

CPS LEICESTERSHIRE

THE INSPECTORATE'S REPORT ON
CPS LEICESTERSHIRE

AUGUST 2007

*Promoting Improvement
in Criminal Justice*

*HMcp*si**
HM Crown Prosecution Service Inspectorate





CPS LEICESTERSHIRE

THE INSPECTORATE'S REPORT ON
CPS LEICESTERSHIRE

AUGUST 2007

Area Office

Leicester

Other Offices

Beaumont Leys (Secretariat only)

Magistrates' Courts

Coalville, Hinckley, Leicester, Loughborough, Market Harborough, Melton Mowbray, Oakham

Crown Court

Leicester

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PREFACE

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

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

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

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

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

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

necessarily mean that the national average is considered an acceptable standard. If a particular aspect of performance represents a weakness across CPS Areas generally, it would be possible for an Area to meet or exceed the national average without attaining the appropriate standard.

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

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

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

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

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

I INTRODUCTION

- I.1 This is Her Majesty's Crown Prosecution Service Inspectorate's (HMCPIS) report about CPS Leicestershire (the Area) which serves the area covered by the Leicestershire Constabulary. It has two offices, one in Leicester and the other in Beaumont Leys. The Area Headquarters (Secretariat) is based at the Beaumont Leys office.
- I.2 Area business is divided on functional lines between magistrates' courts and Crown Court work. The Criminal Justice Units (CJUs) are responsible for the conduct of all cases dealt with in the magistrates' courts. The City CJU covers Leicester and Market Harborough Magistrates' Courts and County CJU covers the other magistrates' courts in the Area. The Trial Unit (TU) reviews and handles cases dealt with in the Crown Court.
- I.3 The Area Management Team (AMT) consists of the Chief Crown Prosecutor (CCP), Area Business Manager (ABM), the Unit Heads, Unit Business Managers and the Communications Manager. It meets monthly to consider Area business and performance. Additionally there is an Area Strategic Board, which comprises the CCP, ABM and Unit Heads. This meets monthly and on an ad-hoc basis.
- I.4 At the time of the inspection in April 2007, the Area employed the equivalent of 118.2 full-time staff. The Area Secretariat comprises the CCP, ABM and the full-time equivalent of seven other staff. Details of staffing of the other units is set out below:

Grade	Trial Unit	City CJU	County CJU	WCU
Level E	–	–	–	–
Level D	2	1	1	–
Level C lawyers	13.6	12.7	8.5	–
Designated caseworkers	0	5.6	3	–
Level B3 and B2 caseworkers	1	0	0	–
Level B1 caseworkers	14.76	1.8	1	0
Level A caseworkers	11.41	15.1	8.2	4
TOTAL	42.77	36.2	21.7	4

- I.6 A detailed breakdown of staffing and structure can be found at Annex B.

1.7 Details of the Area's caseload in the year to March 2007 are as follows:

Category	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge decisions	10,725	36.3	34.9
Advice	3	0.0	0.1
Summary	11,942	40.4	40.1
Either way and indictable only	6,871	23.3	24.6
Other proceedings	1	0.0	0.2
TOTAL	29,542	100%	100%

These figures include the cases set out in the next table, as all Crown Court cases commence in the magistrates' courts. In 3,668 of the 10,725 Area pre-charge decisions (34.2%) the decision was that there should be no prosecution. Overall, decisions not to prosecute account for 16.3% of the Area's caseload. Where pre-charge advice results in the institution of proceedings, the case will also be counted under the relevant category of summary or either way/indictable in the caseload numbers.

1.8 The Area's Crown Court caseload in the year to March were:

Crown Court cases	Area numbers	Area % of total caseload	National % of total caseload
Indictable only	513	23.3	28.9
Either way offences	1,136	51.7	43.5
Appeals against conviction or sentence	214	9.7	10.8
Committals for sentence	335	15.2	16.8
TOTAL	2,189	100%	100%

1.9 A more detailed table of caseloads and case outcomes compared to the national average is attached at Annex C and a table of caseload in relation to Area resources at Annex D. The Area has benefited from an increase of 30.3% in its budget since our last inspection (in September 2003) from £4,123,397 to £5,372,970. Overall staff numbers have decreased from 119.2 to 118.2, although there has been a small increase in the number of lawyers in post from 40 to 41. This has resulted in a decrease in the number of contested magistrates' courts' trials per lawyer from 30.5 to 27.9 and a decrease in the number of committals or "sent" cases from 37.8 to 37.

The report, methodology and nature of the inspection

- I.10 The inspection process is based on the Inspection Framework summarised at Annex A. The chapter headings in this report relate to the standards and the section headings relate to the criteria against which we measure CPS Areas. The italicised sub-headings identify particular issues within those criteria.
- I.11 There are two types of inspection. A full one considers each aspect of Area performance within the Framework, while a risk-based inspection considers in detail only those aspects assessed as requiring scrutiny. This is based on our overall performance assessment (OPA) and other key data.
- I.12 The OPA of CPS Leicestershire, undertaken in October 2005, assessed the Area as "Fair". As a result of this and recent performance data it was determined that the inspection should be a tailored one. In the light of that, it did not include detailed consideration of the handling of sensitive cases, custody time limits, delivering change, leadership and securing community confidence.
- I.13 Our OPA report identified a total of 32 aspects for improvement. In the course of this inspection, we have assessed the extent to which these have been addressed, and a synopsis is included at Annex E.
- I.14 Our methodology combined examination of 129 cases finalised between October 2006 and January 2007 and interviews with members of CPS staff at all levels, criminal law practitioners and local representatives of criminal justice agencies. Our file sample was made up of pre-charge decision cases, magistrates' courts and Crown Court trials (whether acquittals or convictions), and some specific types of cases. A detailed breakdown of our file sample is shown at Annex F.
- I.15 We make a number of assessments about the quality of decision-making and case handling in the course of the file examination. Key assessments are shown in tables at the start of Chapters 3, 4 and 5. The Area's performance is compared to the findings across the inspections we have carried out in the programme to date.
- I.16 A list of individuals we met or from whom we received comments is at Annex G. The team carried out observations of the performance of advocates and the delivery of service at court in both the magistrates' courts and the Crown Court. We also carried out observations at charging centres.
- I.17 Inspectors visited the Area between 16-24 April 2007. The lay inspector for this inspection was Tony Summers, who was nominated by Citizens Advice Bureaux. The role of the lay inspector is described in the Preface. He examined files that had been the subject of particular public interest considerations or complaints from members of the public and considered letters written by CPS staff to victims following the reduction or discontinuance of a charge. He also visited some courts and had the opportunity to speak to some of the witnesses after they had given evidence. This was a valuable contribution to the inspection process. The views and findings of the lay inspector have been included in the report as a whole, rather than separately reported. He gave his time on a purely voluntary basis, and the Chief Inspector is grateful for his effort and assistance.

I.18 The purpose and aims of the Inspectorate are set out in Annex H, and a glossary of the terms used in this report is contained in Annex I.

2 SUMMARY OF INSPECTION FINDINGS AND RECOMMENDATIONS

- 2.1 This summary provides an overview of the inspection findings as a whole. It includes sub-headings that mirror the chapters in the report, which are based upon our Inspection Framework developed taking into account key issues across the criminal justice system (CJS) and CPS initiatives (see Annex A). Other sub-headings deal with the extent to which the CPS adds value within the local criminal justice system and equality and diversity issues.
- 2.2 Taking account of the findings in the overall performance assessment (OPA) carried out in October 2005 and more recent performance data, it was decided that this inspection would focus on six of the 13 criteria in the Inspection Framework. However, during our pre-site file reading some concerns were identified with the Area's approach to the handling of disclosure and this aspect was added to the inspection. This report therefore covers seven aspects of the Framework fully, and six aspects subject to less in-depth examination. It should be borne in mind when reading this report that the subjects covered in greater detail are those aspects of work that were considered weakest.

Overview

- 2.3 After the OPA report the Area concentrated some of its effort to improve performance on the concerns outlined in our report. In line with this prioritisation there has been a significant improvement in the usage of the electronic case management system (CMS), with performance across all measures exceeding national averages and being in the top quartile of performance. Improvement is also marked in compliance with the Direct Communication with Victims (DCV) scheme. There has also been a commitment to ensure that the delivery and operation of statutory charging scheme realised its potential benefits and delivered efficiencies. However, Area performance in its key targets has mainly deteriorated since the publication of the OPA.
- 2.4 The rate of cracked, ineffective and effective trials in both the magistrates' courts and the Crown Court are all worse than the national averages. Performance in meeting the persistent young offender (PYO) target pledge (71 days) has deteriorated from 72 days in 2005 to a current performance of 98 days. There are also poor discontinuance rates for cases going through the charging scheme.
- 2.5 The performance of the Area is contradictory when set against some of the positive action that has been taken to improve since the OPA. Our file examination also identified a good standard of review and advice at both the pre-charge decision (PCD) and magistrates' courts' stages and the effective handling and management of Crown Court cases. We also found that there were many staff who were extremely dedicated and worked hard to get the job done.
- 2.6 These findings present something of a conundrum, when set against others. It became apparent during the course of the inspection that there was a lack of clear expectations about the performance levels of staff at all grades. This was compounded by the absence of a performance management regime or culture which could be used to tackle under-performance. There was evidence that managers had spent time outlining the vision of CPS Leicestershire.

This activity was complemented with inclusive business planning sessions and senior management 'road-shows'. However, it seemed that some aspects of performance were suffering from a lack of pride. Some staff seemed comfortable and certain aspects of under-performance seemed to be accepted.

2.7 We comment in further detail on the specific aspects of performance in the following sections.

Pre-charge advice and decisions

2.8 The Area went 'live' with statutory charging in February 2006 and funded a dedicated project manager to ensure that there has been a focus on delivering the scheme. This focus has helped in developing a strong 'prosecution team' ethos. Pre-charge decisions were sound in the majority of cases, although the quality of advice given varied. Greater care needs to be taken to record charging advice fully.

2.9 There are effective prosecution team performance management (PTPM) arrangements in place. However, a problem in providing unique reference numbers limits the accuracy and effectiveness of data. The Area needs to work with the police to establish an efficient method of providing consistent case reference numbers and to address the implications of changes to local police structures. Recently implemented changes are starting to improve the overall discontinuance rate, however more could be done to ensure that cases presented for charging are looked at more proactively,

Casework in the magistrates' courts

2.10 The quality of review and case handling in magistrates' courts' cases is sound. The use of CMS has significantly improved, although in a large number of cases a lack of file review on the paper copy was a cause for concern. Summary trial preparation has improved due to the introduction of a duty lawyer scheme to deal with pre-trial review preparation and a correspondence initiative; however, as a result file 'ownership' is now limited.

2.11 PYO performance is poor at 98 days, although the Area has begun to focus on improvement with a series of initiatives with its CJS partners. The discontinuance rate is high but improving. The effective trial rate is poor as are the ineffective and cracked trial rates. An initiative aimed at improving the high cracked trial rate is laudable but raised issues of principle. Inspectors concluded that the risks outweighed the benefits.

Casework in the Crown Court

2.12 The quality of review and decision-making in the Crown Court is generally good. There is timely service of papers and effective monitoring of the progress of the case. Some monitoring and analysis is shared with criminal justice partners. The standard of instructions to counsel is variable and information on acceptable pleas show scope for improvement.

2.13 The ineffective trial rate remains worse than the national average and the rate for cracked trials is 46.6%, which is poor compared to the national average of 39.5%. The effective trials remain significantly worse than national average. However, there are early indications that recent measures implemented by the Area are impacting positively on the level of discontinuance.

Presenting and progressing cases at court

- 2.14 The standard of advocacy is variable. Agents in the magistrates' courts and counsel in the Crown Court performed well, although junior members of the Bar lacked experience and presence. Advocacy monitoring needs to be more robust and systematic with face-to-face feedback. Some prosecutors could be more proactive in pushing case progression. The length of adjournments for trial in the magistrates' courts hampers progression and impacts adversely on witness care.

Sensitive cases and hate crime

- 2.15 The standard of casework in sensitive cases and hate crimes is high. The identification and management of cases and the quality of decision-making is good. The unsuccessful outcome rate for hate crimes in both the magistrates' courts and Crown Court is better than the national average and meets target. The Area has recently set up a dedicated domestic violence team in the City CJU to concentrate efforts to handle these cases more consistently.

Disclosure of unused material

- 2.16 Performance in respect of disclosure of unused material for cases in the magistrates' courts has declined since the last inspection, although for cases in the Crown Court it has remained constant. Our file examination highlighted significant variation in the quality of disclosure decisions. Compliance with the prosecution duties of disclosure was inconsistent. Non-compliance included failures to disclose material that undermined the prosecution or assisted the defence, poor file housekeeping and, in some instances, no evidence that the reviewing lawyer had considered the defence statement. Additionally the clerical processes were rarely completed properly, making the audit trail difficult to follow.
- 2.17 The Area Disclosure Champion has provided training to CPS and police. Systems for assuring the quality of disclosure handling and decision-making are not robust and need to be improved.

Custody time limits

- 2.18 There were no reported custody time limit (CTL) failures in 2005-06 or 2006-07. The Area's documented systems complied with national guidance. Our file examination highlighted that there was a need for some file endorsements to be improved and the accuracy of recording CTLs on the electronic and manual systems needs attention. More thorough checks would highlight the weaknesses we identified.

The service to victims and witnesses

- 2.19 The performance of the Witness Care Unit and a lack of clear expectations between the CPS and the unit has hampered performance. Processes surrounding special measures applications need to improve and the warning of witnesses needs to be clearer. The Area must outline its priorities and introduce a system to monitor performance around cases with victims and witnesses. It is crucial that feedback is used to improve service and discuss problems as they arise.
- 2.20 The Area has implemented changes to process to improve its performance in writing to victims explaining why cases have been dropped or charges substantially reduced. More work needs to be undertaken to ensure that the scheme is consistently applied across all units and that letters are of good quality.

Delivering change

- 2.21 The systems for planning and review largely remain sound. The Area Business Plan includes local and national priorities and highlights responsibility for delivery. Unit business plans are developed in consultation with staff and reflect overall Area priorities. The Area has resourced a charging project manager post to ensure that the benefits of the system can be realised and that there is an effective system of control. Working with CJS partners at a strategic level is improving and opportunities to work together to improve overall performance is evident.

Managing resources

- 2.22 Leicestershire has underspent its budget in 2006-07 and more could have been done to consider whether monies could have been returned. The budget outturn and management processes indicate a need for more careful budgetary control. Staff deployment has improved; the use of designated caseworkers (DCWs) and Higher Court Advocates (HCAs) represents good value for money.

Managing performance to improve

- 2.23 The performance management system is good on the elementary aspects of reporting performance data, but less effective at highlighting issues around under performance or as a tool for managers to drive systemic or individual improvement. Some aspects of performance have improved, sometimes from a very low base since the OPA. In other key aspects such as statutory charging benefits and overall case outcomes, improvements have been limited and sometimes at a slower rate than national performance. Senior managers are involved in a number of improvement initiatives in the Area as well as in joint work with other CJS partners, although the lack of effective analysis hampers demonstrable outcomes.

Leadership

- 2.24 There is evidence that there are strong business planning arrangements and good top team communication through Area meetings. However, there was some concern that a number of staff were not clear about the Area's vision and priorities or understood what was expected of them. This lack of understanding may have been compounded by a lack of personal performance management. The Area needs to challenge under performance and ensure that there is clear understanding of management expectations. There was a staff perception that the visibility of senior management had decreased with the move of the Chief Crown Prosecutor (CCP) and Area Business Manager (ABM) away from the main office.

Community confidence

- 2.25 Structures for the delivery of the community confidence agenda are effective. The Business Plan links community engagement activity with Area objectives and there was a wide understanding and involvement of staff from all levels in community engagement activity. There has been a marked fall in the confidence of the local population in the effectiveness of the criminal justice agencies in bringing offenders to justice - a performance measure shared by all local CJS agencies - although at 44% it remains 2% better than the national average.

Added value of the CPS locally

- 2.26 At a local level CPS Leicestershire undoubtedly adds value. Our findings highlight the application of the Code for Crown Prosecutors' tests at key stages is generally good. Resources are being deployed effectively and the Area is active in joint CJS activity and the local community.
- 2.27 However, further value still needs to be added at key stages. Prosecutors at the pre-charge decision-making stage could be more proactive. A stronger approach to personal performance would improve some basics and this in turn should ensure that case preparation and handling are more efficient. A more proactive approach to managing performance will also allow the Area to understand its results and challenge partner agencies for a stronger position.

Equality and diversity issues

- 2.28 As well as undertaking a wide range of outward facing activity with local interest groups and minority communities, with a view to increasing confidence in the criminal justice system, the Area has included equality and diversity aims in its Business Plan. The workforce is representative of the local community. The Investor in People (IIP) assessment praised the Area for the multi-ethnic approach and those interviewed for the assessment felt that the workplace was free from prejudice, which is consistent with the 2006 staff survey results.

Follow-up from previous report

- 2.29 There were 32 aspects for improvement (AFIs) identified at the time of the OPA. Nine have been fully achieved with substantial progress made in another five. Whilst some action may have taken place on others, we consider that this is limited (or no progress in nine of them). We have not repeated these in the main body of the report, but Area managers will need to continue to monitor progress of those AFIs that remain outstanding, as highlighted in Annex E.

