrates' courts

- 6.77 The courts in Portsmouth and Southampton were exceptionally busy, and it was perhaps understandable that CPS lawyers were having some difficulty in keeping everybody in touch with events at court. The facilities in the courthouses were also not particularly good and witnesses and defendants would often be in close proximity to one another. It was encouraging that the Witness Service was about to be represented in one of the Area's magistrates' courts, as this extra support and better facilities will undoubtedly improve the care available to witnesses and victims.
- 6.78 The majority of witnesses were warned in reasonable time, but administrative failures at the CPS had caused a number of problems. The cracked and ineffective trial monitoring data indicated that, throughout the Area, 172 civilian, police and expert witnesses failed to attend as they were not warned during the year 2000. This represents a failure in less than 1% of cases, but obviously has a big impact for the cases and witnesses concerned. A case was seen in which it had not been picked up that a witness was 'unable to attend' on the proposed date of the trial, (resulting in a wasted costs order) followed by the failure to warn witnesses for the subsequent rearranged trial.

Crown Court

- 6.79 We received mixed messages with regard to the provision of witness care in the Crown Court. Some interviewees believed that better staging of witnesses was possible, greater assistance and communication with regard to vulnerable witnesses was needed, and there was widespread comment with regard to the low coverage of caseworkers in courts. On the other hand we were told of good attempts by caseworkers and most counsel to meet with witnesses and help them as required.
- 6.80 We were told that some prosecuting counsel were reluctant to speak to witnesses, being fearful that this might compromise the conduct of the case. However, the witnesses in the Crown Court told us that counsel had introduced themselves, and in one case had made great efforts to keep the witnesses fully apprised of the progress of the case.
- 6.81 A high percentage of trials are listed as ‘floating’ trials. Not surprisingly, this causes problems and concerns for witnesses. In addition to the uncertainty this brings in terms of a specific date for the week in question, we were told that the case might still not be heard and be re-listed as a floater at a later date(s), and we saw one such example
- 6.82 We recommend that the CCP works with the Court Service to develop a greater level of positive input by the CPS to the listing process in the Crown Court.**

External communications

- 6.83 External agencies have welcomed the appointment of a CCP for Hampshire and the Isle of Wight with the consequent greater alignment of CJS organisations.
- 6.84 CPS management staff were generally highly regarded and considered very active in inter-agency groups. This has to be balanced with the frustration of external partners with the ability of the CPS as an organisation to deliver a consistent, high quality service at court.
- 6.85 The CCP has been very involved in the Area Criminal Justice Strategy group with a big input to planning, and the CPS were playing a leading role in developing the performance management sub group of TIG.

Police

- 6.86 There was clear evidence of a good working relationship, certainly at a strategic level, which had facilitated the successful implementation of the Narey initiatives, and the current re-organisation under Glidewell.
- 6.87 The strength of the relationship was well demonstrated by the fact that the police ‘loaned’ staff to the CPS in May to try and improve the administration problems being faced at that time. There seemed to be some sensible ‘give and take’ in negotiations with police re Glidewell, although there were some signs that there may be a variation in understanding at divisional level as to what has been agreed centrally. Police staff were looking forward to Glidewell as an opportunity for reducing duplication and improving administration systems.

- 6.88 Nevertheless, there were still some rubbing points. JPM was not considered to be very effective (particularly in Portsmouth) in driving forward improvements in CPS performance. We have already mentioned that the TQ1 return rate for the Area was improving, but at roughly 60%, there was clearly room for further improvement.
- 6.89 There were also some minor tensions in the newly formed combined unit on the Isle of Wight as police and CPS staff became more familiar with each other's roles. We have been told that these have since settled down and the team is working well together.

Crown Court

- 6.90 Whilst on an individual basis there was respect for CPS staff, there had been some tensions between the agencies as a result of perceived poor CPS performance in court. The frustration of the court was not reflective of poor advocacy, but attributable to frequent failings in CPS administrative systems – particularly in Eastleigh. This led to correspondence between the judiciary and the Attorney General, and it is to be hoped that this does not lead to a deterioration in the relationship, particularly as there were indications that performance was beginning to show signs of improvement.
- 6.91 There had been a fairly large backlog of cases at the Crown Court sitting at Southampton, and one of the methods used to reduce the problem had been to move cases to other court centres, some of them outside the counties. Whilst this had helped in bringing down the backlogs, it posed operational problems for the CPS, particularly in terms of caseworker coverage and witness care.
- 6.92 The formation of the new TU to cover the Crown Court Centres at Southampton and Winchester will afford the opportunity for a re-focusing of efforts in improving CPS performance. Listing (in particular, an increase in fixtures) is an aspect that the managers were still hoping to improve in co-operation with court representatives.
- 6.93 Figures provided by the Crown Court for cracked and ineffective trials show that in 2000 the overall rate throughout the Area was 50.1%. Equivalent, detailed data has not always been available in Areas that we have inspected to date, but generally in our experience this figure is comparatively good. The CCP will want to build on the inter-agency work in helping to reduce the rate and, at the same time, helping to disclose any improvements in the performance of the prosecution.

