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## **PREFACE**

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

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

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

HMCPSI also invites suitably informed members of the public nominated by national organisations to join the inspection process as lay inspectors. These inspectors are unpaid volunteers who examine the way in which the CPS relates to the public, through its dealings with victims and witnesses, its external communication and liaison, its handling of complaints and its applications of the public interest test contained in the Code for Crown Prosecutors.

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

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

## INTRODUCTION

### Staffing and structure

- 1.1 CPS Cumbria serves the area covered by the Cumbria Constabulary. CPS Cumbria was established when the Service was reorganised in April 1999, having previously been the Cumbria Branch of CPS North.
- 1.2 On 30 September 2001 it employed the equivalent of 57.9 full-time staff, including 17 part-time members of staff: the Chief Crown Prosecutor (CCP); a Special Casework Lawyer (SCL); the Area Business Manager (ABM); 21.6 other lawyers; 2 designated caseworkers (DCWs); 9 caseworkers and 22.4 administrators and typists. One caseworker was promoted to a DCW during our inspection.
- 1.3 It has four offices at Carlisle, Barrow-in-Furness, Kendal and Workington. At the time of our inspection, the Area was in the process of re-structuring in order to implement the Glidewell Report and had recently divided the county into two geographical Units: the North and South of the county. Two Joint Unit Heads had been appointed.
- 1.4 The Area Headquarters (Secretariat) is based at the Carlisle office and consists of the CCP, ABM, an Area Business Support Manager, and an administrator. Staffing levels in the two Units, along with the courts covered by each, are set out in the table below:

	North Cumbria		South Cumbria	
	Carlisle	Workington	Kendal	Barrow
<b>Magistrates' courts covered</b>	Carlisle	Workington and Whitehaven	Kendal and Penrith	Barrow-in-Furness
<b>Crown Court covered</b>	Carlisle	Carlisle	Carlisle and Preston	Barrow-in-Furness, Preston and Lancaster
<i>Lawyers</i>	6.4	5.0	5	5.2
<i>SCL</i>	1	N/A	N/A	N/A
<i>DCWs</i>	1	N/A	1	N/A
<i>Caseworkers</i>	2	3	3	0
<i>Admin staff</i>	5.7	4.7	5	6
<b>Total</b>	<b>16.1</b>	<b>12.7</b>	<b>14</b>	<b>11.2</b>

### Caseload

- 1.6 In the year ending 30 September 2001, the Area handled 13,634 cases in the magistrates' court and 1,189 in the Crown Court, of which 846 were committed or sent for trial. In a further 490 cases, advice was given to the police before charge.

- 1.7 Overall, the Area has a comparable proportion of serious cases to the national average. A higher percentage of defendants in both the magistrates' court and Crown Court plead guilty.

	<b>Cumbria</b>	<b>National Average</b>
Either way and Indictable cases	39.9%	39.7%
Summary non-motoring	22.1 %	18.6 %
Summary motoring	34.8 %	37.3 %
Committals	5.8%	6.7%
Magistrates' guilty pleas	88.4 %	82.1 %
Crown Court guilty pleas	78.8 %	72.7 %

### **The inspection process**

- 1.8 Our inspection team comprised five inspectors. The team examined 159 cases finalised from 1 May to 31 July 2001. Details of the file sample are at Annex 1. The team visited the Area between 15 and 19 October 2001, and 29 October and 7 November 2001, and interviewed members of Area staff at all levels, criminal law practitioners and local representatives of the criminal justice agencies. A list of individuals from whom we received comments is at Annex 3. We also observed advocates in the magistrates' and youth courts and in the Crown Court.
- 1.9 We were accompanied by a lay inspector, Andrew Billington, who was nominated by the Terence Higgins Trust. The role of the lay inspector is described in the preface. He scrutinised the public interest decisions in a number of cases and reviewed files that had been the subject of complaints from members of the public. He visited the Crown Court and had the opportunity to speak to a witness after he had given evidence. He also took part in interviews with the Witness Service, and the Court Manager at Carlisle Crown Court.
- 1.10 The lay inspector provided a valuable contribution to the inspection process. His views and findings have been incorporated into the report as a whole, rather than separately reported. The lay inspector and his organisation gave time on a purely voluntary basis, and the Chief Inspector is grateful for their assistance.
- 1.11 The CPSI inspected the former Cumbria Branch in 1998 during the previous Branch-based inspection programme. We refer to the previous report as the 1998 report.

### **Overview**

- 1.12 The Area, in common with the CPS nationally, has gone through a period of major change since 1999. It had to adjust to being an Area in its own right with new leadership, implement initiatives to reduce delay in the magistrates' court and Crown Court (the Narey initiative) and in relation to persistent young offenders, and plan for the implementation of the Glidewell report.

- 1.13 The Area determined its new structure in 1999 but movement towards implementation of Glidewell has been slow. The Area's restructuring plans have been governed by the geography of the county and the organisational arrangements of the police and magistrates' courts, which suggested a need for a continued CPS presence in the four existing locations. Although there are some plans for co-location with the police, the view has been taken that it is not possible to dedicate lawyers to discrete Trials Units, concentrating on Crown Court casework, but instead maintain the existing court coverage commitments and spread of work.
- 1.14 We are concerned that the Area re-structuring plans may not secure the improvements in the quality of Crown Court casework envisaged by Glidewell, nor enable the Area to work towards staffing arrangements which may help it to keep within budget. The Area should ensure that the recent decision to concentrate South Cumbria caseworkers in the Kendal office is fully reviewed, when they consider options for the establishment of Criminal Justice Units and Trials Units. Further work is needed to analyse the numbers, and existing deployment of lawyers and caseworkers required to meet the casework and court coverage needs of the Area.
- 1.15 The Area has a settled and experienced staff, although it is currently over-staffed in terms of lawyers using activity-based costing calculations, and its staff profile is weighted towards experienced lawyers. Decision-making is generally sound and the standard of advice good but there is room for improvement. In particular, work is needed in relation to the handling of unused material, instructions to counsel and file endorsements.
- 1.16 More could be done to ensure that lessons are learned from experience. Although the Area has a lower rate of judge ordered and judge directed acquittals than the national average, we found that the proportion of cases where the acquittal was foreseeable, and yet no action had been taken to avoid it, was higher than the average of other inspections conducted during the current inspection cycle. Joint performance management arrangements with the police also require attention.
- 1.17 Monitoring of some aspects of casework takes place but varies from office to office. Current arrangements are incapable of providing Area management with the assurances it needs that quality casework is being delivered in a timely fashion. No formal arrangements are in place for the monitoring of administrative systems and there are some defects in the recording of existing performance data. The Area therefore needs to develop a rigorous regime of performance management.
- 1.18 Sensitive cases are dealt with well in the main, and the criminal justice system (CJS) area performance in relation to persistent young offenders has steadily improved during 2001. The Area has begun to approach the handling of persistent young offender cases in a systematic fashion but could do more by analysing its own contribution to the reduction in delay. It could similarly contribute to the increased effectiveness of pre-trial reviews by analysing its own and police performance.
- 1.19 The Area has set challenging targets for the service of committal papers to the defence, and delivery of briefs to counsel, which represent a considerable improvement on last year's performance. Performance in first half of this year is very encouraging.

- 1.20 The Area has an admirable commitment to deploying its higher court advocates (HCAs) and designated caseworkers (DCWs). We have some concerns, however, that the concentration of HCAs in the North of the county (and in particular the Carlisle office) could hinder improvements in Crown Court casework in the South Cumbria Unit, and other deny lawyers development opportunities. Negotiations are needed to build meaningful lists to avoid existing duplication of lawyer and DCW deployment at courts in South Cumbria. Advocacy monitoring should form part of the Area's performance management regime.

