



HM Crown Prosecution  
Service Inspectorate

# CPS Nottinghamshire

The inspectorate's report on CPS Nottinghamshire

*Undertaken March 2010*

**September 2010**





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## Chief Inspector's foreword

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It is apparent that the management team in CPS Nottinghamshire is committed to improving the area's performance and has invested a significant amount of time and effort in trying to do so. The concentration on building management capacity and improving relationships with criminal justice partners has provided a firm foundation for going forward. But the management team's hard work has yet to bear fruit across the board.

In overall terms, the inspection found that area performance was fair. There were strengths in the handling of, and decision-making in, the most serious types of crime but overall the quality of case handling and decision-making needs to improve. Performance management, both of individuals and casework quality, needs to be enhanced to ensure that high standards are applied consistently and that staff in the area learn from experience.

Tackling a decline in performance across many key targets and outcomes is a priority for the area; we make a number of recommendations to help them address the weaknesses which have contributed to the decline.

Criminal justice partner agencies are now more positive about working with the CPS and we found some good examples of the agencies working jointly to improve systems and, ultimately, performance. I am confident that, given the commitment of the management team and a more robust internal performance management regime, the area can succeed in improving its performance and deliver results.





## Executive summary

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### Contextual factors and background

The Crown Prosecution Service (CPS) Nottinghamshire area was last subject to a full inspection in August 2003. Since that time it has undergone two overall performance assessments (OPAs) in October 2005 and more recently in July 2007 when it was rated as fair. Since then area performance has not improved and if anything there has been a decline in many key outcomes. Since the last OPA a new Chief Crown Prosecutor (CCP) and a Senior Area Business Manager (SABM) have been appointed, and Nottinghamshire has become the lead area within the East Midlands CPS Group.

When the CCP arrived in the area in 2007, followed shortly by the SABM, it was clear that there were significant issues that needed to be addressed. Organisational structures were not fit for purpose, there were considerable backlogs and no accountability in casework and the area lacked management capability. This was set against the legacy of a change resistant workforce. Partnerships with other criminal justice agencies were not effective. There were no effective systems in place for the management of performance or resources. In addition to taking on significant problems in the area, the CCP and SABM were responsible for establishing the group structures in order to launch the new East Midlands Group and overseeing the Derbyshire, Leicestershire, Northamptonshire and Lincolnshire CPS areas.

### Summary of findings

Senior managers have worked hard to address the issues highlighted above. The first phase of establishing management capability, building partnership working, setting a performance management framework and adapting the

structures has provided a foundation. The area is now better placed to move to the next stage, although it continues to face many challenges.

Currently there is an inconsistent standard of casework with some significant variations in the quality of decision-making, some of which is very poor. There are a number of under performing lawyers and also a number who are unwilling to accept feedback on their performance. This is exacerbated by the absence of a formal mechanism to learn from experience. In contrast in the most serious cases there is sound decision-making and some very positive work is carried out by the co-ordinators who lead on domestic violence and public protection work.

The quality of case handling and progression also needs improvement. There are problems with the timeliness and quality of police file submission, but there are also some internal CPS process problems resulting in inefficiencies, duplication of effort and a lack of clarity around some casework roles. This is intensified by the absence of proper monitoring of the file standard and feedback to the police and the ineffective prosecution team performance management arrangements.

The quality of decision-making and case handling can be attributed to the lack of proactive performance management. Although the scope and extent of the management information is very impressive, it is not used to challenge some specific weaknesses. The area needs to develop a performance management regime whereby standards and expectations are set and applied. Managers need to be given the tools and time to do this.

There has been a decline in performance in many key outcomes. Conviction rates in the magistrates' courts have declined since 2008-09 and are worse than the national average, and the rate of discontinuances has been worse than nationally for the last three years. In the Crown Court Nottinghamshire has moved from a position of performing significantly better than the national average in 2008-09 to a position closer to national performance. During the same period the discontinuance rate has risen and is now worse than nationally and there has been a consistently high level of discharged committals, although this is now being addressed.

The goal of the CCP on taking up post was to move the area forward. The vision for the area was understood at the senior management level, but there is little awareness across the area as to why certain priorities were set and why decisions were made. Cultural barriers that exist have not yet been broken down and this has prevented the area progressing.

There are competing demands between the roles of the CCP and SABM within the area and across the group. The area has benefitted in a number of ways from the group structure such as the co-operation and flexibility with allocated budgets and head of the Complex Casework Unit's quality assurance activity, undertaken across the group to try to improve specific aspects of casework. However there is a difficult balance between the overall responsibilities of running the area, which is not performing well and needs more support, and heading the group.

Nottinghamshire has undergone a number of structural reforms over the past three years, some of these were required by the CPS

nationally and others were undertaken to try to improve service and efficiency. Whilst the rationale behind some of the changes is understood, insufficient time to embed them has resulted in a lack of clarity across the area. The current management structures and spans of control contribute to an inconsistent approach to personal performance management and to the lack of effective performance management.

The area has volunteered to pilot or trial a number of national initiatives, in some instances as a means to drive improvement, although at times this has had a detrimental impact. Difficulties in resourcing the optimum business model unit and problems with the initial operation of arrangements for delivering charge advice and decisions to the police highlight the strain that this approach can have on the area.

There are improved relationships with partners at a strategic level and at key operational points; the area has worked hard to cultivate these from a very low base. Recent work with the police, who have their own organisational problems, has been used to drive up performance in the Crown Court. This indicates a maturing of the relationship and the willingness of partners to work together to improve performance. However at an operational level there are instances where a blame culture is readily apparent which is causing reputational damage for the area. The relationship needs to be carefully managed. There is also a sense of frustration in the Courts Service that improvements in the handling of magistrates' courts cases have not been forthcoming.

In the light of our findings, CPS Nottinghamshire is rated as **FAIR**.

## Summary of judgements

The findings of this inspection take account of differences in the process between an OPA and a full inspection. The OPA process is one that is very much dependent on an area's self-assessment, partners are not interviewed and there is a very limited file sample. Inspectors spend one day interviewing senior managers and assess the findings on the basis of a 'light touch' inspection. In contrast a full inspection is

carried out over an extensive period of time, a wide range of external partners are interviewed and inspectors examine a large number of files to assess the quality and standards of area work. Since the last OPA Nottinghamshire has become the lead area within the East Midlands Group and this has resulted in a significant extension of responsibility for the CCP and SABM. This context needs to be understood before any comparison is made between the results in 2007 and this full area effectiveness inspection.

<i>Summary of judgements</i>			
Critical aspects	OPA 2007	AEI 2010	Direction of travel
Pre-charge advice and decisions	Fair	Poor	Declined
Decision-making, preparation and progression in magistrates' courts cases	Poor	Poor	Stable
Decision-making, preparation and progression in Crown Court cases	Good	Fair	Declined
The service to victims and witnesses	Fair	Fair	Stable
Leadership and management <sup>1</sup>	Good	Fair	Declined
<b>Overall critical assessment level</b>	<b>Fair</b>	<b>Poor</b>	
The prosecution of cases at court	Fair	Fair	Stable
Serious violent and sexual offences and hate crime	Good	Fair	Declined
Disclosure of unused material	Fair	Fair	Stable
Custody time limits	Excellent	Fair	Declined
Managing performance to improve	Fair	Fair	Stable
Managing resources	Good	Good	Stable
Partnership working and community confidence	Good	Good	Stable
<b>OVERALL ASSESSMENT</b>	<b>FAIR</b>	<b>FAIR</b>	

<sup>1</sup> Leadership and management captures elements included formerly in "Delivering change" which has now been removed from the framework as a stand alone aspect.



## Recommendations

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### Priority recommendations

There are six key recommendations which need to be implemented within three months. These are:

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- 1** The senior team needs to develop and communicate the area vision and share this with area staff (paragraph 11.3).

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- 2** The area needs to improve the quality of pre-charge decision-making and case analysis through monitoring and effective feedback, proper action plans including consideration of all ancillary matters, and detailed instructions to the court advocate (paragraph 1.21).

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- 3** The area needs to:
  - work with the police on file standards and timeliness;
  - build a prosecution team ethos; and
  - develop, in conjunction with the police and courts, a clear plan for measurable improvements in case preparation and progression (paragraph 2.15).

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- 4** The area needs to ensure that the Code for Crown Prosecutors is applied correctly in all cases involving an allegation of domestic violence, and to improve the overall decision-making and case handling of racially or religiously aggravated crime (paragraph 5.7).

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- 5** The area needs to:
  - communicate clear expectations about the standards expected of its lawyers and ensure that there are robust processes in place to tackle individual performance; and
  - develop a culture where the giving and receiving of feedback, and responding to it is part of everyday business (paragraph 9.8).

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- 6** The area develops a performance management regime which has a strategic overview. Any regime must include a monthly performance meeting which considers performance across the whole area and is able to inform necessary improvement activity and be able to make strategic decisions which can be implemented to drive up performance (paragraph 9.3).

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## Recommendations

There are a number of other recommendations that relate to improving and tightening processes and systems. Whilst not immediate priorities they need to be implemented to improve the service offered by the area. We would expect that these secondary recommendations to be implemented within the next 12 months.

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**1** The area needs to:

- reinstate effective case progression meetings for all cases; and
  - work with partners to evaluate and improve the number of vacated and ineffective trials (paragraph 2.21).
- 

**2** The area needs to ensure:

- that lessons are learned from adverse case reports which are circulated and shared across the unit to help understand the tactics of presenting a case in court and the impact on the eventual outcome; and
  - linked cases are prepared and progressed effectively and that there is joinder of cases on a single indictment only in appropriate cases (paragraph 3.7).
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**3** The area needs to work with police to ensure cases processed by the Crown Court File Review Unit are subject to police quality assurance measures on submission of the case file (paragraph 3.13).

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**4** The area needs to:

- conduct careful monitoring of cracked trials attributed to in-house advocates in the Crown Court to ensure it only occurs in appropriate cases; and
  - assess the quality of agents that form the cadre of advocates prosecuting in the magistrates' courts (paragraph 4.8).
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**5** The area needs to work with police to improve the timeliness and quality of police schedules, including the descriptions given, and to ensure the routine inclusion of standard items such as pocket notebooks and incident logs (paragraph 6.12).

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**6** The area needs to ensure:

- there are clear file endorsements where cases involve a remand in custody; and
  - custody time limit systems and processes are complied with in all cases (paragraph 7.5).
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**7** The area needs to work with the witness care units and the police on the primary and secondary measures under No Witness No Justice, and assess where improvement may be achieved (paragraph 8.4).

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**8** The area needs to take action to ensure that special measures applications are made in a timely manner (paragraph 8.14).

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**9** The area works with the police to reinvigorate the prosecution team performance management meetings using these to build on the work being carried out within the Crown Court File Review Unit and the charging unit to ensure that themes and improvement action can be communicated to and implemented across the force area (paragraph 9.14).

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**10** The area needs to review its staffing resources examining whether:

- there are efficiencies and savings that could be made as a result of the combination of the city units;
  - the workload and usage of associate prosecutors is offering value for money;
  - as part of the strengthening of personal performance management the management spans of control have the correct focus and are effective; and
  - there is the right balance of staff in the area, with a focus on the prosecutor grade (paragraph 10.11).
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**11** The area needs to consider with partners whether it is appropriate to rationalise the various multi-agency meetings (paragraph 12.6).

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### Compliance issues

We additionally identified a 'quick win' which relates to a compliance issue.

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**1** The area needs to ensure the template for instructions to counsel is followed and the expected standard achieved in all cases (paragraph 3.17).

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### Strengths

We identified four strengths within the area's performance.

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**1** The thematic reviews conducted by the Complex Casework Unit head within the group and area are a constructive approach to identifying actions to drive improvements in specific aspects of casework (paragraph 3.5).

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**2** The small proceeds of crime team was established following examination of best practice in an adjoining area in the group and ensures there is sufficient specialist attention for all cases involving restraint of assets and a reference point for lawyers (paragraph 3.20).

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**3** Good work is undertaken to achieve the overall aim of the CPS violence against women strategy, for example the monthly public protection meetings for lawyers, the bulletin produced by the domestic violence champion which is disseminated to staff and the police public protection units, the monthly examination of failed cases and the thematic review of domestic violence published in January 2010. The area also delivers regular training to probationer officers encompassing the investigation of domestic violence and witness care (paragraph 5.11).

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**4** The group approach to budgetary management and control is ensuring that there is co-operation and flexibility of resources (paragraph 10.4).

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## Inspection context

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### The inspection

CPS Nottinghamshire was last subject to a full inspection in August 2003. Since that time it has undergone two OPAs, in October 2005 and more recently in July 2007, when it was rated as fair. Since then area performance has not improved and if anything there has been a decline in many key outcomes. Since the last OPA a new CCP and a SABM have been appointed and Nottinghamshire has become the lead area within the East Midlands Group.

When the CCP arrived in the area in 2007, followed shortly by the SABM, it was clear that there were significant issues that needed to be addressed. Organisational structures were not fit for purpose, there were considerable backlogs and no accountability in casework and the area lacked management capability. This was set against the legacy of a change resistant workforce. Partnerships with other criminal justice agencies were not effective. There were no effective systems in place for the management of performance or resources. In addition to taking on significant problems in the area, the CCP and SABM were responsible for establishing the group structures in order to launch the new East Midlands Group and overseeing the Derbyshire, Leicestershire, Northamptonshire and Lincolnshire CPS areas.

Our methodology combined examination of 80 cases finalised between October-December 2009, interviews and questionnaires completed by criminal law practitioners and local representatives of criminal justice agencies and interviews with CPS staff at all levels. 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 case. Whilst on-site we also examined 15 'live' files to assess whether there had been any recent improvement in decision-making and case progression. A detailed breakdown of our file sample is shown at annex H.

A list of individuals we met or from whom we received comments is at annex I. The team carried out observations of the performance of advocates and delivery of service at court in both the magistrates' courts and Crown Court and in the charging unit based at the CPS office in Nottingham.

Inspectors visited the area between 15-23 March 2010, returning for two days at the start of April to examine the additional file sample. The lay inspector was Joanne Harris.

The purpose and aims of the inspectorate are set out in annex A.

### The area

Nottinghamshire is a county with a large city conurbation together with rural areas to the north. There are two CPS offices. The Nottingham office has a city team dealing with magistrates' courts work, a core charging team which gives charging advice and decisions to the police during the day by telephone, a committals team which deals with the preparation and case management of all Crown Court work, and a crown advocate unit. There is an additional office in Mansfield which houses the county team dealing with magistrates' courts work. The police are split into four basic command units.

**Area staffing and caseload**

At the time of the inspection Nottinghamshire employed the equivalent of 158.3 full-time staff,

details of whom are set out below (a detailed breakdown of staffing and structure can be found at annex E).