Recommendations and aspects for improvement

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

-
- 1 The Area needs to ensure that it works with police to address the implication of basic command unit structures and that it increases its influence with the police to resolve the difficulties caused by the lack of consistent unique reference numbers (paragraph 3.21).
-
- 2 The Area needs to re-affirm to its staff the importance of good persistent young offender performance and to underline the relevant processes and timescales (paragraph 4.26).
-
- 3 The cracked trial initiative in the City Criminal Justice Unit ceases with immediate effect (paragraph 4.44).
-

4 The Area should analyse reasons and trends for ineffective trials and ensure that formalised action is taken to improve processes that may lead to improvement (paragraph 5.39).

5 The Area needs to ensure that:

- it takes action to reduce the number of schedules it receives during the life of a case;
 - disclosure record sheets are completed showing all actions and discussions in respect of unused material;
 - it creates and maintains a public interest immunity log;
 - it expands the Disclosure Champion's role to assess the quality of disclosure, and findings are used to tailor training and offer mentoring;
 - lawyers comply with the duties of disclosure in all cases; and
 - Unit Heads should monitor this effectively and provide feedback to individuals. (paragraph 8.16).
-

6 That the Area:

- clearly outlines the expectations required of the Witness Care Unit to ensure that casework progresses effectively;
 - ensures that there is a better understanding of respective functions and responsibilities between the Witness Care Unit and the Area; and
 - that performance information is collected, analysed and used to drive performance improvement on victim and witness issues (paragraph 10.18).
-

7 The Area ensures that

- performance reports are analysed in order to improve the performance management regime and ensure that management decisions are informed and proportionate; and
 - that Unit Business Managers' objectives include provision of performance analysis support to Unit Heads and that they have the skills required to do so (paragraph 13.8).
-

8 The Area needs to develop a culture of personal performance management that recognises good performance and challenges under performance. This culture needs to be complemented with clear expectations and a management regime of supervision (paragraph 14.4).

We additionally identified 15 aspects for improvement within the Area's performance.

-
- 1 Greater care needs to be taken to record charging advice and ensure that a full audit trail is in place to ensure that subsequent action to be taken on the file is easily identified, and those working from the file are aware of actions and decisions already taken (paragraph 3.8).

 - 2 The Area should ensure that all reviews are apparent on the file itself as well as recorded on the case management system (paragraph 4.5).

 - 3 The Area should keep the 'no deal' policy under close review to ensure there is no adverse impact upon successful outcomes and that prosecutors are not dis-empowered (paragraph 4.17).

 - 4 The Area needs to continue negotiations with the courts and other agencies to ensure that the youth courts are of a more manageable size (paragraph 4.22).

 5. The Area needs to clearly define the Case Progression Officer role through the setting of appropriate objectives and the issuing of a comprehensive job description (paragraph 4.30).

 6. The Area needs to take steps to ensure that files are tidy and ordered (paragraph 4.33).

 - 7 The Area would benefit from more detailed analysis, information sharing and learning from experience in discontinued and judge ordered acquittal cases (paragraph 5.13).

 - 8 Quality of instructions to counsel particularly regarding pleas.

The recording of file endorsements on receipt of correspondence and telephone calls (paragraph 5.35).

 - 9 The Area needs to continue negotiations with the courts to ensure that listing arrangements are compatible with the implementation of Criminal Justice: Simple, Speedy, Summary and continued increased designated caseworker deployment (paragraph 6.4).

 - 10 The Area should ensure that advocacy monitoring of all advocates is robust and systematic, with face-to-face feedback given (paragraph 6.12).

 - 11 Charging lawyers should be proactive in requesting victim personal statements in all appropriate cases (paragraph 10.3).

- 12 Lawyers giving pre-charge advice should ascertain witness needs and ensure that applications are timely.

The Area should ensure that awareness training is given to all Witness Care Unit staff to ensure that special measures are only offered in appropriate cases (paragraph 10.7).

- 13 The service to victims and witnesses could be enhanced by better and more consistent communication between the CPS, Witness Care Unit, Witness Service and Victim Support (paragraph 10.10).
-

- 14 The Area ensures that those cases which require Direct Communication with Victims letters are identified and that the quality of the letters is improved (paragraph 10.11).
-

- 15 Ensuring that managers complete the required number of casework quality assurance forms to enable the Area derive optimum benefits of the scheme and assure standards of assessment (paragraph 13.19).
-

Strengths

- 2.31 We also identified eight strengths.
-

- 1 The commitment of duty prosecutors to remain at charging centres to see cases through (paragraph 3.21).
-

- 2 The strong prosecution team ethos (paragraph 3.21).
-

- 3 The quality of decision-making (paragraph 5.4).
-

- 4 The case management system is used effectively for Crown Court preparation (paragraph 5.41).
-

- 5 The systems for identifying and managing sensitive cases and hate crimes and the quality of decisions made are good (paragraph 7.7).
-

- 6 Disclosure compliance in serious and complex cases is handled well (paragraph 8.12).
-

- 7 CPS managers in active membership of key Local Criminal Justice Board groups (paragraph 13.12).
-

- 8 Good communication of performance information to staff through a variety of means (paragraph 13.16).
-

3 PRE-CHARGE ADVICE AND DECISIONS

The Area went ‘live’ with statutory charging in February 2006. After some initial problems, which were addressed by considering best practice across the country, a strong ‘prosecution team’ ethos has developed between the police and the CPS. Pre-charge decisions were sound in the majority of cases, although the quality of advice given varied. More needs to be done to capture details of decisions. Consideration of alternative disposals and ancillary orders needs to be improved. Effective prosecution team performance management arrangements are in place, however, a problem in providing unique reference numbers limits the accuracy and effectiveness of data. The Area needs to work with the police to establish an efficient method of providing consistent case reference numbers and to address the implications of changes to local police structures.

Quality of advice and decisions

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

Pre-charge	Performance in the inspection programme to date	Area Performance
Advice and decisions complying with evidential test in the Code	96.1%	97.3%
Advice and decisions complying with public interest test in the Code	98.6%	100%
Appropriate alternative disposals and ancillary orders were considered and acted upon	59.5%	66.7%
Prosecutor was active in identifying and remedying evidential defects	72.4%	75.8%

- 3.2 The application of the evidential and public interest Code for Crown Prosecutors’ (Code) tests was sound. The evidential test was applied correctly in 108 of 111 cases (97.3%) and the public interest test in all relevant cases (100%). These figures compare favourably with performance to date in other Areas inspected.
- 3.3 Lawyers should be proactive at the pre-charge decision (PCD) stage, adding value by detailing what further evidence or information is needed to build a case and ensure that there is a realistic prospect of conviction. We found that the records of charging decisions (recorded on MG3s) varied in quality. In some instances the reviews did not provide a full analysis of the issues, including weaknesses in the case. In the sample 24.6% of cases could have benefited from remedying evidential defects. In the cases that related to the magistrates’ courts 40% (eight out of 20) would have benefited from a more proactive approach.

- 3.4 Whist in all but one case the choice of charge selected by the prosecutor reflected the seriousness of the case, in 6.6% of cases there were subsequently significant amendments to the charge (seven out of 106). In five there was no material change since the charging decision was made, and in three of the five there were obvious identification issues, where further clarification should have been sought. Our sample and observations highlighted that in some cases the prosecutor had not thought about how the case would be run after the charging decision and in a good majority of instances the charging lawyer accepted at face value the charge that was proposed. More appropriate charging options may have been easier to prove and would have attracted the same maximum sentence in the magistrates' courts, for example sections 3 and 4 of the Public Order Act. The Area had identified this as a weakness through its own monitoring, but believed that completion by all lawyers of the CPS Proactive Prosecutor Programme had addressed the issue. However, our observations indicated that there remains some room for further improvement.
- 3.5 Our file sample also indicated a lack of creativity or proactivity in some charging decisions, this may be due in part to police processes (see paragraph 3.16). In 66.7% of the cases seen appropriate alternative disposals and ancillary orders were considered. However, in magistrates' courts' cases alone this amounted to only 55.6%. It was also difficult to assess whether full consideration of victim and witness issues had been given by charging lawyers. We cover this more detail in Chapter 10 – the Service to victims and witnesses.
- 3.6 As part of the file examination we looked at 15 cases where the duty prosecutor had advised no prosecution. On the material available the Code tests appeared to have been applied correctly. All the files examined which were subject to a threshold test were followed up with a full Code review.
- 3.7 We saw one case where the charging lawyer had agreed the charge on the condition that the police undertook to gather additional evidence. This action is contrary to the Director of Public Prosecution's guidance and should not happen. The Area needs to remind lawyers that it is not appropriate.
- 3.8 The quality of pre-charge advice and decision-making is assessed by Unit Heads and the charging project manager by undertaking dip sampling. Unit Heads also use the casework quality assurance (CQA) scheme to assess the standard of advice. There was some evidence that individual feedback was given to lawyers and that general trends and issues had been identified and raised with them via e-mail, but it was recognised that this system could be haphazard in ensuring that messages were received and understood. There were a number of examples in the file sample which indicated a lack of awareness of general guidance, and the Area needs to ensure that lawyers understand the priorities and expectations that are to be delivered. To help this process the charging project manager has designed a number of aide memoir charts for charging station sites; these are clear and helpful reminders for lawyers.

ASPECTS FOR IMPROVEMENT

Greater care needs to be taken to record charging advice and ensure that a full audit trail is in place to ensure that subsequent action to be taken on the file is easily identified, and those working from the file are aware of actions and decisions already taken.

Bail/custody decisions

- 3.9 From our file examination we had no concerns about the appropriateness of bail or custody decisions made by charging lawyers. There are processes in place to ensure that custody cases are prioritised for pre-charge advice. Although we could not make an accurate assessment of the length of time suspects are in custody, senior police officers raised a concern that the police were not using the custody time available to build a fully effective case and statistics showed that the average time in custody was six hours. This was impacting on the numbers on bail, although it was recognised that this was not exclusively a problem being caused by PCD. In the cases we saw, police case reviewers would often ask for additional evidence and bail the suspect without the case being approved for CPS advice, which is covered in more detail later in the chapter (paragraph 3.17 onwards).

Operation of the charging scheme

- 3.10 In the year to March 2007 there have been 13,644 pre-charge decisions made, of which 12,686 can be traced back to a specific charging station. The other 958 cases have not been allocated to a basic command unit (see below). The split of work between the charging centres is illustrated below:

Charging centre	CPS office	Daily prosecutor coverage	Caseload
Euston Street	Leicester	2	4,333
Loughborough	Leicester	1	3,021
Beaumont Leys	Leicester	1	3,065
Hamilton	Leicester	1	2,267
TOTAL		5	12,686

- 3.11 All young people and women who are arrested are taken to Euston Street custody facility, which has an impact on the caseload and demand on charging lawyers. More serious cases are all processed through Hamilton Police Station and again this impacts the type and make-up of caseload for charging.
- 3.12 Lawyers attend charging from 9am to 5pm at all four charging stations and in Euston Street it is the usual arrangement for lunch to be staggered to ensure that there is constant coverage. We were told on a number of occasions that there is real commitment to getting the job done and lawyers will often stay to see cases through to completion. The charging project manager carries out unannounced visits to assess time-keeping. An appointments system operates at Loughborough, which is managed by the police case review officer, but in other charging sites there is no formal system of appointments. Police officers are able to leave their contact details if there is a queue and lawyers will call them.
- 3.13 Lawyers and police officers are aware of which lawyers are specialists in particular topics, such as child abuse, and there is a system in place to ensure that advice can be sought on more complex cases in paper form. Duty lawyers are able to phone specialists if the need arises. Special procedures also apply to serious crime and fatal accidents. All rape, serious sexual offences and child abuse cases where the suspect is on bail are also referred to specialist lawyers by paper file.

- 3.14 An early review after the migration to the statutory scheme highlighted problems of non-compliance with the system and a lack of front line police officer experience was impacting the standard of cases being brought for advice. The charging project manager and the senior police officer responsible for charging visited CPS Areas and police forces where charging was operating effectively. After considering other models the Area has worked with the police to train and establish sound 'gate-keeping' arrangements.
- 3.15 These gate-keeping arrangements have had the effect of producing a very strong prosecution team ethos. The close proximity of police case reviewers to charging lawyers has ensured that expectations have been established and a core understanding reached of what is needed to progress a case through charging.
- 3.16 However, there is a drawback to such strong gate-keeping. In all cases police officers have to have approval from the gate-keeper prior to seeking lawyer advice. In many instances this means that lawyers are not able to give early advice and cases are coming to them which have been built towards a particular charge. This may limit their ability to consider other options. Our concerns about the lack of creativity or proactivity at charging may be as a result of this process, although the number of cases where lawyers advise no further action (NFA) are in line with national averages. The Area needs to keep these arrangements under review and ensure that cases are being progressed with all possible options considered.
- 3.17 This approach is also increasing the number of instances where suspects are being bailed for cases to be built. There was evidence of repeat bail and delay before cases were referred for charging advice.
- 3.18 The strong prosecution team ethos is also apparent in the regular and widely attended prosecution team performance management (PTPM) meetings. There was evidence of a frank and transparent relationship between both parties with difficult issues being tackled in an open and constructive manner. We were told by a number of senior police officers that these meetings were an effective forum to discuss areas of concern and used to highlight issues such as non-compliance and lack of consistency in advice.
- 3.19 Some of the value of the PTPM meetings is hampered by the inability of the police to provide unique reference numbers (URNs) for cases coming to charging lawyers. This has been an on-going issue and was a problem prior to statutory charging. During our overall performance assessment (OPA) in October 2005 we were assured that this issue had been resolved and are therefore concerned to find that the problem still continues. The Area has established processes to work around the problem, but these have required additional resources and resulted in overtime working to clear backlogs and have still not resulted in accurate counting. The lack of a consistent URN has resulted in a large number of cases (7.5%) not being assigned to a basic command unit (BCU). Additionally 8.2% of cases are undefined on the system. The recent implementation of NSPIS (the police file building computer system) is viewed by the police to be a solution. The Area needs to ensure that it continues to highlight the problems and presses for a solution that meets its business needs.

- 3.20 Matters in the short term have been further complicated by the recent change (April 2007) to police BCU boundaries and a reduction from four to three BCUs, which has resulted in charging centres no longer being co-terminous with them. A clerical solution has been established to address this problem. However, this change will further effect the accuracy of URNs, and therefore the effectiveness of PTPM data in reflecting actual BCU performance. Additionally any local good performance cannot be identified and shared.
- 3.21 Outside of office hours, advice is provided by CPS Direct (CPSD). After some early teething problems effective liaison arrangements, including the attendance of the CPSD liaison manager at police meetings to listen to concerns, are in place. We were told of good relationships with CPSD by both police case review officers and operational officers. CPSD cases seen in the sample demonstrated an effective relationship, with officers giving an accurate assessment of the evidence available.

STRENGTHS

The commitment of duty prosecutors to remain at charging centres to see cases through.

The strong prosecution team ethos.

RECOMMENDATION

The Area needs to ensure that it works with police to address the implication of basic command unit structures and that it increases its influence with the police to resolve the difficulties caused by the lack of consistent unique reference numbers.

Realising the benefits of pre-charge decision-making

- 3.22 The Area is realising some of the benefits of the charging scheme. The most recent key outcomes against which the CPS measures performance are shown in the table below.

	Magistrates' courts cases				Crown Court cases			
	National target March 2007	National performance Q4 2006-07	Area target March 2007	Area performance Q4 2006-07	National target March 2007	National performance Q4 2006-07	Area target March 2007	Area performance Q4 2006-07
Discontinuance rate	11%	15.4%	11.2%	15.1%	11%	13.2%	15.1%	17.8%
Guilty plea rate	52%	70.0%	78.0%	71.6%	68%	67.0%	63.2%	71.1%
Attrition rate	31%	21.5%	31.0%	20.4%	23%	22.2%	23.0%	23.6%

- 3.23 Discontinuance in the magistrates' courts is showing a steady decline and improving (lower is better). Performance has fallen from 24.8% in the fourth quarter of 2005-06 to 15.1% in the fourth quarter of 2006-07, but the Area has still not reached its own target of 11.2%, although performance is better than the national rate. Discontinuance in the Crown Court is an area of concern. The performance trend is erratic and has ranged from 15.2% to 24% in 2006-07, averaging 19.0%. This may be a result of small numbers involved and activity to clear backlogs. However, Crown Court performance is significantly worse than both the Area and national targets.
- 3.24 The rate of guilty pleas in the magistrates' courts is better than national performance, but still short of the Area target; however the trend is an improving one. Guilty pleas in the Crown Court saw a dip in the fourth quarter, however the trend is also an improving one and performance is above both Area and national targets.
- 3.25 Attrition in the magistrates' courts is steadily declining and is better than national performance. In the Crown Court performance is more variable; for 2006-07 as a whole it was worse than the national average, at 25.3% against 23%.
- 3.26 Some of the process changes outlined in Chapters 3 and 4 may have a beneficial impact on charging results, although key to improvement is a clear understanding by charging lawyers of Area expectations and systems. Improving general basics and emphasising and confirming key expectations may generate some improvements.

4 CASEWORK IN THE MAGISTRATES' COURTS

Decision-making in magistrates' courts' cases is sound. Summary trial preparation has improved due to the introduction of a duty lawyer scheme dealing with pre-trial review preparation. Improved arrangements for dealing with correspondence have also improved timeliness of preparation. However, as a result of these initiatives specific lawyer file ownership is more limited. Persistent young offender performance is very poor at 98 days, although the Area has begun to focus on improvement with a series of initiatives with its CJS partners. The discontinuance rate is high but is improving, in part because lawyers cannot now discontinue a case without the expressed permission of the Unit Head. The Area needs to ensure that this policy is flexible and does not result in cases being progressed that are not appropriate. The effective trial rate is poor, as are the ineffective and cracked trial rates. One of the Criminal Justice Unit Heads has recently implemented an initiative aimed at reducing the high cracked trial rate. This needs careful monitoring to ensure it puts victims at its heart and contains no obstacles to open, transparent justice. Case management system usage has improved considerably.