### **Structure of the report**

- 1.21 We comment on aspects of the Area's performance at the relevant sections of the report. The tables below draw together key statistical information about the Area's performance, particularly in relation to targets set nationally in support of CPS objectives, and government targets:



## TABLE OF PERFORMANCE AGAINST TARGETS

CPS PERFORMANCE MEASURES	National target	National outcome	Area Target	Area outcome
<p><b>Objective: To deal with prosecution cases in a timely and efficient manner in partnership with other agencies</b></p> <p>Committal papers sent to the defence within agreed time guidelines</p> <p>Briefs delivered to counsel within agreed time guidelines</p>	2001-2002	Apr – Sep 2001	2001-2002	Apr – Sep 2001
	78%	84.1%	82%	86.1%
	82%	82.9%	87%	86%
<p><b>Objective: To ensure that the charges proceeded with are appropriate to the evidence and to the seriousness of the offending, by the consistent, fair and independent review in accordance with the Code for Crown Prosecutors.</b></p> <p>Cases dismissed on a submission of no case to answer in the magistrates' courts, which are attributable to failures in the review process (self-assessment by CPS).</p> <p>Non-jury acquittals in the Crown Court, which are attributable to failures in the review process (self-assessment by CPS).</p> <p>Prosecution decisions examined during inspection by HMCPSI complying with the evidential test set out in the Code for Crown Prosecutors (random sample).</p> <p>Prosecution decisions examined during inspection by HMCPSI complying with the public interest test set out in the Code for Crown Prosecutors (random sample).</p> <p>Advice given to police and examined during inspection by HMCPSI complying with the tests set out in the Code for Crown Prosecutors.</p> <p>Decisions to discontinue examined during inspection by HMCPSI complying with the tests set out in the Code for Crown Prosecutors.</p> <p>Cases in the adverse sample examined during inspection by HMCPSI, where the outcome was foreseeable, but no remedial action was taken.</p>	2001-2002	Apr – Sep 2001	2001-2002	Apr – Sep 2001
	0.008%	0.011%	0.007%	0.000%
	0.6%	0.6%	0.5%	0.5%
	AA	98.6%**	<b>Inspection cycle 2000-2002</b>	<b>This Inspection</b>
	AA	99.8%**		95%***
	AA	99.8%**		100%***
	AA	96.8%**		100%***
	AA	93.2%**		91.6%***
	BB	19.02%**		23%***

<p><b>Objective: To enable the court to reach just decisions by fairly, thoroughly and firmly presenting prosecution cases, rigorously testing defence cases and scrupulously complying with the duties of disclosure.</b></p> <p>Advocates who perform significantly above the normal CPS standards of advocacy, as assessed by HMCPSI.</p> <p>Advocates who fail to meet the CPS standards of advocacy, as assessed by HMCPSI.</p> <p>Cases where the prosecution has properly discharged its statutory duties regarding primary disclosure.</p> <p>Cases where the prosecution has properly discharged its statutory duties regarding secondary disclosure.</p>		<p><b>Inspection cycle 2000 –2002</b></p> <p>7%</p> <p>CC</p> <p>AA</p> <p>AA</p>	<p>3.6%**</p> <p>0.46%**</p> <p>73.4%**</p> <p>64.8%**</p>	<p><b>This inspection</b></p> <p>6.25%***+</p> <p>0.0%***</p> <p>77%***</p> <p>64.7%***</p>
<p><b>Objective: To meet the needs of victims and witnesses in the CJS, in co-operation with other agencies.</b></p> <p>Witness expenses paid within 10 days.</p> <p>Complaints replied to within 10 days.</p>	<p>2001-2002</p> <p>100%</p> <p>93%</p>	<p>Apr – Sep 2001</p> <p>98.3%*</p> <p>89.4%</p>	<p>2001-2002</p> <p>100%</p> <p>100%</p>	<p>Apr – Sep 2001</p> <p>98.8%*</p> <p>100%</p>
<p><b>Improving productivity:</b></p> <p>Undisputed invoices paid within terms, or 30 days.</p> <p>Reduce sickness absence rate per member of staff.</p>	<p>100%</p> <p>8.5 days</p>	<p>95.5%*</p> <p>7.5 days</p>	<p>100%</p> <p>7.5 days</p>	<p>98.3%*</p> <p>10.5 days 2000 actual</p>
<p><b>CITIZENS' CHARTER COMMITMENT</b></p> <p>MPs' correspondence replied to within 15 days</p>	<p>100%</p>	<p>93.3%</p>	<p>100%</p>	<p>100%</p>

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

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

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

+ This figure relates to one CPS advocate.

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

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

CC The CPS formerly had a target of less than 2.5% and the performance has been collated by HMCPSI throughout the inspection cycle.

<b>CJS PERFORMANCE MEASURES</b> <i>(shared between Home Office, Lord Chancellor's Dept and CPS)</i>	<b>National target</b>	<b>National outcome</b>	<b>Area target</b>	<b>Area outcome</b>
<b>Youth Justice</b>		<b>Quarter ending Sep 2001</b>		<b>Quarter ending Sep 2001</b>
To halve the time from arrest to sentence for persistent young offenders from 142 days to 71 days by 31 March 2002.	71 days	88 days	71 days (no separate target)	49 days

## **PROVIDING ADVICE**

### **General**

- 2.1 Our inspection was concerned primarily with the quality and timeliness of the advice provided. We also examined the arrangements between the CPS and the police for ensuring that the right cases are being submitted for advice and that advice given informally is properly recorded.

### **Quality of advice**

#### ***Formal***

- 2.2 We examined 10 advice files. The advice given accorded with the principles set out in the Code for Crown Prosecutors in nine cases. The Area correctly referred the tenth case to the Casework Directorate at CPS Headquarters. Advices were generally detailed, well-reasoned and typed. However, managers accept that the Area lacks consistent, formal systems to monitor the quality of written advice.
- 2.3 Monthly monitoring to assess quality is conducted in only one out of the four offices. Arrangements in the remaining three offices are ad hoc, with the quality of advice work being assessed by managers when they conduct cases in court. The random nature of this practice is not only incapable of providing Area managers with regular performance information, but also fails to capture cases where the police have been advised against proceeding.
- 2.4 Unit Heads rely on a designated senior lawyer in Barrow and Workington to oversee each office on a day-to-day basis. Their role is poorly defined, however, and it is unclear whether it includes monitoring. For the purposes of this report we refer to the designated lawyers as ‘senior lawyer’ and we suggest that the role of the senior lawyers be clarified at paragraph 6.54.

#### ***Informal***

- 2.5 Proper recording of informal advice is essential if the Area is to receive its just share of resources. Linking the written record to any subsequent prosecution file enables checks to be made to ensure that advice has been followed.
- 2.6 Lawyers are aware of the importance of recording informal advice and efforts are made to link informal advice to prosecution files. Methods used to record informal advice vary across the Area. At the Kendal office, a new file is opened and entered onto the SCOPE computer system every time informal advice is given. Area management should consider the merits of adopting this method across the Area.
- 2.7 The Area-wide standards we recommend at paragraph 2.18 should include systems to monitor the quality of informal advice. This could only be done on the basis of the written record. Although we did not identify any problems with the quality of informal advice, it is too large an area of activity to be left unmonitored.

## **Timeliness of advice**

- 2.8 The CPS nationally has agreed a time guideline for dealing with requests for advice of no more than two weeks from receipt of an adequate file
- 2.9 Advice requests often involve sensitive cases including sexual offences, child abuse and cases involving young defendants or witnesses, where it is of vital importance that prosecution decisions are reached promptly. The national agreement sought to reinforce the priority to be attached to this type of work.
- 2.10 Seven out of nine advices were provided on time. Administrative systems in place to support and monitor timeliness are patchy and should be improved. The current arrangements are incapable of providing the Area Management Team (AMT) with any meaningful performance information as to timeliness.

## **Allocation**

- 2.11 Advice cases can raise some of the more difficult issues that prosecutors are required to consider. It is important for all lawyers to be given the opportunity to develop their skills, provided that cases are allocated to lawyers of the right skill, ability and experience. Allocating prosecution files to the advising lawyer avoids duplication of work and ensures consistency.
- 2.12 There are no consistent Area systems governing allocation of formal or informal advice. As a result, practice varies across the Area. In two offices, advices are allocated with regard to lawyers' specialist skills and to provide development opportunities. The emphasis elsewhere is on the work being shared among the lawyers available to do it, with advices allocated by administrative staff. At the Kendal office, pre-charge advice files are automatically linked to prosecution files and allocated to the advising lawyer. Area management should ensure that similar systems are in place across the Area.

## **Appropriateness of requests for advice**

- 2.13 It is important that the police are positively encouraged to seek advice at an early stage in those cases with legal or evidential complications that are likely to affect the later handling of the case, or where independent advice is necessary to maintain public confidence. However, cases that do not require pre-charge CPS advice, but nevertheless receive it, occupy the time of lawyers that could be devoted to more pressing matters.
- 2.14 With this in mind, the Area agreed a protocol with the Cumbria Police in August 1999 setting out the circumstances in which it is appropriate for advice to be sought. The protocol appears to have been largely successful, with one local manager relying on it when a number of cases were inappropriately submitted. However, not all Area lawyers appeared to be aware of the protocol's existence and it should be re-launched.