<i>Area staffing</i>	
Grade	Number
Chief Crown Prosecutor	1.0
Senior district crown prosecutor (level E)	2.0
District crown prosecutor (level D)	3.7
Crown advocates (area, Complex Casework Unit, advocacy assessor)	17.7
Senior crown prosecutors	28.1
Crown prosecutors	3.0
Associate prosecutors	11.0
Senior Area Business Manager (level E)	1.0
Local Criminal Justice Board secondees (level D)	2.0
Level B3 staff (area, Group Operations Centre and Local Criminal Justice Board secondee)	3.9
Level B2 caseworkers (area, Group Operations Centre, Complex Casework Unit)	5.4
Level B1 staff (area, Group Operations Centre, Complex Casework Unit)	29.5
Level A staff (area, Group Operations Centre, Complex Casework Unit)	50.0
<b>Total</b>	<b>158.3</b>

<i>Caseload in 2009-10</i>			
	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge decisions	11,593	38.3%	32.3%
Advice	10	0.1%	0%
Summary	9,906	32.7%	38.7%
Either way and indictable only	8,747	28.8%	28.8%
Other proceedings	6	0.1%	0.2%
<b>Total</b>	<b>30,262</b>	<b>100%</b>	<b>100%</b>

<i>Crown Court caseload in 2009-10</i>			
Crown Court cases	Area numbers	Area % of total caseload	National % of total caseload
Indictable only	942	31.0%	28.4%
Either way offences	1,454	47.9%	48.1%
Appeals against conviction or sentence	244	8.0%	10.0%
Committals for sentence	397	13.1%	13.5%
<b>Total</b>	<b>3,037</b>	<b>100%</b>	<b>100%</b>

These figures include the cases set out in the next table, as all Crown Court cases commence in the magistrates' courts. In 5,425 of the 11,593 area pre-charge decisions (PCDs), the decision was that there should be no prosecution. Overall decisions not to prosecute account for 17.9% 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 only in the caseload numbers.

A more detailed table of caseloads and case outcomes compared to the national average is attached at annex F and caseload in relation to area resources at annex G. Since our last OPA in 2007 the area has had an increase in its budget from £6.38m to £7.43m<sup>2</sup>. Staff numbers over the same period have increased from 154.8 to 158.3 full-time equivalent posts.

<sup>2</sup> This is not a direct comparison because the area budget includes a substantial amount for the East Midlands Group activity and the staffing numbers include the CCU and GOC staff.



# Section one: the inspection report

## 1 Pre-charge advice and decisions

OPA 2007	Fair
AEI 2010	Poor
Direction of travel	Declined

### Benefits realisation

**1.1** Responsibility for determining charges in the more serious cases passed from the police to the CPS in 2004. The reason for the change was to ensure that cases proceeded on the right charges and to enable prosecutors to detail for the police what further evidence or information is needed to ensure a realistic prospect of conviction.

**1.2** To enable this to occur successfully working arrangements between the police and the CPS need to be both efficient and well managed. The prosecution has to ensure that suitably experienced prosecutors are available

to make good quality decisions and provide good quality advice to the police. Operation of the scheme nationally is governed by the Director's Guidance. In Nottinghamshire there are deficiencies both in operation of the scheme, although there have been some recent improvements, and in the quality of decision-making by lawyers.

**1.3** We expressed concerns about operation of the charging scheme in 2007 when we indicated that the area needed to improve the service provided by the statutory scheme. Problems at the time were exacerbated by police not always providing quality files. At the time of this inspection the downward trend had continued with signs of improvement only very recently.

<i>Case outcomes</i>				
	National target March 2008-09	National performance 2009-10	Area performance 2008-09	Area performance 2009-10
<b>Magistrates' courts cases</b>				
Discontinuance	13%	14.5%	15.7%	16.8%
Guilty plea	70%	72.3%	71.1%	67.9%
Attrition	23%	21.0%	21.7%	25.0%
<b>Crown Court cases</b>				
Discontinuance	11%	11.7%	10.4%	14.4%
Guilty plea	70%	73.1%	79.9%	76.0%
Attrition	23%	19.5%	14.8%	18.8%

### **Operation of the charging scheme**

**1.4** During 2008 waiting times for charging appointments reached unacceptable levels. To address this problem the area volunteered to become a pilot site for daytime telephone charging (known as daytime direct (DD)). The scheme commenced in June 2009. In addition to DD the area still provides written PCDs and face-to-face consultations to deal with the more serious and specialist public protection cases.

**1.5** Implementing the DD scheme has not been without difficulties. Files received from the police were frequently of poor quality and not ready to be advised upon. This resulted in charging lawyers having to undertake tasks which should have been carried out by police supervisors, leading to backlogs and delays in the system. There were also problems with the telephone and IT equipment and charging lawyers were abstracted to cover work elsewhere which led to insufficient resources.

**1.6** A review of the DD charging scheme carried out by the police has led to streamlining of the processes and has improved the timeliness of dealing with cases submitted for a PCD. Significantly the police have taken steps to improve the quality of files coming to the CPS by increasing levels of police supervision and improvements to the 'gatekeeping' process. The presence and role of the police officer within the charging centre has been pivotal to improvements made to facilitate smooth running of the scheme.

**1.7** Nottinghamshire will move to the group DD scheme whereby the East Midlands Group's areas will jointly provide the resources to advise on charging across all five. The move, in May 2010, will no doubt impact upon delivery of charging and the police officer's role is key to sustaining the recent improvements noted.

### **Quality of advice and decisions**

**1.8** We examined 72 cases which had been the subject of a PCD and where the decision was to authorise charge. The quality of pre-charge decision-making was variable with some poor quality decisions made in 'volume' crime cases that had been dealt with under the local DD system.

**1.9** In 67 of the 72 cases compliance with the evidential stage of the full Code for Crown Prosecutors (the Code) test was correct. There were five decisions which did not accord with the evidential stage of the test. This performance is worse than many areas inspected; all five decisions were made by area lawyers. The public interest stage was in accordance with the Code test in all cases.

**1.10** The threshold test was applied correctly in 11 of 12 relevant cases. There were also seven cases in the file sample that were later discontinued where there was no significant change in the circumstances since the original PCD. Charging lawyers failed to select the most appropriate charges in 14 of the 72 cases (19.4% – almost one in five cases) which amounts to poor performance. Some criminal justice partners expressed concerns over the levels of charging in assault and public order offence cases. There were examples in the file sample of both over and under charging which is reflective of the poorer decision-making skills of some lawyers.

**1.11** In a third of the cases examined the pre-charge advice lacked detailed instructions for the advocate at court. Ancillary issues were not addressed adequately and were only dealt with fully in less than half the appropriate cases read (47.6%). Victims and witnesses' needs were not considered in a significant number of cases.

**1.12** Prosecutors did not use action plans to maximise case building which impacts on the effective progression of cases at court. There were subsequent delays obtaining necessary material which should have been identified at the outset. Almost one third (31.7%) of action plans did not meet the required standard. This lack of proactivity means that lawyers are adding little value to the prosecution of cases.

**1.13** Of eight relevant files, five did not have the same charging lawyer throughout the PCD process. This lack of continuity builds in additional and duplicate work for lawyers and frustrates the police when they take differing views of what is required for the PCD to be made. Four files in our sample had requests made for additional information that was not essential for the charging decision to be made.

**1.14** The discontinuance rate of PCD cases is higher than the national average in both magistrates' courts and the Crown Court. Of the 16 relevant cases not all were discontinued promptly, ie when it was reasonably foreseeable that there was no longer a realistic prospect of conviction. Appropriate actions were taken to save the case in eight out of the 12 relevant files.

**1.15** No further action was advised in 32.7% of files in the rolling 12 months to March 2009, dropping to 28.6% in the 12 months to December

2009, although it is still higher than the national figure of 26.6%. During the same period the number of cases finalised administratively<sup>3</sup> rather than by charging or taking no further action increased from 2.1% to 11.4%, significantly higher than the national figure of 5.3%. This is a result of a recent exercise by the area to address ongoing pre-charge cases whereby those that would normally drift in the system have been finalised expeditiously.

**1.16** The file sample examined prior to our visit contained cases that pre-dated the charging review. An additional sample of 15 files was examined on-site to ascertain whether there have been any tangible improvements. Whilst the operation of the PCD system has improved and become more streamlined, the quality of the decision-making and MG3s still needs work.

### The charging of serious casework

**1.17** The more serious and specialised cases requiring written or face-to-face decisions are dealt with by suitably experienced lawyers by appointment at the CPS office. The quality of PCDs in these cases was generally good, with well reasoned and detailed MG3s.

**1.18** The area used to run clinics for allegations relating to public protection<sup>4</sup>, however it was felt that this was not the most effective way of dealing with the casework because of the level of lawyer deployment required. After much discussion with the police the system was revised; written files are now submitted for timely advice,

<sup>3</sup> Cases finalised during an automatic administrative process whereby certain types of cases are removed from the system after three months of inaction and a report is generated for the area to check and action as appropriate.

<sup>4</sup> Serious sexual offences.

a lawyer is available on a given day for early consultation and, when required, conferences are set up with officers on an appointment basis. This arrangement is working satisfactorily.

**1.19** Charging lawyers are aware of the need to consider Proceeds of Crime Act (POCA) restraint and confiscation issues in appropriate cases. The area has a POCA lead who is available to advise or act as a reference point when required and who has established good working practices with the police.

### **Performance management and partnership working**

**1.20** There is regular analysis of PCDs under the casework quality assurance process and the quality of decision-making is also assessed when compiling and considering adverse outcome reports. Managers are aware of the issues and the poor quality of some decision-making. However feedback to lawyers does not appear to be as detailed or robust as the poor quality of some pre-charge decision-making dictates it should be. Inconsistent messages from managers regarding supervision of charging lawyers are hampering efforts to address the problems with the quality of PCDs.

**1.21** Despite obvious inefficiencies on the part of the CPS and police which have caused the declining trend in performance, the opportunity is not being taken to improve at strategic and operational levels using the prosecution team performance management (PTPM) meetings, which are ineffective and need reinvigorating.

### **Priority recommendation**

The area needs to improve the quality of pre-charge decision-making and case analysis through monitoring and effective feedback, proper action plans including consideration of all ancillary matters, and detailed instructions to the court advocate.



## 2 Decision-making, preparation and progression in magistrates' courts cases

OPA 2007	Poor
AEI 2010	Poor
Direction of travel	Stable

### Outcomes in the magistrates' courts

**2.1** Overall the conviction rate in magistrates' courts cases, at 84.7% for 2009-10, has declined since last year and is now worse than the national average. The level of discontinuances has been worse than nationally for the last three years. Area and national outcomes in magistrates' courts cases can be found in the table at annex C.

### Quality of case decisions and continuing review

**2.2** We examined 41 finalised magistrates' courts case files from the area and our findings are set out in the table at annex C. We also examined ten live files on-site and comment on whether progress has been made where appropriate.

**2.3** The standard of pre-charge decision-making is worse in magistrates' courts cases than those in the Crown Court, with four cases in our file sample having failed the evidential stage of the Code test. At full file review application of the evidential stage accorded with the Code test in 35 out of 37 cases (94.6%); a more robust review in both cases where we disagreed should have led to early discontinuance. The public interest stage accorded with the Code in all cases.

**2.4** We referred in the previous chapter to perceptions of incorrect levels of charging. In our file sample 28 out of the 31 applicable cases (90.3%) proceeded to summary trial or committal on the correct level of charge. In the three other cases, two were overcharged and the third

alleged two public order matters and an assault on a police officer where there was clearly insufficient evidence for the assault charge, and the court found there was no case to answer. In the two cases where pleas were accepted to lesser charges, it was realistic in both.

### Adverse cases

**2.5** Decisions to discontinue were taken in seven of the 41 magistrates' courts cases in our file sample and it was right to discontinue in each. However in four cases there had been no material change in the evidential strength or public interest elements of the case and in three the outcome was reasonably foreseeable at the charging stage. There were no adverse case reports on the discontinued files examined, therefore opportunities to learn lessons are being missed.

**2.6** Overall discontinuance was not undertaken in a timely manner; it was timely in less than half of the relevant cases examined. National data shows that the area's rate of discontinuing cases on or after the third hearing was 56% in the 12 months to December 2009. Performance deteriorated during the year and is nearly 10% worse than the national average.

**2.7** Casework quality assurance is used to monitor some failed cases, although this process does not require the specific selection of any adverse outcomes and could also be more robust. The domestic violence co-ordinator also prepares a monthly report of adverse outcomes in cases involving an allegation of domestic violence. District crown prosecutors are expected to report and feed back to lawyers on those cases where the discontinuance was due to a missing legal

element, but some lawyers are unaware of feedback mechanisms or that there are concerns about the standards of decisions. There is clearly scope for improving the effectiveness of adverse case reporting and sharing results within the area and with the police.

### **Case preparation and progression**

**2.8** The area has been aware for some time that there is a significant issue with the standard of police investigation, file preparation and supervision. Difficulties in case preparation and progression are often caused or exacerbated by poor quality and timeliness of the product received from the police, especially in relation to upgrades of the file for summary trial. The area estimates that 75% are inadequate. However there has been no consistent and regular monitoring by the CPS of the file standard, or feedback to the police, except by way of requests for additional items on individual files. Meetings between the area and police to discuss PTPM are not effective. The inspection found that the police have become a scapegoat for all defects in casework when some failings lie firmly with the area; a blame culture is readily apparent.

**2.9** The area volunteered to be a pilot area for the optimum business model (OBM) in the hope that this would provide an effective mechanism for managing the situation and delivering improvement. Key problems were identified by the national OBM team during quality assurance visits. Although the process was signed off by the national team in Mansfield in February 2010 and in Nottingham that March, it was accompanied by action plans which highlighted that weaknesses still existed.

**2.10** An obstacle to the efficient and effective running of the OBM unit in the magistrates' courts is the failure to staff it adequately. A strategic decision to focus lawyer resources on charging, court coverage and Crown Court casework rather than the unit has led to insufficient lawyers being available to work within it and to it being the first port of call for abstraction when lawyers are needed for cover elsewhere. This strategy has had a significant adverse effect on the management and progression of cases.

**2.11** The impact has been felt by stakeholders and most keenly by the magistrates' courts who are frustrated by the lack of improvement in case readiness for trial, despite repeated assurances that performance would improve. The courts are willing to consider reducing the number of court sessions to assist the CPS reduce the number of lawyers that need to be available, but are unlikely to agree to do so unless there is a clear plan and evidence of improving readiness of cases for court.

**2.12** In the files examined prosecutors progressed the matter at first hearing in 90% of cases, but case preparation thereafter was not timely in more than half (54%) and applications were also not made in good time in over half of appropriate cases. The timeliness of communications was good in only a quarter with the rest being fair or poor, although the standard of communications was better. The more recent live cases examined present generally similar or deteriorating findings, but with some improvement in the timeliness of communications.