Quality of case decisions and continuing review

- 4.1 We examined 52 magistrates' courts' case files from the Area and our findings are set out in the following table.

Magistrates' courts and youth court casework

	Performance in the inspection programme to date	Area Performance
Case preparation		
Cases ready for PTR/CMH	75.9%	80.9%
Court orders complied with on time, or application made to court	80.3%	94.1%
Correspondence from the defence dealt with appropriately	76.9%	85.7%
Instructions to agents were satisfactory	63.9%	69.2%
Level of charge		
Charges that were determined by the prosecutor and proceeded without amendment	89.7%	100%
Cases that proceeded to trial or guilty plea on the correct level of charge	97.1%	98.0%
Discontinuance		
Discontinuance was timely	67.6%	98.1%
Decisions to discontinue complying with the evidential test	94.1% (both	100%
Decisions to discontinue complying with the public interest test	tests combined)	100%
Discontinued cases where the prosecutor had properly sought additional evidence/information before discontinuing the case	79%	100%

Cracked and ineffective summary trials

Cracked or ineffective trials that were foreseeable and the CPS took action to avoid the outcome	52%	0% (0 out of 1)
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Summary trial

Decisions to proceed to trial complying with the evidential test	95.0%	95.8%
Decisions to proceed to trial complying with the public interest test	97.1%	100%
Cases with timely summary trial review and properly recorded	69.4%	77.1%
No case to answers that were foreseeable, and the CPS took action to avoid the outcome	34.6%	0% (0 out of 1)

- 4.2 The standard of decision-making is sound. We disagreed (on evidential grounds) with the decision to prosecute in two out of 52 cases (4.2%) compared with 5% in our inspection programme to date. The first was a case with conflicting identification evidence and the second was a dangerous driving road traffic case from the youth court that had to be discontinued because of the failure to serve a Notice of Intended Prosecution – a fundamental error that ought to have been identified at the pre-charge advice stage.
- 4.3 In cases charged by the police, an initial review was completed in 90.9%, although in PCD cases the MG3 (police/CPS form used to record pre-charge advice) tended to be treated as the initial review. Cases that have been through statutory charging will generally require a simple check to ensure that the pre-charge decision is still appropriate and that the charge is correct. Lawyers need to check and note whether any initial advice given at PCD has been complied with or whether there has been any change in circumstances. We found that, in these cases, the completion of reviews for first hearings either on the file or on the CPS case management system (CMS) was variable. The review box on the front of files indicating whether an initial review had been undertaken was rarely completed.
- 4.4 The Area uses pre-trial review (PTR) preparation as the full file review. A lawyer is designated as the PTR lawyer for a day and has to prepare all the files listed for the next day's PTR court. File ownership is limited; whilst all files are allocated to a named lawyer upon registration, the reality is that most trial preparation is conducted by a lawyer other than the file 'owner' and that lawyers will 'own' many files that they will never see. This presents difficulties, for example, in consistent file handling, decision-making and trial preparation, and hampers managers' ability to assess lawyer performance. We do, however, recognise that this process has improved the quality and timeliness of PTR preparation.
- 4.5 In our file sample, whilst full file reviews were generally undertaken, the recording of the review on the file itself was unsatisfactory, only being carried out in 22.9% of cases. Typically this was because of a failure to print out the CMS review and place it on the file, which meant that files were going to court without the reviewing lawyer's assessment of the case and any instructions on the acceptance of pleas being available to the advocate. As well as being an obstacle for the advocate preparing for court, this has an adverse impact on the progress of cases at court; agents and designated caseworkers (who have restrictions on their powers) are particularly disadvantaged.

ASPECTS FOR IMPROVEMENT

The Area should ensure that all reviews are apparent on the file itself as well as recorded on the case management system.

Successful outcomes

- 4.6 The Area's overall conviction rate in the magistrates' courts is 80.7%, which is an improvement on last year's 78.6%, but the national average is 84.3%. The key outcomes are shown in the following table.

Case outcomes in the magistrates' courts

	National performance year to end March 07	Area performance year to end March 07
Discontinuance and bindovers	10.8%	14.4%
No case to answer	0.2%	0.2%
Dismissed after trial	1.9%	1.7%
Discharged committals	0.2%	0%
Overall conviction rate	84.3%	80.7%

- 4.7 The percentage of guilty pleas, at 71.5%, has worsened significantly since last year when it was 78.6% and is poorer than the national average of 74.9%. The Area could not account for this, but we suggest that the delays between charge and trial may be a contributing factor and we discuss this further in Chapter 6.
- 4.8 The acquittal rate has fluctuated over the year, but at 1.8% overall it is close to the national average of 1.9%. The number of cases where there was a finding of no case to answer also fluctuated across the year, but the annual figure was the same as the national average at 0.2%.
- 4.9 The CPS has set itself a combined target for reducing the rate of unsuccessful outcomes in magistrates' courts and Crown Court cases. We have transposed this in the table below into terms of successful outcomes; that is, the overall conviction rate.

Successful outcomes

(as a % of completed magistrates' court and Crown Court cases)

National target 2006-07	National performance year to March 07	Area performance year to March 07
83%	83.5%	81.2%

- 4.10 Nationally the target has been exceeded, but the Area figure falls short of this and has also not met its own target of 82%. However, it is an improving picture and in the fourth quarter of 2006-07 performance had improved to 81.9% from 78.6% in the first quarter.

Offences brought to justice

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

Offences brought to justice

		CJS Area performance
		2005-06
Against 2001-02 baseline		+ 43.1% (baseline 19,059)
Number		27,275
OBTJ made up of	National average Nov 2006	Area figure Nov 2006
Convictions	49.6%	54.4%
TICs	8.8%	10.0%
Cautions	26.0%	22.3%
Fixed penalty notice	9.9%	7.7%
Formal warnings for drugs	5.7%	5.6%

- 4.12 The volume of offences brought to justice that is made up of convictions is 54.4%, which compares very favourably with the national performance of 49.6%.

Discontinuances in the magistrates' courts

- 4.13 We agreed with all the decisions (100%) to discontinue in our file sample compared with 94.1% in our inspections to date.
- 4.14 The discontinuance rate is high at 14.4% compared to a national average of 10.8%. However, this represents a significant improvement on previous levels.
- 4.15 The Area has operated a culture of 'no deal' which included the presumption against discontinuing charges (or cases) that had been the subject of a pre-charge decision. It was stated that any such discontinuance had to be approved by the Unit Head; however in reality lawyers would often make decisions to discontinue without approval. In an effort to assess the high discontinuance rate a review of all dropped cases was undertaken, which highlighted the lack of consistency. In January 2007 there was a re-affirmation of the policy and for files from the City CJU discontinuance would only be approved if circumstances had changed since PCD, and by the Unit Head and no-one else. Since January 2007 the Area's overall discontinuance rate has decreased appreciably to 14.4% (for the year to March 2007).

- 4.16 Whilst we recognise the achievement in the improved figures, we have concerns that the new policy may result in some inflexibility. Other court users complained about the rigidity of the approach and we ourselves saw one case at court where we disagreed with the application of the public interest limb of the Code test. A decision was made to continue with a prosecution that had been authorised at PCD when the case was (and had always been) eminently suitable for a caution, but which was being pursued under the policy as it had been charged as such.
- 4.17 We have concerns, too, that weak cases or poor pre-charge decisions may not be filtered out. It is too early to tell yet, given the lengthy adjournment period for trials, whether the re-affirmed policy will result in increased findings of no case to answer or acquittal. We discuss the impact on cracked and ineffective trials later in this chapter at paragraph 4.43.

ASPECTS FOR IMPROVEMENT

The Area should keep the 'no deal' policy under close review to ensure there is no adverse impact upon successful outcomes and that prosecutors are not dis-empowered.

Committal preparation and discharged committals

- 4.18 The rate of discharged committals in CPS Leicestershire is very low with only six cases in the year to March 2007. Systems are in place to deal with issues of re-instatement.
- 4.19 There was one discharged committal in our file sample. It had been the subject of CPS advice not to charge until the police had undertaken to gather additional information as directed in a case action plan. The defendant was charged without the work having been completed and as a result there was insufficient evidence to commit for trial. There are processes in place to deal with issues of non-compliance by the police at the charging stage and this case was brought to their attention.

Youth cases

- 4.20 Youth cases are generally handled well. There is a dedicated Youth Team of 3.5 lawyers that manage all youth cases in the City CJU and youth specialists deal with the bulk of these cases in the County CJU. We received good feedback about individual youth specialists.
- 4.21 The City youth courts are very busy, with heavy daily lists. The reality is that cases are moved between courts to avoid excessively long days. This is far from ideal as it means advocates have to prepare for very big court lists, much of which is moved to another court where another prosecutor has to read it at short notice and duplicating effort. The court day is very long and the movement of cases brings additional risks. We were concerned that the overloading of the lists may put pressure on court users to crack trials or seek adjournments where progress could have otherwise been made.

4.22 We discuss the impact upon trial waiting times in youth cases later in this chapter at paragraph 4.25. Additional funding has been sought to hold extra courts but there are currently not enough Legal Advisors to cover them. The Area needs to continue working with the courts and other agencies to resolve trial delays and the excessively heavy caseloads in the youth court.

ASPECTS FOR IMPROVEMENT

The Area needs to continue negotiations with the courts and other agencies to ensure that the youth courts are of a more manageable size.

Persistent young offenders

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

Overall PYO performance (arrest to sentence)

National target	National performance (3 month rolling average to February 2007)	Area performance (3 month rolling average to February 2007)
71 days	72 days	98 days

4.24 PYO performance against the pledge is poor, with the Leicestershire ranking 42nd out of 44 criminal justice areas and attracting the scrutiny of the Attorney General's Office. Performance has been erratic; in the last quarter of 2005 it was 72 days, but deteriorated in 2006 reaching a low of 108 days in the quarter to June, although there has been some improvement since.

4.25 Analysis of this poor performance suggests that key issues are the identification and summoning of PYOs by the police. Both of these can extend the time taken to deal with cases and both have yet to be fully addressed. The Area has recently made renewed efforts, together with its partner agencies, aimed at improving performance. These include the introduction of a new CJS protocol, the establishment of the dedicated Youth Team and fixing trial dates on the first date of hearing rather than adjourning for a PTR. In addition, every youth is now treated as a PYO until they are shown not to be one.

4.26 Whilst we were on-site, we saw evidence of failures by prosecutors to prioritise PYOs, either through lack of awareness of procedures or through not actively seeking to identify suspects as PYOs at the charging centres. The Area needs to re-emphasise to all staff the importance of improved PYO performance and to ensure that all prosecutors, particularly duty prosecutors, have a thorough knowledge of the processes and timescales for dealing with PYOs.

RECOMMENDATION

The Area needs to re-affirm to its staff the importance of good persistent young offender performance and to underline the relevant processes and timescales.

Case progression and effective hearings

- 4.27 The data collected by HM Courts Service on time intervals indicates that 92% of adults plead guilty within the target of 59 days, which is a good performance compared to the national performance of 85%. In the youth court, however, only 79% of young offenders plead guilty within the target of 59 days, compared to 89% nationally.
- 4.28 The proportion of trials heard within the target of 143 days is low compared to the national performance, at 58% for adults (nationally 67%, itself a low figure) and 70% for youth trials (nationally 90%), the lowest percentage in the country.

***Time intervals/targets for criminal proceedings in the magistrates' courts
Charged cases only, Dec 2006***

	Initial guilty plea target 59 days	Trials target 143 days	Committals target 176 days
	Cases within target (%)	Cases within target (%)	Cases within target (%)
National	85	67	93
Area	92	58	Insufficient sample size

***Time intervals/targets for criminal proceedings in youth courts
Charged cases only, Dec 2006***

	Initial guilty plea target 59 days	Trials target 143 days	Committals target 176 days
	Cases within target (%)	Cases within target (%)	Cases within target (%)
National	89	90	95
Area	79	70	Insufficient sample size

- 4.29 There is a post room system to aid case progression. All correspondence is assessed initially by administrative staff and then by a designated caseworker, who responds where appropriate. Only if the DCW is unable to deal with the correspondence will the file be passed to the allocated lawyer. This has had a positive impact on the numbers of files in lawyers' in-trays and, consequently morale, although file ownership is reduced. DCWs on post room duty also draft

letters to victims under the Direct Communication with Victims (DCV) scheme and undertake some PTR preparation.

- 4.30 Each CJU has a Case Progression Officer (CPO) to co-ordinate the completion of trial readiness certificates and liaise with the Witness Care Unit and the courts. More could be done to define and standardise the CPO role, for example by ensuring objectives are set appropriately and that a job description is issued and understood, although we were aware that there was a substantial amount of training with case progression staff when the processes were first implemented. The Area needs to ensure that those who are new to the role are also adequately trained and understand their role.

ASPECTS FOR IMPROVEMENT

The Area needs to clearly define the Case Progression Officer role through the setting of appropriate objectives and the issuing of a comprehensive job description.

Case preparation

- 4.31 The magistrates' courts' files were very untidy with numerous duplicates of documents scattered about in them, especially disclosure schedules. This makes it difficult to find information, in particular when in court, and makes preparation for more difficult and unnecessarily time consuming. Case progression is also hampered. We saw a case that was adjourned because it was stated that the interview records were missing from the file when in fact this was not the case.
- 4.32 Following a not guilty plea, cases are adjourned for six weeks to obtain a full file and for a PTR. A designated lawyer has been appointed to prepare all files for PTR (as well as undertaking a full file review). The PTR pack will be made up of a comprehensive set of documents to be served on the defence at or before the PTR. It tells them which witnesses the prosecution intends to call to give evidence at the trial as well as those who are to be served under section 9 Criminal Justice Act 1967. The lawyer will also consider initial disclosure and sign a declaration as to whether there is undermining or assisting material. The pack contains an endorsed schedule of unused material. Consideration will also be given to applications for special measures for witnesses and to whether it is appropriate to submit bad character and hearsay evidence.
- 4.33 When completed properly and on time, the PTR pack is a sound clerical process to improve performance. However, in our file sample we saw some files where the disclosure part of the pack had not been completed. The PTR lawyer position is also used as the contingency to cover courts when an advocate is sick, which has the potential to leave the PTR preparation undone. The Area now ensures that the lawyer is not taken off PTR duty and recent indications are that readiness for PTR has significantly improved as a result.

 ASPECTS FOR IMPROVEMENT

The Area needs to take steps to ensure that files are tidy and ordered.

Effective, ineffective and cracked trials

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

Trial rates in the magistrates' courts

	National target 2006 – 07	National performance year ending March 07	Area target 2006 – 07	Area performance year ending March 07
Effective	N/A	43.8%	N/A	33.8%
Ineffective	19.4%	18.9%	21%	20.9%
Cracked	N/A	37.3%	N/A	45.3%

- 4.35 The ineffective trial rate is high. Although it betters its own target, the Area fails to meet the national target, or average performance nationally. Ineffective trials were as low as 18.2% in August 2006, but performance worsened to 22.1% in January 2007 and 23.5% in February – the highest rate in 2006-07 and significantly above the Area target of 21%.
- 4.36 The main reasons for ineffective trials are that a prosecution witness was absent (5.4% of cases, nationally 3.2%), insufficient court time (3.3% of cases, nationally 2.9%); and that the defendant was absent (3.1% of cases, nationally 2.1%).
- 4.37 The cracked trial rate is 45.3% against a national average of 37.3%. Over 19% of this figure is made up of late guilty pleas offered by the defendant for the first time on the day of trial.
- 4.38 These measures combine to give an effective trial rate of only 33.8% against a national performance of 43.8%.
- 4.39 The quality of cracked and ineffective trial data is assured by the Unit Business Managers on behalf of the Unit Heads, who prepare reports for the Area Management Team (AMT). However, these reports tend to be factual rather than analytical and could be improved by identifying trends or through comparison with past and national performance.
- 4.40 Measures have been introduced to try to improve performance, but it seems that the 'no deal' policy has had an adverse impact upon the ineffective trials data; whereas before, if a trial could not go ahead then the prosecutor might have dropped the case, accepted a bind over or accepted a basis of plea, now they do not have the authority to do so.