- 2.15 The request for advice was inappropriate in one out of the 10 cases we examined. The case involved a fatal road traffic accident which resulted from the deceased losing control of the car whilst overtaking another vehicle at speed. It was clear from the evidence that no other individual was at fault and under the protocol should have been a decision for the police.
- 2.16 It is important that when advice is given of general application that it is consistent and is disseminated appropriately. We deal with the lack of formal mechanisms within the Area to ensure lessons are learned, and good practice disseminated, at paragraphs 3.49-3.54.
- 2.17 The creation of the new Units provides an ideal opportunity to ensure that the Area adopts a consistent approach to the allocation of advice work and the monitoring of quality, timeliness and the appropriateness of file submission from the police.
- 2.18 In an effort to achieve consistency across the Area and produce meaningful performance information, we recommend that the AMT formulate an Area-wide standard on the provision of advice.**

## REVIEWING CASES

### Introduction

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

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

#### **Initial review: quality and timeliness**

- 3.8 The standard of decision-making is generally good. Lawyers are conscientious and thorough. Initial reviews are usually conducted in a timely fashion.
- 3.9 Inspectors examined the quality of the review decision in a random sample of 60 files, including cases that proceeded in the magistrates’ and youth courts, and in the Crown Court. We considered that the evidential test had been correctly applied in 57 cases (95%).
- 3.10 The three decisions we disagreed with all involved the use of abusive language or gestures to police officers. In two cases, words were uttered as the accused walked away from the police. In the third case, an abusive gesture was made to officers as they drove past the accused.

- 3.11 The decision in DPP v Orum [1989] 1 WLR 88 confirmed that police officers may be harassed, alarmed or distressed by abusive language or gestures made towards them in the course of their duties. Police officers deserve the full protection of the law and it is clearly right that prosecutors seek to support the police where offences have been committed. However, we considered that the words and gesture used, and the circumstances in which they were used, were highly unlikely to harass, alarm or distress experienced police officers. Indeed the justices dismissed all three cases for that reason.
- 3.12 One case was allowed to proceed after police objected to a proposed discontinuance because the defendant had made a complaint. Discontinuance was proposed in another case yet it was allowed to proceed to trial, for reasons that were unclear from the file.
- 3.13 Lawyers in the Area rightly take pride in the closeness of their working relationship with the police and co-location should serve to strengthen existing bonds. The failure to weed out weaker public order cases can, however, create the impression that the CPS is not always independent of the police. Lawyers must take care to ensure that their independent judgement is not compromised, even if it involves making unpopular decisions.
- 3.14 All three cases were considered after acquittal by either a Unit Head or senior lawyer. The decision to proceed was endorsed in every case. We are concerned that flawed decision-making is being reinforced and lessons are not being learned from this type of case. We recommend ways the Area should learn from experience at paragraph 3.54.
- 3.15 We agreed with the application of the public interest test in every case examined in the random sample. We disagreed with the public interest decision in one case in our discontinued sample, which we discuss at paragraph 3.34.

### **Selection of the appropriate charges**

- 3.16 The initial police charge was correct in 53 out of 60 cases in our random sample. The CPS correctly amended the charge in the remaining seven cases.
- 3.17 The CPS and police nationally have agreed charging standards for assaults, public order and some driving offences. Cumbria Police have not, as yet, adopted the charging standards for assaults. Three of the seven cases requiring amendment were assault cases which had been over-charged. Over-charging can increase the workload of prosecutors unnecessarily and delay the passage of cases through the courts.
- 3.18 The recent appointment of a new Chief Constable provides an opportunity to resume discussions on the adoption of the charging standard for assaults.

### **Continuing review**

- 3.19 There had been a further review (other than summary trial or committal review) in 38 out of the 41 random sample cases where we thought one was necessary. We discuss our concerns about the quality of continuing review in the discontinuance and adverse case file samples at paragraphs 3.33 and 3.46.



## **Monitoring of review**

- 3.20 Acquittals in the magistrates' court and Crown Court are monitored as a matter of routine. We discuss the extent to which lessons are communicated to staff and work done to improve police performance at paragraphs 3.49-3.54.
- 3.21 There is an expectation that other review decisions are monitored but the extent to which this happens varies widely. The result is that performance monitoring is less effective than the CCP would want.
- 3.22 The South Cumbria Unit Head regularly monitors a range of work emanating out of the Kendal office including guilty pleas, summary trial and committal files. He also monitors briefs to counsel from both the Barrow and Kendal offices. The monitoring regimes in the remaining offices are ad hoc, and usually consist of consideration of files by managers when they prosecute cases in court. The lack of clear guidance on the monitoring role of the senior lawyers has not helped matters. As a result, the AMT lacks any consistent information relating to the quality of review.
- 3.23 We recommend that an Area-wide monitoring standard be introduced to assess the quality of review.**

## **Allocation of files**

- 3.24 Allocation arrangements vary across the Area. In general, lawyers retain ownership of files they reviewed for first appearance (particularly at Kendal where ownership is retained up to and including trial). Some account is taken of specialist skills and part-time working. Even so, some lawyers can find themselves over-burdened under this arrangement.
- 3.25 The Carlisle team operates a weighting system to govern the allocation of files including advice, committals and summary trials. This has the advantage of allowing the Unit Head to ensure that work is spread evenly. In order to achieve consistency of approach, consideration should be given to the merits of extending this system across the Area.

## **Discontinuance**

- 3.26 In the year ending 30 September 2001, the Area's discontinuance rate was 9.6% of its caseload. This is lower than the national average of 13.1%.
- 3.27 Area's performance indicators showed that 103 defendants had been finalised in the month of May 2001. We asked to see 100 files; the Area supplied us with 46 cases, involving 53 defendants. Five cases were incorrectly recorded in the discontinued category even though the file endorsements were quite clear. We discuss deficiencies in the recording of performance indicator data at paragraphs 6.39-6.43.
- 3.28 We examined 41 cases dropped by the prosecution in the magistrates' courts in May 2001 to ascertain the reasons for discontinuance and timeliness of decision-making. We also looked at whether the police had been consulted, and if they agreed with the decision to terminate.

3.29 The reasons for discontinuance are set out in the table below:

<b>EVIDENTIAL REASONS</b>		
Conflict of evidence	1	2.4%
Essential legal element missing	21	51.3%
Sub-Total	22	53.7 %
<b>PUBLIC INTEREST REASONS</b>		
Long delay between the offence and date of charge or trial	1	2.4%
Very small or nominal penalty	3	7.4%
Caution more suitable	2	4.8%
Sub-Total	6	14.6%
<b>PROSECUTION UNABLE TO PROCEED</b>		
Victim refuses to give evidence/retracts statement	8	19.6%
Victim fails to turn up unexpectedly	2	4.8%
Documents produced at court	2	4.8%
Sub-Total	12	29.2%
<b>REASONS NOT SHOWN</b>		
Endorsement/file does not show reason	1	2.4%
Sub-Total	1	2.4%
<b>TOTAL</b>	<b>41</b>	<b>100%</b>

3.30 51.3% of the files examined were discontinued because an essential legal element was missing. This is a worryingly high figure and little work appears to have been done to identify emerging trends, communicate learning points or highlight police training needs. We comment on the deficiencies in joint performance management processes in Cumbria at paragraphs 6.99-6.102, and recommend work be done to analyse trends at paragraph 3.54.

3.31 We considered the timeliness of decision-making and found that there is room for improvement. No evidence had been offered in 29.3% of the 41 terminated cases we examined, compared to 22.9% of cases examined in current inspection cycle. A more detailed analysis of 24 cases revealed that five had not been terminated at the earliest opportunity. Our recommendation at paragraph 4.22 should enable the Area to begin to assess the impact its processes, including timeliness of decision-making, have on the numbers of trials which collapse in Cumbria.

3.32 The standard of file endorsements varied and it was not always clear how a decision to discontinue had been reached. It was difficult to ascertain in some cases whether the police had been consulted. Where police had been consulted, a full explanation of the reason to discontinue was rarely given. If lessons are to be learned from discontinued cases it is important that the police are given an explanation of the reason for decisions.

<b>Police consulted by CPS</b>		
Yes	32	78.1%
No	1	2.4%
Not known	8	19.5%
Not applicable	0	0%
<b>Total</b>	<b>41</b>	<b>100%</b>
<b>Police response to CPS</b>		
Agreed	26	63.4%
Objected	1	2.4%
Not known	13	31.8%
Not applicable	1	2.4%
<b>Total</b>	<b>41</b>	<b>100%</b>

3.33 We examined 24 cases to see whether the Code tests had been applied correctly. We disagreed with the decision to offer no evidence at a public order trial because the defendant came to court with three witnesses. In another case, an agent correctly refused to prosecute because of serious deficiencies in the evidence. The defects in the case should have been picked up sooner as part of the review process. Analysis by Unit Head or senior lawyer failed to get the root of the problem in both cases.

3.34 We disagreed with the application of the public interest test in one case, where no evidence was offered after a defendant facing charges of possession of a number of offensive weapons disclaimed ownership.