**2.13** Reviews for trial were routinely being carried out a matter of days before the trial was due to take place and often the day before; there has been some recent improvement and files are now reviewed about a fortnight ahead of trial. This is still too late for much remedial work to be carried out by the prosecution team or for cases to be strengthened. The standard of work as well as the timeliness is a cause for concern. Case progression in the file sample was assessed as good in only 26%, 40% were fair and 34% poor. The more recent live cases showed no improvement.

**2.14** The quality of file reviews was satisfactory in only half the relevant cases and there was no full file review recorded in a third of those examined. Endorsements on files were good or excellent in less than a third of cases with 40% being fair and 29% poor, which is something the OBM national team's reviews have consistently highlighted as a problem. The most recent cases show a slight improvement.

**2.15** Case progression meetings have recently been reinstated for special categories of cases, but they do not result in any feedback on trends or themes and there is no mechanism for considering progression jointly in other types of cases.

### Priority recommendation

The area needs to:

- work with the police on file standards and timeliness;
- build a prosecution team ethos; and
- develop, in conjunction with the police and courts, a clear plan for measurable improvements in case preparation and progression.

### Youth cases

**2.16** Partners have felt the impact of the youth team's disbanding after a review of structures and staffing levels across the area as the team was viewed very positively. Since the introduction of a deter young offenders (DYO) initiative a designated prosecutor attends DYO meetings with the court and other agencies and the contribution of the CPS to individual cases is valued. However the progression of youth cases in our file examination was less timely and of a lower standard than that of magistrates' courts cases overall. More recent examination of live files on-site showed a better picture in the three youth cases seen.

### Effective, ineffective and cracked trials

**2.17** The number of vacated trials is increasing and the proportion is worse than nationally. The area intention is to be realistic about readiness for trial and to make applications to vacate in preference to a trial being ineffective but this strategy, though it has some merit, has not been as effective as it might be because of the continuing failure to ensure trial readiness. Some applications to vacate are made too close to the trial date to enable the magistrates' courts to use the vacated slot for another trial. Stakeholders expressed concern about some trials that are vacated and then go on to be ineffective because weaknesses have not been rectified in the meantime; this was borne out by the file sample.

**2.18** Despite the increased number of vacated trials the ineffective trial rate has not improved since 2008-09 and is 4.9% worse than the national average, although there has been a decrease in the proportion of trials which are ineffective due to the prosecution (from 42% to 39%).

**2.19** The cracked trial rate is better than nationally and improving which is pushing the overall effective trial rate close to the national average. The number of times the prosecution was responsible for a cracked trial lessened over the last few months of 2009. The main cause of a trial cracking was a late guilty plea by the defendant – more confidence on the part of the defence in the prosecution’s ability to prepare cases effectively, be ready for the first trial listing and secure attendance of witnesses at court, should improve the timeliness of pleas.

**2.20** In the finalised file sample just over a third of the ineffective trials (eight out of 22) and a fifth of unnecessary adjournments (ten out of 51) could have been avoided by prosecution action. The average number of hearings per case is improving marginally in guilty pleas but deteriorating in contested cases.

**2.21** There is scope for more effective joint working with the courts and police to analyse cracked, ineffective and vacated trial rates and to address the issues identified. The court is, as yet, not sufficiently confident in the prosecution to stop double listing trials.

### **Use of the case management system – Compass CMS**

**2.22** The OPA in 2007 reported on the need to improve timeliness of recording hearing outcomes and finalisations. There has been a sustained effort to bring this about with regular monitoring and feedback to relevant staff about performance. As a result the area has seen both improve; hearing outcomes are now recorded in a timely manner in 88% of cases and finalisations are timely in 83%.

**2.23** The accuracy of finalisations is checked in a quarterly stocktake. In our file sample about 70% of magistrates’ courts cases were finalised correctly, which indicates considerable room for improvement. The usage of CMS was good in just over a third of cases, fair in about half and poor in the rest.

### **Recommendation**

The area needs to:

- reinstate effective case progression meetings for all cases; and
- work with partners to evaluate and improve the number of vacated and ineffective trials.

### 3 Decision-making, preparation and progression in Crown Court cases

OPA 2007	Good
AEI 2010	Fair
Direction of travel	Declined

**3.1** Since the arrival of the Chief Crown Prosecutor (CCP) in 2007 the area has restructured from combined units, with allocated committal lawyers which handled both magistrates' courts and Crown court work, to discrete units handling magistrates and Crown Court casework separately. There is also a crown advocacy unit. The restructuring was necessary to address considerable backlogs and poor case progression, however improvements were not immediately forthcoming and further remedial action has been necessary. In November 2009 the Crown Court File Review Unit (CCFRU), which is staffed by police, was established to provide oversight of police file quality and timeliness and, more recently, during our time on-site the area introduced an optimum business model (OBM) unit for Crown Court casework.

#### The quality of case decisions and continuing review

**3.2** We examined 39 Crown Court cases and our findings are set out in the table at annex C. The quality of decision-making in Crown Court casework is better than for the magistrates' courts, however there was still one evidential Code test failure at the pre-charge stage in the sample. This failure continued at committal review and the case was eventually discontinued by the crown advocate following a not guilty plea at the plea and case management hearing (PCMH).

**3.3** It was apparent from file examination that some lawyers in the charging unit and Crown Court section need a greater understanding of the tactics necessary to present a case in court effectively and a realistic

appraisal of the action needed to address weaknesses in the evidence. Unfortunately there appears to be a 'silo' approach to casework with little feedback from the crown advocates to either unit, or little exchange between the charging and Crown Court lawyers. Although there are cultural barriers to learning from experience, the absence of a formal mechanism prevents the area embarking on a structured approach to address this.

**3.4** The selection of charge is generally sound. Those selected at committal were correct in 31 of the 34 relevant cases (91.2%) and cases proceeded to Crown Court trial on the most appropriate charges in 30 of the 32 (93.8%) relevant ones examined. There were seven cases where pleas were accepted; the basis of acceptance was not appropriate or realistic in two of these. The quality of reviews was variable, only meeting the required standard in 29 cases (74.4%) although there were full file reviews in 37 (94.9%).

**3.5** We did not find evidence to support the wrong application of the charging standards overall. However there is a tension between perceptions of the judiciary in the Crown Court and the magistracy in the magistrates' courts. In the Crown Court there is a belief that certain cases are over charged and should not be committed for hearing whereas in the magistrates' courts there is a belief that cases are under charged and are sufficiently serious that they should be heard in the Crown Court. This may be a consequence of variable decision-making, particularly in magistrates' courts cases or of those resulting in a cracked trial in the Crown Court with pleas to lesser offences. Whatever the cause the area needs to address these perceptions through improved communication with stakeholders.

## Strength

There is an established referral system for cases destined for the Complex Casework Unit (CCU). The area has also benefitted from the quality assurance role carried out by the CCU's head. Thematic reviews are conducted by the CCU head within the group and have been undertaken in Nottinghamshire where performance is weaker than other areas in the group, for example in a review of cases involving an allegation of domestic violence. This is a constructive approach to identifying actions to drive improvements in specific aspects of casework.

**3.6** Cases are not always linked effectively. In the file sample we observed cases being joined on the same indictment where there was no nexus. We also saw examples where the joinder on a single indictment was not wrong in law but in reality the cases would be tried separately. A greater understanding of presentation of cases in court through feedback would inform and improve the quality of decision-making in this regard.

## Recommendation

The area needs to ensure:

- that lessons are learned from adverse case reports which are circulated and shared across the unit to help understand the tactics of presenting a case in court and the impact on the eventual outcome; and
- linked cases are prepared and progressed effectively and that there is joinder of cases on a single indictment only in appropriate cases.

## Outcomes in the Crown Court

**3.7** Conviction rates in the Crown Court have declined and the area has moved from a position of performing significantly better than the national average (84.9% compared to 80.8%) in 2008-09 to closer to nationally (81.6% against 80.6%) in 2009-10. During the same period the discontinuance rate has risen by over 3% to 14% and in March 2010 remained worse than nationally. Area and national outcomes can be found in the table at annex C.

**3.8** There has been a consistently high level of discharged committals. Although in part due to the quality and timeliness of police files, there is also fault with legal decision-making at the outset where issues have not been identified and action to address weaknesses in the case has not been considered. Other cases are discontinued before they would result in an inevitable discharged committal and this has contributed to the high discontinuance rate. A significant number of committals are not reinstated after discharge although a system is in place to do so and the senior district crown prosecutor (SDCP) for the Crown Court section has been tackling the problem. By the time of the on-site visit this number had reduced significantly and the area needs to ensure that this performance is maintained.

## Adverse cases: judge ordered and judge directed acquittals

**3.9** We examined nine cases where there had been a judge ordered acquittal. In three there was no material change in evidential strength or public interest since the PCD and in one the decision was not timely. There was also one where the outcome could have been avoided by better case preparation. We examined two

judge directed acquittals. The outcome was foreseeable in one but could not have been avoided by better case preparation, although it should have been discontinued to prevent the necessity for a trial and directed acquittal.

**3.10** Adverse outcome reports met the required standard in five of the 12 cases, in one it did not and in the remaining six there was no report on the file or CMS. However it is clear that the SDCP for the Crown Court section analyses each adverse outcome, in addition to carrying out other quality assurance checks of the file, and a full report is compiled on each case which is incorporated into the Crown Court monthly performance pack. The adverse case reports are not necessarily informed by comments from the lawyer and individual reports are not kept with the relevant case file. Although there is individual feedback to staff line managed by the SDCP, underlying reasons for outcomes and learning points are not disseminated widely across the units, particularly the charging unit which is outside the SDCP's span of control. The audit trail of adverse case reporting needs development and the reports should encompass all learning points to inform future charging decisions and enhance understanding of Crown Court practice.

### Case preparation and progression

**3.11** The area has suffered from poor police file quality for a significant period which has made it difficult to prepare and progress the more serious casework. This has resulted in unnecessary duplication of work, inadequate case preparation and adverse cases. In turn it has led to pressure on resources in the team, in addition to the impact on the pride and professionalism of staff. The SDCP for the Crown

Court section has worked hard to drive up police file quality and common and repeated deficiencies have been identified and raised at the Problem Solving Board<sup>5</sup>.

**3.12** In November 2009 the police committed resources to establish the CCFRU, providing police oversight of each file. The file request captures actions required by the charging lawyer, the advocate in court and additional work identified by the CCFRU team. It was noticeable that there were instances where additional work was only identified by the CCFRU and the area needs to ensure that value is added to the file by the charging lawyer and advocate in court before submission to the CCFRU. The file request is submitted to a senior officer to ensure the officer in the case undertakes the work detailed. Although the CCFRU is a welcome improvement and indicates a commitment from the police to drive up their file quality, the absence of a quality assurance check by the police of work undertaken by the officer in the case once the prepared file is submitted is a significant gap and undermines the process.

### Recommendation

The area needs to work with police to ensure cases processed by the Crown Court File Review Unit are subject to police quality assurance measures on submission of the case file.

**3.13** The area has introduced the optimum business model unit in the Crown Court section to improve case preparation and progression

<sup>5</sup> A joint board between the police, CPS and HM Court Service at a strategic level to ensure action is implemented.



where there are weaknesses. The area will process volume casework, approximately 45% of caseload, in the unit. The remainder of Crown Court casework will be allocated to a named lawyer and paralegal officer as before. Introduction of the new structure coincided with the inspection visit, therefore none of the files examined had been subject to case progression within the unit. We examined a further sample of five live files on-site to assess the impact of the recently introduced Crown Court OBM unit and the CCFRU.

**3.14** Of 39 cases in the file sample there were 14 (35.9%) where case preparation was not timely and timely completion of all directions after the PCMH in only 15 of the relevant 28 (53.6%). We assessed the proactivity of case management as excellent in two cases, good in 18, fair in 14 but poor in five. In the five additional live files examined on-site there was some indication of improvement, but the area needs to ensure it is consistent and maintained.

**3.15** The general quality of indictments has been raised as a concern by the judiciary and Nottinghamshire has responded to this with further training. Despite this basic errors continue and would be readily apparent on checking; this flaw was equally apparent for crown advocates and counsel. In ten cases (25.6%) in the file sample indictments were not drafted correctly. The area needs to support the additional training provided by reinforcing to all advocates the need to check the indictment on receipt of the brief.

**3.16** Advocates are generally instructed in good time to prepare for the hearing, although the quality of instructions is variable. The SDCP for the Crown Court section has produced a template and, where this was followed, there were examples of very high quality instructions addressing all relevant aspects of a case that would be pertinent for the advocate. However there were examples of very poor instructions in the file sample. Many did not have a case analysis, some comprised a 'cut and paste' from the PCD containing irrelevant information and most did not refer to acceptability of pleas. In the file sample ten were poor (25.6%).

### Compliance issue

The area needs to ensure the template for instructions to counsel is followed and the expected standard achieved in all cases.

### Effective, ineffective and cracked trials

**3.17** The ineffective trial rate for 2009-10, of 12.9%, compares favourably with the national rate of 13%. The file sample was less positive with six ineffective trials (15.8%), although this could have been avoided by prosecution action in only two. The cracked trial rate is a cause for concern, at 49.3% for 2009-10 it is significantly higher than the national rate of 42.2%. The cracked trial rate includes a high level of late guilty pleas, but until there is consistent improvement in police file quality and subsequent case preparation and progression the area will not be suitably positioned to address this.



**3.18** The CPS attends case progression meetings which are held two weeks ahead of the trial date in an effort to improve trial effectiveness. The Crown Court is currently listing four times the number of trials for court availability due to the high cracked and ineffective trial rates. The area also attends monthly meetings where the reasons for cracked and ineffective trials are discussed and actions to address poor performance identified.

### Asset recovery (proceeds of crime)

#### Strength

The small proceeds of crime team comprising a lawyer who is also a crown advocate and a caseworker is an asset. It ensures there is sufficient specialist attention for all cases involving restraint of assets and a reference point for lawyers in the charging unit, crown advocacy unit or crown court section who may be prosecuting cases with an asset recovery element. Staff from Nottinghamshire visited an adjoining area in the group in order to look at the systems and processes employed and has adopted some of the best practice.

**3.19** The outcomes against targets to December 2009 were mixed. The area achieved 101 confiscation orders (104% of trajectory) and 13 restraint orders (83%) but the value of confiscation orders at £566,000 was only 60% against trajectory and the enforcement of orders at £546,000 was 66% against trajectory.