Magistrates' courts

- 6.94 There had been good inter agency co-operation in the setting up of the Narey system throughout the counties. This was managed via formal meetings that were widely accepted as being very productive and useful. There was also evidence of good teamwork in the area of speeding up youth justice, particularly that relating to PYOs.
- 6.95 The management team of the magistrates' court service had been extremely helpful to the CPS in terms of reducing the number of court sessions (237 to 210) to assist with the resource problems being experienced by the Area. There was some disappointment amongst court representatives that the help given, when added to the known influx of funds in recent months, had not led to sustained, consistent improvements in court performance by the Portsmouth and Eastleigh Branches at the time of the inspection.

6.96 Much of the interface between the courts and the CPS had been handled by the CCP and the ABM, with some input from BCPs and leading prosecutors on operational issues. The reorganisation will mean that the new Unit Heads will become the focal point to the partnership and steps should be taken to forge these new relationships at the earliest opportunity.

Witness Service

6.97 The Witness Service is beginning to provide its services in some magistrates' courts in the Area, as well as in the Crown Court centres. The Area is making a positive contribution to this process, and ABM is a member of the working group that is overseeing the development of the scheme.

6.98 In addition, the Area is contributing to an exchange of training, as well changing working practices, where appropriate, in an effort to improve communications between itself and the Witness Service.

Others

6.99 Many external partners were unhappy at the difficulty in contacting the CPS, particularly by telephone. The primary concerns were that phones went unanswered, or that voicemail was in operation, but not responded to. This was particularly frustrating for those seeking a quick response to relatively straightforward enquiries. The problems were most noticeable in Portsmouth and Eastleigh, where it was proving difficult for the branches to provide any form of effective duty lawyer system.

6.100 We recommend that the CCP and ABM improve the telephone/managing capabilities of the Area to make staff more accessible.

Security

6.101 There were no major security concerns. Some minor matters were discussed with the ABM after the inspection. The Area did not have a formal security plan in place at the time of the inspection, but some preliminary work had been undertaken, which in conjunction with the CPS Security Manual compliance and the local disaster plan, showed no serious cause for concern. The aspects for ongoing development are health and safety and the clear desk policy.

6.102 One of the branches was the subject of a major security alert, and the evacuation of the premises was said to have been conducted in a smooth and calm fashion.

Accommodation

6.103 Each branch had its own issues in terms of accommodation. For example, Portsmouth benefits greatly from its position, which is adjacent to both the magistrates' court and the Crown Court sitting at Portsmouth. However, the Crown Court Unit was cramped and parts of it were consequently very untidy. Plans are in hand to improve the facilities and space available when the local CJU is set up.

- 6.104 The Basingstoke Branch had been tidied up shortly before the arrival of the inspection team, but this had resulted in a large number of files being left in a room, which, whilst not in the main work areas, is still used regularly.
- 6.105 Eastleigh is some distance from most of the courts that it covers, and if the experience of the inspectors was typical, suffers from severe traffic congestion.
- 6.106 The Area's accommodation needs are changing as it implements co-located CJUs and TUs. The movement of a considerable number of CPS staff to police premises will create some excess capacity, and the CCP and ABM were working well in identifying how best to take advantage of these opportunities. Most of the Area's accommodation needs with regard to CJUs were well advanced, although there were still some concerns with regard to space at Portswood. There are ongoing concerns for staff with regard to car parking facilities.
- 6.107 The facilities available to CPS staff whilst at court were variable, but generally not particularly good. Access to necessary storage, fax machines and photocopiers could be improved, and the ABM should take this into account when planning capital budgets and any re-allocation possibilities which arise out of the set up of CJUs.

Equality and diversity

- 6.108 The Area had developed a good Equality and Diversity plan, although it was not easy to evaluate progress as most actions are future dated.
- 6.109 A key development has been the recent formation of the local Equality Committee, which is chaired by one of the Area's DCWs. It is intended that this group will act as a focal point for driving forward equality and diversity issues. Early signs were that the group was very active and likely to ensure that equality and diversity issues are given appropriate priority and consideration. This is encouraging, as at the time of the visit we were concerned that a small number of members of staff, including some managers, did not have quite the level of awareness on equality issues that was to be expected.
- 6.110 There had not been a great deal of activity in terms of 'reaching out to the community', but it is accepted that there may have been greater priorities in the short term as Glidewell implementation was in full flow.
- 6.111 The Area had six members of staff from ethnic minority groups at the time of the inspection. The proportion is in excess of the benchmark for the local population.
- 6.112 There were also six members of staff registered as disabled, and the Area had worked well with an external organisation in supporting some of these staff.
- 6.113 As with many CPS Areas, the Area has adopted a positive attitude towards part time working. They also share the challenge of other Areas in trying to ensure that part time working arrangements support an equitable distribution of workload. We were told that there were some concerns on this issue in the north of the Area. All Unit heads will want to assure themselves that as the Area moves into a larger number of smaller, and spread out units, working patterns are in place which balance operational and staff needs.

6.114 Female staff were well represented at all levels throughout the Area, and held six line management positions. Three women occupied senior management positions (level D/E) although this did not include attending the HMC meetings. We understand that the appointments of the six new Glidewell Unit heads have recently been made and two of these are women.