### **Bail**

3.35 Lawyers are regarded by other court users as fair and impartial when considering whether to oppose bail. We examined nine custody cases as part of our random file sample, and agreed with the decision to oppose bail in every case.

3.36 Appropriate decisions were taken in relation to conditional bail in the seven relevant cases we examined. We were concerned at the failure of prosecutors to endorse bail conditions in nine out of 11 relevant cases and recommend the development of Area standards including file endorsements at paragraph 6.27.

### **Mode of trial**

3.37 Prosecutors adopt the correct approach in deciding whether a case should be dealt with in the magistrates' court or Crown Court. We agreed with the decision on mode of trial in all of the 30 relevant cases examined. Prosecutors failed to endorse mode of trial considerations in seven cases.

### **Adverse cases: foreseeability**

3.38 Our Review of Adverse Cases (Thematic Report 1/1999) found that in 31.8% of cases examined, the adverse finding was foreseeable. In CPS Cumbria, we considered the adverse finding was foreseeable in five out of 13 cases (38%) examined. No remedial action was taken to overcome the difficulties or drop the case sooner in three of these cases (23%).

3.39 CPS Areas are required to assess, for performance measurement purposes, whether adverse cases are attributable to failures in the review process (we refer to the CPS targets in the table at paragraph 1.21). The Area assessed three cases as being attributable to a review failure for the year ending 30 September 2001, compared to the three cases we found in one quarter. As the Area's assessment is based on a similar test to that set out in paragraph 3.6, only a decision to proceed that is clearly wrong will be captured.

3.40 Our test of foreseeability is based upon what a suitably experienced prosecutor ought to have foreseen and taken some remedial action or, if necessary, dropped the case sooner. The narrow interpretation of a review failure on the part of the CPS would explain why the Area's assessment of the number of cases is in contrast to our findings.

### **Magistrates' courts: no case to answer and discharged committals**

3.41 In the year ending 30 September 2001, Area recording of the number of cases where magistrates found no case to answer was lower than the national average: 0.1% compared to 0.2%.

3.42 Performance indicators for our file sample period revealed that there were eight such cases. The Area was able to produce only two of these cases. It is essential that accurate performance records be maintained in order that Area managers can assess casework strengths and weaknesses.

3.43 We examined both cases and agreed with the decision to proceed. However, we felt the result was foreseeable in one case and that the CPS could have done more to avoid the outcome.

- 3.44 There were no cases in our file sample in which the defendant had been discharged at committal after the end of the prosecution case. The Area incorrectly submitted a file it purported to be in this category. We found no evidence of cases being discharged due to a lack of a police file.

### **Crown Court: judge ordered and judge directed acquittals**

- 3.45 The Area has a lower rate of judge ordered acquittals than the national average: 10.5% compared to 13.2%.
- 3.46 We examined 11 judge ordered acquittals involving 21 defendants, although Area performance indicators revealed that there were 28 defendants. We agreed with the decision to proceed in all but one case. The case involved a public order incident, where, in spite of acknowledged evidential difficulties, the case was allowed to proceed to the Crown Court. No evidence was offered on counsel's advice. We felt that the result was foreseeable in four cases and the CPS could have done more to avoid the outcome in two cases.
- 3.47 The Area has a lower rate of judge directed acquittals than the national average: 1.6% compared to 2.2%. There were no judge directed acquittals in our file sample although the Area recorded one case in its performance indicators for the relevant period.
- 3.48 We looked at the reasons why cases had failed in the magistrates' courts and the Crown Court to see if any trends were emerging. Difficulties with witnesses accounted for seven of the 13 cases we examined. In two cases, it was clear at the outset there would be witness difficulties yet no remedial action was taken until late in the process.

### **Learning from experience**

- 3.49 The 1998 report recommended that there should be a more systematic approach to the communication of learning points to lawyers and caseworkers. Little has been done to progress this recommendation.
- 3.50 There are currently no formal systems for ensuring lawyers and caseworkers learn from experience. Feedback on adverse cases is ad hoc and informal. Adverse cases are often only discussed with the individual lawyer concerned. Learning points are not discussed in team meetings and legal briefings are not held. Little or no attempt is made to promulgate lessons to the Area as a whole.
- 3.51 The case dismissed reports completed in every magistrates' court and Crown Court case which result in an acquittal include contributions from the reviewing lawyer, the CPS advocate if a magistrates' court trial, or the caseworker if a Crown Court trial. The reports are then considered and commented upon by Unit Heads or senior lawyers, prior to being forwarded to the police for their information. Some informal discussion can follow between Area managers and their counter-parts in the police Administrative Support Units but there is no systematic mechanism whereby all cases are considered.

3.52 The CCP prepares a bulletin for the police on acquittals in the Crown Court. The bulletin contains a useful and frank analysis of the factors contributing to the acquittal or adverse outcome. Although the bulletin is forwarded to Unit Heads and senior lawyers, lawyers and caseworkers are not routinely provided with copies.

3.53 The CCP does not routinely consider acquittals in the magistrates' court. An analysis by a senior lawyer of cases terminated in the magistrates' court would enable the Area to identify trends and contribute to improved police performance. It would also provide the CCP with additional assurances as to the quality of Area casework. Analysis of trends emerging from discontinuance would similarly prove worthwhile.

**3.54 We recommend the CCP ensures that:**

- **a log is kept of all Crown Court adverse case reports;**
- **analysis of adverse decisions in the magistrates' courts is included in his bulletin on adverse cases and acquittals;**
- **the bulletin is produced at regular intervals and circulated to all lawyers and caseworkers;**
- **the bulletin be used to identify training needs, good practice and highlight successes; and**
- **any trends identified are regularly discussed with the police in order to improve performance.**

### **Sensitive and aggravated offences**

3.55 The CPS nationally recognises that certain types of offences require particular care and attention because of their sensitive nature. These include cases involving child abuse, domestic violence and offences with a racial motive.

### ***Child abuse***

3.56 The Area has a designated child abuse co-ordinator and a number of trained child abuse lawyers who make realistic assessments of evidence in these sensitive, and often problematic, cases. The Area also has a number of caseworkers experienced in child abuse work. We examined three child abuse cases, and found that all had been handled competently.

3.57 Although child abuse registers are kept, we are concerned about the apparent lack of monitoring of the return of child video evidence after trial. The development of Area-wide office systems we recommend at paragraph 6.33 should include the handling of child video evidence.

3.58 We discuss arrangements for third party disclosure in child abuse cases at paragraph 4.16.

### *Domestic violence*

- 3.59 All Area lawyers must be proficient in the handling of domestic violence cases. Retraction of evidence by the victim remains a significant barrier to successful prosecution but Area lawyers proceed wherever possible.
- 3.60 The Area recently appointed a Domestic Violence Co-ordinator (DVC) to join a newly established national network. Individual lawyers take a lead role when it comes to training but do not consider specific cases, such as those where discontinuance is proposed after a retraction. Analysis of cases of this nature by the DVC could highlight trends and identify police training needs.
- 3.61 The CPS nationally monitors the number and outcome of domestic violence cases over a given period. In order to accurately participate in this monitoring exercise it is important that Area domestic violence files are properly identified. During the course of our inspection we saw files which had not been appropriately labelled as domestic violence cases. This has led us to conclude that compliance with national monitoring requirements is not as strict as it should be.
- 3.62 The Area's policy is to be represented at county domestic violence forum meetings but attendance has been patchy. The launch of the revised national CPS domestic violence policy provides an ideal opportunity for the Area to reach out to the local community.
- 3.63 We recommend that the AMT ensure that:**
- **lawyers and caseworkers understand the importance of complying with national domestic violence monitoring requirements; and**
  - **the Area is represented at all local domestic violence forum meetings.**

### *Racist incident cases*

- 3.64 The CPS nationally monitors the number and outcome of racist incident cases through the Racist Incident Monitoring Scheme (RIMS).
- 3.65 Although the Area has a relatively small minority ethnic population (currently 0.6% of the working population), racist incident cases are not uncommon. RIMS returns completed by the Area in the year from October 2000 disclosed 19 cases, an average of between one and two new cases every month.
- 3.66 A simple analysis by inspectors of the RIMS returns revealed that racist incident cases appeared to emanate only from the Barrow and Workington offices. Racist incidents are not, however, unknown in Carlisle or Kendal. It is therefore apparent that some lawyers and caseworkers are failing to properly identify racist incident cases for monitoring purposes, and the RIMS returns to date may have been inaccurate.