### Use of case management system – Compass CMS

**3.20** Entries on CMS generally reflected the endorsement on the Crown Court file. The area employs a court hearing log which is usually completed with sufficient detail by the support provided to the advocate in court. In the file sample 37 of the 39 cases were finalised correctly; this is better than performance in the magistrates' courts and may be attributed to the better quality of file endorsement in Crown Court casework.



## 4 The prosecution of cases at court

OPA 2007	Fair
AEI 2010	Fair
Direction of travel	Stable

### The standard of advocacy

**4.1** The CPS nationally has set standards for its advocates, internal and external. These were updated in Autumn 2008 and contain standards, guidance and prompts. We assess advocates against these standards, bearing in mind that the court sessions will vary from trials to remand courts and bail applications to pleas of guilty.

**4.2** We assessed 21 advocates in the magistrates' courts and Crown Court and found that the quality was variable. Our findings are set out below.

**4.3** In the magistrates' courts the associate prosecutors (APs) are, in the main, well thought of by criminal justice partner agencies. Those observed appeared well prepared and generally competent. There were some who were less

confident and polished in their delivery but all were clear about the cases they were prosecuting. Criminal justice partners voiced concerns that APs are affected by the lack of clear and detailed instructions on files from the PCD. There were also concerns about statutory limits on the APs' powers leading to delays in court when they have to seek advice from the duty prosecutor.

**4.4** A significant number of magistrates' courts sessions are covered by agents. The quality of agents used is variable which is apparent from observations and feedback from stakeholders. The two advocates we were able to score from observations undertaken were less than competent. The area instructs a small cadre of agents and therefore needs to undertake its own observations to assess the suitability of those employed as part of the small group instructed. The late delivery of files can also result in agents not being as well prepared as they should be. The youth

<i>Advocacy standards</i>					
	Level	Number	Number	Number	Number
		CPS advocates/ associate prosecutors in the magistrates' courts	Counsel/ solicitor agents in the magistrates' courts	Crown advocates and other CPS advocates in the Crown Court	Counsel in the Crown Court
Assessed as above normal requirements	1 2	— —	— —	— —	— —
Against CPS national standards of advocacy	3+ 3 3-	4 2 3	— — —	3 1 1	3 1 1
And those assessed as less than competent	4 5	— —	2 (1*) —	— —	— —

\* contested cases

courts and specialist domestic violence court in Nottingham are usually covered by specialist CPS lawyers and generally work well.

**4.5** There is limited monitoring of advocacy in the magistrates' courts and the area relies on feedback provided from other stakeholders. There has been some monitoring of APs, although little feedback has been given.

**4.6** In the Crown Court the crown advocates have differing levels of experience and expertise. All those seen were competent, had prepared properly and handled the cases well. Efforts to view a trial were unsuccessful during the inspection so observations were undertaken of non-contested hearings and ineffective trials. In those circumstances in-house advocates were on a par with independent counsel and all were of the requisite skill and experience. Many of the sensitive public protection cases are prosecuted in-house by the senior crown advocate.

**4.7** The group's advocacy assessor has observed the crown advocates and given feedback but this has only been to those who are designated at levels 1 and 2<sup>6</sup>, which is the limit of the assessor's own experience. Therefore much of the advocacy in more serious contested cases is not assessed and trial advocacy is generally where weaknesses were found nationally, although the senior crown advocate provides support in a mentoring role.

**4.8** The area has a high level of cracked trials due to late guilty pleas. From the file sample we identified instances where there was inappropriate acceptance of pleas by crown advocates, resulting in a cracked trial. There were examples where it would have been

more appropriate to go to trial on the original charges. Senior managers are alive to this issue and are able to monitor cracked trials attributed to individual crown advocates.

### Recommendation

The area needs to:

- conduct careful monitoring of cracked trials attributed to in-house advocates in the Crown Court to ensure it only occurs in appropriate cases; and
- assess the quality of agents that form the cadre of advocates prosecuting in the magistrates' courts.

### Progressing cases at court

**4.9** Prosecutors in the magistrates' courts generally have sufficient time to prepare court lists with time allowed in advance for this purpose. However the late delivery of files to agents hinders effective preparation and ultimately impacts on the quality of case presentation. In the file sample prosecutors were able to progress at the first hearing in 87.8% of cases despite only having clear instructions for prosecutors at court in 67.6% of them.

**4.10** Poor case preparation is preventing effective prosecution at court. Frequent requests for adjournments due to a lack of progress on files and the late receipt or absence of evidence are a major problem for advocates in the magistrates' courts. The average number of hearings for guilty pleas and contests are not close to the national targets and worse than national performance. This causes unnecessary duplication of work for the CPS, delays for victims, witnesses and defendants and additional courts are required, which in turn can lead to the frustration of partners.

<sup>6</sup> The CPS grading system has four levels, starting with level 1 for the most straightforward non-contested work through to level 4, the most serious or sensitive contested trials.

<i>Magistrates' courts cases</i>					
	Target	Area 2008-09	Area 2009-10	National 2008-09	National 2009-10
Average number of hearings per guilty plea	2.1	2.5	2.5	2.2	2.1
Average number of hearings per contest	4.0	4.8	5.0	4.4	4.0

**4.11** Crown advocates cover appropriate preliminary and plea and case management hearings. They retain those files for trial if the cases are a good match to their experience and level of development and also then become the reviewing lawyer for those files. Cases that cannot be covered in-house are passed to the private Bar. As already highlighted in chapter 3 the quality of instructions needs improvement but the new template and training provided should facilitate this and some progress was evident on more recent files.

### Court endorsements

**4.12** The quality of endorsements was significantly better in the Crown Court than the magistrates with 87.2% assessed as fair or better compared to 70.1%. In the Crown Court each file contains a hearing log which generally captures all information relevant to inform case progression at the office, provided there is support in court to record the details.

There is usually sufficient coverage in the Crown Court with paralegal officers generally covering a single court. Managers conduct assurance checks and provide feedback where improvement is required. In the magistrates' courts inadequate endorsements can impact in a variety of ways. In chapter 7 we discuss the risk of a custody time limit failure and there is also an impact on case preparation, which needs improvement.

### Facilities at court

**4.13** Facilities in the Crown Court at Nottingham are satisfactory. There is sufficient space in the CPS room with access to CMS. Facilities are also suitable in the magistrates' courts at Nottingham, where there is CMS access and administrative support at court to progress files returning from court. The facilities at the other courts are variable.

<i>Quality of endorsements</i>				
	Excellent	Good	Fair	Poor
Magistrates' courts file endorsements	2.6% (1)	28.9% (11)	39.5% (15)	28.9% (11)
Crown Court file endorsements	5.1% (2)	59.0% (23)	23.1% (9)	12.8% (5)
Magistrates' courts CMS recording	-	36.6% (15)	51.2% (21)	12.2% (5)
Crown Court CMS recording	-	41.0% (16)	53.8% (21)	5.1% (2)



## 5 Serious violent and sexual offences and hate crime

OPA 2007	Good
AEI 2010	Fair
Direction of travel	Declined

**5.1** Serious violence and sexual offences include causing grievous bodily harm and wounding, offences using weapons, fatal road traffic offences, homicide, rape, child abuse and domestic violence. Hate crime includes racially aggravated and homophobic offences, elder abuse and disability aggravated offences.

### Specialists and experts

**5.2** The work of specialists and co-ordinators across the East Midlands Group has recently been rationalised under the guidance of the CCP for Leicestershire. Certain roles are maintained at group level, for example rape and serious sexual offences, child abuse, domestic violence and racially and religiously aggravated offences, whilst the head of the Complex Casework Unit (CCU) leads on human trafficking and animal rights. Nottinghamshire has retained all relevant leads and co-ordinators and additional lawyers have been trained in the various specialisms.

**5.3** The area has a rape co-ordinator and is supported in the role by the senior district crown prosecutor (SDCP) for the Crown Court section. In addition to the nationally defined responsibilities, a quarterly review of cases is undertaken and meetings are held for the specialist public protection lawyers. There is a domestic violence champion and the SDCP for the magistrates' courts is the lead for hate crime; the roles and responsibilities are clearly defined. The SDCP leads on disability crime and manages the leads for racially and religiously aggravated and homophobic crime.

**5.4** There are specialists for rape, child abuse and road traffic cases involving a fatality.

All have been trained and homicide cases are allocated to senior experienced lawyers. For the most part these cases are handled well and with sufficient sensitivity. Many public protection cases are prosecuted in-house by the senior crown advocate. All lawyers have been trained to handle casework involving an allegation of domestic violence or hate crime, so these are not submitted to nominated specialists for a PCD and are progressed through the OBM unit. These aspects of casework are handled less well.

**5.5** Training has been undertaken by all the rape specialists and awareness training provided for caseworkers and witness care unit staff. Domestic violence training has been provided for all staff and in hate crime and sexual offences for lawyers.

### The quality of advice and decisions

**5.6** For the most part handling of sensitive specialist casework is better than volume crime and the specialists add value to casework, working proactively to build stronger cases and identifying further lines of enquiry for the police. However there is room for improvement in the handling of cases involving allegations of domestic violence, where there are instances of lawyers applying the policy ahead of the Code test, and in racially and religiously aggravated crime where decision-making and case handling need improvement.

**5.7** The majority of cases are submitted to the daytime charging scheme for a PCD although some wrongly bypass the scheme and are charged by the police. Public protection cases that were previously dealt with by specialist clinics are now submitted as written files and a duty lawyer is available every Tuesday for telephone or face-to-face consultation, although as yet there is limited take up by the police of this facility. Checklists are available for those giving charging advice to assist decision-making in cases of domestic violence and allegations of rape.

### Priority recommendation

The area needs to ensure that the Code for Crown Prosecutors is applied correctly in all cases involving an allegation of domestic violence, and to improve the overall decision-making and case handling of racially or religiously aggravated crime.

### Violence against women

**5.8** The Code test was correctly applied in all seven rape cases in the file sample, reviews met the required standard and for the most part they were handled satisfactorily. However case preparation was not timely in all and there were also some breaches of the policy guidance. In cases involving an allegation of domestic violence, as well as instances of applying the policy ahead of the Code test when providing pre-charge advice, it was evident from the file sample there are some breaches of policy despite the presence of the checklist as an aide memoire.

**5.9** The attrition rates for rape and sexual offences are better than target but the rate for domestic violence, where there has been an increase in caseload, has not been achieved preventing the area from meeting the overarching violence against women target. Despite significant action to address this, which is detailed in the action plan, the area has not been able to improve outcomes.

**5.10** In June 2009 a rape review was conducted in the area by a joint CPS and Association of Chief Police Officers (ACPO) team. The report assisted the area gain police engagement and the force has embarked on a programme for improvement of rape case handling. Despite this joint interest the SDCP for the Crown Court section has needed to work hard to establish strategic and operational groups with the police to drive this improvement in casework. It has been difficult to implement change because of police structures and the need to address some issues with the police lead for public protection and others with the police lead on criminal justice, whilst also taking account the autonomy of the Divisional Commanders.

**5.11** The rape co-ordinator mentors lawyers, provides guidance and second opinions when they are required. The role also entails disseminating information to the specialists, preparing the quarterly report for CPS headquarters and meeting with the group co-ordinator. The area champion for domestic violence reviews all failed cases on a monthly basis and analyses why each has failed. The head of the CCU has also undertaken a thematic review of domestic violence to examine performance, which is weaker than other areas in the group. There is a well established domestic violence scrutiny panel held jointly

### Unsuccessful outcomes

	National target	National performance 2009-10	Area performance 2008-09	Area performance 2009-10
Violence against women	28%	28.2%	30.0%	31.8%
Rape	41%	40.6%	31.0%	40.7%
Domestic violence	28%	28.0%	30.3%	32.2%
Sexual offences	28%	24.0%	26.8%	23.5%



with CPS Leicestershire which informs the approach to casework, with actions highlighted by the panel taken forward. There are also two specialist courts that provide good support to victims of domestic violence.

### Strength

Nottinghamshire is working hard to achieve the overall aim of the CPS violence against women strategy. Examples of good work include monthly public protection meetings for lawyers, the domestic violence champion's bulletin which is disseminated to staff and the police public protection units, monthly examination of failed cases and the thematic review of domestic violence published in January 2010. The area delivers regular training to probationer officers encompassing the investigation of domestic violence and witness care.

### Homicide and serious violence

**5.12** We examined three cases involving a homicide and the decision-making was correct in all of them. Case preparation was timely and in all the proactivity of case management, quality of endorsements, handling of communications and instructions to counsel were graded as good. The SDCP for the Crown Court section has oversight of all cases. The handling of cases involving serious violence was less good although these are not allocated to nominated specialists. One case of the relevant seven was a Code test failure as it should not have resulted in a prosecution and in a further case the charges were wrong.

### Road traffic cases involving fatalities

**5.13** Road traffic cases involving a fatality are handled by specialists with oversight from the SDCP for the Crown Court section with referral to the CCP where necessary. Decision-making was correct in those examined and there was proactive case management. The quality of communications and endorsements was good but in one case the quality of instructions to counsel was poor.

### Hate crime

**5.14** We examined six cases where the hate crime element was either racial or religious. Five were subject to a PCD, two of which did not adhere to the relevant policy and guidance. One was charged as a racially aggravated crime which was wrong in law and in another, charged by the police, the offence was not made out resulting in a discontinuance at a later stage than it should have been. In a further case offences were wrongly joined on the indictment for committal and then subsequently removed. It was unclear from the file what became of those offences. On checking with the area it was apparent that they had been discontinued without review or referral to a manager and there was no communication with the victim.

**5.15** All hate crime cases are monitored and adverse outcomes analysed and fed back. There is a hate crime scrutiny panel which is shared with CPS Leicestershire. The panel is robust and actions highlighted are taken forward in the area to improve casework, although as yet there is little evidence that the findings have been used to improve casework. Despite the issues highlighted, area performance has improved significantly and for the year 2009-10 was better than target and the national performance.

<i>Unsuccessful outcomes</i>				
	National target	National performance 2009-10	Area performance 2008-09	Area performance 2009-10
Hate crime: combined racist, religious, homophobic and disability	18%	18.1%	18.2%	14.9%

### **Safeguarding children and child abuse**

**5.16** The area has leads for child abuse and child protection, multi-agency public protection and dangerous offenders and the looking after children protocol. The child abuse specialist, in addition to the lead role within Nottinghamshire, is involved in contributing to the CPS national child abuse guidance and is a lead tutor for the national training course. The area has tried to instil safeguarding issues into casework involving allegations of child abuse and crime involving a youth or a child witness. The rape co-ordinator and child abuse specialist both have well established links with the city and county child safeguarding boards. The area receives minutes from meetings held by the sexual assault referral centre and the Nottingham City Sexual Violence Board and attended a multi-agency forum in November 2009 for improving outcomes for children in care.

**5.17** The file sample contained three cases involving allegations of child abuse. The decision-making in all three was correct and there was generally sound or better handling than in non-sensitive cases.