- 4.41 Concern that the Area had the highest cracked trial rate in the country (47.63%, national average 39.95%) caused the City CJU to implement a novel scheme. Commencing in November 2006, between ten and 15 files which were at the post-PTR stage but still about three months before the trial date, were selected on a monthly basis. The defendant's legal representative was then invited to a meeting where possible compromises were considered. Cases were selected that either had a weak aspect or the potential for an offer to be made likely to be acceptable to the defence. If a potential agreement was reached, it was usually set out in writing by the Head of the CJU to the defence with a time limit for acceptance; the letter also recorded that the basis of the meeting had been that the Crown Court would not subsequently refer to it.
- 4.42 In view of the nature of the scheme, inspectors scrutinised ten cases dealt with in this manner. There was one where the disposal seemed inappropriate. However, pleas were accepted to lesser charges in a number of instances without the usual attempt to consult the victim. In one case involving assaults on two separate individuals, a plea had been accepted to one assault without any apparent rationale for the dropping of the other.
- 4.43 Inspectors have considered the propriety of these arrangements. The scheme was clearly established with laudable intention – to expedite cases where some form of compromise seemed likely and to avoid delay and inconvenience for victims and witnesses. In many respects, the outcomes were similar to what might have been achieved through discussion “at the doors of court” but prosecutor and court time on the day was saved, and witnesses were not unnecessarily inconvenienced. However, we have numerous reservations. The scheme is arbitrary in that the number of cases dealt with in this way is dictated by the time available to the CJU Head. The scheme does not comply with the requirements of the Code for Crown Prosecutors that the prosecution should, whenever practical, speak to the victim or their family when considering whether to accept a plea. It also contains a substantial risk that a plea may be accepted on a basis which does not fully reflect the gravity of the offence; the magistrates or district judges are only given the facts as per the agreed basis of plea, and there is therefore no judicial approval of the process. It additionally lacks transparency and the fact that a time limit is placed on acceptance, calls the approach into question: if the proposed course of action is objectively justifiable, it should not cease to be acceptable after a particular date.
- 4.44 Whilst we recognise the need, wherever possible, to avoid cases cracking on the day of trial, the risk involved in this particular approach outweighs the potential benefit. The sorts of issues explored under this scheme should be more appropriately explored as part of an effective pre-trial review, and the practice should cease.

RECOMMENDATION

The cracked trial initiative in the City Criminal Justice Unit ceases with immediate effect.

Use of the case management system – Compass CMS

- 4.45 In the OPA the use of the computerised case management system (CMS) was an aspect for improvement. Since then, performance has improved substantially to 99% compliance overall. Timeliness of magistrates' courts' finalisations in March 2007 was 88% which shows a marked improvement when compared with performance in April 2006, of 44.6%.
- 4.46 In our file sample, CMS was used correctly in 78% of cases. We noted several instances on CMS that indicated that the initial review could be found on the paper file, when this was not the case.
- 4.47 There is some evidence that managers use CMS to oversee performance; for example, Unit Heads monitor and give feedback about the quality of MG3s, often on the day that the pre-charge advice is given. Registry managers print out reports in order to examine performance issues. Task lists are monitored.

5 CASEWORK IN THE CROWN COURT

The quality of review and decision-making in the Crown Court is generally good. The rate of successful outcomes is improving and there are early indications that recent measures implemented by the Area are impacting positively on discontinuance performance. Some monitoring and analysis is shared with criminal justice partners. The standard of instructions to counsel is variable and instructions on acceptable pleas show scope for improvement. There is early timely service of papers and effective monitoring of the progress of the case. The ineffective trial rate has marginally improved but remains worse than the national average.

The quality of case decisions and continuing review

5.1 We examined 61 Crown Court files from the Area, and our findings are set out in the following table.

Crown Court Casework

	Performance in the inspection programme to date	Area performance
Committal and service of prosecution papers		
Decisions to proceed at committal or service of prosecution case stage complying with evidential test	96.4%	100%
Decisions to proceed at committal or service of prosecution case stage complying with public interest test	99.5%	100%
Cases with timely review before committal, or service of prosecution case	77.7%	83.9%
Instructions to counsel that were satisfactory	63%	85.4%
Case preparation		
Cases ready for PCMH	91.0%	92.5%
Court orders complied with on time, or application made to court	80.8%	80.0%
Correspondence from defence dealt with appropriately	86.8%	98.0%
Cracked and ineffective trials		
Cracked or ineffective trials that were foreseeable and the CPS took action to avoid the outcome	58.0%	100%

Level of charge

Indictments that were appropriate and did not require amendment	81.8%	87.7%
Cases that proceeded to trial or guilty plea on the correct level of charge	77.7%	84.9%

Judge ordered and judge directed acquittals

JOA/JDAs that were foreseeable and the CPS took action to avoid the outcome	38.8%	100% (3 cases)
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Trials

Acquittals that were foreseeable and the CPS took action to strengthen the case (or drop it sooner)	23.9%	100%
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- 5.2 In the sample of Crown Court files we found the quality of decision-making was sound. There was 100% compliance with the Code evidential and public interest tests at the committal or service of the prosecution case stage. In the cases examined we also identified a significant proportion in which prosecutors had identified additional lines of enquiry and had added value in progressing the case or building it effectively.
- 5.3 We were satisfied that the indictments reflected the seriousness of the case and afforded the court adequate sentencing powers in all relevant cases. In all cases in the file sample, inspectors agreed with the decision to discontinue.
- 5.4 In contrast with the magistrates' courts' cases, full file reviews were recorded and placed on the Crown Court file in 99.8% of cases. The reviews clearly set out the decisions made and the reasoning behind them.

STRENGTHS

The quality of decision-making.

Successful outcomes

- 5.5 The overall conviction rate in the Crown Court for 2006-07 is 75.1% which is not as good as the national average of 77.7%. The key outcomes are shown in the following table.

Case outcomes in the Crown Court

	National performance 2006-07	Area performance 2006-07
Judge ordered acquittals	13.1%	18.7%
Warrants	1.3%	1.0%
Judge directed acquittals	1.4%	0.7%
Acquittals after trial	6.5%	4.5%
32 Overall conviction rate	77.7%	75.1%

- 5.6 The unsuccessful outcomes rate shows an erratic but overall improving trend. In 2005-06 it was 27.5%, but worsened in the first quarter of 2006-07 to 29.7%, before improving to 24.9% for 2006-07 overall.
- 5.7 The Trials Unit (TU) Head completes an adverse case report for every unsuccessful outcome and provides analysis and they are also jointly analysed with criminal justice system partners. The reports are used to identify individual and overall training needs and feedback is given both on an individual and unit-wide basis.

Discontinued cases and judge ordered acquittals

- 5.8 The high discontinuance rate had been a cause for concern for the Area and the police for some time. In the fourth quarter of 2006-07 it was 17.8%, compared with the national average of 13.2%, and the Area had the worst rate nationally.
- 5.9 In recent months the Area has been proactive in identifying issues impacting on discontinuance figures and has implemented measures to address these, including the requirement to ensure that all discontinued charging decisions are countersigned by the TU Head.
- 5.10 Discontinued cases are discussed at meetings with the police and at team meetings and there are early indications that discontinuance performance is improving.
- 5.11 The judge ordered acquittals (JOAs) rate of 18.7% for 2006-07 is significantly worse than the national rate of 13.1%. It shows, however, a significant improvement from the first quarter of 2006-07 figure of 24%.
- 5.12 We examined 11 JOA cases and were impressed with the care and attention they had received throughout. In the majority of them pre-charge advice had been given on the basis that the victims supported the prosecution. The victims then failed to attend, could not be traced, or refused to give their evidence at court. In one case evidence which had been requested was not forthcoming. We agreed with the decisions in all JOA cases examined.
- 5.13 In all JOA cases, adverse outcomes forms were completed setting out the reasons for the decision, but the information was very much limited to the facts of the case. The Unit Head does, however, produce an overall trends and analysis report for discussion at AMT meetings. The Area has recognised the major trends and issues falling from its analysis and there has been dialogue with the Witness Care Unit (WCU) manager in an attempt to improve processes and strengthen the relationship between the WCU and Trials Unit. More could be done to formalise these arrangements and to ensure that the evaluative analysis being undertaken is leading to improvements.

ASPECTS FOR IMPROVEMENT

The Area would benefit from more detailed analysis, information sharing and learning from experience in discontinued and judge ordered acquittal cases.

Serious and complex cases

- 5.14 The Area has developed a close relationship with the police Major Crime Team and quarterly meetings take place. These facilitate sharing of information and provide an opportunity for a full update of all police operations in the Area. In addition, the CPS has weekly meetings with the police Special Operations Unit which deals with serious and organised crime cases and, where necessary, contact takes place on a daily basis.
- 5.15 The majority of serious and complex cases are dealt with by the Special Casework Lawyer (SCL), who is appointed at the outset of major operations to enable continuous liaison with the police and agreement of timetables. In drug test purchase cases the SCL is involved at the covert phase of the enquiry and thereafter a TU lawyer will manage the case.
- 5.16 There is a log of major cases which is updated monthly and contains details of status and key dates for review by the CCP and TU Head. The log includes details of large cases advised on but not yet charged, which assists with managing staff workloads. Mechanisms are in place for case management panels to be formed when appropriate, although there have been no cases which have met the criteria to date.

Youth cases

- 5.17 The Crown Court has only a limited number of youth cases. The recently implemented Crown Court Protocol ensures that all youths are treated as persistent young offenders and are fast tracked accordingly. Preliminary hearings take place within 14 days for all PYO cases.
- 5.18 In addition there is a Leicestershire and Rutland Criminal Justice Board Protocol for PYOs. There have been fluctuations in performance and a number of long running Crown Court cases have impacted upon the overall performance against the PYO target, which is very poor.

Appeals and committals for sentence

- 5.19 There are effective systems for preparation of committals for sentence and appeals. The majority of these cases are prosecuted by an in-house Higher Court Advocate.

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

- 5.20 In 2006-07 five potential unduly lenient sentence cases were considered for an appeal by the Area. Of those, three were forwarded to the Attorney General and in each case the Area prepared full case summaries and the assessment and decision were thoroughly researched. All three were referred to the Court of Appeal by the Attorney General; the first resulted in an increase in sentence, the second was not considered to be unduly lenient and the third case is still to be determined.
- 5.21 TU prosecutors and caseworkers are aware of the provisions for unduly lenient sentence referrals and of the need for prompt action. Caseworkers at court highlight cases which may be appropriate for action.

Asset recovery (proceeds of crime)

- 5.22 Performance in 2006-07 on asset recovery saw £764,107 being ordered for recovery under a total of 97 orders. Whilst exceeding the numeric target of 88 orders, the financial target of £1,247,946 was not met.
- 5.23 The Area has set up a specialist Proceeds of Crime Act (POCA) Enforcement Team which works closely with the police and is responsible for training Area lawyers. This dedicated team gives the Area the ability to concentrate its efforts and ensure that applications for restraint, CPS receivership action and confiscation orders are prepared and progressed effectively. This action has also raised the profile of POCA across the Area.
- 5.24 Performance against targets is considered at management and TU team meetings and prosecutors have been reminded of the need for early identification of POCA cases when providing pre-charge advice. We found evidence of prosecutors considering asset recovery with the police at the charging stage in appropriate cases. Following the provision of pre-charge advice it is for police to investigate the defendant's financial situation, and the CPS thereafter prepares and handles applications for confiscation. The CPS has only limited ability to influence enforcement and asset recovery, although the dedicated lawyer resource ensures that POCA cases are prepared effectively.

Case progression and effective hearings

- 5.25 The recently implemented Crown Court Protocol provides a framework for expeditious case progression and, even though it is relatively new, the prevailing view was that it was impacting positively and that performance was improving generally.
- 5.26 There is an effective dedicated Case Progression Officer in the TU whose role includes closer liaison with the Witness Care Unit, the police and courts in individual cases and to improve case progression overall. The CPO effectively monitors the progress of all cases on CMS.
- 5.27 In our file sample we noted that case progression was generally good, with timely and effective action being taken by the CPO and the caseworkers when issues arose. We found there was early timely service of case papers in 49 out of 53 (92.5%) of relevant cases and compliance with court directions in 24 out of 30 (80%). Performance was excellent (98%) in responding to defence correspondence within a reasonable time, although file notes detailing action taken and telephone calls made were lacking, which resulted in an incomplete audit trail. In 80.8% of cases we found timely compliance with court orders and it is envisaged that the recent implementation of the Crown Court Protocol will result in greater compliance with court orders. In 96.9% of cases notices of additional evidence were supplied in a timely manner.

Case preparation

- 5.28 Case preparation is more effective in the Crown Court than in the magistrates' courts, which contributes to the low discharged committals rate compared with the national average.

- 5.29 Cases sent to the Crown Court or adjourned for committal are passed to the TU for review and preparation and service of papers. Cases are allocated to lawyers with appropriate experience and specialisms. All lawyers and caseworkers have been trained to prepare briefs using the Crown Court case preparation pack on CMS and the Area has created a number of useful templates on CMS, including hearsay applications, which can be e-mailed directly to other agencies.
- 5.30 The rate of usage of CMS for Crown Court reviews is high (99.8%). In our file sample we found that the case proceeded on the original indictment without significant amendment in 50 of 57 (87.7%) relevant cases and those amendments seen on files were generally to correct minor slips rather than significant drafting errors.
- 5.31 In our file sample the standard of briefs to counsel was variable, with 82.4% deemed to be satisfactory. Of those some were excellent and addressed all material points. In one instance the analysis contained headings including identification, credibility, unused material, delay and acceptable pleas. The content was particularly helpful in demonstrating that the lawyer had anticipated all possible issues which counsel would be likely to raise.
- 5.32 Other instructions, however, could have been fuller. In those cases where there were stark or inadequate instructions we found that counsel had generated an advice requesting more information and, in some cases, providing detailed advice for further action to be undertaken. In one case the points raised by counsel were fundamental and quite elementary. Our assessment of the standard of briefs to counsel was less favourable than the Area's own assessment using the casework quality assurance (CQA) scheme. The Area's own quality assurance assessed that 93.5% of cases were adequate; we assessed this at 82.4%.
- 5.33 Evidence of instructions on acceptable pleas was patchy and showed scope for improvement. In our file sample some cases contained instructions on acceptable pleas which were very specific, giving reasons for the decision, in other relevant cases there was either a bold statement setting out the acceptable plea(s) or no guidance at all. In compiling our result we noted that instructions on acceptable pleas were present in 27 of 39 (69.2%) of relevant cases, which contrasts with the Area CQA figure of 90.2% (see Chapter 11).
- 5.34 The file sample showed that defence correspondence was dealt with appropriately in all cases in that responses, although not immediate, were sent out in a reasonable time. However, we saw endorsements on the defence letter itself which were without exception undated and it was not apparent who made the endorsement.
- 5.35 Other file endorsements recording on-going events were sparse. We saw no notes of telephone calls and the Area accepted that there is no system in place for recording them. This resulted in there being a poor audit trail of actions and decisions.

ASPECTS FOR IMPROVEMENT

Quality of instructions to counsel particularly regarding pleas.

The recording of file endorsements on receipt of correspondence and telephone calls.

Effective, ineffective and cracked trials

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

Trial rates in the Crown Court

	National target 2006 – 07	National performance year ending Dec 07	Area target 2006 – 07	Area performance year ending Dec 07
Effective	N/A	48.2%	N/A	38.7%
Ineffective	14.2%	12.4%	15.5%	14.7%
Cracked	N/A	39.5%	N/A	46.6%

- 5.37 The rate for ineffective trials is 14.7%, which is worse than the national average of 12.4% and the rate for cracked trials is 46.6%, which is poor compared to the national average of 39.5%, however the Area rate shows slight improvement from the year before when it was 46.9%. Although it has fluctuated throughout the year, the effective trials rate remains significantly worse than the national average.

- 5.38 There is analyses of effective, ineffective and cracked trial data which is discussed at AMT meetings, Unit Head quarterly reviews and team meetings. We were told that the three main causes for ineffective trials are police failure to comply with action plans, witness issues and disclosure failings. The data confirms that witness issues and disclosure were a problem, and in our file sample we found evidence of the Area chasing the submission of outstanding documents and exhibits, some of which had been requested in action plans at charging or at the subsequent review stages. A new system (implemented during our on-site visit) has been introduced in the TU to ensure that submissions are made in a timely fashion and to record performance. Where file building is not timely it impacts on the time for proper review and can mean that case preparation is put at risk. Witness issues and disclosure failings are discussed in Chapters 8 and 10.

- 5.39 Cracked and ineffective trial rates are also discussed at the Court Performance Group of the Local Criminal Justice Board and during monthly meetings with the Resident Judge. More work needs to be done, however, to examine the different factors, such as witness issues, late guilty pleas, the effectiveness of pre-trial hearings and late acceptance of lesser charges, and to analyse reasons and trends, to see where and how improvements can be brought about, and in particular to provide systematic feedback to lawyers.

RECOMMENDATION

The Area should analyse reasons and trends for ineffective trials and ensure that formalised action is taken to improve processes that may lead to improvement.

Use of case management system – Compass CMS

- 5.40 CMS reviews are generally recorded and of good quality. In our file sample, it was used properly in 58 out of 59 (98.31%) relevant cases. The Area is the third best in the country for Crown Court CMS reviews and a number of templates which have been added to the system by it are in frequent use. This is a commendable and significant improvement from the position at the overall performance assessment.
- 5.41 The TU Business Managers are proactive in checking and monitoring tasks on CMS to ensure that cases are prepared and progressed promptly. CMS usage is also checked when casework quality assessments are undertaken. Cases seen for other reasons will also have an assessment done of the quality of the case on CMS and any failings identified from these ad-hoc checks are fed back to the appropriate lawyer or caseworker.

STRENGTHS

The case management system is used effectively for Crown Court preparation.

6 PRESENTING AND PROGRESSING CASES AT COURT

The standard of advocacy in the Area is variable. Agents in the magistrates' courts and counsel in the Crown Court performed well, although junior members of the Bar lacked experience and presence. One in-house prosecutor performed unsatisfactorily. Advocacy monitoring needs to be more robust and systematic with face to face feedback. Designated caseworkers are highly regarded and deployed effectively. Some prosecutors could be more proactive in pushing for case progression. The length of adjournments for trial in the magistrates' courts hampers progression and impacts adversely on witness care and the Area needs to continue negotiating for better listing arrangements in advance of Criminal Justice: Simple, Speedy, Summary.