- 3.67 The Area has recently acknowledged the need to appoint and train designated prosecutors to take the lead in racist incident cases. The two appointments made are in the Carlisle and Barrow offices, whereas an analysis of the RIMS returns might have indicated the need for the appointments to be made in the Barrow and Workington offices.
- 3.68 It is important that Area managers and staff do not regard compilation of RIMS data simply as an administrative exercise, or at worst a meaningless chore. The aim of the scheme is to enable local as well as national managers to analyse data for trends and issues relating to racist incident cases, and target resources appropriately.
- 3.69 The Area proposes using distinctive file jackets to identify racist incident cases. In addition to this measure, the reasons for, and importance of, accurate monitoring should be communicated to all staff.
- 3.70 We recommend that the AMT ensure that:**
- **the location of the designated prosecutors for North and South Cumbria be re-visited in light of existing RIMS data;**
  - **the remit of designated prosecutors should include consideration of racist incident files and completion of RIMS returns from their Unit; and**
  - **the reasons for, and importance of, accurate racist incident monitoring be communicated to all staff.**

#### **Youth justice and persistent young offenders**

- 3.71 Youth justice has a high priority within the CJS. Particular importance is attached to preventing delays. The Government has set a target for dealing with cases involving persistent young offenders (PYOs) in 71 days from arrest to sentence. Improvements in performance require close inter-agency co-operation.
- 3.72 The early PYO figures for Cumbria were encouraging, dropping to 53 days in the second quarter of 2000. This improvement in performance may have led to a false sense of security amongst CJS agencies, including the CPS, even though none of the agencies could pinpoint the reason for early successes. The third and fourth quarters of 2000 saw successive rises in processing periods to 82 and 90 days respectively. It is, however, fair to recognise that PYO figures for small Areas can be susceptible to volatility because the number of cases involved is usually so small that one or two cases, which take longer than normal, may have a disproportionate effect on the average period.
- 3.73 For 2001-2002 the CJS agencies jointly revised their existing youth justice action plan. The 2001-2002 Cumbria Action Plan for Speeding Up Youth Justice represented a co-ordinated effort on the part of all agencies to address the deteriorating PYO performance through joint working. The result has been improvements in performance in the first three quarters of 2001 to 66, 63 and 49 days respectively. This suggests that the earlier rise was not wholly attributable to the volatility associated with small caseloads.



- 3.74 The Area has an active youth co-ordinator and, after a slow start, has appointed case progression officers in all four offices. Their role is to liaise with counter-parts in the Magistrates' Court Service (MCS) and police in an effort to ensure that PYOs are correctly identified, and their cases progressed without delay. Meetings have been held between Area case progression officers and the police, with performance improvement actions being discussed and agreed.
- 3.75 Whilst the work of the case progression officers is vital, it is important that all Area lawyers and caseworkers, agents and counsel in the magistrates' court and Crown Court are also aware of initiatives to reduce delay, not only in cases involving PYOs but also other youths. It is also important that the Area is able to assess its own contribution to reducing delay in youth cases. The Area currently relies on case tracking information prepared by the MCS and Crown Court.
- 3.76 Considerable delay in PYO cases nationally occurs in the Crown Court. The Area is committed to fielding in-house HCAs for plea and direction hearings involving PYOs. Under present arrangements, Area HCAs prosecute PYO cases at Carlisle Crown Court. The Area Youth Co-ordinator is also an HCA which should facilitate an improved focus on PYOs in the Crown Court. The negotiations we suggest at paragraph 4.37 should provide for the conduct of PYO cases by HCAs at Preston and Lancaster Crown Courts.
- 3.77 In order to consolidate the work done so far in reducing delay, and to continue to improve, we recommend that the CCP ensures that:**
- **all lawyers and caseworkers are kept informed about Area PYO initiatives and given regular feedback on Area performance;**
  - **agents in the magistrates' court, and counsel in the Crown Court, are instructed on the need to take proactive steps to reduce delay in all youth cases, and particularly PYO cases; and**
  - **the Area monitors its own contribution to the reduction in delay in relation to PYO cases.**

#### **The special casework lawyer**

- 3.78 The Area SCL advises on, and carries a personal caseload of, the Area's most serious cases. He is also an HCA and co-ordinates HCA attendance at Carlisle Crown Court. He is currently based in the Carlisle office.
- 3.79 The SCL's caseload consists of a mixture of work referred by the CCP, Unit Heads and senior lawyers, and directly from the police. Some Area lawyers were unclear on the types of cases suitable for referral to the SCL and who allocates his cases. The CCP should ensure that all lawyers are aware of the criteria for referral of cases to the SCL.

- 3.80 The SCL does not have dedicated caseworker support and relies on the assistance of staff from each of the four offices. This can result in breakdowns in communication, is time-consuming and has the potential to cause unnecessary delay. The most practical solution would be to assign support for the SCL at the Carlisle office for all of his cases.
- 3.81 The SCL is clearly an experienced lawyer with much to offer other Area lawyers in terms of development. The Area should consider drawing on this experience in order to learn the lessons from experience we recommended at paragraph 3.54 above.

## PREPARING CASES

### General

- 4.1 Good quality decision-making is of limited value if the subsequent handling of cases is not thorough and efficient. In this section we consider the performance of the Area in relation to specific stages in the progress of cases, from the institution of proceedings through to their conclusion. Some aspects of case handling relate only to cases in the Crown Court, whilst some relate to both magistrates' court and Crown Court. They range from the provision of advance information through compliance with prosecution obligations in relation to disclosure, preparation of cases for summary trial, preparation and handling of Crown Court cases, monitoring of custody time limits and general file management.

### Advance information

- 4.2 Since the introduction of Narey courts, the police prepare additional copies of the relevant material so it can be served on the defence at the first hearing. We found that advance information had been served in a timely manner in 47 out of 53 relevant cases but were unable to tell when it had been served in four cases.
- 4.3 A record of what was served was not always endorsed on the files we examined. We could only find such a record in eight cases. It is important that a proper record is kept of when advance information is served, and what it consists of, to ensure that cases proceed without delay, and to provide assurance that the prosecution has complied with its statutory duties. The prosecution is also likely to be disadvantaged in dealing with subsequent queries if it has no record of what material has been served on the defence.
- 4.4 We suggest that all prosecutors should endorse files with a record of what material is served by way of advance information.**

### Provision of information for pre-sentence reports

- 4.5 The CPS nationally has agreed to promptly provide details of its case, and the criminal record of the defendant, to the Probation Service when magistrates order a pre-sentence report or the defendant is committed for trial to the Crown Court. The information assists the Probation Service in preparing a balanced report for the court when sentencing the defendant. A local service level agreement governing the provision of information has been in place since April 1998. The most recent Probation Service audit showed that 92% of packages were received on or before time. A pre-sentence package had been supplied to the Probation Service in all of the relevant files we examined.

## **Disclosure of unused material**

### ***Overview***

- 4.6 CPS Cumbria's performance on disclosure is comparable to other Areas inspected to date and, in common with other Areas, still needs improvement. In the main we found that Area lawyers were aware of their disclosure obligations, considered unused material in appropriate cases and were familiar with the Attorney-General's guidelines on disclosure.
- 4.7 A matter of concern, however, is the willingness of some lawyers to take decisions on disclosure in the absence of the views of the disclosure officer. This situation is not confined to CPS Cumbria. To a large extent this results from an apparent lack of understanding by some police officers of their disclosure obligations under the Criminal Procedure and Investigations Act 1996 (CPIA). Although the majority of files we examined presented fairly straightforward disclosure considerations, Area lawyers should be aware of the danger of this approach.
- 4.8 The management of disclosure documents is currently poor and requires attention to ensure that disclosure documents are filed separately and are easily accessible, as recommended in the Inspectorate's Report on the Review of the Disclosure of Unused Material (Thematic Report 2/2000).

### **Primary disclosure**

- 4.9 The police provided unused material schedules in all but one of the 48 relevant cases in our file sample. Primary disclosure was dealt with appropriately and in a timely fashion in 37 cases (77%), which compares favourably with 73.4% of all relevant cases examined in the current inspection cycle.
- 4.10 Eight schedules required amendment and disclosure officers' reports (MG6E) were not provided in six cases. Although copies of unused material are routinely supplied with committal and summary trial files, the onus is on Area lawyers and managers to ensure disclosure officers play their full part in primary disclosure.

### **Secondary disclosure**

- 4.11 Performance in relation to secondary disclosure is comparable to national performance to date. Secondary disclosure was dealt with appropriately in only 11 out of 17 cases: 64.7% compared to 64.8%. Defence statements were forwarded to the police for consideration in every case but even though form MG6E was received in only 11 cases, lawyers proceeded to make secondary disclosure decisions.
- 4.12 We recommend that police failure to serve form MG6E be monitored and discussed at senior officer level.**
- 4.13 The Area participated in joint training on disclosure when the CPIA regime began. The civilianisation of the police ASUs and moves towards co-location in Carlisle and Kendal provide an ideal opportunity for further joint training. The Area should pursue the informal offers of training it has already made.