Performance Indicators

6.115 Historically, the Area has had severe problems in terms of backlogs of finalisations, and this will not have helped the Area in funding arrangements. The biggest problems were in Eastleigh, and much effort had gone into clearing the majority of the backlog of approximately 4,000 cases. However, there were still problems in that the level of SCOPE expertise in the Area was low, and significant backlogs had also developed in the other two branches, albeit not quite to the same extent. Some training had been provided recently for level A staff and system administrators, but there were still gaps in the required levels of knowledge.

6.116 It was disappointing that the management reports which would have identified these problems, were not being used, and that staff had been unable to find a solution to enable some known problem transactions to be cleared from the system.

6.117 One of the Casework Inspectors was able to help with some technical advice, and we were pleased to be told that the Area has used this information to reduce the backlogs since our visit.

6.118 We recommend that the ABM ensures that the backlog of finalisations of cases is cleared as a matter of urgency.

6.119 There was little in the way of management checks, and some managers were clearly not aware of the size of the problems.

6.120 We recommend that the ABM improves the level of SCOPE understanding and training, including the use of the relevant management controls and reports.

6.121 The accuracy of PIs (excluding completeness) was generally better than average, and the random sample of files provided to us contained fewer errors than is normal, particularly in the adverse case categories.

6.122 As already mentioned in paragraph 6.25, the Area had a significantly better range of information available to managers to enable performance to be measured and thereby improved where necessary. We have commended the Area for its efforts in this work, but we would also encourage them to conduct periodic reviews to assess whether all the data collected is still both relevant and necessary.

Complaints

- 6.123 The branches were using different systems and logs to monitor and manage complaints. There were systems to capture telephone complaints in two branches but this did not appear to be the case in Portsmouth. We also saw on a file a complaint which had been referred to the CPS through the police, but which did not appear to have been dealt with.
- 6.124 Files lacked comprehensive documentation and background notes, and relevant documents were not kept with the substantive reply. Records of any personal visits by complainants were separated from the logs, if kept. The logs themselves were not particularly useful and were primarily just lists of complaints, which could in some cases be used to monitor timeliness of acknowledgement/response. We could find no real evidence of complaints being analysed in order to identify trends or learning points.
- 6.125 We suggest that the CCP and BCPs introduce systems to deal with complaints to ensure that:**
- * the timeliness of response to all complaints is properly recorded and monitored; and**
 - * complaints are properly analysed with a view to identifying any practices or procedures which need to be improved within the Area.**
- 6.126 The BCPs have tended to be the focal point for formal responses in the branches, although the CCP does get personally involved in some replies. The standard of replies was good in most cases, but a few lacked some element of sympathy for matters that had clearly upset the complainants.
- 6.127 The Area puts great emphasis on the timeliness of response, although they focused primarily on the acknowledgement of the complaint and not always on the substantive reply. To this end the Area has recorded 100% compliance to targets, whereas our inspection of the logs and files did not totally match this, albeit it did show that the vast majority of complaints were dealt with in a timely manner.
- 6.128 Some old style forms with out of date addresses were observed in one of the court buildings, and the ABM will want to ensure that these are removed and replaced by up to date copies.

CONCLUSIONS, COMMENDATIONS, GOOD PRACTICE, RECOMMENDATIONS AND SUGGESTIONS

Conclusions

- 7.1 There is much to commend in CPS Hampshire and Isle of Wight, but substantial problems still remain which need continuing high priority and attention. Inspectors recognised that the Area had made great efforts to improve its performance across the board, from dealing with backlogs of filing through to setting and monitoring targets for improved performance. Its achievements in relation to dealing with youth offenders and the manner in which it is progressing with the re-structuring into CJUs and TUs are just examples of its successes.
- 7.2 Overall the standard of decision-making was good. In contrast, there was concern about the actual performance in court, with problems besetting the effective progress and presentation of some cases in both the magistrates' courts and the Crown Court. A number of essentially sound cases were being lost through an inability to deal with issues that arise. Poor continuing review and case management were often at fault, as were failures in basic administrative functions of file tracking and delivery. These were undermining a consistent standard of decision-making.
- 7.3 The Area has gained considerable standing with its partners for its clear determination to secure improvement, but it has yet to gain their full confidence in its ability to deliver a high quality service. Examples of failures were still to be found regularly in the courts, and the perception of other agencies is that performance remained poor with little noticeable improvement, particularly in courts served by the Eastleigh and Portsmouth Branches. We found considerable evidence of poor performance at court, which fully supports this perception – ranging from cases collapsing because files could not be found for court, through failures to deal with witnesses effectively, to simply not linking post to files.
- 7.4 In many respects, data suggests that the performance of the Area is improving. The numbers of failures to comply with Crown Court directions and the numbers of files not available for court have, for example, been significantly reduced.
- 7.5 Nevertheless, sound administration, case management and continuing review need to be achieved consistently to overcome the perception of some partners and practitioners in the criminal justice system that these failures are to be expected, and to be criticised harshly or taken advantage of by the defence.
- 7.6 These are such fundamental issues that it is not surprising that they are the subject of such criticism. At the same time some of the solutions, though by no means easy, are also fundamental, such as resolving the difficulties of recruitment and retention of junior staff. It will take time for improvements to work through the system and effect a real change in the perceptions of external agencies.