### **Identification and management of sensitive cases**

**5.18** The area flags and identifies the majority of sensitive cases and hate crime on CMS. In the file sample only one of the 28 relevant cases was not flagged and this involved an allegation of domestic violence. However we undertook additional checks on CMS finding that two of the ten rape cases examined also did not have flags, which reflects the area's own findings in the quarterly rape monitoring reports. Action is taken to try to address this and monitoring is undertaken of finalised cases.

## 6 Disclosure of unused material

OPA 2007	Fair
AEI 2010	Fair
Direction of travel	Stable

### Compliance with the duties of disclosure

**6.1** In the last OPA performance on disclosure was assessed as fair, having improved from the previous assessment of poor, and has remained stable since. A table detailing the findings of this inspection with those in our thematic review of the duties of disclosure of unused material undertaken by the CPS, which was published in May 2008, is at annex C.

**6.2** The area has carried out audits of disclosure in magistrates' courts and Crown Court cases every six months, the last being in August 2009, and has also been subject to checks by CPS headquarters Business Development Directorate (BDD). Having achieved an overall rating of good on the last assessment by BDD in November 2009 it is no longer required to submit regular monitoring reports, but has been advised to continue some elements of self-monitoring.

### Initial disclosure

**6.3** Initial disclosure means providing the defence with any material which has not previously been disclosed to them and which satisfies the disclosure test. The test is applied by the lawyer and relates to material which may undermine the prosecution case or may assist the defence case. There is a continuing duty to disclose such material throughout the life of a case during the court proceedings. Failing to disclose something which should be disclosed can lead to injustice and failures to comply can have severe consequences for the prosecution.

**6.4** There were 69 cases within our file sample in which the duty to make initial disclosure

arose. It was handled correctly in 24 out of 30 (80.0%) in the magistrates' courts and 37 out of 39 in the Crown Court (94.9%). This performance is significantly better than that represented in the findings of the thematic report. It represents an overall compliance rate for initial disclosure in magistrates and Crown Court cases of 88.4%, better than that shown in the area's audit in July 2009 (85.0%) and BDD's that November (16.7%).

**6.5** There were two Crown Court cases in the file sample where the non-compliance with the obligations of initial disclosure was a failure to disclose undermining or assisting material. Other failings included sending the wrong letter to the defence, or leaving in template paragraphs that were inapplicable, and failing to endorse schedules properly. Timeliness of initial disclosure in the files we examined was poor. In nearly half the magistrates' courts cases and a quarter of Crown Court ones it was late. Disclosure is too often a reason for lack of readiness for trial in the magistrates' courts.

### Continuing disclosure

**6.6** Prosecutors are aware that the duty of disclosure is a continuing one although certain events in case progression should prompt further consideration of the need to disclose, which is not always the case. Continuing disclosure is hampered by a poor rate of response from the police to defence case statements.

**6.7** In the files we examined continuing disclosure was dealt with properly in ten of the 13 relevant magistrates' courts cases (76.9%) and 22 of the 33 relevant Crown Court cases (66.7%). In three the failing was in not disclosing undermining or assisting material. The overall compliance rate of 69.6% is worse than that assessed in the area's two audits in 2009 and the BDD assessment in November 2009. Timeliness of continuing disclosure was better than initial disclosure in

magistrates' courts cases but worse in the Crown Court, with nearly a third of the latter being late.

### **Sensitive and third party material**

**6.8** In response to the recommendations in HMCPSI's thematic report on disclosure and difficulties in a particular case in mid-2009, the CPS and police renegotiated the third party disclosure protocol. Material ought to be available for consideration at the pre-charge stage. There were no instances in the files examined of the protocol being applied to obtain material at the pre-charge stage, but in one rape case it should have been. The failure to do so led to delay in the Crown Court and the deadline for directions being missed twice. This was one of two instances, in the eight cases where there was third party material, where it was not handled properly.

**6.9** The police generally submit a schedule of sensitive material in each case. In most instances it confirms that there is no relevant material. There were 22 cases in our file sample which contained sensitive material schedules and it was dealt with properly in all but three of them (86.4%), comprising two magistrates' courts cases and one Crown Court. The area has established procedures with the police for safe storage of sensitive material.

### **File housekeeping and use of the disclosure record sheet**

**6.10** File housekeeping in respect of disclosure documents is good. Disclosure schedules, copies of material and correspondence are generally stored in a separate folder within or attached to the main file. A checklist of the basic requirements of disclosure is attached to the folder on each trial file and a disclosure record sheet is required in each case. There was a

sheet attached to most of the files we examined, although in some instances there was more than one which made the audit trail less easy to follow. The area has repeatedly emphasised the need to keep an accurate record of disclosure events and decisions; despite this in over a third of cases not all actions were endorsed on the record sheet. Performance was markedly worse in Crown Court cases in this respect.

### **Performance improvement and action to improve**

**6.11** Action plans have been generated after each of the area's six monthly audits, although it is not clear that all actions are carried out and outcomes reported back. There has been feedback to staff after each audit with good performance highlighted and aspects for improvement noted. The area continues to monitor disclosure as part of the monthly casework quality assurance checks.

**6.12** The area is actively involved in training police officers on unused material, particularly probationer officers, and some schedules are returned to the police when they are defective. Unfortunately significant improvement has yet to materialise. There is scope for more effective monitoring and feedback of police failings, both by individual prosecutors in their cases and by managers at joint meetings.

### **Recommendation**

The area needs to work with police to improve the timeliness and quality of police schedules, including the descriptions given, and to ensure the routine inclusion of standard items such as pocket notebooks and incident logs.

## 7 Custody time limits

OPA 2007	Excellent
AEI 2010	Fair
Direction of travel	Declined

### Area custody time limit systems

**7.1** Nottinghamshire has adopted the national policy and standards for custody time limits (CTLs). There was one failure in March 2009 and two cases which were reported as failures to CPS headquarters, although they were subsequently deemed not to be so. As a result of these cases there has been a concerted effort by the area to improve on CTL performance.

**7.2** The area has revised its CTL action plan and reissued desktop instructions to ensure it is compliant. Systems and processes are in place to identify files when they return from court, capture and record expiry and review dates and ensure any applications for extensions are undertaken appropriately. CTLs are generally mentioned in open court by the advocate and agreed and recorded by all parties. There was only one case observed during the inspection when this did not occur.

**7.3** Lists of cases are printed off each week for assurance checks and monitoring is undertaken by the CTL champion and other managers, with a report also prepared for the CCP. The CTL champion provides training, which has been undertaken by all staff, and refresher training is carried out on a regular basis. The champion also sends frequent email reminders of issues identified from monitoring and any legal updates.

### Adherence to custody time limits

**7.4** Despite the systems and processes in place the file sample revealed a number of areas for concern: two out of the relevant 20

cases had an incorrect expiry date calculated and three of the 20 did not have the correct expiry or review date calculated for each defendant and/or each charge. Review dates were not noted on the file jackets although cases were noted in the diaries with the appropriate review dates. Six live files were also examined on-site and all were fully compliant. There were also issues arising from poor quality endorsement of the files, these include:

- A lack of clear court endorsements led to confusion as to whether a defendant with multiple files was remanded in custody in all cases or in only one.
- There was confusion as to the remand status of a defendant who was a serving prisoner but initially remanded on conditional bail.
- There was a lack of clarity in a case where the defendants were remanded into custody pending a prosecution bail appeal but there was no note of the CTLs on the file and no evidence it had been entered into the system.

**7.5** In the file sample there were 11 cases requiring an extension of the time limit and in all the extension was sought in good time and accompanied by a detailed chronology.

### Recommendation

The area needs to ensure:

- there are clear file endorsements where cases involve a remand in custody; and
- custody time limit systems and processes are complied with in all cases.



## 8 The service to victims and witnesses

OPA 2007	Fair
AEI 2010	Fair
Direction of travel	Stable

### Witness care units

**8.1** The area has two witness care units (WCUs); one in Mansfield and one in Nottingham. The city unit was formerly two units but it is now run as two teams within a single unit with the work spread across both. Practice across the two teams in the city, and across the two WCUs, is not always consistent, but there is some evidence that good practice is shared between the two city teams. Witness care performance meetings have recently been introduced; the first meeting was held in December 2009.

**8.2** The units are primarily resourced with police employees and none of the managers is a member of CPS staff. Restructuring and a number of office moves have led to CPS staff feeling there is more separation between the unit and the rest of the prosecution team in the offices. However staff do value being located together so that learning and experience can be shared. There is good communication between the WCU managers and their local courts.

**8.3** The standard of witness care and the effectiveness of the WCUs are assessed by the CPS using a set of primary and secondary measures; Nottinghamshire ranks 31st of the 37 areas who capture the information. Witness satisfaction with the criminal justice system is higher than the national average. However the survey highlights that the number of victim personal statements being offered was 32% compared to a national average of 41%. In the files examined there was a statement in just over half of the 51 relevant cases.

**8.4** The proportion of ineffective trials resulting from prosecution witness problems is worse than nationally in all courts.

### Recommendation

The area needs to work with the witness care units and the police on the primary and secondary measures under No Witness No Justice, and assess where improvement may be achieved.

### Meeting the needs of victims and witnesses

**8.5** Duty prosecutors should consider appropriate ancillary issues at the time of charging, including applications for special measures. The file sample showed that ancillary issues were addressed in under half of all cases. In the majority of those where special measures should have been considered at charging there was no or inadequate thought given to them.

**8.6** There has been difficulty with the electronic transfer of information from the police system to the CPS system and some witness information does not migrate across automatically. This means that information on the type of witness, for example a child or vulnerable person, is not always readily available which can hamper effective early contact. The inaccuracy can also impact on how useful the list of witnesses needed for court is for the court, Victim Support and other agencies.

**8.7** Witness care officers (WCOs) make initial contact before the first hearing and obtain dates when witnesses cannot attend court. Processes sometimes fail and some trials are fixed when

the witness is unavailable. The area needs to ensure that all witness dates to avoid are available at first appearance.

**8.8** In all cases where a not guilty plea is entered the witnesses is contacted to conduct a detailed needs assessment. The consistent poor performance in respect of these assessments led to compliance checks and guidance being issued. The action taken has been effective in improving performance in this aspect of witness care.

**8.9** There are clear records on CMS of regular contact to keep victims and witnesses informed of progress. Survey data for 2008-09 showed that victim satisfaction with the service provided by the WCU was nearly 90%.

**8.10** The timeliness of responses to queries raised by the WCUs varies, but is adversely affected by the problems with case progression and preparation in all casework. WCOs report difficulty in reaching someone by phone who can deal with their enquiry, particularly in the Crown Court section where phones go unanswered. The WCUs rely on court systems for results of hearings as there can be delays updating CMS in the short time that the WCUs have to inform vulnerable victims of the outcome of hearings. In some instances neither the court system nor CMS have sufficient information.

**8.11** The average witness attendance rate in the year to December 2009 was 85% against a target of 90%. Victim Support feedback identified that witnesses were still attending court for trials that had been vacated late in the day, a consequence of late file review and progression, and this may contribute to low attendance at later, effective trials.

## Special measures

**8.12** Special measures applications were made and served in accordance with statutory time limits in 59% of Crown Court cases and 17% of magistrates' courts. In the more recent live cases examined the rates were 50% and 33.3% respectively. In a number of cases the witness decided after the pre-trial familiarisation visit to the court that they would like special measures; in such circumstances the application will inevitably be late. However much of the delay is as a consequence of weaknesses in considering victim and witness needs at charging and in reviewing and preparing cases.

**8.13** There are perceptions that special measures are being offered as a matter of routine rather than in cases where thought has been given to applicability and eligibility. There is scope for the area to work with partners to look into these perceptions and determine whether special measures are being used appropriately.

**8.14** Where an application for special measures is generated by the WCUs they are generally informed about the grant or refusal, but otherwise they are not always told of the application and outcome. This impacts on the units' ability to keep witnesses properly informed.

## Recommendation

The area needs to take action to ensure that special measures applications are made in a timely manner.



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## The care and treatment of victims and witnesses at court

**8.15** There is limited formal monitoring of advocacy at court, although the area receives informal feedback from the courts and Witness Service and the WAVES survey data. In the 2008-09 surveys witnesses reported a 93% satisfaction level with their treatment at court prior to giving evidence which was better than the national average.

**8.16** The magistrates' courts and Crown Court reported no major concerns with the service given by the prosecution to victims and witnesses at court, although care by agents in the magistrates' courts is generally thought to be not as good as that provided by in-house advocates. Our 'reality' checks in observations at the magistrates and Crown Court confirmed that the treatment of victims and witnesses is of a good standard.

### Direct communication with victims

**8.17** Despite the assurance measures in place and reminders to staff to check letters for clarity before they are sent, the standard of letters needs improvement. The file examination showed that the quality of direct communication with victims (DCV) letters was excellent in 7% (two cases), good in 39% (11), fair in 18% (five) and poor in 36% (ten). The lay inspector who assisted with this inspection highlighted that the standard of letters was mixed with some being very clear and carefully drafted but others that contained obvious errors or omissions, or seemed disjointed. In one case the letter was too personal and would have benefited from a more factual and professional style.

**8.18** In the year to December 2009 Nottinghamshire sent non-vulnerable victims DCV letters within five days in 93.2% of cases, an improvement on previous levels and better than the national average of 91.7%. For vulnerable and intimidated victims, who are entitled to a letter within one day, performance of 75.2% shows little improvement and is 10% worse than nationally.

**8.19** The area has reviewed its obligations under the Victims' Code jointly with the police and carried out self-assessments during 2008-09 and 2009-10. In August 2009 the area also conducted a review of the Victim Focus Scheme, under which the CPS offers to meet bereaved families in homicide cases to explain processes and procedures. All cases which fall within the Victim Focus Scheme are monitored with a spreadsheet completed at various stages by those registering the file, reviewing it, conducting the case at court and finalising it. The area has offered meetings in a number of cases.



## 9 Managing performance to improve

OPA 2007	Fair
AEI 2010	Fair
Direction of travel	Stable

### Performance management systems and processes

**9.1** The area has a structure in place to assess performance which relies on, and uses as a focus, monthly unit operational management team (OMT) reports. Additionally a separate monthly meeting between the SDCPs and group performance officer is held. These do not challenge performance but are used primarily to clarify and explain data.

**9.2** OMT reports are used by the unit's senior team to consider performance and discuss improvement action. In addition the CCP and Senior Area Business Manager (SABM) meet the SDCPs and business unit managers to assess and challenge performance on a quarterly basis.

**9.3** Discussing data within the distinct units results in a lack of strategic oversight which means that performance is not viewed in its entirety. The Area Strategic Board (ASB) meetings are not used to examine performance in any real depth and the quarterly CCP and SABM meetings held separately with the SDCPs have resulted in some lack of clarity around action needed at area level. Although a large amount of performance management information is generated, area performance against a number of targets has consistently declined and there is a need to improve the structures and processes adopted to manage performance.