## **Sensitive material**

- 4.14 Area lawyers are aware of the issues surrounding the handling of sensitive material but cases involving consideration of such material tend to be rare. We examined three cases where lawyers considered sensitive material and all were dealt with appropriately.
- 4.15 Attendance at all conferences and hearings where this material is considered is essential if CPS lawyers are to discharge their disclosure obligations properly. Not all Area lawyers are able to attend public interest immunity hearings in the Crown Court, although they do attend conferences where such material is discussed. Trials Unit (TU) lawyers elsewhere in the CPS are increasingly being given the opportunity to develop their expertise in all aspects of Crown Court casework, including the handling of sensitive unused material. We have concerns that the Area's plans to implement Glidewell may not enable lawyers to develop their skills in this area.

## **Third party material**

- 4.16 At the time of our inspection, Cumbria County Council's legal department withdrew from a recently signed protocol on the disclosure of third party material in child abuse cases. The CCP is currently negotiating with Cumbria County Council's legal department in order to secure the resumption of the protocol. The failure to disclose, or late disclosure of, relevant material can prove fatal to a prosecution case. It is in the interests of both the child and the defendant (who may be in custody) that early consideration and disclosure is made of all relevant material.

## **CPS in the magistrates' court**

### ***Summary trial preparation and pre-trial reviews***

- 4.17 There was evidence of further review on receipt of summary trial files in 15 out of 20 summary trial files examined. Summary trials are generally well prepared, but the endorsement of summary trial review clearly requires improvement. Area preparedness for pre-trial reviews (PTRs) should also be improved.
- 4.18 PTRs are held in all but the most straightforward summary trials and are usually listed five weeks after a plea of not guilty is entered. The CPS has a vital role to play in ensuring PTRs are effective but to do so must ensure that it has carried out all appropriate actions sufficiently in advance of the PTR, including the service of statements, exhibits and unused material.
- 4.19 Of the 11 cases we examined where PTRs had been held, appropriate actions had been taken by prosecutors in advance of the hearing in only six. Although it is not unknown for several PTRs to be held because the prosecution was not ready, more often than not some progress is made. When conducted properly, PTRs enable the parties to focus on the issues in a case, reduce the unnecessary attendance of witnesses and can, on occasion, result in changes of plea. Effective PTRs are vital to reduce the number of trials which collapse for reasons which include a late change of plea (cracked trials) or because one of the parties is unable to proceed or the court is over-listed (ineffective trials).

- 4.20 Cracked and ineffective trials have been a problem in Cumbria for a number of years. In the quarter to September 2001 an average of 53.7% of trials collapsed. Whilst it is inevitable that some trials will collapse, such a high figure has implications in terms of cost, delay, duplication of effort and the treatment of victims and witnesses.
- 4.21 The ineffectiveness of CPS and police joint performance management arrangements in relation to police file quality mean that existing timeliness data cannot be relied upon, but there is considerable anecdotal evidence to suggest that the principal reason for CPS lack of preparedness is late service of papers by the police. The absence of meaningful performance data hampers the Area in its desire to contribute to the reduction in the numbers of collapsed trials by increasing the effectiveness of PTRs. Whilst the Area alone cannot secure the necessary improvement in the collapsed trial rate, it can contribute to an inter-agency approach.
- 4.22 In order to play its part in securing a reduction in the number of cracked and ineffective trials in Cumbria, we recommend that the Area should:**
- **monitor delivery of trial files by the police and CPS readiness for PTRs; and**
  - **regularly share its findings with the police and the Magistrates' Court Service with a view to improving performance.**

## **CPS in the Crown Court**

### ***Timeliness and quality of committal preparation***

- 4.23 The CPS nationally has set a target of serving committal papers on the defence within 14 days of receiving a full file from the police, when the defendant is on bail, and within 10 days in custody cases. It aims to achieve this target in 78% of cases.
- 4.24 The Area set a higher target for service of committals of 82% and has received performance improvement funding (PIP) to help it achieve this target. The Area's assessment of timeliness in the first half of this year was 86.1% and our own assessment supports this figure. This represents an improvement on last year's performance, which was 71.1%.
- 4.25 Lawyers review all committal files received from the police and we considered committals to be well prepared. Unlike other CPS Areas, B1 caseworkers in Cumbria do not prepare any committals. This is largely due to court commitments and their distribution through the Area. A recommendation in the 1998 report aimed at developing caseworkers has not been progressed.
- 4.26 The development of TUs could create the environment where caseworkers prepare committals under the guidance of lawyers. In addition to providing a developmental opportunity for caseworkers, it would also free up lawyer-time to concentrate on more complex aspects of Crown Court casework.

### *Timeliness and quality of instructions to counsel*

- 4.27 The Area uses the revised Crown Court Case Preparation Package (CCCPP). As with committals, lawyers prepare instructions to counsel, even in straightforward cases. We found that instructions contained a summary that adequately addressed the relevant issues in 23 out of 27 cases examined (85.2%), but that appropriate instructions on the acceptance of pleas were only given in five out of 18 relevant cases. This deficiency has led to pleas on alternative charges being agreed to at the Crown Court, even though reviewing lawyers had previously ruled out this course of action or refused a similar offer in the magistrates' court. Invariably, this information was buried in the file and not readily accessible to caseworkers at court.
- 4.28 Not all instructions to counsel contain adequate information about whether defendants are in custody or on bail, nor were specific instructions always given in relation to applications to extend CTLs. The South Cumbria Unit Head pays particular attention to the inclusion in briefs of acceptable pleas when he conducts his monitoring exercises. Monitoring should be widened to include custody or bail status and a similar system introduced in the north of the county.
- 4.29 CPS has agreed with the Bar that briefs will be delivered to counsel within 14 days of committal, or 21 days in more serious cases. It aims to achieve this target in 82% of cases. The Area set a higher target for delivery of briefs of 87% and bid for PIP funding to enable it to meet this increased target. Area performance in the first half of this year was 86%. Area performance in the year to March 2001 was 72.9%.
- 4.30 In order to free lawyers to concentrate on complex Crown Court casework and develop the role of B1 caseworkers, we recommend that the Unit Heads ensure that:**
- **caseworkers are allocated committals to prepare in straightforward cases;**
  - **caseworkers prepare all briefs under the guidance of lawyers; and**
  - **the quality of briefs to counsel is monitored and targets for improvement set.**

### *Timeliness and quality of indictments*

- 4.31 Lawyers draft indictments. The gravity of the offending was reflected in all 28 indictments examined. Six indictments (21.4%) required amendment, which compares favourably to national performance to date (25.2%) in the current inspection cycle, but no trends emerged. Indictments were lodged in a timely fashion in all but one case examined.

### *The role of B1 caseworkers*

- 4.32 Caseworkers are well regarded by other court users. However, as we have already highlighted in paragraphs 4.25 and 4.27 they do not undertake the full range of duties expected of caseworkers elsewhere in the CPS. In addition to committal and brief preparation, lawyers deal with significant amounts of straightforward post-committal correspondence that could and should be dealt with by caseworkers. This needlessly occupies lawyer-time and de-skills caseworkers.
- 4.33 The principal reason for the current imbalance in terms of duties is the way caseworker coverage is organised, both in the office and at court. Under existing arrangements, caseworkers attend Crown Court three days per week and should have two days to cover office work and paperwork. The reality is, however, that there can be days where offices have no caseworker coverage, particularly in South Cumbria where caseworkers can be called upon to cover cases at Carlisle, Preston, Lancaster and Barrow-in-Furness Crown Courts. Office work suffers as a result.
- 4.34 The Area currently relies on assistance from CPS Lancashire to cover some of its PDHs, mentions and sentence hearings at Preston and Lancaster. This arrangement is informal and depends to a large extent on the considerable goodwill that has developed between the two Areas and, in particular, between caseworkers. The Area is, however, required to provide caseworker coverage for its own trials. It is not unknown for more than one Cumbria caseworker to be physically present in the Lancashire courts on any one day, sometimes leaving no caseworker cover in the Kendal office.
- 4.35 Barrow lawyers currently cover Cumbria preliminary hearings in the Preston and Lancaster Crown Courts in indictable-only cases and respond to bail applications on a rota basis. This can sometimes involve lawyers travelling considerable distances to conduct one case. The ABM has sensibly begun to discuss the possibility of instructing HCAs from CPS Lancashire to cover suitable Cumbria cases at Preston and Lancaster Crown Courts. These discussions should be widened to include the full range of Cumbria work dealt with at Preston and Lancaster Crown Courts, with the aim of reaching a mutually beneficial arrangement on court coverage in order to make the best use of resources.
- 4.36 In particular, we have in mind consideration being given to:
- the use of Area caseworkers to cover courts at Preston and Lancaster Crown Courts for agreed periods rather than the current arrangements whereby they cover Cumbria trials; and
  - the use of Barrow lawyers to cover preliminary hearings in indictable-only cases and bail applications on specified days.
- 4.37 **We suggest that discussions take place between the ABMs for CPS Cumbria and Lancashire to arrange court coverage at Preston Crown Court in order to make the best use of Area resources.**