- 7.7 Attention must be given to the other issues upon which we have made recommendations, including, timeliness of the provision of advice to police, recording decisions, supervising sensitive cases, raising the standard of work in instructing counsel in the Crown Court, and monitoring advocacy. Whilst all these are important, they should follow the issues we have referred to above in terms of priority.
- 7.8 There is also a need to resolve the uncertainty with regard to the management of caseworkers and support staff created by the interim structure and the ‘central column’ reporting line.
- 7.9 In many other respects the Area’s performance is impressive. Its progress with the restructuring into TUs and CJUs as a result of the Glidewell recommendations, the quality of its performance data and its commitment to training and staff development are examples. We deal with other aspects that we have commended or found to be good practice later in this chapter.
- 7.10 We were encouraged by the drive and determination to improve performance at the top level, the remedial action that is being implemented, and by much of the sound work and commitment we found throughout Area staff.
- 7.11 Additionally despite the concerns, we found that overall the relationships between all of the agencies was good, and there appears to be a genuine will to co-operate to improve the criminal justice system as a whole. In view of the challenges that the Area will face over the coming months it is important that the goodwill of other agencies is maintained. This will only be achieved if visible and tangible improvements in performance are implemented and sustained.
- 7.12 The difficulty that the Area faces is that, when starting from a low level, as was clearly the case in Eastleigh, and to a similar extent in Portsmouth, some improvement in performance is relatively easy to achieve. We were encouraged that the issues were being tackled in Eastleigh. However, we were concerned that fundamental problems were not being effectively addressed by the management at Portsmouth. It becomes increasingly difficult, however, to maintain and build on improvement. This is the major challenge facing the Area, but one, which is not, in our view, beyond its capabilities.

Commendations

- 7.13 We have commended the Area in relation to a number of matters in the report, in particular:
- * its work with the Magistrates’ Courts Service in the preparation of the guidance on grave offences, as both effective inter-agency liaison and a pro-active response to an issue that could adversely affect the administration of justice (paragraph 3.23);
 - * the achievement in reducing delay in dealing with PYOs (paragraph 3.66);
 - * the introduction of different coloured file jackets for different categories of sensitive cases (paragraph 3.73);

- * the positive approach to improving its performance in relation to disclosure through guidance and joint training (paragraph 4.25);
- * the steps being taken to agree a protocol with the local Social Services department to deal with difficulties relating to disclosure (paragraph 4.47);
- * its innovative thinking and its collaboration with the police in taking forward the Glidewell implementation (paragraph 6.9);
- * the range of information available to managers to enable performance to be measured and thereby improved where necessary (paragraph 6.25);
- * its positive approach to staff development, evidenced in particular by the overall timeliness and quality of appraisal reviews, FJPs and PDPs, and the overall committed approach to identifying and dealing with training needs at all levels (paragraph 6.49);
- * the introduction in one Branch of short daily meetings for administrative staff to identify key issues for the day (paragraph 6.58).

Good practice

- 7.14 It is also appropriate that we should draw particular attention to those practices or initiatives that we consider other Areas might wish to note when dealing with similar issues.
- 7.15 **Casework committee** – the introduction of a separate casework committee and agenda to deal with casework issues, although care needs to be taken that the benefits derived from this are balanced against the resource requirements (paragraph 3.58).
- 7.16 **Dealing with PYOs** – in an effort to achieve the targets for dealing with PYOs, the Area has introduced systems to identify cases involving PYOs together with systems to improve the tracking of these cases, and the monitoring of their progress (paragraph 3.69).

Recommendations and suggestions

- 7.17 The distinction between recommendations and suggestions lies in the degree of priority that the Inspectorate considers should attach to its proposals. Those meriting highest priority form the basis of recommendations.
- 7.18 We recommend that:
1. the CCP and BCPs implement an effective system to ensure that advice is provided to the police within 14 days (in all save the most substantial cases) (paragraph 2.9);
 2. the CCP and BCPs implement an effective system to ensure that an appropriate record is made of advice given informally to the police (paragraph 2.21);

3. the CCP and BCPs ensure that prosecutors undertake effective continuing review in both magistrates' courts and Crown Court cases, including taking appropriate actions in accordance with that continuing review (paragraph 3.14);
4. prosecutors ensure that they make full and comprehensive records of grounds for opposing bail and bail decisions on files for every defendant (paragraph 3.28);
5. prosecutors make full records of review decisions on files (paragraph 3.57);
6. the CCP and BCPs ensure that racially motivated offences are afforded the appropriate level of case supervision by prosecutors and managers (paragraph 3.82);
7. the CCP and BCPs implement, as a priority, effective systems for tracking files to ensure that:
 - * files can be readily found for the purposes of linking post or other material with them;
 - * files can be passed to prosecutors or caseworkers expeditiously, to enable them to implement any actions required to progress the cases; and
 - * prosecutors have all appropriate files at court on the due hearing date (paragraph 4.13);
8. prosecutors, when dealing with advance information, record on the file the material that has been provided and the date when it was provided to the defence (paragraph 4.21);
9. the CCP and BCPs continue to monitor the extent and timeliness of compliance with the prosecution obligations relating to primary and secondary disclosure in both the magistrates' courts and the Crown Court, with particular reference to recent guidance and training (paragraph 4.41);
10. the CCP and BCPs introduce a consistent system for dealing with sensitive material that is capable of properly recording all decisions, and at the same time safeguarding the sensitivity of the material (paragraph 4.45);
11. the CCP and BCPs implement and maintain an effective system to ensure that summary trial files are properly checked an appropriate time before the trial date, to ensure that any outstanding work is completed (4.66);
12. the CCP and BCPs ensure that caseworkers are involved in the preparation of committal files as much as is practicable (paragraph 4.74);
13. the CCP and BCPs ensure that instructions to counsel to prosecute in the Crown Court contain a summary that deals with the issues in the case and an indication of the acceptability of alternative pleas (where appropriate) (4.79);