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

Advocates ensure cases progress and hearings are effective

- 6.2 Prosecutors are generally present in court in sufficient time for discussion with other parties. There was no evidence of an adjournment culture or that relationships amongst court users were too 'cosy'. Some advocates actively pushed for case progression, but others were not always proactive in challenging, when necessary, applications for adjournments.
- 6.3 Files are generally untidy, necessitating much searching to establish the history and progress of cases. In our file sample, 86.2% of cases were ready for PTR (inspections to date figure is 84.1%) and in 85.4% court orders were complied with on time (inspections to date figure is 80.6%).
- 6.4 Due to a shortage of suitable courts outside of the City court, the Area has adopted some imaginative practices to ensure effective use of designated caseworkers (DCWs). In the City court they undertake PTR and remand courts with the support of a lawyer decision maker, who is either in the building or available by mobile telephone so that review decisions can be obtained quickly where necessary. Any cases that cannot be dealt with by a DCW in the remand court, such as the sending of indictable only charges, are set aside so that the decision maker can come in to court for a short period to deal with them. Whilst this entails doubling up of resources, it is for a short part of the court day only and has led to both increased DCW usage and a valuable source of support for agents. The Area needs to continue negotiations with the courts to improve listing arrangements, bearing in mind that the introduction of Criminal Justice: Simple, Speedy, Summary (CJSSS) will dispense with PTR courts and lessen opportunities to deploy DCWs.

- 6.5 File endorsements are generally clear, although the trial endorsements were occasionally poor and in two cases custody time limit endorsements failed to specify actions for registry staff. There is some monitoring of endorsements.

ASPECTS FOR IMPROVEMENT

The Area needs to continue negotiations with the courts to ensure that listing arrangements are compatible with the implementation of Criminal Justice: Simple, Speedy, Summary and continued increased designated caseworker deployment.

The standard of advocacy

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

Advocacy standards

		CPS advocates/ DCWs in the magistrates' courts	Counsel/solicitor agents in the magistrates' courts	Higher Court Advocates and other CPS advocates in the Crown Court	Counsel in the Crown Court
	Level	Number	Number	Number	Number
Assessed as above	1	-	-	-	-
normal requirements	2	1	1	-	2
Against CPS National Standards of Advocacy	3+	1	1	None seen	2
	3	4	1		4
	3-	2	2		-
And those assessed as less than competent	4	1	-	-	-
	5	-	-	-	-

Assessment:

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

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

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

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

- 6.7 We observed nine in-house advocates including DCWs. The standard of advocacy was variable with one advocate rated as very good, whilst two were lacklustre and one was less than competent in many respects. DCWs were highly regarded by other court users.

- 6.8 We observed five counsel agents in the magistrates' courts. One was very good indeed, bordering on outstanding. Two agents were in their second six months of pupillage and lacked experience, confidence and presence, but otherwise gave no cause for concern. All agents receive two days' training and a pack of guidance before they are first instructed. A number of agents we spoke to were complimentary about the training and thought that it was valuable in outlining CPS expectations.
- 6.9 We observed eight counsel in the Crown Court. They were of a consistently good standard and, when their performances were compared with those of their opponents, all were rated as equal or better.
- 6.10 We were unable to observe any of the Higher Court Advocates in court. According to court users, HCAs would benefit from expanding their levels of experience and the Area is already deploying more of them in trials courts.
- 6.11 Facilities at courts are variable. City and Hinckley CPS rooms are particularly good, at Loughborough facilities are limited, and Melton Mowbray the CPS room is empty, with advocates having to use their own private mobile telephones. The Crown Court CPS room is adequate, although the computers are slow and the room can get overcrowded when all the courts are in use.
- 6.12 Caseworker coverage in the Crown Court is good with one caseworker per court in the main, but with the doubling up of resources where appropriate.
- 6.13 All advocates in the magistrates' courts are monitored, but the monitoring forms marked the performances generously and could have been more robust. Monitoring also needs to be more systematic, with individual, face-to-face feedback given. In the Crown Court, prosecuting counsel are monitored for re-grading purposes only. HCAs have not been sufficiently monitored, although the Area has already recognised and intends to address this.

ASPECTS FOR IMPROVEMENT

The Area should ensure that advocacy monitoring of all advocates is robust and systematic, with face-to-face feedback given.

7 SENSITIVE CASES AND HATE CRIMES

Sensitive cases and hate crimes were not assessed as a specific topic as part of this inspection. In the OPA the handling of these cases was assessed as “Excellent” with no aspects for improvement identified. The standard of casework in sensitive cases and hate crimes remains high with both the identification and management of cases and the quality of decision-making being good.

Quality of advice and decisions

- 7.1 Sensitive cases include offences of homicide, rape, child abuse and domestic violence; hate crime includes racially aggravated and homophobic offences. Our file sample included 33 such cases and in all of them the decisions on sufficiency of evidence and public interest were good. CPS policy was also correctly applied in all but one of these cases, a magistrates’ court racially aggravated offence in which no non-racially aggravated alternative charge had been included.
- 7.2 The Area is currently meeting its target to reduce the proportion of unsuccessful outcomes in hate crime cases which is better than the national target of 36%. Results of all unsuccessful cases are analysed for monthly performance reports.
- 7.3 There are plans for the Area to consider the recommendations in *Without Consent*, HMCPSI’s thematic report on rape investigation and prosecution.
- 7.4 The Area has appointed a sufficient number of specialists to deal with sensitive cases and in addition, the City CJU has a small specialist unit to deal with domestic violence cases. There are good systems in place to identify sensitive and hate cases, with a desk top guide for the police and duty prosecutors, and desk instructions for registry staff, to ensure cases are correctly flagged.
- 7.5 Certain categories of sensitive case are dealt with outside of the pre-charge advice scheme, including fatal road traffic accidents, rape and child abuse cases, in which case papers are brought to the office at an appointed time for advice (providing the suspect is on bail). A second opinion is usually obtained.
- 7.6 There are Anti-Social Behavior Order (ASBO) Champions for both the magistrates’ courts and the Crown Court. They are proactive in liaising with police partners and all lawyers and caseworkers will shortly have undergone ASBO training.
- 7.7 The Area is proactive at ensuring that children are safeguarded. In one case the reviewing lawyer visited at home a victim with a disability and received a letter of thanks from the child’s father following the conviction in the case. A senior prosecutor attends the children’s forum of the local authority.

STRENGTHS

The systems for identifying and managing sensitive cases and hate crimes and the quality of decisions made are good.

8 DISCLOSURE OF UNUSED MATERIAL

Performance in respect of disclosure of unused material for cases in the magistrates' courts has declined since the last inspection. There was a significant variation in the quality of disclosure decisions and endorsements, and disclosure record sheets were rarely completed properly. In addition, poor 'housekeeping' on many of the files meant that the disclosure audit trail was difficult to follow. The Area Disclosure Champion has provided training to CPS and police staff and provides mentoring and guidance to lawyers. Systems for assuring the quality of disclosure handling and decision-making are not robust and need to be improved.

Decision-making and compliance with the duties of disclosure

- 8.1 At the last inspection in March 2004, the handling of disclosure was found to be above average for the cycle to date. The OPA rated performance in this respect as "Good", although the overall assessment did raise quality issues, which we outline at Annex E. In this inspection, we found the quality of decision-making and compliance with the duties of disclosure for cases in the magistrates' courts had declined. The following table illustrates the performance trends.

	Area performance in last inspection March 2004	Overall findings for all CPS Areas 2002–04 programme	Area performance in OPA March 2006*	Area performance in this inspection
Initial (or primary) disclosure dealt with properly in magistrates' courts' cases	84.2%	71.6%	84.2%	72.7%
Continuing (or secondary) disclosure dealt with properly in magistrates' courts' cases	No assessment	No assessment	No assessment	100% (1 out of 1 cases)
Initial (or primary) disclosure dealt with properly in Crown Court cases	84.6%	79.9%	84.6%	92.7%
Continuing (or secondary) disclosure dealt with properly in Crown Court cases	66.6%	59.4%	66.6%	84.3%
Disclosure of sensitive material dealt with properly in magistrates' courts' cases	100%*	60%	No assessment	60.0% (9 out of 15 cases)
Disclosure of sensitive material dealt with properly in Crown Court cases	50%*	77.8%	No assessment	76.3% (29 out of 38 cases)

* Based on a small file sample

- 8.2 Our file examination showed that out of 113 magistrates' courts and Crown Court cases examined, initial disclosure was properly handled in 83.8%. Average performance in the magistrates' courts was worse than Crown Court cases, at 72.7%. In the Crown Court secondary or continuing disclosure was dealt with properly in 27 out of 32 (84.3%) of relevant cases. Sensitive material in both the magistrates' and the Crown Court was dealt with properly in 38 out of 53 (71.7%) relevant cases.
- 8.3 In the majority of files seen, poor 'housekeeping' and a lack of separate filing meant that locating the disclosure documentation was difficult, which created problems when trying to make an assessment of the disclosure audit trail. In 91% of cases the disclosure record sheet was not completed properly or at all. There were many cases in the magistrates' courts' file sample where the disclosure letters were pro forma ones which were unedited and unsigned. These factors alone did not influence our decision adversely as to whether material had been handled properly, and we gave the benefit of the doubt when making our assessment, provided that the schedule had been properly considered and signed.
- 8.4 We found that the quality of both sensitive and non-sensitive unused material schedules submitted by the police was generally good and items listed were described in appropriate detail. There were a number of instances, however, when several non-sensitive unused material forms had been submitted. Some of these were duplicates, others contained additional items. The forms were spread about the files and the additional ones were not numbered sequentially. It was not apparent whether the reviewing lawyer had seen and applied the unified disclosure test to the additional items schedules.
- 8.5 In some magistrates' courts' files poor file housekeeping led to confusion about which schedules had been reviewed and served. In two of them we found that no disclosure documents had been served, notwithstanding that both cases had proceeded to trial. We also had concerns that we found examples where non-compliance with the duties of disclosure included failures to disclose material that undermined the prosecution or assisted the defence.
- 8.6 It is important that the prosecution should comply with its duties to disclose material at all stages of the case, but it must be able to demonstrate this. This is a training issue which the Area needs to address with the police.
- 8.7 There were shortcomings in respect of the consideration of unused material and recording of decisions on files. In one instance in the magistrates' courts' file sample the defence had written to the CPS setting out the detailed nature of their defence. Although this did not amount to a defence statement, the letter should have triggered the continuing duty of disclosure. The reviewing lawyer had noted some points of view on the letter, but had failed to undertake a further disclosure review.
- 8.8 Whilst we were on-site we were made aware of three Crown Court cases failing within a matter of weeks due to disclosure failures. This high incidence of failure is a cause for concern. The Area immediately acted to create a working party to consider its practices in the Trials Unit to consider learning points from these cases.

- 8.9 In a good majority of relevant Crown Court cases there was evidence that the Area was proactive in chasing defence statements to help progress the case effectively. An adequate defence statement was provided to CPS in 33 out of 37 (89.1%) relevant cases and in all but four the prosecution responded to this appropriately. It is possible that the proper procedure was followed in the four cases, but poor file housekeeping made assessing actual events very difficult.
- 8.10 The Area has worked hard to secure the agreement of and produce a revised protocol for the police and local authorities in respect of the exchange of information in the investigation and prosecution of child abuse cases.
- 8.11 The Disclosure Champion is also the lead for special casework. Historically, they have provided disclosure training and mentoring to prosecutors, caseworkers and training for the police. In the past year the role has focussed upon advanced police training and the training of new CPS lawyers and caseworkers. Although the Special Casework Lawyer (SCL) is responsible for disclosure, the involvement in complex casework has meant that there has been no effective system for the Disclosure Champion to assess disclosure performance on any of the high volume casework. This absence has meant that tailoring training needs has not taken place. During their casework quality assessments Unit Heads have also failed to identify any real concerns; comparison with our own file reading indicates an over confident assessment. These two issues together appear to have resulted in there being no real understanding of the issues among Area lawyers.
- 8.12 The SCL also handles the majority of the Area's serious and complex cases, and found that disclosure is handled effectively in them. Good relationships with the police have enabled early consideration of unused material, which has been followed throughout the life of the case.

STRENGTHS

Disclosure compliance in serious and complex cases is handled well.

Sensitive material

- 8.13 Sensitive material is generally stored by the police. The Area has appropriate systems for storage, however, practice is not to keep any items in the CPS office if it can be avoided.
- 8.14 A public interest immunity (PII) log is not maintained and we were told that the Area has had few applications. The general consensus was that the last case was in December 2005 although we found a case involving PII in our file sample. The Area needs to ensure that it has effective systems to manage PII cases.

Action to improve

- 8.15 As indicated above there is a need for systematic training and full review of disclosure systems. The need to review was recognised by the Area recently when a disclosure working group was set up in the Trials Unit. This group needs to develop systems that will both improve internal performance and ensure that any partner issues are addressed and implemented.
- 8.16 We examined a sample of the casework quality assurance forms from the three units. They indicated compliance with the duty of disclosure in all cases save one. In our file sample we found the overall compliance figure for initial disclosure was 83.8%, which is some way behind the 97.7% reported in the Area's CQA return. Managers must ensure that their own assessment of disclosure handling in their unit is a realistic assessment of performance.

RECOMMENDATION

The Area needs to ensure that:

- it takes action to reduce the number of schedules it receives during the life of a case;
 - disclosure record sheets are completed showing all actions and discussions in respect of unused material;
 - it creates and maintains a public interest immunity log;
 - it expands the Disclosure Champion's role to assess the quality of disclosure, and findings are used to tailor training and offer mentoring;
 - lawyers comply with the duties of disclosure in all cases; and
 - Unit Heads should monitor this effectively and provide feedback to individuals.
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9 CUSTODY TIME LIMITS

The system for custody time limits was not assessed as a specific topic as part of this inspection; the OPA rated performance as “Fair”. The Area’s documented systems complied with national guidance and there had been no reported custody time limit failures in 2006-07.

Adherence to custody time limits

- 9.1 There have been no recorded custody time limit (CTL) failures in 2005-06 and 2006-07 and court representatives did not raise any concerns about the handling of CTLs. There is, however, no formal agreement between the courts and CPS to agree CTLs with legal advisors in the magistrates’ courts.
- 9.2 In our file sample all (100%) of relevant magistrates’ courts’ and 19 of 22 (86.3%) relevant Crown Court files were correctly monitored and handled in accordance with Area and national standards. In the three cases within the Crown Court, there were two where the file endorsement made at court had failed to note that the defendant was remanded in custody, and the clerical and CMS systems had failed to record the short period of custody. In the third the CTL had not been recorded on CMS, but the clerical systems had been correctly noted.
- 9.3 Accurate CTL expiry dates were recorded on yellow stickers on the cover of almost all files. This system allows for quick identification of those cases with CTLs, but the Area needs to ensure that all cases where the defendant is remanded in custody are captured. Endorsements in respect of CTLs were generally adequate with the grounds and exceptions noted down, however we saw a few instances of poor endorsements, and also incorrectly endorsed files.
- 9.4 Applications for extensions are made in writing at the appropriate time. There was evidence of good chronologies attached to applications to extend contained in our file sample.

Area custody time limit systems

- 9.5 There is a written system, which generally complies with national guidance.
- 9.6 Each unit maintains its own manual and computer system for monitoring CTLs. There are procedures in place to double check calculations and to ensure that information is accurately recorded, although we were concerned that one of the files in our sample had been entirely missed.

10 THE SERVICE TO VICTIMS AND WITNESSES

The Area has worked to improve its performance in writing to victims explaining why cases have been dropped or charges substantially reduced, in line with the Direct Communication with Victims scheme. More work needs to be undertaken to ensure that the scheme is consistently applied across all units and that letters are of good quality. Improvement could be made to the 'audit trail' that demonstrates that victims' views have been considered and that victim personal statements were requested in all appropriate cases. The performance of the Witness Care Unit and a lack of clear expectations between the CPS and the unit has hampered performance. Processes surrounding special measures applications need to improve; the warning of witnesses needs to be clearer and the CPS must outline its priorities and introduce a system to monitor performance. It is crucial that feedback is used to improve service and discuss problems as they arise.

Meeting the needs of victims and witnesses

Case decision-making

- 10.1 When applying the public interest test, lawyers should ensure that they have taken into account the consequences for the victim of prosecuting or not, and the views expressed by the victim or their family. This consideration should be clearly recorded, but in the majority of cases examined it was not and it was therefore difficult to assess whether the victims' views were taken into account. However, in all cases that were discontinued in our file sample, there was evidence that victims' views had been considered and that these had been taken into account when discontinuing cases.
- 10.2 The Area routinely considers summoning reluctant victims and witnesses to attend court to give evidence, and has recently had a number of successful prosecutions in cases where the witness has been summonsed and been declared hostile. This demonstrates a proactive approach to ensuring justice to the victim.
- 10.3 Victim personal statements (VPSs) were not incorporated in the evidence on most of the relevant files examined, although we did see some. The approach to ensuring that VPSs are completed was not systematic; lawyers at charging were not always proactive and a more proactive approach to obtaining and using VPSs needs to be engendered.

ASPECTS FOR IMPROVEMENT

Charging lawyers should be proactive in requesting victim personal statements in all appropriate cases.

Special measures

- 10.4 Applications for special measures were not always timely. Duty prosecutors should consider the issue at the pre-charge decision stage and ensure that police officers have considered and captured the needs of witnesses for special measures at an early stage. The file examination showed that applications were often made late in the process. These were quite often identified at first review or by enquiries generated by the Witness Care Unit (WCU), where in some instances additional information can lead to an application.