## **Custody time limits**

- 4.38 Custody time limit (CTL) provisions regulate the length of time during which an accused person may be remanded in custody in the preliminary stages of a case. Failure to monitor the time limits, and, where appropriate, to make an application to extend them may result in a defendant being released on bail who should otherwise remain in custody.
- 4.39 We examined 20 cases which were subject to CTLs: 10 magistrates' court and 10 Crown Court files. We also observed the CTL systems at each office. Cases subject to CTLs are identified from file endorsements made when the defendant is remanded in custody and expiry and action dates calculated. In the main, these endorsements were adequate but could be clearer when alerting administrative staff to the need for CTL action.
- 4.40 Review and expiry dates are entered into CTL diaries which are generally kept up-to-date and endorsed clearly with actions. The use of the SCOPE computer system as a back-up varied, however. Two offices also recorded all CTL cases on a white board, which is clearly visible to all staff. Although B1 caseworkers or lawyers checked the accuracy of the calculated expiry dates in two offices, no checks were carried out in the remaining offices.
- 4.41 Two magistrates' cases and one Crown Court case had incorrectly calculated expiry dates and could have resulted in a CTL failure. We were also concerned to learn that a defendant was recently released from custody at Carlisle Crown Court after Area staff failed to notice that an application to extend the CTL had been taken out of the list.
- 4.42 We examined two cases where applications to extend CTLs had been made, one in the magistrates' court and one in the Crown Court. The Crown Court application did not comply with CTL regulations, and did not include a chronology to enable the court to consider the merits of the application. Caseworkers appeared unaware of this requirement even though the Area has CTL desk instructions. We discussed inadequacies in instructions to counsel at paragraph 4.28.
- 4.43 As things stand, existing arrangements are incapable of providing the AMT with the necessary assurances as to the effectiveness of the CTL system across the Area.
- 4.44 In October 1999, CPS Management Audit Services (MAS) produced guidelines which set out good practice in relation to custody time limits. Area systems reflect some of the good practice set out but still need to implement management assurance checks, a consistent secondary back up system, uniformity in the identification of files and ongoing training for all staff.

**4.45 We recommend that the AMT ensures that:**

- **effective and consistent CTL monitoring systems are in place across the Area;**
- **CTL desk instructions are updated and published to all staff;**
- **appropriate training is given to staff preparing applications to extend CTLs;**  
**and**
- **instructions to counsel contain details of defendants' custody status.**

**File endorsements and case management**

4.46 The standard of review endorsement varied. The relevant evidential and public interest considerations at review were fully endorsed in 51 out of 56 relevant cases examined. Continuing review decisions and consideration of unused material were endorsed in the majority of cases. We have already outlined our concerns about endorsements in relation to summary trial review, discontinuance, mode of trial considerations and bail conditions. The development of Area standards we recommend at paragraph 6.27 should include file endorsements. Endorsements of out-of-court work were clear and comprehensive in the majority of magistrates' court and Crown Court cases.

4.47 The contents of both magistrates' and Crown Court files are usually located in a logical sequence but could be tidier. Correspondence is usually handled well but we were concerned to find 107 items of unlinked post dating back two months in the South Cumbria Committals Unit. Crown Court correspondence should always be tagged.

## PRESENTING CASES

### Introduction

- 5.1 Advocacy and case presentation in the courts are extremely important. Not only are they the most visible aspects of the work of a CPS Area, but their quality can significantly affect the outcome of prosecutions. For these reasons, the CPS has published National Standards of Advocacy setting out what can be expected of prosecuting advocates. The Standards identify seven key aspects of advocacy and case presentation in respect of which performance is to be assessed. They are: professional ethics; planning and preparation; courtroom etiquette; rules of evidence; rules of court procedure; presentational skills and case presentation
- 5.2 The Inspectorate uses the National Advocacy Standards as a guide to assess all the prosecuting advocates observed during its inspections. These include CPS lawyers, DCWs, solicitor agents and counsel in the magistrates' courts and counsel and CPS HCAs in the Crown Court.
- 5.3 Using the Advocacy Standards as a basis, we allocate marks to the advocates we observe. An advocate who is fully competent is marked as 3. However, there is a wide variation of styles and approaches to advocacy and, in order to make a proper distinction between the quality of performance of different advocates, the Inspectorate sub-divides this marking into 3- and 3+ categories. The definitions used for each marking are as follows:

Assessment	Definition
1	Outstanding
2	Very good, above average in many respects
3+	Above average in some respects
3	Competent in all respects
3-	Lacking in presence or lacklustre
4	Less than competent in many respects
5	Very poor indeed, entirely unacceptable

### CPS performance targets

- 5.4 The CPS nationally has revised its advocacy performance target from CPS advocates who under-perform (assessment box 4 and below) to advocates whose performance is significantly above normal requirements (box 2), as measured by the Inspectorate.
- 5.5 The key objectives for the CPS over the period 2001-2004 include a target to increase to 10% CPS advocates who perform significantly above normal requirements by 31 March 2004. The CPS Business Plan 2001-2002 set an interim target of 7% by 31 March 2002.

- 5.6 It is important therefore that Areas actively develop lawyers and DCWs and seek ways to build on existing performance.
- 5.7 We observed 16 CPS advocates, including CPS lawyers, DCWs and an HCA prosecuting cases in the magistrates' and youth courts, and the Crown Court. One advocate performed significantly above normal requirements, which equates to 6.25% of CPS advocates observed.

### **The quality of advocacy in magistrates' courts**

- 5.8 We visited six magistrates' courts and three youth courts, and observed 18 advocates. Our findings are set out in the following table:

<b>Magistrates' Court</b>	1	2	3+	3	3-	4	5	<b>Total</b>
Crown Prosecutors	0	1	3	8	1	0	0	13
DCWs	0	0	0	2	0	0	0	2
Agents	0	0	2	0	1	0	0	3
<b>Total</b>	<b>0</b>	<b>1</b>	<b>5</b>	<b>10</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>18</b>

### ***Crown Prosecutors***

- 5.9 The majority of Area lawyers are capable, professional and fair advocates. Youth specialists are well-trained and knowledgeable.
- 5.10 Of the 13 CPS lawyer advocates we observed, all but one were entirely competent. One lawyer performed significantly above normal requirements.
- 5.11 Area lawyers are currently required to cover three court starts per week (which equates to between three and six half-day sessions) The need to cover these starts influenced the Area's decision on whether it had sufficient lawyers to staff TUs.
- 5.12 Areas where CJUs and TUs have been successfully established, re-assessed the number of court starts undertaken by lawyers to take account of the change in the types of work handled in each Unit. CJU lawyers can expect more court starts than TU lawyers because they are no longer preparing committals and handling Crown Court casework. The Area did not re-assess the number of court starts prosecutors could expect when it formulated its plans for Glidewell implementation.
- 5.13 In April 2000 four magistrates' courts were closed in Cumbria (each sitting one-day a week) and their work absorbed by existing courts. The only regular additional criminal court in the county is a fortnightly PYO trial court at Carlisle, although there have been revisions to court sitting patterns. The Area is therefore required to cover fewer court starts with the same number of prosecutors (although one lawyer post has been replaced by a DCW).

- 5.14 It was also clear during the course of our observations that listing in some courts is light and in some cases lawyers had concluded their court work before 12 noon. This counts as a court start.
- 5.15 The Area is conscious of the implications light listing may have on the best use of CPS lawyer resources. It has access to MCS data on sitting hours per courtroom. The AMT should consider this data, together with the number of disposals per session, as part of the review of lawyer deployment we discuss at paragraph 6.14 and to inform negotiations on changes to listing practice.

### *Designated caseworkers*

- 5.16 The Area has two DCWs, with a third undergoing training having been recently appointed in North Cumbria. We observed two, both of whom were entirely competent. They are fully aware of the restrictions placed on them and decline to handle cases outside the scope of the scheme.
- 5.17 List building for DCWs has been relatively successful in the north of the county but less so in the south.
- 5.18 The South Cumbria DCW currently prosecutes cases at Kendal, Penrith and Barrow. Lists at Kendal and Barrow invariably contain a mixture of work, some of which DCWs are not empowered to prosecute. A lawyer presence is required for each of these courts. The result is that at Barrow, and to a lesser extent at Kendal, the Area is deploying two prosecutors where one would suffice. Although the Area's commitment to deploying DCWs wherever possible is admirable, this arrangement does not represent the best use of resources.
- 5.19 The recently launched Cumbria Magistrates' Court Service listing policy provides that courts should seek to list in such a way that CPS may deploy a DCW to prosecute in agreed courts. Clearly the Area wishes to deploy all staff to best effect and we make a recommendation dealing with DCW usage at paragraph 6.51.