### Priority recommendation

The area develops a performance management regime which has a strategic overview. Any regime must include a monthly performance meeting which considers performance across the whole area and is able to inform necessary improvement activity and be able to make strategic decisions which can be implemented to drive up performance.

**9.4** Despite the large amount of performance data collated at unit level there was very little evidence that operational staff were aware of how the area was performing.

**9.5** Lack of awareness of actual performance amongst staff at operational level may be one of the reasons why the area is struggling to deliver better outcomes. It was apparent that where poor performance had been highlighted for specific administrative tasks, for example timeliness of recording hearing outcomes, significant improvement had been delivered.

**9.6** There are examples of the area using internal review and process examination to learn from experience and improve performance. However, the silo approach in structures and lack of exchange between the various units militates against learning from experience across the area on day-to-day service delivery and casework handling.

## Individual performance management and quality assurance

**9.7** Senior managers have a clear view of what should be delivered against specific expectations and standards. Area managers undertake an extensive number of casework quality assurance measures, including checks to ensure the accuracy of data, which are recorded and reported in the monthly unit reports.

**9.8** Whilst quality assurance and other audit activity highlighted specific problems within casework it was apparent that there were a number of aspects of poor performance that have not been actively addressed with individuals, even though it was known that there was cause for concern. Some of this lack of proactivity may be in part due to the fact that managers adopt a cautious approach to challenging performance because of the culture of the area, or that they do not feel comfortable with giving performance related feedback. A number of lawyers were keen to impress on inspectors that they did not welcome feedback on their performance and that they did not understand why they needed to be subject to casework assurance processes.

### Priority recommendation

The area needs to

- communicate clear expectations about the standards expected of its lawyers and ensure that there are robust processes in place to tackle individual performance; and
- develop a culture where the giving and receiving of feedback, and responding to it is part of everyday business.

**9.9** Whilst the scope and extent of management checks carried out at lawyer level is extensive and in some instances identified problems against expected standards, it was apparent that assessments were not always challenging. A number of managers identified that there were often issues with the standard of charging decisions and instructions for advocates. The information gathered needs to be used robustly to address some of the more fundamental weaknesses within casework and decision-making.

**9.10** The recent publication of CPS national core quality standards will allow the area to build on its own expectations and standards and ensure that there is an agreed and readily understood framework for quality assurance. Managers need to use this as a means to improve the management of individual performance. Inspectors recognise that in some cases this change has already begun, although some other managers need to be supported and helped. It is essential that some of the more fundamental issues that exist at operational level are addressed if the area is to improve its overall performance.

### Joint performance management

**9.11** Nottinghamshire is aware that to improve some of its outputs it needs to work with criminal justice partners on the standard of some core processes. There has been a long running issue with the quality and timeliness of police files. The last overall performance report highlighted our concerns and the impact that this was having on area results. Over the past two years the area has worked hard to progress more effective joint improvement activity. Latterly, since the summer of 2009, the police have committed significant resources to work actively with the area to improve some key issues.

**9.12** The creation of a Problem Solving Board with partners led directly to the creation of a Police Crown Court File Review Unit. Since November 2009 the unit has had an impact and there is evidence that this joint approach is having positive results. Crown Court casework observed during the inspection indicated that in more recent cases there was better preparation and progression. Additionally the police have seconded an officer to consider whether there can be any quick wins towards improving file quality and processes for magistrates' courts cases. Implementing the recommendations will require a further investment of police resource and will also require the area to make some changes to the way it progresses and manages casework.

**9.13** The police have also provided resources to improve the charging process which has recently led to improvement.

**9.14** The area needs to complement this promising improvement by ensuring that the PTPM meetings at operational level are effective. There is an acceptance that police supervision arrangements and training have created some significant gaps in the understanding of frontline officers about investigation and file building processes. PTPM meetings offer the area an opportunity to discuss specific problems at operational level. The lack of consistent and effective meetings has hampered the area's ability to work with operational supervisors to achieve these aims.

## Recommendation

The area works with the police to reinvigorate the prosecution team performance management meetings using these to build on the work being carried out within the Crown Court File Review Unit and the charging unit to ensure that themes and improvement action can be communicated to and implemented across the force area.

**9.15** The role of area managers within the Local Criminal Justice Board (LCJB) is extensive; the CCP is the vice chair, both SDCPs sit on action delivery boards and one SDCP is the vice chair of the LCJB performance board. Some of the more bi-lateral issues are not scrutinised at board level and the focus on joint improvement action does not always identify the key issues. A number of other performance boards and groups have been developed to ensure that the area can focus activity to improve specific aspects of its business.

**9.16** There are a number of performance groups in the magistrates' courts and Crown Court where managers meet with HM Courts Service to discuss performance. This process would benefit from more clarity regarding cases in the magistrates' courts given the current cracked and ineffective trial rates. There is a reluctance within the Courts Service to make changes to court sitting patterns, due to the general sense of frustration that there is little sign of improvement in case progression and preparedness by the CPS, despite changes that have been made to CPS processes.



## 10 Managing resources

OPA 2007	Good
AEI 2010	Good
Direction of travel	Stable

### Value for money and budget control

**10.1** Over the past two years the SABM has worked with staff in the area secretariat and Group Operations Centre to develop and implement financial systems to manage and control the budget. There are sound systems in place for accurate monitoring, recording and forecasting of expenditure. Accruals are collated by the area secretariat business manager using a committed account log and prosecution costs using information provided by the area fees clerk.

**10.2** The SABM carries out monthly checks on expenditure against budget and gives verbal reports to the ASB. There has been a conscious decision not to devolve the budget to unit level due to the significant budgetary pressures which has the effect of allowing the SABM to control overall expenditure. The decision was reviewed recently and it was again agreed that this was not a suitable time to devolve control due to the financial climate.

**10.3** A number of value for money exercises have been undertaken in an attempt to reduce costs.

**10.4** Over the past three years the area has worked to reduce its costs and salary expenditure significantly. The fact that it is responsible for the East Midlands Group means that the budget is inflated to include group salaries and costs. Whilst the overall figures show that Nottinghamshire has benefited from a minimal increase of area budget from £7.41 million in 2008-09 to £7.43 million in 2009-10, in real terms the actual area budget has been

reducing. In 2009-10 the area budget, without group costs, was £5.92 million which has reduced to £5.80 million for 2010-11, while pay awards and staff costs over the same period have increased. To ensure that it can work within budget, something it has failed to do for a number of years, the area has reduced salary costs by various means.

### Strength

As part of the changes to group structures the SABM is responsible, along with the CCP, for the overall budget position of the East Midlands Group. The group approach to budgetary management and control ensures that there is co-operation and flexibility of resources. The transfer of allocated budgets across the group has meant that all five areas have operated within allocated budgets.

**10.5** Without inter-group budget transfers, however, Nottinghamshire would have recorded a budget outturn overspend of approximately £393,000 in 2009-10 and prosecution costs for 2008-09 showed an overspend of £483,321.

### Deployment of staff

**10.6** Structural change has been linked to implementation of a number of initiatives including the OBM, daytime direct telephone charging and the local advocacy strategy. After the CCP's arrival in 2007 and as part of the area's strategy structures were changed to ensure that there was accountability for casework and clearly defined responsibilities in place to focus priority and attention on more serious casework.

**10.7** Some of the structural changes made have been necessary to ensure that initiatives can be implemented. However this has resulted in a piecemeal approach to some staffing decisions and has impacted on organisational structures. The area approach to change needs to be developed to include a structured assessment of the impact on resources.

**10.8** The current spans of control at management levels are very challenging; in many cases managers who are expected to deliver significant portfolios of change also have extensive line management responsibility. These have led to an inconsistent approach to management and add significant pressures to some managers in the area. The role of the SDCP for the magistrates' courts unit in particular needs to be re-examined. There is a lack of individual performance management in some parts of the area and the significant breadth of some of the senior management responsibilities may play a part in this.

**10.9** It is apparent from the very high agent usage (34.7% for the rolling year to December 2009) that the area struggles to cover all its magistrates' courts commitments. Abstractions from the magistrates' courts units and, to a lesser extent the charging unit, to cover courts are common. Whilst the area made a conscious decision to engage agents because of the flexibility it offered when faced with a reducing budget, it was obvious that there remain significant demands for lawyers to deal with magistrates' courts casework. There is a significant amount of re-work and duplication of effort arising out of poor quality police files and also some inefficient internal processes and systems which is something that the area needs to consider in any future structural review.

**10.10** Associate prosecutor usage is significantly better than national average with 34.8% of magistrates' courts sessions being covered in the rolling year to December 2009. The area has worked with the magistrates' courts to maximise use of APs, but this is not always to optimum effect. The area needs to consider whether it has too many APs and whether the balance between them and lawyers is correct.

### Recommendation

The area needs to review its staffing resources examining whether:

- there are efficiencies and savings that could be made as a result of the combination of the city units;
- the workload and usage of associate prosecutors is offering value for money;
- as part of the strengthening of personal performance management the management spans of control have the correct focus and are effective; and
- there is the right balance of staff in the area, with a focus on the prosecutor grade.

**10.11** The area has been very effective in maximising revenue through its deployment of higher court advocates in the Crown Court. The ASB decided that if it was to be well placed in the future, it needed to develop a cadre of crown advocates who could cover the majority of Crown Court cases in-house and would be in position to maximise the savings that would accrue from this strategy. In 2009-10 savings exceeded £457,000. The strategy included employing a number of crown advocates and recruiting a senior crown advocate on the basis



that they would be self-financing and could also be used to develop and mentor others in the crown advocacy unit.

### **Managing sickness and flexible working**

**10.12** Sickness absence processes are effective and the area operates the scheme in accordance with CPS guidance. Sickness for the rolling 12 months to December 2009 was 10.5 days compared to the national average of 8.7 days, however Nottinghamshire's figure is inflated due to the number of staff who have transferred into the area. Feedback is very positive about management of sickness and indicates that the area is proactive in tackling issues.

**10.13** There are a significant number of staff working part-time who had their terms and conditions agreed some time ago. The area has more part-time workers than the CPS average. The current practice is to ensure that any applications for flexible terms fit with the business need. A number of requests have been rejected on business need, although some have been agreed through compromise.



## 11 Leadership and management

OPA 2007	Good
AEI 2010	Fair
Direction of travel	Declined

### Purpose and planning

**11.1** The arrival of the CCP in summer 2007 highlighted that there was much to do to ensure that the area was well placed to deliver and be an effective partner within the criminal justice system. This required Nottinghamshire to reappraise its structures and the way that the core work was managed and there was also a need to examine existing management structures. It is the lead area in the group and there was added pressure and burden on the CCP and SABM to establish an effective and coherent group.

**11.2** To date the concentration of effort in the area has been on establishing management capability, building a foundation for partnership working at both the strategic and operational levels, setting a performance management framework and adapting structures. It is due to the senior team's vision that this groundwork has to a large extent enabled the area to move to the next phase of driving improvement through the management of individual performance, against a background of long standing cultural issues.

**11.3** The CCP and SABM have a clear understanding of what the area needs to achieve and what changes need to be made. This vision has been shared with senior colleagues on the ASB, but it has not been articulated clearly to staff. During the course of the inspection it was apparent that there was very little understanding at operational level and from some more junior managers of what

the area was trying to achieve, how it intended to get there and what CPS Nottinghamshire wanted to deliver.

### Priority recommendation

The senior team needs to develop and communicate the area vision and share this with area staff.

**11.4** Lack of staff understanding of the vision has at times led to some detachment and resistance. Whilst objectives and targets are outlined in the Area Business Plan there is still not a clear and coherent strategy across the area. Some of this was not helped by the tangible feeling of distinct teams within individual operational units.

### Change management

**11.5** The area has undergone a number of structural reforms over the past three years, some because they were a CPS national requirement and others as a means to try to improve service and efficiency. Whilst the rationale behind some of the changes is understood much of the change has not had time to embed, resulting in a lack of clarity across the area.

**11.6** The area has implemented a number of internal changes successfully. Some other internal changes have suffered as a consequence of not taking account of the likely resource needs during the planning phase. In addition the decision to focus on building advocacy capability as a catalyst to improve performance has not always had the desired effect. Even though some change could have been planned better there was always an effective training plan in place to support it.

### **Communication and corporacy**

**11.7** The area recognises that some managers still have a way to go before they reach their full potential and that support and training is required to ensure they can be effective. The area has invested in this process. Whilst some of the needs may be addressed by the leadership and coaching programme, other skills gaps need to be filled by effective management support from within the area. The fact that the CCP and SABM have the responsibility for both the group and area makes offering this support more difficult.

**11.8** Participation in the ASB was limited to the CCP, SABM, SDCPs and District Business Managers. This was effective in creating a coherent management team at the most senior level, but disenfranchised a number of other managers in the area. It also produced a dilution of key messages which needed to be communicated consistently to staff. In December 2009 the ASB was extended to include all senior and operational managers. The board has mainly been a forum to communicate key messages to senior managers and discuss strategic decisions in an attempt to gain a certain degree of corporacy and engagement. However the focus needs to move on to communicate across the whole area effectively and to implement an effective performance management regime.

**11.9** There was a very distinct feeling of separation between Mansfield and Nottingham. Whilst some competition between units can be healthy, there was a tangible lack of corporacy. The area needs to consider how it can overcome this separation to improve the feeling of unity across the area.

### **Ethics, behaviours and values**

**11.10** Regular team meetings are held across the whole of the area. Good performance by staff is recognised, thanks and praise were apparent from senior managers and are also given openly in team meetings.

**11.11** The lack of corporacy between Mansfield and Nottingham has resulted in a lack of mutual respect between some colleagues across the area. We were told of a number of cases where lawyers did not treat colleagues with respect. Managers had tackled some of this, but more could be done to address inappropriate behaviours. There have been no substantiated complaints upheld by staff about their treatment by a manager.

**11.12** Responsibility for equality issues is undertaken at the group level by the Equality, Diversity and Community Engagement Manager. The area has targets in place to address under representation in ethnicity and disability and, over the past two years, has increased the black and minority ethnic representation by 3.3% and consistently employed a workforce where just over 3% have a disability.

## 12 Partnership working and community confidence

OPA 2007	Good
AEI 2010	Good
Direction of travel	Stable

### Joint working

**12.1** Since joining the area the CCP has needed to construct a foundation for partnership working at both strategic and operational levels. There were tensions with many partners and relationships were fragile. Progress has been made, albeit slowly, to a position of engagement with all partners but some are more effective than others.