14. the CCP and BCPs ensure that all instructions to counsel, including instructions in respect of appeals and committals for sentence, are delivered within agreed time guidelines (paragraph 4.83);
15. the CCP and BCPs take steps to improve the coverage and continuity of case handling in the Crown Court by caseworkers (4.97);
16. the ABM undertakes, as a matter of urgency, an examination of the system to deal with CTLs, with a view to identifying and rectifying any defects (paragraph 4.108);
17. the BCPs introduce effective monitoring to assess the quality of Area advocacy, so that poor performance can be identified and appropriate action taken, including the provision of training where appropriate (paragraph 5.27);
18. the CCP and ABM improve clarity and understanding about the responsibilities of branch management and the central column team (paragraph 6.19);
19. the ABM endeavours to resolve the staffing problems at level A in Eastleigh as a matter of urgency (paragraph 6.24);
20. the BCPs ensure that oral feedback mechanisms are in place that will make sure that key issues are known to all staff (paragraph 6.57);
21. the CCP, ABM and BCPs improve the clarity and understanding of the operational management and direction provided to caseworkers and DCWs (paragraph 6.66);
22. the CCP works with the Court Service to develop a greater level of positive input by the CPS to the listing process in the Crown Court (paragraph 6.82);
23. the CCP and ABM improve the telephone/managing capabilities of the Area to make staff more accessible (paragraph 6.100);
24. the ABM ensures that the backlog of finalisations of cases is cleared as a matter of urgency (paragraph 6.118);
25. the ABM improves the level of SCOPE understanding and training, including the use of the relevant management controls and reports (paragraph 6.120).

7.19 We also suggest that:

1. prosecutors ensure that the police are consulted in a timely manner where discontinuance is being considered, wherever practicable (paragraph 3.35);
2. the CCP and BCPs liaise with other agencies, including the police, Victim Support and the Witness Service, to ensure that victims and witnesses in particular categories of cases are afforded appropriate and effective witness care, with a view to reducing the number of cases which have to be discontinued or result in adverse findings through witness difficulties (paragraph 3.39);

3. the BCPs ensure that documents received from the police, particularly upgraded files, are date-stamped or otherwise effectively recorded to ensure that the timeliness of summary trial and committal preparation can be accurately measured (paragraph 4.50);
4. the CCP and BCPs ensure that the improvement in performance in relation to compliance with Crown Court directions continues (paragraph 4.90);
5. prosecutors, when attending the Crown Court for other purposes, take the opportunity to deal with bail applications in chambers (paragraph 4.94);
6. the CCP, in conjunction with the Probation Service, examines the procedure for providing information for pre-sentence reports to the Probation Service and YOTs, with a view to ensuring that it is provided in all appropriate cases, in a timely manner (paragraph 4.114);
7. the ABM and BCPs agree the local priorities for the next three to four months and share these with relevant CJS partners (paragraph 6.6);
8. the Area Training Officer continues to monitor the effectiveness of the induction process and training (paragraph 6.54);
9. the BCPs review the file allocation process in order to ensure the fair distribution of work (paragraph 6.63);
10. the ABM and BCPs implement an improved system for processing work when staff are absent (paragraph 6.71);
11. the CCP and BCPs introduce systems to deal with complaints to ensure that:
 - * the timeliness of response to all complaints is properly recorded and monitored; and
 - * complaints are properly analysed with a view to identifying any practices or procedures which need to be improved within the Area (paragraph 6.125).

KEY STATISTICS

- 8.1 The charts in Annex 1 set out the key statistics about the Area's casework in the magistrates' courts and in the Crown Court for the year ending 31 December 2000.

EXTERNAL CONSULTATION

- 9.1 Annex 3 is a list of the local representatives of criminal justice agencies who assisted in our inspection.