- 10.5 In some cases the WCU had discussed special measures with witnesses where they were not appropriate, raising expectations. This lack of understanding (and the falsely based raising of witness expectations) needs to be addressed to ensure that special measures are only offered in those cases which fall within the scope of the legislation.
- 10.6 Arrangements have been made with the courts that in cases with children automatic requests for special measures are generated.
- 10.7 Applications in the Crown Court are timely, however, in some instances orders which have been granted have then been revisited at the commencement of the trial. In such cases witnesses arrived at court expecting to give evidence from a protected environment but discovered this was no longer the case. Such occurrences undermine the confidence of witnesses in the criminal justice system and are not in line with current witness care principles. The CPS should seek to address this issue with criminal justice partners.

ASPECTS FOR IMPROVEMENT

Lawyers giving pre-charge advice should ascertain witness needs and ensure that applications are timely.

The Area should ensure that awareness training is given to all Witness Care Unit staff to ensure that special measures are only offered in appropriate cases.

The care and treatment of victims and witnesses at court

- 10.8 All advocates are instructed to speak to witnesses before trial. In the Crown Court we observed caseworkers and counsel effectively communicating with victims and witnesses. The Area is keen that Crown Court caseworkers are deployed during the prosecution case to ensure that there are effective processes in place during trials to allow victims and witnesses to be kept informed of developments. In the magistrates' courts we were told that all advocates (including agents) will ensure that victims and witnesses are kept informed throughout, and that changes would be discussed with victims. We did not observe any magistrates' courts' trials, but were assured by court users that victim and witness treatment was effective.
- 10.9 In some instances lawyers could be more robust at pre-trial review when witness issues are being addressed. Some of our observations highlighted that more consideration could be given about whether witnesses should be called to give evidence or whether their evidence can be dealt with in some other way. We found a particular instance where a witness had travelled a significant distance when the evidence could have been served, which would have saved a substantial amount of public money.
- 10.10 We saw some good examples of witness attendance being phased.

ASPECTS FOR IMPROVEMENT

The service to victims and witnesses could be enhanced by better and more consistent communication between the CPS, Witness Care Unit, Witness Service and Victim Support.

Direct Communication with Victims

- 10.11 There has been a big improvement in compliance with and timeliness of Direct Communication with Victims (DCV) when the charge is dropped or substantially altered. Performance during the OPA highlighted a 9% compliance rate (2004-05), but through 2006-07 has gradually improved and now stands at 87%. Performance in respect of timeliness has also improved with the latest figures showing 76% of letters sent within five days, compared to the national average of 72%. Although the Area has worked hard to improve its performance, we saw a number of cases where letters had been missed, mainly in the Trials Unit. We also had concerns about the quality and content of letters. Of those examined, most were formulaic, included jargon and lacked empathy.
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ASPECTS FOR IMPROVEMENT

The Area ensures that those cases which require Direct Communication with Victims letters are identified and that the quality of the letters is improved.

No Witness No Justice

Witness Care Units

- 10.12 There is one Witness Care Unit in Leicestershire divided along functional lines, with one team each working to serve magistrates' courts and Crown Court work. The WCU is almost exclusively staffed by police employees, with only one permanent and three fixed-term CPS members of staff.
- 10.13 There have been a number of staffing issues within the unit since its creation. These have been managed effectively, but the time it has taken to address the problems have had a detrimental impact on its performance. Additionally, the lack of understanding between the unit and the CPS has created problems and tensions.
- 10.14 Although relationships at the strategic level surrounding witness care have always been strong, there were tensions at the working level resulting from a lack of understanding of roles and responsibilities. These caused numerous problems surrounding witness care. Poor communication meant that in a number of cases in our file sample witnesses were not warned to attend court in sufficient time, and in more than one witness failings resulted in unsuccessful outcomes. The number of cases lost due to prosecution witness absence is 5.4%, compared to the national average of 3.8%. More effective systems to share information with the Witness Service would enable them to offer support in appropriate cases.

- 10.15 These issues were further compounded by a lack of clear performance monitoring of the service delivered by the WCU and how this impacted CPS business. At a strategic level there were meetings of the senior team from the police and CPS, and there had been some attempts at the operational level to break down barriers and discuss performance. However, due to staffing problems these meetings were ad-hoc and had fallen into abeyance. Although more recent changes are starting to have an impact, and there is evidence that a more effective working relationship may develop, it would be helpful if this was supported by performance information and monitoring.
- 10.16 The problems facing the WCU have been recognised by the Local Criminal Justice Board (LCJB). Although the unit was signed-off with an action plan by the national No Witness No Justice (NWNJ) project team, the LCJB would not accept the sign-off as they were concerned that the unit was not 'fit for purpose'. These concerns were so great that the Area commissioned independent consultants to undertake a full review of the practices and processes of the WCU. This work was coming to a conclusion at the time of the inspection. The issues we outline above are highlighted as part of the first draft report presented to the LCJB, as well as a view that the WCU is set to fail if it tries to meet all demands outlined in the Victims' Code.
- 10.17 Some hard decisions have to be made by the Area, including on priorities for the WCU. Whilst we agree with the view that under the current arrangements and with the current resources that all Victims' Code priorities cannot be achieved, it is essential that there is clear agreement about what can be achieved and how this will be delivered. The CPS must ensure that those issues which impact effective casework are prioritised and delivered to an agreed standard by the WCU.
- 10.18 Although the WCU are not meeting all NWNJ minimum requirements, systems are in place to notify all vulnerable and intimidated witnesses of case outcomes and progress, and the unit is working hard to notify all victims and witnesses of case results, although it is accepted that, dependent on pressures, this service can be haphazard.

RECOMMENDATION

That the Area:

- clearly outlines the expectations required of the Witness Care Unit to ensure that casework progresses effectively;
 - ensures that there is a better understanding of respective functions and responsibilities between the Witness Care Unit and the Area; and
 - that performance information is collected, analysed and used to drive performance improvement on victim and witness issues.
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11 DELIVERING CHANGE

This aspect was not assessed in full as part of this inspection as the OPA rated performance as “Good”. The systems for planning and review largely remain sound. The Area Business Plan includes local and national priorities and highlights responsibility for delivery. Unit business plans are developed in consultation with staff and reflect overall Area priorities.

Purpose and planning

- 11.1 The Area sets out its priorities in the 2006-07 Area Business Plan (ABP). The ABP mirrors the CPS Business Plan and includes local and national targets and milestones. It also identifies individual staff responsible for delivery on each aspect. Staff and union representatives are appropriately engaged in the planning process and there are unit plans to support the overarching objectives at operational level. Each unit held specific business planning events where plans were discussed and developed. Unit plans' objectives and deliverables are derived from the ABP.
- 11.2 The planning cycle includes performance reviews to ensure that the Area is focussing on its priorities. There are also business planning meetings at unit level which are scheduled in advance.
- 11.3 Risks associated with the delivery of the ABP are recorded in the risk register which is also reviewed against planned objectives. Most key risks are identified, however, a lack of baseline performance data does not allow the Area to assess accurately whether mitigating action is having the desired effect.

Change management

- 11.4 The Area made provision for a project manager with responsibility for implementing statutory charging in early 2006. It has allocated funding for this role until September 2007 in order to ensure that processes and systems are embedded and are reviewed effectively. Police partners spoke highly of this arrangement and have formally recognised this with an achievement award to the post holder. The establishment of the Witness Care Unit has been less successful and the Area is working with the local police to address concerns about the effective delivery of victim and witness care by the unit.
- 11.5 The Area and its criminal justice partners are pro-active in planning for the implementation of the Criminal Justice: Simple, Speedy, Summary (CJSSS) initiative at LCJB level. There remains, however, a need to tackle trial backlogs in the magistrates' courts that could hamper the benefits of this initiative, although the Area has bid for funding to help resource any additional work.
- 11.6 Recent changes in local police structure have not featured in Area planning as there was limited consultation by the police with Area managers on this matter. This may have some impact on the Area's ability to operate effectively, and on prosecution team performance management. It may also impact adversely on the administrative processes to support pre-charge advice. The Area needs to continue to work with the police to ensure that it can influence any proposed organisational structures to ensure that there is a synergy with administrative processes and the operation of charging.

Staff skills and training

- 11.7 The Area has developed a lawyer training programme, using experienced lawyers to ensure that cover meets the needs of the business. Training needs are identified and are prioritised to achieve this. The Proactive Prosecutor Programme has been delivered to all lawyers and was undertaken jointly with Derbyshire CPS. Part II of the course is being planned and will also be jointly undertaken, to spread the load and gain efficiencies.
- 11.8 The Area is pro-active in using in-house champions to train staff. The training plan is used to ensure that all staff have equality of access to training. The staff survey findings indicated that the majority of staff felt that they have the opportunity for learning and development and that they are supported in this by their manager. There has been some mentoring to improve management skills; this action was taken to address some concerns outlined in the staff survey.

12 MANAGING RESOURCES

This aspect was not assessed in full as part of this inspection as the OPA rated performance as "Good". One aspect for improvement relating to the effective deployment of Higher Court Advocates was identified, which we have assessed as being fully met. The management of the budget indicates a need for more control.

Use of resources and budget control

- 12.1 The Area overspent its 2005-06 non-ring fenced administrative costs (NRFAC) budget by approximately 1% (£49,000). In 2006-07 its outcome is a significant underspend of approximately 5.4% (£286,000). Given that Leicestershire had only used 93% of its profiled NRFAC spend up to December 2006, it was reasonably foreseeable that it would have to return a significant sum to CPS Headquarters. Approximately £91,000 was returned, which at final outturn was significantly short of the overall underspend. Although we recognise that the delayed implementation of the staff pay award may have had some bearing on the reluctance to return monies, guidance provided by Headquarters on the costs of this award proved largely accurate. The final position may suggest that spending profiles were not sufficiently accurate or regularly monitored, and action needs to be taken to ensure that the budget is managed more effectively.
- 12.2 Similarly, the Area underspent its prosecution costs budget during 2005-06 and 2006-07 by 10% and 11.7% respectively. In 2006-07, the Area returned £210,000 during the last quarter of the year, but ended up with an underspend of just over £190,000. Although we recognise that the allocation of prosecution costs is not an exact science, performance may have been affected by the timeliness of the payments under the graduated fee scheme (GFS). In the year to March 2007, performance against the one month measure for timeliness of GFS payments deteriorated in every quarter from 73% to 50%. These figures may match national averages, but late payment can adversely impact budget control.

Staff deployment

- 12.3 The use of agents in the magistrates' courts has reduced marginally from 26.5% in 2005-06 to 25.8% in 2006-07, both worse than national average. The level of agent usage may reflect the higher than average sickness absence levels during 2006. The level of underspend on the NRFAC budget suggests that further recruitment may represent a longer term solution, although staff in post figures reflect a full compliment. Staff attendance and availability is well monitored and is reported on a monthly basis.
- 12.4 The Area has a challenging target to deploy designated caseworkers (DCWs) in 25% of magistrates' courts' sessions. In 2005-06, it managed to do so in 11.5% of sessions. Performance improved significantly during 2006-07, with 16.7% achieved and sustained improvement shown in every quarter of the year. Performance is better than national average. The Area has been proactive in developing opportunities to increase DCW deployment and is working with the courts to increase the number of DCW court sessions available. This is especially important as there are sufficient DCWs to meet the target, if the number of suitable courts was increased to allow effective deployment.

12.5 There has been a significant improvement in the use of Higher Court Advocates (HCAs) in Crown Court proceedings. The 2005-06 savings target was not met by a significant margin, but in 2006-07, the Area has exceeded a similar target by over 21% and ensured that HCA deployment represents value for money.

DCW deployment (as % of magistrates' courts sessions)			HCA savings (per session)	
National target 2006-07	National performance 2006-07	Area performance 2006-07	National performance Q4 2006-07	Area performance Q4 2006-07
17.2%	14.7%	16.7%	£355	£307

<i>Sickness absence (per employee per year)</i>		
National target 2006	National performance 2006	Area performance 2006
7.5 days	7.3 days	8.7 days

13 MANAGING PERFORMANCE TO IMPROVE

The performance management system is good on the elementary aspects of reporting performance data, but less effective at highlighting issues around under performance or as a tool to drive systemic or individual improvement. Some aspects of performance have improved, sometimes from a very low base since the OPA. In other key aspects, such as statutory charging benefits and overall case outcomes, improvements have been limited and sometimes at a slower rate than national performance. Senior managers are involved in a number of improvement initiatives in the Area as well as in joint work with other CJS partners, although the lack of effective analysis hampers demonstrable outcomes.

Accountability for performance

- 13.1 Managing performance is about practical ways to improve how things are done in order to deliver better quality services and to improve accountability. It is not just about information systems, targets, indicators and plans; it is also about getting the right focus, leadership and culture in place. There are some key issues in developing effective performance management arrangements:
- focus and strategy;
 - defining and measuring achievement;
 - reviewing and learning to sustain improvement; and
 - managing activities and resources.
- 13.2 The key business strategy forum is the Area Management Team (AMT) – consisting of the Chief Crown Prosecutor (CCP), Area Business Manager (ABM), Unit Heads, Unit Business Managers (UBMs) and the Secretariat Manager. It is jointly responsible for the development and review of the annual Area Business Plan. The plan for 2006-07 sets out priorities and targets for the year, with individual members of the AMT identified as responsible officers for specific aspects. Desired outcomes are linked to relevant local and Public Service Agreement (PSA) targets, which are shared in a number of instances, such as the number of offences brought to justice and processing cases involving persistent young offenders. The plan outcomes need to be tailored to capture how performance will contribute to the delivery of these targets.
- 13.3 Performance against headline targets is discussed at monthly AMT meetings, with detailed performance reports on Area and unit performance circulated in advance. Executive summaries commenting on monthly performance in each unit are provided by their Unit Head. The main report shows a snapshot of monthly performance for some measures, which makes it difficult to identify Area performance against annual targets, although obvious trends can be discerned. Unit Heads also have quarterly meetings with the CCP and ABM where unit performance is discussed and challenged. These meetings are used to identify remedial actions or discuss options for improvement.

- 13.4 The performance management regime (and performance pack) could benefit from a number of improvements. The inclusion of cumulative (i.e. quarterly or year to date) Area and unit performance against average national performance and other benchmarks would allow managers to assess overall performance rather than focussing on monthly performance in isolation. Outlining detailed analysis to highlight the relationships between the various data sets, and the impact of specific results on overall outcomes, would allow the Area to assess priorities and take remedial action.
- 13.5 There were examples of managers being proactive in addressing under performance through the development of initiatives and implementation of operational process changes. These included changes directed at improving trial effectiveness and the volume of successful cases. Although these changes had been discussed, planned and implemented, the Area had failed to establish a baseline of performance against which improvement could be measured. This means that, although there is some evidence that performance is improving with the changes, it is difficult to assess whether the benefit is arising from the change or other factors. The links between the actions taken and performance improvements were not adequately demonstrated in performance reports.
- 13.6 Some important changes, for example the introduction of the pre-trial review lawyer and the City CJU post room, had not been reviewed to determine the impact on performance. The Area needs to be able to demonstrate that the benefits of such a change out-weigh any risks. Without a formal baseline or the collection of adequate performance information assessing any benefits or risks is very difficult.
- 13.7 While there were obvious examples of improvement activity taking place, often driven at Unit Head level, there was an absence of responsibility and accountability for performance improvement at the UBM level. We found that responsibility at this level mainly involved staff management of administrators and, although there were some examples of systemic improvements being identified and implemented by individual UBMs, there was limited understanding of how their role could be used to support performance management at the unit and Area level. This is an obvious gap, and senior managers need to consider how UBMs can be used to support unit performance management processes.
- 13.8 Comparative Area performance since the OPA has improved in some aspects but not in others. A more focussed performance management regime to manage and drive up performance, as well as to identify best practice, would be of great benefit. The Area has the foundations of this in place.

RECOMMENDATION

The Area ensures that

- performance reports are analysed in order to improve the performance management regime and ensure that management decisions are informed and proportionate; and
 - that Unit Business Managers' objectives include provision of performance analysis support to Unit Heads and that they have the skills required to do so.
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Joint performance management with criminal justice system partners

13.9 The Local Criminal Justice Board (LCJB) structure consists of the overarching Board - with its membership made up of chief officers of all CJS agencies - and four delivery and working groups, responsible for core performance delivery, criminal case management, victims and witnesses, and fair treatment. There is also a communications delivery group, albeit it has not been active of late. A number of these groups are supported by single issue sub-groups.

13.10 CPS senior managers were members of all LCJB top level delivery and work groups. There was evidence of joint working involving CPS representatives, for example, towards the implementation of conditional cautioning and the CJSSS initiative. The core performance group has also overseen the implementation of a new protocol on persistent young offender (PYO) timeliness following an extended period of under performance against this measure.

13.11 The Area also regularly provides data to CJS partners on statutory charging and Proceeds of Crime Act (POCA) confiscation orders. These are routinely communicated to the LCJB via its performance officer. These feature alongside other CJS data in the Board reports, which are well laid out with monthly, quarterly and year to date performance. The CPS also provides detailed prosecution team performance management reports although we have already highlighted concerns about the accuracy and usefulness of this data (see Chapter 3).

13.12 The introduction of formal pre-trial reviews and police gate-keepers are good examples of joint work with partners aimed at performance improvement. The PYO protocol introduced in 2006 has not delivered sustained improvement yet, although more recently this has been highlighted as an Area priority.