**12.2** The area established more effective relationships with the police at a strategic level and key operational points during 2009 and has worked hard to cultivate these from a very low base. The relationship needs to be carefully managed to ensure continued commitment of police resource to criminal justice improvement.

**12.3** There are regular meetings with the Crown Court and the CCP, SDCP for the Crown Court section and district crown prosecutor for the crown advocacy unit meet regularly with the Resident Judge. Case progression and cracked and ineffective trial meetings are held by the Crown Court with other partner agencies.

**12.4** The area needs to work with the Courts Service to rationalise magistrates' courts listing in order to release resources for redeployment. However there is reluctance on the part of the Courts Service to make changes to sitting patterns and a general sense of frustration resulting from past commitments on improvement that have failed to deliver. The area recognises that this is something that needs to be tackled and is working to address

some of the concerns raised. Case progression meetings take place in the magistrates' courts, although these only cover priority cases and are forward looking rather than learning lessons from casework.

**12.5** The Problem Solving Board has been established between the CPS, police and courts as a mechanism to identify blockages to delivery and the action necessary to overcome these, it is quite an effective forum but has some way to go.

**12.6** Senior managers have key roles on the LCJB and its sub-groups and are well positioned to work with partners. There are however many sub-groups, some of which overlap with other multi-agency meetings, leading to duplication of discussion and effort and pressure on management time. The area needs to consider whether the range and number of meetings can be rationalised to ensure business is covered effectively, but with minimal repetition.

### Recommendation

The area needs to consider with partners whether it is appropriate to rationalise the various multi-agency meetings.

### Engagement with the community

**12.7** A community engagement strategy is in place and there is clear commitment from senior managers. The CCP is clear at group and area level that the rationale is to drive improvement rather than engagement for its own sake. There is strong leadership and proactive involvement by senior managers on community engagement activity. A wide range of targeted engagement has taken place

with groups at most risk of exclusion. This has covered various themes, been evaluated and fed back and is well embedded. The area is now rightly concentrating on evidencing improvement from this activity.

**12.8** Nottinghamshire has established scrutiny panels with CPS Leicestershire to look at specific cases to enable improvement in processes. There is feedback on individual cases and actions are taken forward to deliver improvements in casework handling. The Community Involvement Panel is a more recent introduction at group level and is progressing well under the leadership of CPS Lincolnshire's CCP. The area has also attempted to address local concerns through specific casework activity.

**12.9** A Group Communications Manager was appointed in August 2009 and the group is now developing relationships with the key media including the press. The manager is also working towards launch of the group website which will contain aspects for each area within the group relevant to their residents and stakeholders.

**12.10** Community confidence in the CPS and criminal justice agencies in Nottinghamshire is lower than the national average. However there has been a slight increase in the confidence in CPS Nottinghamshire rising from 41.3% to 42.4% between the rolling 12 months to March 2009 and that September. The Confidence Action Board, a sub-group of the LCJB, is tasked with improving confidence in the criminal justice system in Nottinghamshire.

# Section two: annexes

## A HMCPPI purpose and values

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Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI) was established by the Crown Prosecution Service Inspectorate Act 2000 as an independent statutory body. It seeks to enhance the quality of justice through independent inspection and provide assurances to Ministers, government and the public.

The Chief Inspector is appointed by the Attorney General and HMCPPI works in partnership with criminal justice agencies, including the CPS itself, and other inspectorates. Inspection teams comprise legal and business management inspectors and also experienced volunteers, able to provide a 'lay' dimension to the process and who give their time freely. For this service the Chief Inspector is most grateful.

The inspectorate's reports make priority and other recommendations, identify compliance issues and also draw attention to any strengths and good practice found by the team. Progress against recommendations is then monitored and measured, forming a basis for follow-up inspection. All our reports are available on our website: [www.hmcpipi.gov.uk](http://www.hmcpipi.gov.uk).

### Purpose

HMCPPI's purpose is to enhance the quality of justice through independent inspection and assessment which improves the effectiveness of prosecution services and provides assurances to Ministers, government and the public. 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

HMCPPI 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:

<b>Consistency</b>
Adopting the same principles and core procedures for each inspection, and apply the same standards and criteria to the evidence we collect.
<b>Thoroughness</b>
Ensuring that our decisions and findings are based on information that has been thoroughly researched and verified, with an appropriate audit trail.
<b>Integrity</b>
Demonstrating integrity in all that we do through the application of our other values.
<b>Professionalism</b>
Demonstrating the highest standards of professional competence, courtesy and consideration in all our behaviours.
<b>Objectivity</b>
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.



## B Glossary

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### **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' courts.

### **Associate prosecutor**

Formally a designated caseworker (DCW), a CPS employee who is trained to present straightforward cases on pleas of guilty or to prove them where the defendant does not attend the magistrates' courts. This role has been extended and will include trials of non-imprisonable offences.

### **Bar/CPS service standards**

Jointly agreed standards that lay down what is expected in terms of performance by the Bar and the CPS in the way they deal with each other.

*Standard 1* requires the CPS brief to counsel to be delivered within 14 days of committal in standard fee cases and 21 days in cases involving trials of three days or more and pleas of guilty to serious offences.

*Standard 2* provides that counsel, having read and considered the papers, will where necessary advise in writing on any matter requiring advice.

*Standard 3* concerns returned briefs and is designed to reduce the numbers of returns and any adverse impact which may result because of a returned brief.

*Standard 4* deals with the timely claim of fees by, and payment of fees to, counsel at the end of a case.

### **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.

### **Code for Crown Prosecutors (the Code)**

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

### **Committal**

Procedure whereby a defendant in an either way case is moved from the magistrates' courts 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.

### **Compass CMS**

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

**CPS Direct**

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 their plea to guilty, pleads to an alternative charge, or the prosecution offer no evidence.

**Criminal Justice: Simple, Speedy, Summary (CJSS)**

Initiative introducing more efficient ways of working by all parts of the criminal justice system, together with the judiciary, so that cases brought to the magistrates' courts are dealt with more quickly. In particular it aims to reduce the number of hearings in a case and the time from charge to case completion.

**Crown advocate**

A lawyer employed by the CPS who has a right of audience in the Crown Court.

**Director's Guidance on the Streamlined Process (DGSP)**

Provisions agreed between the CPS and Association of Chief Police Officers (ACPO) concerning the streamlining of certain prosecution case files, whereby a restricted amount of information and evidence is initially included where there is an expectation that the defendant will plead guilty.

**Discontinuance**

The dropping of a case by the CPS in the magistrates' courts, whether by written notice (under section 23 Prosecution of Offences Act 1985), withdrawal or offer of no evidence at court.

**Evidential stage**

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

**Group operations centre (GOC)**

A unit within the group (combination of a number of CPS areas) which is responsible for dealing with specific aspects of business on behalf of areas, for example performance management and monitoring, equality and diversity.

**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.

**Instructions to counsel**

The papers which go to counsel setting out the history of a case and how it should be dealt with at court, together with case reports. These are sometimes referred to as the brief to counsel.

**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.

#### **Local criminal justice board**

The chief officers of police, probation, the courts and 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 Public Service Agreement targets.

#### **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.

#### **Overall performance assessment (OPA)**

An assessment carried out at area level by the inspectorate which rates overall performance. Each aspect of performance is scored and an overall assessment made. These have been carried out in 2005 and 2007.

#### **Performance against targets**

Measures of performance against targets set nationally and locally in support of CPS objectives.

#### **Prosecution team performance management (PTPM)**

Joint analysis of performance by the CPS and police locally – used to consider the outcomes of charging and other joint processes.

#### **Public interest stage**

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

#### **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 test for prosecution in the *Code*. One of the most important functions of the CPS.

#### **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.

#### **Summary offences**

Those triable only in the magistrates' courts eg most serious 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.

## C CPS Nottinghamshire file examination data and comparisons to national performance

### Chapter 1: Pre-charge advice and decisions

<i>The quality of MG3s</i>					
	Excellent	Good	Fair	Poor	Total
Overall	–	32.4% (23)	49.3% (35)	18.3% (13)	100% (71)

<i>Benefits realisation</i>				
	National target March 2008-09	National performance 2009-10	Area performance 2008-09	Area performance 2009-10
<b>Magistrates' courts cases</b>				
Discontinuance	13%	14.5%	15.7%	16.8%
Guilty plea	70%	72.3%	71.1%	67.9%
Attrition	23%	21.0%	21.7%	25.0%
<b>Crown Court cases</b>				
Discontinuance	11%	11.7%	10.4%	14.4%
Guilty plea	70%	73.1%	79.9%	76.0%
Attrition	23%	19.5%	14.8%	18.8%

### Chapter 2: Decision-making, preparation and progression in magistrates' courts cases

<i>Magistrates' courts case outcomes</i>				
	Area performance OPA 2007	Area performance 2008-09	Area performance 2009-10	National performance 2009-10
Discontinuance and bindovers	12.6%	8.1%	10.3%	9.0%
No case to answer	0.2%	0.2%	0.2%	0.2%
Dismissed after trial	1.8%	1.8%	2.9%	2.3%
Discharged committals	0.3%	0.3%	0.6%	0.2%
Warrants	1.5%	0.8%	1.3%	1.4%
Overall conviction rate	83.6%	88.9%	84.7%	86.8%

**File examination**

We examined 41 magistrates' courts case files from the area and our findings are set out in the following table.

<i>Magistrates' courts and youth court casework</i>		Area performance
Cases that proceeded to trial or guilty plea on the correct level of charge		87.1%
Discontinuance was timely		42.9%
Decisions to discontinue complying with the evidential stage of the Code test		100%
Decisions to discontinue complying with the public interest stage of the Code test		100%
Decisions to proceed to trial complying with the evidential test		94.6%
Decisions to proceed to trial complying with the public interest test		100%
Cases with summary trial review properly recorded		65.7%
Cases where all aspects of case preparation was timely		46.2%
Cases where there was timely completion of all directions between first hearing and trial		46.7%
Applications made and served within time limits		16.7%
Adverse outcomes that could have been avoided by better case preparation		22.2%

<i>Cracked and ineffective trial rates</i>			
	Area performance OPA 2007	Area performance 2009-10	National performance 2009-10
Effective	37.9%	44.9%	43.7%
Cracked	37.9%	31.7%	37.7%
Ineffective	24.2%	23.5%	18.6%
Vacated	24.5%	27.4%	21.9%

### Chapter 3: Decision-making, preparation and progression in Crown Court cases

<i>Crown Court case outcomes</i>				
	Area performance OPA 2007	Area performance 2008-09	Area performance 2009-10	National performance 2009-10
Judge ordered acquittals (discontinuance)	12.3%	10.7%	14.0%	11.7%
Judge directed acquittals	1.0%	0.9%	0.7%	1.0%
Acquittals after trial	4.5%	2.4%	2.9%	5.7%
Warrants	1.4%	1.1%	0.9%	1.0%
Overall conviction rate	80.8%	84.9%	81.6%	80.6%

#### File examination

We examined 39 Crown Court case files from the area and our findings are set out in the following table.

<i>Crown Court Casework</i>		Area performance
Decisions to proceed at committal or service of papers in accordance with the evidential stage of the Code test		97.4%
Decisions to proceed at committal or service of papers in accordance with the public interest stage of the Code test		100%
Indictments that were appropriate and did not require amendment		74.4%
Cases where prosecutor took action to progress case at PCMH		86.1%
Cases where there was timely compliance with PCMH directions		71.9%
Applications made and served within time limits		59.3%
Timely completion of actions and compliance with directions between PCMH and trial date		53.6%
Actions carried out by the correct level of prosecutor		100%
Cases where there was no continuity of prosecutor		15.4%
Ineffective trials that could have been avoided by prosecution action		33.3%
Adverse outcomes that could have been avoided by better case preparation		8.3%

<i>Cracked and ineffective trial rates</i>			
	Area performance OPA 2007	Area performance 2009-10	National performance 2009-10
Effective	46.2%	37.8%	44.9%
Cracked	44.5%	49.3%	42.2%
Ineffective	9.3%	12.9%	13.0%

## Chapter 4: The prosecution of cases at court

### Advocacy observations

We observed advocates in different courts prosecuting contested and non-contested cases. Our findings are set out in the table below.

<i>Advocacy standards</i>					
	Level	Number	Number	Number	Number
		CPS advocates/ associate prosecutors in the magistrates' courts	Counsel/ solicitor agents in the magistrates' courts	Crown advocates and other CPS advocates in the Crown Court	Counsel in the Crown Court
Assessed as above normal requirements	1	—	—	—	—
	2	—	—	—	—
Against CPS national standards of advocacy	3+	4	—	3	3
	3	2	—	1	1
	3-	3	—	1	1
And those assessed as less than competent	4	—	2 (1*)	—	—
	5	—	—	—	—

\* contested cases

**Magistrates' courts hearings per case**

<i>Magistrates' courts cases</i>					
	Target	Area 2008-09	Area 2009-10	National 2008-09	National 2009-10
Average number of hearings per guilty plea	2.1	2.5	2.5	2.2	2.1
Average number of hearings per contest	4.0	4.8	5.0	4.4	4.0

**File endorsements**

<i>Quality of endorsements</i>				
	Excellent	Good	Fair	Poor
Magistrates' courts file endorsements	2.6% (1)	28.9% (11)	39.5% (15)	28.9% (11)
Crown Court file endorsements	5.1% (2)	59.0% (23)	23.1% (9)	12.8% (5)
Magistrates' courts CMS recording	–	36.6% (15)	51.2% (21)	12.2% (5)
Crown Court CMS recording	–	41.0% (16)	53.8% (21)	5.1% (2)

**Chapter 5: Serious violent and sexual offences and hate crime****Sensitive case outcomes**

<i>Unsuccessful outcomes</i>				
	National target	National performance 2009-10	Area performance 2008-09	Area performance 2009-10
Violence against women	28%	28.2%	30.0%	31.8%
Rape	41%	40.6%	31.0%	40.7%
Domestic violence	28%	28.0%	30.3%	32.2%
Sexual offences	28%	24.0%	26.8%	23.5%
Hate crime: combined racist, religious, homophobic and disability	18%	18.1%	18.2%	14.9%



## Chapter 6: Disclosure of unused material

In May 2008 HMCPSI published a thematic review of the duties of disclosure of unused material undertaken by CPS. Below is a comparative of the area performance and the findings of that review.