**TOTAL NUMBER OF FILES EXAMINED FOR
CPS HAMPSHIRE AND THE ISLE OF WIGHT**

File category	Number of files examined
Advice files	30
Magistrates' courts:	
Guilty pleas, convictions and acquittals after trial	63
Traffic offences	15
Acquittals where magistrates found no case to answer	16
Discharged committals	0
Cases where custody time limits applied	15
Discontinued cases	125
Crown Court:	
Guilty pleas, convictions and acquittals after trial	56
Judge ordered acquittals	44
Judge directed acquittals	18
Cases committed for sentence (following plea before venue)	15
Appeals	19
Cases where custody time limits applied	15
TOTAL	431

ANNEX 2

Table for chart 1

Types of case	CPS Hants & IoW		National	
	Number	%	Number	%
Advice	1,043	2.4	48,330	3.5
Summary motoring	15,617	36.3	509,096	37.4
Summary non-motoring	9,582	22.3	248,984	18.3
Either way & indictable	16,752	38.9	542,675	39.8
Other proceedings	29	0.1	13,432	1.0
Total	43,023	100	1,362,517	100

Table for chart 2

Completed cases	CPS Hants & IoW		National	
	Number	%	Number	%
Hearings	32,771	78.1	949,365	73.0
Discontinuances	3,842	9.2	166,001	12.8
Committals	2,788	6.6	80,958	6.2
Other disposals	2,550	6.1	104,431	8.0
Total	41,951	100	1,300,755	100

Table for chart 3

Case results	CPS Hants & IoW		National	
	Number	%	Number	%
Guilty pleas	27,990	85.1	781,254	82.0
Proofs in absence	2,470	7.5	116,032	12.3
Convictions after trial	1,664	5.1	39,331	4.1
Acquittals: after trial	732	2.2	14,876	1.6
Acquittals: no case to answer	52	0.2	1,752	0.2
Total	32,908	100	953,245	100

Table for chart 4

Types of case	CPS Hants & IoW		National	
	Number	%	Number	%
Indictable only	1,077	25.2	27,620	23.0
Either way: defence election	723	16.9	17,060	14.3
Either way: magistrates' direction	1,400	32.8	39,722	33.3
Summary: appeals; committals for sentence	495	11.6	13,161	11.0
	574	13.4	21,753	18.2
Total	4,269	100	119,316	100

Table for chart 5

Completed cases	CPS Hants & IoW		National	
	Number	%	Number	%
Trials (including guilty pleas)	2,683	83.8	71,546	84.8
Cases not proceeded with	390	12.2	10,070	11.9
Bind overs	80	2.5	1,459	1.7
Other disposals	47	1.2	1,328	1.6
Total	3,200	100	84,403	100

Table for chart 6

Case results	CPS Hants & IoW		National	
	Number	%	Number	%
Guilty pleas	1,765	64.7	53,449	73.3
Convictions after trial	499	18.3	10,959	15.0
Jury acquittals	364	13.3	6,729	9.2
Judge directed acquittals	101	3.7	1,789	2.5
Total	2,729	100	72,926	100