STRENGTHS

CPS managers in active membership of key Local Criminal Justice Board groups.

Performance information and analysis

- 13.13 Area managers valued the monthly performance reports produced by their Secretariat manager who held one of two management information system (MIS) licences. In order to facilitate the reporting structure, unit managers were also provided with some team performance information, but use of the corporate information system (CIS) was limited, as performance across the units was unavailable.
- 13.14 Although UBMs appeared to have a limited role in production and analysis of performance information, their responsibility for ensuring data quality was clear. UBMs were responsible for managing outstanding task lists on the casework management system (CMS) and ensuring that registry staff completed case finalisations promptly. There was, however, a backlog of cases for finalisation – referred to locally as ‘rubble’ - which was periodically cleared at additional cost to the Area through staff overtime. UBMs had also developed procedures to close cases that did not appear to be progressed following a charging consultation. This was another issue resulting from the assignment of multiple unique reference numbers referred to earlier at paragraph 3.19.
- 13.15 There are no performance reports to enable the Area and its CJS partners determine if witness care and management is effective. Whilst witness care and CPS managers routinely highlight issues on a case-by-case basis, this has not evolved into systematic reporting on the qualitative aspects of witness care tasks undertaken by either.
- 13.16 In general, we were satisfied with the level of performance information available to staff through cascades of highlights of AMT meetings, e-mails from managers, team meetings and the Area newsletter ‘Divulge’. What appeared to be lacking was staff awareness of how they performed individually. Individual performance management was routinely raised as an area of deficiency during staff interviews. The 2006 staff survey outcomes support this view, with a noticeable reduction since 2004 in the percentage of staff who felt they had either received regular and constructive feedback (from 36% to 26%) or who believed there was an effective system of identifying people who perform effectively (from 14% to 10%). In both instances, the Area also falls below the 2006 CPS national average (36% and 14% respectively).

STRENGTHS

Good communication of performance information to staff through a variety of means.

Casework quality assurance and improvement

- 13.17 At the time of the 2005 OPA, CPS Leicestershire had only re-introduced the casework quality assurance (CQA) scheme for a few months, following a period of inconsistent and irregular use. Compliance with the scheme had been poor, with returns not submitted to CPS Headquarters. Performance on compliance with the volume of forms required has improved since the OPA. During 2006-07, it ranged from 69% in the first quarter, to 79% in the third, although this is below the national average for each of the three quarters.

13.18 The Area regards its long term sickness absence as a factor affecting its ability to meet the target of 100% returns, i.e. one form per month per lawyer/DCW prosecutor – although staff sickness is taken into account by Headquarters when reporting on compliance, subject to timely and accurate staff sickness returns from each Area.

13.19 There was some evidence of feedback to prosecutors from CQA, but much of this was based on self review and forms being left on prosecutors' desks after Unit Heads had undertaken the analysis. We were told that, more recently, changes in processes having reduced any direct file ownership have hampered the effectiveness of CQA as a tool for individual performance monitoring. Whilst this may be the case, it should not detract from use as a tool for systemic evaluation or to identify general training needs. A number of our file examination findings are substantially different to Area CQA figures. In some instances our assessment on disclosure, the preparation of briefs for counsel, and victim and witness issues, highlights poorer performance than the assessment made by the Area; conversely the Area's results for Code decisions and charging are lower than our sample indicate. The Area should assure itself that it is consistently applying CQA standards.

ASPECTS FOR IMPROVEMENT

Ensuring that managers complete the required number of casework quality assurance forms to enable the Area derive optimum benefits of the scheme and assure standards of assessment.

14 LEADERSHIP

This aspect was not assessed in full as part of this inspection and the OPA rated it as “Good”. Although there is evidence that there are strong business planning arrangements and good top-team communication through Area meetings, there was some concern that a number of staff were not clear on the Area’s vision, priorities or understood what was expected of them. This may have been compounded by a lack of personal performance management.

Vision and management

- 14.1 Vision and values are incorporated into the Area Business Plan (ABP) and communicated across the Area in a series of meetings hosted by the CCP and the ABM. A précis of the plan has also been issued to all staff.
- 14.2 Even with this focus on communicating the vision and direction of the Area and the inclusive approach to developing the ABP, we found that there were a number of staff who were not clear about what CPS Leicestershire was trying to achieve. Our findings were in line with the 2006 staff survey findings. A number of staff also indicated that they were not clear about management expectations or what they personally were responsible for. Some of this seemed to stem from a lack of clear performance objectives and a lack of accountability for delivery.
- 14.3 It must be stressed that we saw a great deal of commitment and many working hard to do a good job. The commitment of charging lawyers was remarked on by criminal justice partners for example. However, some of the issues that have been highlighted in the report are demonstrable of an attitude in some quarters of complacency. In some cases it appeared that staff lacked pride in what they did and that there was a comfortableness which was not being challenged. This needs to be addressed. There should be a regime of performance management that is based on clear objectives and expectations that are regularly assessed and discussed. Good performance needs to be recognised and under performance needs to be challenged.
- 14.4 The senior management team (CCP, ABM and Secretariat) moved out of Princes Court, the office where the remainder of the Area staff resided. Some felt that this suggested a disconnection between the most senior management and staff, as well as impacting on management visibility. Whilst we understand the original reasoning behind the move, (accommodation pressures caused by co-location) these have eased as police staff have moved back to operational stations. We are aware that both the CCP and ABM spent large amount of their time in Princes Court, nevertheless the perception was that they were very infrequently there. We know that this was not the case. Some of these perceptions may be based on the fact that the accommodation at Princes Court presents challenges to integration and team work. The cellular format of the building means that the Area has to work harder than many others to foster team working relationships. Even so the AMT needs to consider seriously whether the time is right for the senior management team to relocate to Princes Court and to use the accommodation at Beaumont Leys Police Station in a different way.

RECOMMENDATION

The Area needs to develop a culture of personal performance management that recognises good performance and challenges under performance. This culture needs to be complemented with clear expectations and a management regime of supervision.

Governance

- 14.5 As well as the Area Management Team there is also a Strategic Management Board comprising the CCP, ABM and Unit Heads. This meets monthly to discuss confidential staffing and personnel issues, as well as to focus on key strategic activity. A Business Development Group has also been established to ensure that there is consistent communication between Unit Business Managers, to share best practice, and to devise systems and procedures to support strategic decisions taken by AMT. There are clear terms of reference for all three groups.
- 14.6 Until recently Unit Heads were spending a disproportionate amount of their time covering courts and undertaking casework. This has been addressed and their time is now focused on managing their staff and undertaking a supervisory role. There are also heavy demands on management time due to the large number of initiatives that are being driven both internally and through the wider CJS. It naturally follows that this increase in workload leaves less time for managerial issues.
- 14.7 The staff survey highlighted a concern about the frequency of team meetings and communication in general; only 40% of staff said there were regular team meetings and 25% felt that they were effective. This was confirmed in interviews. In some units team meetings were infrequent and did not present the opportunity for effective two-way dialogue. This may explain some of the issues outlined above.

Ethics, behaviours and the approach to equality and diversity

- 14.8 The recent staff survey results on perceptions concerning dignity and fair treatment at work were less positive than in 2004, but were still better than the national averages. Against a national average of 64%, 65% of staff in Leicestershire felt they were treated with fairness and respect, although this figure had reduced from 73% in the 2004 survey.
- 14.9 The make up of the staff within the Area generally reflects the community served.

15 SECURING COMMUNITY CONFIDENCE

This aspect was not assessed in full as part of this inspection and the OPA rated it as “Excellent”. Structures for the delivery of the community confidence agenda remain effective. There has been a marked fall in the confidence of the local population in the effectiveness of criminal justice agencies in bringing offenders to justice, a performance measure shared by all local criminal justice agencies.

Engagement with the community

- 15.1 As would be expected of an Area with historically good performance in this aspect, CPS Leicestershire has clearly set out its objectives in a community engagement strategy and an associated action plan for 2006-07. The Area Business Plan also identifies key community engagement deliverables and makes links to national Service priorities and Public Service Agreement targets.
- 15.2 There is a senior manager (Unit Head) who leads at AMT level on community justice, and the communications manager engaged in many operational aspects, including proactive engagement with local media organisations. There have also been a number of initiatives jointly planned and delivered under the banner of the LCJB. However, more recently this activity has been curtailed due to limited funding and the post of the LCJB communications officer becoming vacant in late 2006.
- 15.3 Our examination of the community engagement log showed active participation in events by staff at various levels throughout the organisation. Interviews with staff also highlighted their view that such activities constituted core business. The log clearly separated out tasks focused on staff engagement from those aimed at the wider community, enabling better evaluation of outcomes against differing criteria. The Inspectorate's 2006 thematic review of CPS equality and diversity in employment practice identified Leicestershire as having a strong and visible commitment in this regard.
- 15.4 One good example of engagement activity is the work experience programme. This is aimed at drawing attention to the role of the CPS and the criminal justice system amongst local school-age teenagers. The week long programme is well structured and formally evaluated on completion.
- 15.5 There is no measure of public confidence specific to the CPS, but it contributes to the public's confidence in the CJS through undertaking its prosecution functions, and by engaging with the public directly and through the media. In December 2004, the confidence of the local population in the effectiveness of criminal justice agencies in bringing offenders to justice was 49%. The national average at the time was 43%.

15.6 In December 2006, the Area's CJS confidence measure had dropped to 44% and the national average had dropped to 42%. This may reflect the Area's low performance in achieving successful outcomes, especially in the magistrates' courts, or maybe as a result of local and national issues facing the CJS. Although good community engagement activity helps to build higher expectations, CPS Leicestershire needs to work to improve its key results to ensure that these potential expectations are being realised.

ANNEX A: AREA EFFECTIVENESS INSPECTION FRAMEWORK

Standards and Criteria

1 Pre-charge advice and decisions

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

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

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

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

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

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

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

Criteria 2B: Cases progress at each court appearance.

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

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

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

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

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

Criteria 3B: Cases progress at each court appearance.

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

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

4 Presenting and progressing cases at court

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

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

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

5 Sensitive cases and hate crimes

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

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

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

6 Disclosure

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

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

7 Custody time limits

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

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

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

8 The service to victims and witnesses

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

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

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

9 Delivering change

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

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

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

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

10 Managing resources

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

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

Criteria 10B: All Area staff are deployed efficiently.

11 Managing performance to improve

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

Criteria 11A: Managers are held accountable for performance.

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

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

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

12 Leadership

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

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

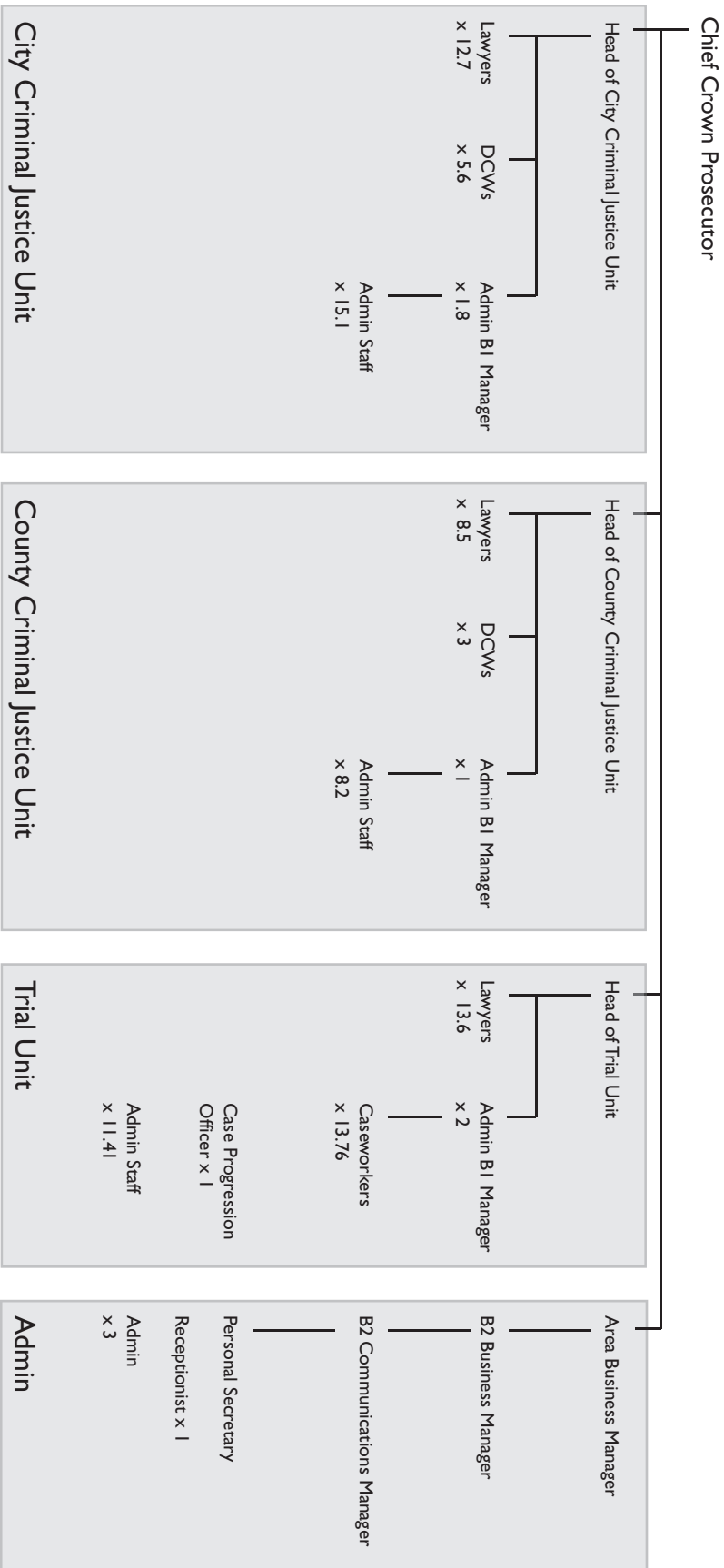
Criteria 12B: Senior managers act as role models for the ethics, values and aims of the Area and the CPS, and demonstrate a commitment to equality and diversity policies.

13 Securing community confidence

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

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

ANNEX B: ORGANISATIONAL STRUCTURE



ANNEX C: CASEWORK PERFORMANCE DATA

Caseloads and outcomes for 12 months ending March 2007	Number	LEICESTERSHIRE Percentage	Number	NATIONAL Percentage
1. Magistrates' Court - Types of case				
Pre-charge decision	10,725	9.6	42,195	2.6
Advice	3	4.7	211,716	13.1
Summary	11,942	54.9	837,036	51.8
Either way and indictable	6,871	29.8	507,745	31.4
Other proceedings	1	1.0	17,149	1.1
Total	29,542	100	1,615,841	100
2. Magistrates' Courts - Completed cases				
Discontinuances and bind overs	2,516	14.0	168,618	13.4
Warrants	522	7.5	69,772	5.5
Dismissed no case to answer	30	0.4	3,646	0.3
Acquittals: after trial	306	1.6	16,140	1.3
Discharged	6	0.0	2,976	0.2
Total Unsuccessful Outcomes	3,380	23.5	261,152	20.8
Convictions	14,141	76.5	996,888	79.2
Total	17,521	100	1,258,040	100
Committed for trial in the Crown Court	1,518		102,133	
3. Magistrates' Court - Case results				
Guilty pleas	10,354	77.5	781,149	76.8
Proofs in absence	2,978	11.0	160,319	15.8
Convictions after trial	809	9.0	55,420	5.5
Acquittals after trial	306	2.0	16,140	1.6
Acquittals: no case to answer	30	0.5	3,646	0.4
Total	14,477	100	1,016,674	100
4. Crown Court -Types of case				
Indictable only	513	35.3	38,725	31.0
Either way: defence election	87	17.2	10,801	8.6
Either way: magistrates' direction	1,049	33.0	43,617	34.9
Summary: appeals; committals for sentence	549	14.4	31,806	25.5
Total	2,189	100.0	124,949	100.0
5. Crown Court - Completed cases				
Judge ordered acquittals and bind overs	314	13.7	14,114	14.7
Warrants	16	3.2	2,080	2.2
Judge directed acquittals	12	2.6	1,623	1.7
Acquittals after trial	76	6.8	6,338	6.6
Total Unsuccessful Outcomes	418	26.3	24,155	25.2
Convictions	1,259	73.7	71,541	74.8
Total	1,677	100.0	95,696	100.0
6. Crown Court - Case results				
Guilty pleas	1,141	67.7	58,311	73.3
Convictions after trial	118	20.9	13,230	16.6
Acquittals after trial	76	8.2	6,338	8.0
Judge directed acquittals	12	3.2	1,623	2.0
Total	1,347	100.0	79,502	100.0

ANNEX D: RESOURCES AND CASELOADS

Area caseload/staffing CPS Leicestershire		
	April 2007 (12 months to 31 March 2007)	September 2003
Cases	18,814	24,029
Staff in post	116.3	105.8
Lawyers in post (excluding CCP)	41	40
Pre-charge decisions/advices per lawyer (excluding CCP)	261.7	18.4
DCWs in post	7.6	5
Magistrates' courts' cases per lawyer and DCW (excluding CCP)	387.1	534
Magistrates' courts' contested trials per lawyer (excluding CCP)	27.9	30.5
Committals for trial and "sent" cases per lawyer (excluding CCP)	37	37.8
Crown Court contested trials per lawyer (excluding CCP)	5	7.1
Level B1, B2, B3 caseworkers in post (excluding DCWs)	22.1	22.3
Committals for trial and "sent" cases per level B caseworker	68.7	67.8
Crown Court contested trials per level B caseworker	9.3	12.8
Level A1 and A2 staff in post	42.5	37.5
Cases per level A staff	442.7	640.8
Running costs (non-ring fenced)	£5,281,570	£4,123,397