	Overall findings in thematic review 2008	Area performance in this inspection
Initial (or primary) disclosure dealt with properly in magistrates' courts cases	55.0%	80.0%
Continuing (or secondary) disclosure dealt with properly in magistrates' courts cases	81.8%	76.9%
Initial (or primary) disclosure dealt with properly in Crown Court cases	57.5%	94.9%
Continuing (or secondary) disclosure dealt with properly in Crown Court cases	69.7%	66.7%
Disclosure of sensitive material dealt with properly in magistrates' courts cases	26.7%	66.7%
Disclosure of sensitive material dealt with properly in Crown Court cases	54.5%	88.2%

## D Area inspection framework

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### Standards and criteria

#### 1. Pre-charge advice and decisions

*Standard: Pre-charge advice and decisions are of high quality and contribute to improved casework outcomes, and are delivered efficiently and in a way that meets the circumstances of the case.*

**Criteria 1A:** The quality of decision-making contributes to improving casework outcomes.

**Criteria 1B:** Pre-charge decision-making processes are effective and efficient.

#### 2. Decision-making, preparation and progression in magistrates' courts cases

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

**Criteria 2A:** Decision-making is of a high quality and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case.

**Criteria 2B:** Cases are prepared and progressed effectively.

#### 3. Decision-making, preparation and progression in Crown Court cases

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

**Criteria 3A:** Decision-making is of a high quality and case handling is proactive to ensure that the prosecution maintains the initiative throughout the case.

**Criteria 3B:** Cases are prepared and progressed effectively.

#### 4. The prosecution of cases at court

*Standard: Prosecution advocates are prepared and proactive in prosecuting cases fairly, thoroughly and firmly and ensure that cases progress at all hearings.*

**Criteria 4A:** Advocates are active at court in ensuring cases progress and hearings are effective, and advocacy and case presentation are of a high standard.

#### 5. Serious violent and sexual offences and hate crime

*Standard: The area makes high quality decisions and handles serious violent and sexual offences, and hate crimes effectively.*

**Criteria 5A:** The area ensures that serious violent and sexual offences and hate crime cases are dealt with to a high standard.

#### 6. Disclosure of unused material

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

**Criteria 6A:** There is compliance with the prosecution's duties of disclosure.

#### 7. Custody time limits

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

**Criteria 7A:** The area ensures that all cases with a custody time limit are dealt with appropriately and time limits are adhered to.

#### **8. The service to victims and witnesses**

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

**Criteria 8A:** The area ensures timely and effective consideration and progression of victim and witness needs and the service to victims and witnesses is improving.

#### **9. 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 9A:** Managers understand and are held accountable for performance.

**Criteria 9B:** There is an effective and proportionate approach to managing locally performance at individual, team and area level.

**Criteria 9C:** The area is committed to managing performance jointly with CJS partners.

#### **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. Leadership and management**

**Standard:** *Senior managers engage with and inspire CPS staff and CJS partners to achieve area and national objectives, and drive performance improvements and change.*

**Criteria 11A:** The management team has a clear understanding of what needs to be delivered to meet CPS and CJS priorities, underpinned by effective planning and change management.

**Criteria 11B:** The management team communicates the vision, values and direction of the area well.

**Criteria 11C:** 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.

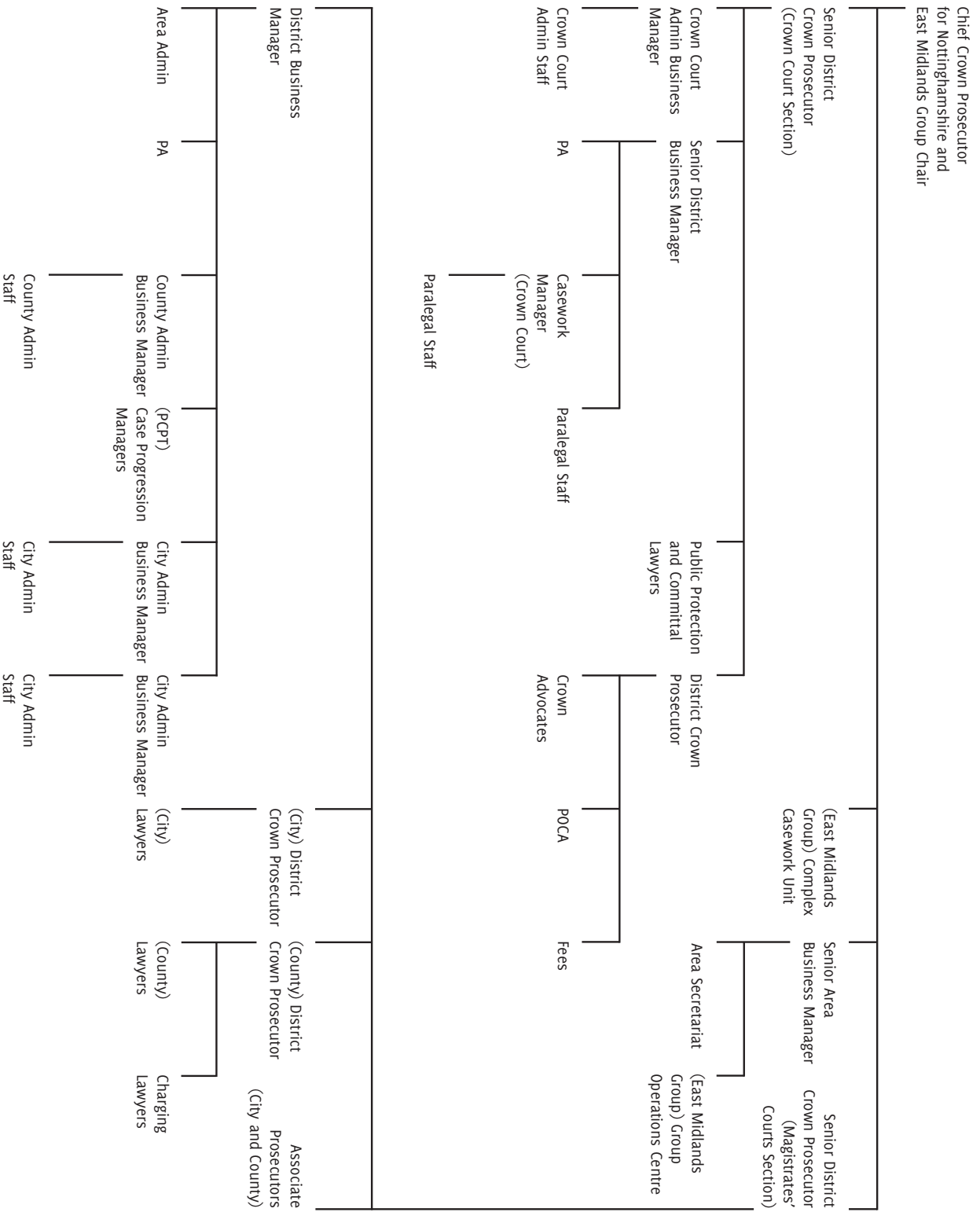
#### **12. Partnership working and community confidence**

**Standard:** *The CPS is engaging positively and effectively with the agencies it works with and communities it serves.*

**Criteria 12A:** The area is committed to engaging with partners and jointly improving levels of service.

**Criteria 12B:** The area is working proactively to secure the confidence of the community.

## E Organisation chart



## F Casework performance data

Caseloads and outcomes for the 12 months ending 31 March 2010

	Nottinghamshire number	Percentage	National* number	Percentage
<b>1 Magistrates' courts – types of case</b>				
Pre-charge decision	11,593	38.3	473,235	32.3
Advice	10	0.03	165	0.01
Summary	9,906	32.7	565,592	38.7
Either way and indictable	8,747	28.9	421,057	28.8
Other proceedings	6	0.02	3,302	0.2
<b>Total</b>	<b>30,262</b>	<b>100</b>	<b>1,463,351</b>	<b>100</b>
<b>2 Magistrates' courts – completed cases</b>				
Discontinuances and bindovers	1,668	10.3	78,901	9.0
Warrants	218	1.3	12,138	1.4
Dismissed no case to answer	25	0.2	1,605	0.2
Acquittals after trial	471	2.9	20,322	2.3
Discharged	99	0.6	2,252	0.3
<b>Total unsuccessful outcomes</b>	<b>2,481</b>	<b>15.3</b>	<b>115,218</b>	<b>13.2</b>
Convictions	13,732	84.7	757,349	86.8
<b>Total</b>	<b>16,213</b>	<b>100</b>	<b>872,567</b>	<b>100</b>
<i>Committed for trial in the Crown Court</i>				
<b>3 Magistrates' courts – case results</b>				
Guilty pleas	11,149	78.4	589,789	75.7
Proofs in absence	1,814	12.7	133,844	17.2
Convictions after trial	769	5.4	33,716	4.3
Acquittals after trial	471	3.3	20,322	2.6
Acquittals: no case to answer	25	0.2	1,605	0.2
<b>Total</b>	<b>14,228</b>	<b>100</b>	<b>779,276</b>	<b>100</b>
<b>4 Crown Court – types of case</b>				
Indictable only	942	31.0	40,651	28.4
Either way: defence election	114	3.8	9,170	6.4
Either way: magistrates' direction	1,340	44.1	59,729	41.7
Summary: appeals; committals for sentence	641	21.1	33,646	23.5
<b>Total</b>	<b>3,037</b>	<b>100</b>	<b>143,196</b>	<b>100</b>
<b>5 Crown Court – completed cases</b>				
Judge ordered acquittals and bindovers	335	14.0	12,814	11.7
Warrants	21	0.9	1,113	1.0
Judge directed acquittals	16	0.7	1,041	1.0
Acquittals after trial	70	2.9	6,288	5.7
<b>Total unsuccessful outcomes</b>	<b>442</b>	<b>18.4</b>	<b>21,256</b>	<b>19.4</b>
Convictions	1,954	81.6	88,289	80.6
<b>Total</b>	<b>2,396</b>	<b>100</b>	<b>109,545</b>	<b>100</b>
<b>6 Crown Court – case results</b>				
Guilty pleas	1,832	89.8	80,499	84.2
Convictions after trial	122	6.0	7,790	8.1
Acquittals after trial	70	3.4	6,288	6.6
Judge directed acquittals	16	0.8	1,041	1.1
<b>Total</b>	<b>2,040</b>	<b>100</b>	<b>95,618</b>	<b>100</b>

\* The 42 areas and CPS Direct

## G Resources and caseloads

<i>Area caseload/staffing CPS Nottinghamshire</i>	March 2010	August 2003 (last full inspection)
Staff in post	158.3	163.7
Lawyers in post (excluding CCP)	54.5	58.5
Pre-charge decisions/advices per lawyer (excluding CCP)	212.7	19.9
Associate prosecutors in post	11	–
Magistrates' courts cases per lawyer and associate prosecutor (excluding CCP)	284.7	–
Magistrates' courts contested trials per lawyer (excluding CCP)	23.2	24.4
Committals for trial and sent cases per lawyer (excluding CCP)	43.9	35.0
Crown Court contested trials per lawyer (excluding CCP)	3.8	4.0
Level B1, B2, B3 caseworkers in post (excluding associate prosecutors)	34.9	31.0
Committals for trial and sent cases per level B caseworker	68.7	66.0
Crown Court contested trials per level B caseworker	6.0	7.6
Level A1/2 staff in post	50.0	68.8
Cases per level A staff member	605.2	389.3
Running costs (non-ring fenced)	£7,429,261	£5,427,056

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 only case in the statistics relating to the magistrates' courts or the Crown Court as appropriate.

## H Total number of files examined for CPS Nottinghamshire

	Number of files examined
<b>Finalised files</b>	
<b>Magistrates' courts</b>	<b>41</b>
<i>Magistrates' courts (subject to PCD)</i>	
Guilty pleas	4
Convictions after trial (including 3 youth cases)	11
Acquittals after trial (including 2 youth cases)	8
Discontinued	6
No case to answer	2
Discharged committals	3
<i>Magistrates' courts (non-PCD)</i>	
Guilty plea	1
Convictions after trial	1
Acquittals after trial	2
Discontinued	1
No case to answer	2
<b>Crown Court</b>	<b>39</b>
Guilty pleas	9
Judge ordered acquittals	9
Judge directed acquittals	3
Convictions after trial	9
Acquittals after trial	9
<b>Total</b>	<b>80</b>
<b>Live files</b>	
Magistrates' courts	10
Crown Court	5
<b>Total</b>	<b>15</b>

## I Local representatives of criminal justice agencies and organisations who assisted in our inspection

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### **Crown Court**

His Honour Judge Stokes  
Mrs D Craddock, Acting Crown Court Manager

### **Magistrates' courts**

District Judge Cooper  
District Judge Harris  
District Judge Stobart  
Mr M Swales, Area Director, HM Courts Service  
Mrs P Hammond, Chair of Nottingham Bench  
Mr P Marsh, Chair of Mansfield Bench  
Mr P Tuddenham, Chair of Worksop and Retford Bench  
Miss S Summers, Chair of Youth Panel for Nottinghamshire  
Mr G Hooper, Clerk to the Justices  
Mr S Hope, Deputy Clerk to the Justices  
Mr A Jackson, Deputy Clerk to the Justices  
Mr R Pickard, Deputy Clerk to the Justices  
Ms H Stevens, Court Manager  
Ms S Averill, Administration Manager  
Ms S Townsend, Case Progression Officer

### **Police**

Ms J Hodson, Chief Constable  
Mr I Ackerley, Assistant Chief Constable  
Chief Superintendent J Busuttil  
Chief Superintendent S Beebe  
Chief Superintendent D Wakelin  
Detective Chief Inspector V Treece  
Chief Inspector M Turner  
Sergeant D Collins  
Sergeant R Hall  
Ms J Dean, Head of Criminal Justice Department  
Ms J Carlin, Head of Custody Suites and Road Traffic  
Ms R Evans, Criminal Justice Unit Manager  
Ms J Hall, Witness Care Unit Manager

### **Defence solicitors**

Mr S Burdon  
Mr S Gelsthorpe  
Mr S King

### **Counsel**

Mrs N Hillier  
Mr A Harris

### **Witness Service**

Ms R Blackham  
Ms R Khaliq  
Ms K Peck  
Ms S Younger  
Ms J Ellis  
Mrs O Edwards, Victim Support

### **Crime and Drugs Partnerships**

Mr A Given, Nottingham City  
Miss L Brandeth, Nottingham

### **Probation Service**

Mrs J Geraghty

### **Youth Offending Teams**

Mr L Jones, Head of Service

### **Community groups**

Mr D Sharpe, Alfretton Road Area Community Association  
Ms M Davies, Sexual Assault Referral Centre Manager  
Ms C Dunkley, Facilitator, Hate Crime Scrutiny Panel



**If you ask us, we can provide a synopsis or complete version of this booklet in Braille, large print or in languages other than English.**

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HM Crown Prosecution Service Inspectorate

London Office:

26 – 28 Old Queen Street

London SW1H 9HP

Tel. 020 7210 1197

Fax. 020 7210 1186

York Office:

United House, Piccadilly

York, North Yorkshire, YO1 9PQ

Tel. 01904 54 5490

Fax. 01904 54 5492

Website:

[www.hmcpsi.gov.uk](http://www.hmcpsi.gov.uk)

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