Chart 1: Magistrates' Court - Types of case

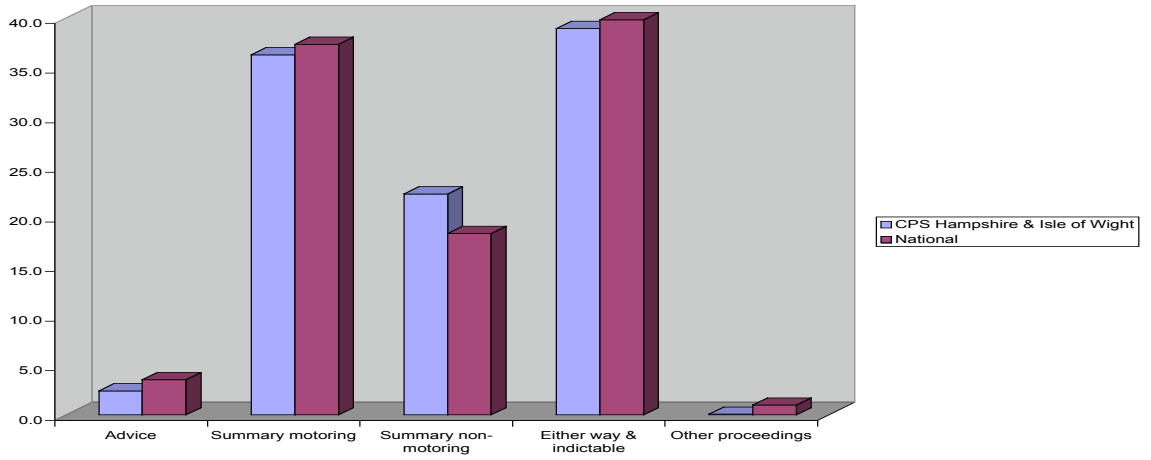


Chart 2: Magistrates' Court - Completed cases

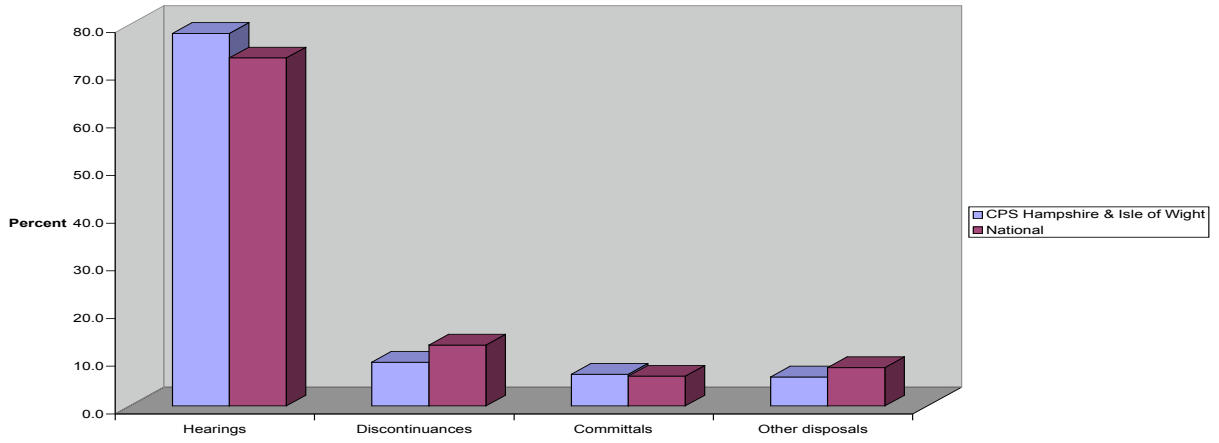


Chart 3: Magistrates' Court - Case results

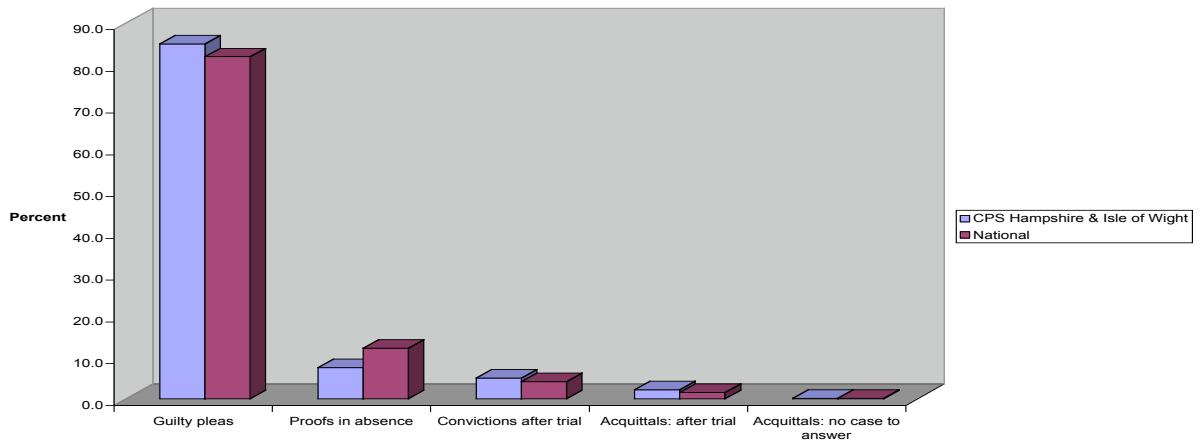


Chart 4: Crown Court - Types of case

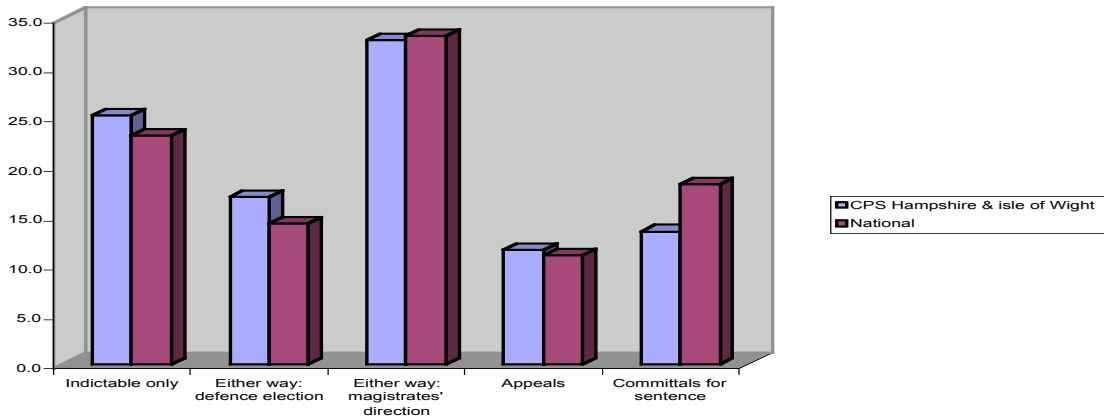


Chart 5: Crown Court - Completed cases

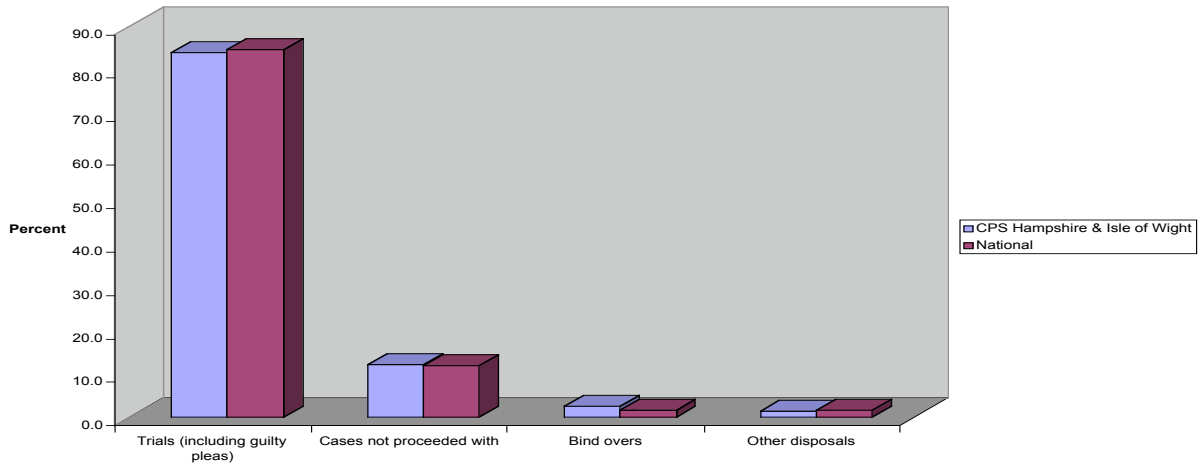
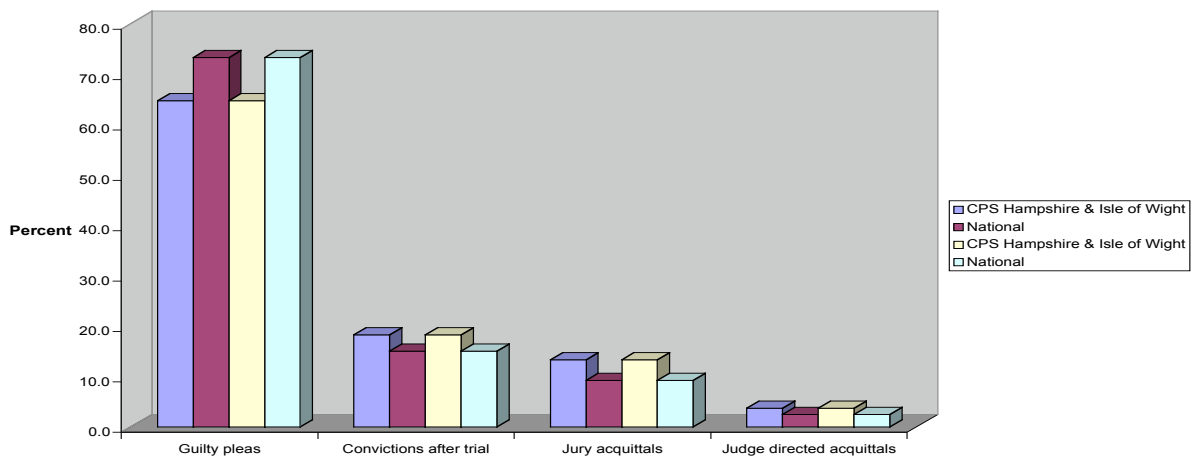


Chart 6: Crown Court - Case results



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

Judges

His Honour Judge Brodrick
His Honour Judge Chubb
His Honour Judge Griffiths
His Honour Judge Hooton
His Honour Judge Jarvis
His Honour Judge MacLaren Webster QC
His Honour Judge Selwood

District Judges

District Judge G Cowling
District Judge J Woollard

Magistrates' courts

Mr R Ormond JP, Chairman, Hampshire and Isle of Wight Magistrates' Courts Committee
Mr I Dillow JP, Chairman, North West Hampshire Bench
Mrs M Frankel JP, Chairman, North East Hampshire Bench
Mrs S Locoock JP, Chairman, New Forest Bench
Mr A Philp JP, Chairman, South East Hampshire Bench
Mrs N Rich JP, Chairman, Isle of Wight Bench
Mrs B Robinson-Grindey JP, Chairman, South Hampshire Bench
Mr W Rule JP, Chairman, Southampton Bench
Mr M West, Justices' Chief Executive