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

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

Aspects for improvement	Position in April 2007
<p>IA The Area had not been able to operate a URN for cases that had been subject to pre-charge advice. This had caused problems in tracing cases that required further action and the difficulty of cases having to be merged on CMS when the charged file was given a separate registration number. In some instances this resulted in inaccurate counting. An examination of ten pre-charge advice cases on CMS revealed that advice was recorded electronically in all ten, but in six this was recorded on the system using a different registration number. The Area is working to manage this situation and to finalise all outstanding duplicated records.</p>	<p>Limited progress. There are still issues with the police supplying URNs for charging files. A number of process solutions have been implemented prior to the roll-out of a new police system (NSPIS). There was no evidence that cases were recorded on CMS under different URNs, although the Area is still undertaking data cleanse activity.</p>
<p>IB The reality check, undertaken to assess accuracy of recording of pre-charge decisions on CMS, identified that the police provided ethnicity and gender in only one case out of the four recorded electronically. In this case it had been recorded on CMS. The Area has now issued guidance to duty prosecutors to remind them of the need to record ethnicity and gender and to ensure that police officers supply this at charging.</p>	<p>Achieved. All cases seen in the file sample recorded ethnicity (as supplied by the police). If gender was noted on the police papers it was recorded.</p>
<p>IC The discontinuance rate in the magistrates' courts and the Crown Court is rated as poor: (17% compared to national average of 16.3% and target of 11% for the magistrates' courts, 18.2% compared to national average of 14.6% and target of 11% in the Crown Court.)</p>	<p>Limited progress. The discontinuance rate has improved in the magistrates' courts to better than national average. The Crown Court rate is worse than national average. In neither case does the Area rate meet national target (see paragraph 3.23).</p>

Aspects for improvement	Position in April 2007
<p>2A In 2004-05 there was little systematic activity to improve case progression. The magistrates' courts timeliness targets figures for March 2005 showed that in a sample of 92 cases the Area met the target of 59 days for initial guilty plea in 76%, which was worse than the national average of 83%. The Area acknowledges that there have been some delays in the provision of advance information prior to the first court appearance. Timeliness for initial guilty pleas in the youth courts was also not as good as the national average, with the target being met in 82% of cases compared to 87%.</p>	<p>Limited progress. There has been very good progress in adult cases where the latest figure is 92% within 59 days compared to a national average of 85%. However, in the youth court the figure is only 79%, which is a drop in performance and does not reflect the improvement nationally, where the figure is now 89%.</p>
<p>2A The overall guilty plea rate in the magistrates' courts is significantly worse than the national average at 64.3% compared to 74.2%. A relatively high proportion of pleas of guilty had previously been rejected by the prosecution and accepted only at the trial hearing.</p>	<p>Limited progress. The overall guilty plea rate is now 71.5% compared to a national average of 74.9%. Performance has fallen from a 2005-06 high of 78.6%. Late guilty pleas account for 26.8% of the overall cracked rate, although only 1.7% have previously been rejected by the prosecution.</p>
<p>2A The Area has not met the PYO target of 71 days from arrest to sentence. Performance in the rolling quarter for February 2005 was 73 days. The Area has investigated this and has found that this was caused, in the main part, by backlogs in the inputting of cases onto the police computer. Performance has since improved, although a recent report by one of the Area specialists did reveal that there were some issues relating to the incorrect identification of PYOs which had adversely affected the performance data.</p>	<p>No progress. Performance has significantly worsened since the OPA. For the quarter ending February 2007 the figure was 98 days compared to a national average of 72. This is down on the figure for the quarter ending December 2006 which was 93 days, but it marks an improvement from 104 days for September and 108 for June. The Area has recently made renewed efforts with some new initiatives in conjunction with its partner agencies.</p>

Aspects for improvement	Position in April 2007
2A The overall quality and timeliness of police files hampers Area performance in a number of key aspects. Nevertheless, there was no formal joint performance management of the timeliness and quality of police files in the latter part of 2004-05. This has recently been re-introduced and the Area hopes to secure improvement, particularly in regard to the submission of CCTV evidence and records of interview.	Achieved. PTPM is working well and there is evidence that the production of CCTV evidence and records of interview has improved.
2A In 2004-05 there was a marked lack of readiness to proceed at pre-trial review hearings. Lack of file ownership contributed to this. The Area is now introducing systems to secure improvement.	Achieved. The post room and PTR duty lawyer scheme has significantly improved the timeliness of preparation for PTRs, especially since the Area no longer prevails upon the PTR lawyer to cover courts when there is last minute absence.
2A The overall discontinuance rate is slightly worse than the national average at 12.9% compared to 12.5%.	No progress. The discontinuance rate in the Area is now even higher at 14.4% compared to a national average of 10.8%. However, this represents a significant improvement on the 16% for the year to December 2006 and 17.1% for the year to September 2006. The Area has implemented a package of measures and this has already had some effect.
2A There has been limited management monitoring of review and case handling under the CQA scheme, with very few returns being made to Headquarters. The Area has introduced a system of self assessment to increase lawyer awareness and since April 2005 there has been a commitment from the AMT to secure compliance with the scheme.	Substantial Progress. The Area now returns 79% of its required forms, although processes could be strengthened to ensure a fuller coverage and a more robust application.
2B In 2004-05 the Area had one of the lowest (worst) effective trial rates in the country at 32.6% compared to a national average of 38.1%. Performance in reducing ineffective trials was worse than the national average at 26.3% compared to 24.8% and did not meet the locally set target of 23%.	Limited progress. The effective trial rate has improved to 33.8% but national performance has improved at a much better rate to 43.8%. The Area target for ineffective trials is now 21% and, at 20.9% in the year to March 2007, has just bettered this, although it fails to meet the national target of 19.4%.

Aspects for improvement	Position in April 2007
2B The overall cracked trial rate for the magistrates' courts was significantly worse than the national average at 41.2% compared to 37.1%. Late pleas of guilty that had previously been rejected by the prosecution constituted 4.1% compared to 1.35% nationally, and 6.9% were dropped because of insufficient evidence, compared to 5.9% nationally.	No progress. The cracked trial rate has deteriorated to 45.3% against a national average of 37.3%. However, in the year to December 2006 the cracked trial rate was 47.63%, the worst in the country, so there has at least been some improvement in the last three months.
2B The Area has only recently commenced analysis of the cracked and ineffective trial data prepared by the magistrates' courts.	Limited progress. Analysis takes place but the figures are only received sporadically.
2C Performance on the number of full file reviews was significantly worse than the national average at 3.4% compared to 27.1%. There was also little evidence of effective lawyer usage seen on the files examined by inspectors.	Achieved. CMS performance has improved significantly.
2C The Area needs to improve CMS usage. Attempts are being made to address this through forward job plans, refresher training and the use of desk side assistance to help in training.	Achieved. All staff are now using CMS regularly. Tasks are monitored but limited file ownership in the magistrates' courts means that tasks tend not to be completed by the allocated lawyer and have to be deleted by registry staff.
2C There was also limited use of the management report facilities on CMS throughout the Area but it was hoped that training on the systems would assist in this. No local templates have been added to the system.	Substantial progress. Ad-hoc reports and data cleanse activity is undertaken. Local templates have been added to the system.
3A The timeliness target monitoring in March 2005 showed that 82% of cases were committed within the target, which was worse than the national average of 89%.	Achieved. The Area has implemented process change to ensure that there are effective and timely systems for committal preparation.

Aspects for improvement	Position in April 2007
3B Area performance in respect of reducing ineffective trials in 2004-05 was significantly worse than the national average, at 18.9% compared to 15.8%. The Area did meet the locally agreed target of 19%.	No progress. Ineffective trial performance remains worse than the national average (20.9% compared to 18.9%) although it has exceeded the Area target (21%) but not the national one (19.4%).
3C Overall performance for 2004-05 for recorded indictments using CMS was worse than the national average at 76.7% compared to 81.5%. There has, however, been significant improvement towards the end of the year. There is some evidence that CMS is used to assist case progression functions and to check finalisations. No local templates have been added to the system.	Achieved. CMS usage is 98.7% against the national average 85.1%. A number of templates have been added to the system and are in frequent use. CMS reviews are generally of good quality.
6A Reality checks on-site revealed that custody cases are not consistently flagged on CMS or tracked on the electronic system. This appears to be less of a problem in the TU than in the CJUs. The Area needs to ensure that all custody cases are correctly logged onto CMS and weekly exception reports produced for managers to follow up.	Achieved. CMS usage has improved substantially and lists are produced to monitor custody cases.
6A Practice is for the prosecutor to agree the CTL date with the parties in court. At present there is no specific local agreement with the courts regarding the agreement of expiry dates in court or the courts' involvement in monitoring of expiry dates.	No progress. No agreement has been reached with the magistrates' courts to agree CTL dates in open court or to involve the court in the monitoring of expiry dates.
7A All Crown Court cases had separate disclosure files, although disclosure documentation was not always included in the file. Some disclosure record sheets were completed. On two files there was no evidence that secondary disclosure had been sent to the defence.	No progress. Disclosure documentation was generally stored within the disclosure file. There was inadequate completion of disclosure record sheets. Evidence of what was disclosed was difficult to assess.

Aspects for improvement	Position in April 2007
<p>7A On-site examination revealed that on magistrates' courts files disclosure was less consistent. Whilst there were files where disclosure was handled appropriately, there was limited use of disclosure record sheets and material was not routinely filed separately. The use of pro forma letters meant that it was not always clear what had been served on the defence and when. There was often no explanation recorded as to why material had been served. This was explained by reference to the agreement for routine disclosure of certain documents under a local protocol. The Area has confirmed that this has now ceased and full reasons for disclosing information should now be recorded on the schedules.</p>	<p>No progress. No disclosure record sheets were used in the magistrates' courts' file sample. A pro forma letter has been continued and was issued unsigned and unedited. Reasoned endorsements for the service (or lack of service) of material was frequently absent.</p>
<p>8A Area systems to ensure compliance with the DCV scheme are not effective. The Headquarters proxy measure for compliance is 9%, which is unacceptably low. The CCP and Unit Heads have re-confirmed their own and the Area's commitment to the scheme. The Area has yet to develop a system to check compliance; there is some evidence that letters are being produced and not recorded. However, without the commitment of all lawyers and with no effective way to measure compliance, the Area will struggle to assure themselves, or others, that compliance and timeliness are improving.</p>	<p>Substantial progress. The numbers of letters being sent to victims has increased and timeliness has improved, although the quality needs to be assessed and monitored. More could be done to ensure that there is a consistent application of the DCV scheme across all units.</p>
<p>9A Area performance in the magistrates' courts had been of very variable standard during 2004-05, when it had not been able to ensure the right calibre of all its agents, nor that cases were suitably prepared to enable them to progress.</p>	<p>Limited progress. Agents are of a better standard although, some were pupils and so very inexperienced, which reflected in their performances. Case preparation to PTR has improved under the new systems but messy and disordered files hamper case progression.</p>
<p>9A Although the CJU Heads make ad-hoc visits to courts to view advocates, there is no systematic monitoring of all advocates in the magistrates' courts.</p>	<p>Limited progress. More monitoring has taken place recently but it remains unsystematic.</p>

Aspects for improvement	Position in April 2007
9A Monitoring of counsel is limited to those applying for re-grading. No monitoring is undertaken of HCAs.	No progress. There remains no systematic monitoring of counsel (or HCAs) other than for re-grading purposes, although the Area has recently planned to start HCA monitoring.
10B The Area needs to ensure that any counter-measures implemented, or risks amended in the light of discussion and agreement, are formally captured. The ABM has recently developed a new process and formal documentation is now being produced.	Substantial progress. Risk planning processes are sound and regular review takes place.
11B Savings arising from HCA usage are below national average at £92 per session as compared to national performance of £224 for the fourth quarter of 2004-05.	Achieved. HCA savings for 2006-07 exceed target by 21%, with an average fee per session saving of £307.
12B There was no systematic method to assess the quality and timeliness of police files.	Limited progress. Recent changes have been implemented in the TU to assess the quality of files. Outcomes are discussed at PTPM meetings and evidence will be used to drive improvement. There is limited monitoring of files in the CJUs.
13A Very low compliance with the DCV scheme and utilisation of CMS in the CJUs indicate that staff are not addressing two key national priorities. Managers need to ensure that they send a clear message that performance needs to improve and that not complying is unacceptable. They are aware of this and clear and unambiguous messages have now been given. Performance had not improved since the last inspection and follow-up.	Substantial progress. The Area has tackled the two aspects of poor compliance highlighted during the OPA, however compliance with the DCV scheme could still be improved.
13A Results in the 2004 staff survey for communications were 9% less favourable than the national average. However, as referred to above the Area has addressed the lack of regular team meetings (which was recorded as 29% lower than the national average) and also has developed.	No progress. Only 25% of staff survey respondents felt that team meetings were effective (nationally this was 56%)

ANNEX F: TOTAL NUMBER OF FILES EXAMINED FOR CPS LEICESTERSHIRE

	Number of files examined
Magistrates' courts' cases	
No case to answer	5
Trials	29
Youth trials	4
Discontinued cases	8
Discharged committals	1
Race crime	5
Domestic violence cases	6
Fatal road traffic offences	4
Cases subject to custody time limits	6
Crown Court cases	
Discontinued (sent cases dropped before service of case)	4
Judge ordered acquittals	11
Judge directed acquittals	4
Trials	24
Child abuse cases	3
Race crime	7
Homicide	2
Rape cases	6
TOTAL	129

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

Crown Court

His Honour Judge Pert QC

Magistrates' Courts

District Judge Meredith

District Judge Holland

Mrs Bird JP, Chairman of Market Bosworth Magistrates' LJA

Mr Parker JP, Chairman of Leicester Magistrates' Court LJA

Ms E Langham, Bench Legal Advisor

Ms R Marshall, Bench Legal Advisor

Mrs A Palmer, Bench Legal Advisor

Mr R Cook

Mr N Watson

Police

Mr M Baggott, Chief Constable

Assistant Chief Constable C Eyre

Superintendent S Pandit

Chief Inspector S Potter

Chief Inspector D Cullen

Detective Inspector L Cordiner

Inspector B Knopp

Sergeant S Adams

Defence Solicitors

Mr D Leigh

Counsel

Mr D Herbert

Ms S Knight

Ms E Harrison

Probation Service

Ms H Munro, Chief Probation Officer

Youth Offending Teams

Ms Campagniac

Community Groups

Ms S McBurney, Domestic Violence Co-ordinator

Members of Parliament

Rt Hon S Dorrell MP

Other Members of Parliament with constituencies in Leicestershire were invited to contribute.

ANNEX H: HMCPSI VISION, MISSION AND VALUES

Vision

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

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

Mission

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

Values

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

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

Taken together, these mean:

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

ANNEX I: GLOSSARY

Adverse Case

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

Agent

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

Area Business Manager (ABM)

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

Area Management Team (AMT)

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

Aspect for improvement

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

Compass CMS

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

Caseworker

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

Charging Scheme

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

Chief Crown Prosecutor (CCP)

One of 42 chief officers heading the local CPS in each Area, is a barrister or solicitor. Has a degree of autonomy but is accountable to the Director of Public Prosecutions for the performance of the Area.

Code for Crown Prosecutors (the Code)

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

Co-location

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

Committal

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

Court Session

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

CPS Direct

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

Cracked trial

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

Criminal Case Management Framework

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

Criminal Justice Unit (CJU)

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

Custody time limits (CTLs)

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

Designated caseworker (DCW)

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

Direct Communication with Victims (DCV)

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

Disclosure, *Initial and continuing*

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

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

Discontinuance

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

Early Administrative Hearing (EAH)

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

Early First Hearing (EFH)

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

Effective Trial Management Programme (ETMP)

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

Either way offences

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

Evidential test

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

Glidewell

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

Good practice

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

Higher Court Advocate (HCA)

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

Joint performance monitoring (JPM)

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

Indictable only offences

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

Ineffective trial

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

Judge directed acquittal (JDA)

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

Judge ordered acquittal (JOA)

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

Level A, B, C, D, E staff

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

Local Criminal Justice Board

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

MG6C, MG6D etc

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

Narey courts, reviews etc

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

Narrowing the Justice Gap (NTJG)

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

No Case to Answer (NCTA)

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

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

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

Persistent young offender

A youth previously sentenced on at least three occasions.

Pre-trial review

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

Proceeds of Crime Act 2002 (POCA)

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

Prosecution Team Performance Management

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

Public Interest test

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

Public Service Agreement (PSA) targets

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

Recommendation

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

Review: initial, continuing, summary trial etc

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

Section 9 Criminal Justice Act 1967

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

Section 51 Crime and Disorder Act 1998

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

Sensitive material

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

Specified proceedings

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

Strengths

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

Summary offences

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

Threshold test


The Code for Crown Prosecutors provides that where it is not appropriate to release a defendant on bail after charge, but the evidence to apply the full *Code* test is not yet available, the Threshold Test should be applied. There must be at least a reasonable suspicion that the suspect has committed an offence, and it is in the public interest to charge the suspect, to meet the test. A number of factors, including the likelihood and nature of further evidence to be obtained must be considered.

TQI

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

Trial Unit (TU)

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



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