Mr J Black, Area Justices' Clerk and Director of Legal Services

Police

Mr P Kernaghan QPM, Chief Constable
Mr C Smith, Assistant Chief Constable, Specialist Operations
Chief Superintendent G Wyeth
Superintendent P Dawson
Superintendent R Godden
Superintendent R Golding
Superintendent A Queen
Superintendent A Thomas
Inspector P Boswell
Ms K Jones, Manager, TU/CJU
Ms J Parker, Manager, CJU

National Crime Squad

Detective Chief Superintendent J Barlow

Defence Solicitors

Mr D Melville Walker

Counsel

Mr J Gibbons QC

Mr D Hope

Mr T Moores

Counsel's Clerk

Mr G Townsend

Probation Service

Mr D Scott, Chief Probation Officer

Youth Offending Team

Mr I Langley

Ms S Morse

Mr M Owen

Mrs S Wade

Social Services

Ms P Robinson, Assistant Director of Social Services, Portsmouth City Council

Ms L Gray, Legal Advisor, Social Services Department, Portsmouth City Council

Victim Support

Mrs J Black

Mrs J Fuller

Mrs L Mallinson

Mrs J Palfrey

Witness Service

Ms L Henley

Miss C Martin

Mr T Witt

Crime and Disorder Statutory Partnership Group

Mr R Honey, City Safety Officer, Southampton City Council

Inspector S Sargent

HM CROWN PROSECUTION SERVICE INSPECTORATE

Statement of purpose

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

Aims

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