### *Agents*

- 5.20 Since April 2000, on average between 5-10% of court sessions are covered by agents. Although agents are generally used to conduct trials in both the adult and youth courts, their use does not work to the detriment of Area lawyers who conduct a fair proportion of trials. The Area is lucky to be able to draw on several experienced solicitor agents, including former CPS prosecutors. Distances from counsels' chambers can sometimes make it difficult for the Area to secure the services of suitably capable counsel agents. The Area attempts to get around this difficulty by block-booking counsel.
- 5.21 The performance of agents reflects on the Area's standing with CJS partners. We observed three agents. Two were better than average, one less impressive. We discuss monitoring of agents' performance at paragraph 5.35.

## The quality of advocacy in the Crown Court

5.22 We visited Carlisle Crown Court and observed five counsel and one HCA. Our findings were as follows:

<b>Crown Court</b>	1	2	3+	3	3-	4	5	<b>Total</b>
Counsel & HCAs	0	2	2	2	0	0	0	5
<b>Total</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6</b>

### *Counsel*

5.23 Counsel are graded into four categories ranging from the least experienced to those who can deal with the most serious, sensitive and complex cases. The Area is currently served by chambers in Liverpool, Preston and Manchester.

5.24 The Area is generally able to instruct suitably experienced counsel, particularly at senior levels. We observed five counsel in the Crown Court dealing with a mixture of trials, PDHs and mentions. All were entirely competent, one performed significantly above normal requirements and two were above average in some respects.

5.25 The incidence of briefs returned to other counsel is high. From our file sample, we found that only seven out of the 20 originally instructed counsel (35%) appeared at the Crown Court trial. The distance counsel are required to travel is doubtless a contributory factor. Although returns are usually to suitably experienced counsel, late returns can effect the quality of trial preparation. The Area should consider negotiating service level agreements with the chambers it regularly uses in order to reduce the numbers of returns.

### *Higher court advocates*

5.26 The Area has five HCAs. They are all based in the Carlisle office and do a mixture of work at the Carlisle Crown Court, magistrates' and youth courts. HCAs do not currently cover Area cases at Preston or Lancaster Crown Courts. The HCAs have raised the profile of the Area at Carlisle Crown Court and are well regarded by other agencies.

5.27 The range of Crown Court cases dealt with by the HCAs is very encouraging. HCAs currently prosecute PDHs, appeals from the magistrates' court against conviction and sentence, and committals for sentence. One HCA was preparing to prosecute a jury trial at the time of our inspection.

5.28 We are concerned, however, that the Area may not have properly considered the effect the concentration of HCAs in the Carlisle office might have on the opportunities for other Area lawyers to develop in terms of Crown Court work. The expectation that HCAs will continue to undertake a full-range of duties might also restrict their ability to develop further in the Crown Court.

- 5.29 Since our inspection, a further two HCAs have been selected for training. They are both based in the Workington office, and under current plans will prosecute cases in the Carlisle Crown Court. The AMT should ensure that the casework needs of the South Cumbria Unit are fully considered under this proposed arrangement.
- 5.30 There is currently no duty lawyer scheme for the Crown Court but HCAs are able to give instructions on pleas offered whilst they are at the Crown Court. In other cases, counsel can and usually do discuss developments with an experienced lawyer over the telephone.

### ***Crown Prosecutors***

- 5.31 All of the Area's lawyers prosecute preliminary hearings in indictable-only cases and respond to bail applications in the Crown Court. Although we did not observe any of these hearings, lawyers were praised for their preparation as well as their presentation skills.

### **Monitoring of advocacy standards**

- 5.32 Regular and effective monitoring of prosecutors reinforces good performance and identifies training and development needs in areas where performance can be improved. Monitoring of agents and counsel enable the Area to be satisfied it is instructing suitably capable representatives.
- 5.33 There are currently no organised advocacy monitoring programmes in the Area. As a result, there are no consistent, Area-wide measurements of performance.
- 5.34 The Area would like to introduce a formal monitoring system but feels unable to do so because of resources, time and the dispersal of courts. Whilst we have some sympathy with this view, the AMT must be able to satisfy itself that core business is being properly delivered and that the Area contributes to the achievement of the national advocacy performance target.
- 5.35 Some ad hoc monitoring does take place. Managers may observe lawyers if their own court finishes. Some effort is made to assess the competency of new agents in the magistrates' court and feedback is sought from court clerks. Monitoring of counsel in the Crown Court is rare, however. DCWs were monitored after they completed their training but there are no organised programmes to assess their continued development.
- 5.36 Changes in reporting arrangements arising out of the formation of the new Units makes the need for formal monitoring even more pressing.
- 5.37 We recommend that the Area develop a formal monitoring system to assess the performance of CPS lawyers, DCWs, agents in the magistrates' court and counsel in the Crown Court.**

## **MANAGEMENT OF THE AREA**

### **Organisational and management structure**

- 6.1 At the time of the inspection, the Area was in the process of moving towards new structures in order to implement the Glidewell recommendations. Two Joint Unit Heads had been appointed to manage and oversee the development of Trials Units and Criminal Justice Units in the North and South of the county, but major organisational change had not yet begun. The Joint Unit Heads, based in Carlisle and Kendal, had assumed overall responsibility for work and staff in their respective parts of the county, but offices in Workington and Barrow were still headed by senior lawyers.
- 6.2 The ABM and CCP are supported by a small Secretariat, where personnel, training, accommodation, health and safety and some finance functions are carried out.
- 6.3 The Area Management Team consists of the CCP, ABM, the Joint Unit Heads, the senior lawyers from the Workington and Barrow offices, and the Area's SCL. It is possible, however, that the composition of the AMT may change when final structures are decided.
- 6.4 The AMT usually meets monthly. The budgetary position, staffing, and accommodation issues, particularly those relating to the implementation of Glidewell, have been regular items on the agenda, and the AMT considers a range of operational and strategic topics. However, performance, although considered from time to time, is not considered regularly, and there is no regular monitoring of the achievement of objectives in the business or other plans.
- 6.5 The AMT has recently drafted terms of reference to govern its work. We welcome this move. While the terms of reference include recognition of the need to monitor plans regularly, the AMT's role in monitoring and managing Area performance needs developing. We make a recommendation about performance management at paragraph 6.27.

### **Strategy and planning**

#### ***Implementation of the Glidewell recommendations***

- 6.6 Reorganisation of the Area began with the appointment of the two Joint Unit Heads, and the division of the county into North and South Joint Units. Within this divisional structure, final arrangements for the establishment and location of TUs and CJUs had yet to be finalised. Planned arrangements for North Cumbria were for the establishment of:
- a co-located TU in the CPS offices in Carlisle;
  - a CJU in Carlisle, co-located if possible; and
  - a CJU in Workington, co-located if possible.



- 6.7 At the time of the inspection, it appeared that the establishment of a co-located CJU at Carlisle was unlikely to be achieved, and arrangements at Workington were uncertain.
- 6.8 In South Cumbria, plans were more certain and included:
- a TU within the Kendal office, at which all Crown Court case workers in the south of the county were to be based, and in which police staff would have working space, and the retention of accommodation for TU in Barrow;
  - the establishment of a co-located CJU at Kendal Police Station; and
  - a co-located CJU at Barrow, probably in Barrow Police Station.
- 6.9 In North and South Cumbria implementation groups, consisting of a cross section of staff, have been established to work with the police on the development of new administrative arrangements and the practicalities of co-location. In the South, where plans are more advanced, a member of CPS staff has been designated to work full-time on planning the change. A project leader from amongst police staff was awaited.
- 6.10 Under the new structure, it is envisaged that lawyers will not be assigned specifically to a TU or CJU but will undertake both magistrates' and Crown Court casework. TUs would therefore, in effect, be Committals Units, with lawyers at all four sites continuing to carry a mixed caseload. However, within the Area we found differing understandings of the final plans. For example, some senior staff indicated that the Committals Units at both sites would eventually contain all Crown Court caseworkers; others were of the view that, in the north of the county, some caseworkers would remain at Workington.
- 6.11 The Area determined its overall approach to the implementation of Glidewell in 1999. Since then progress in moving forward has been slow, and discussions between the CPS and police have had to be revived on two occasions. The commitment of the police to co-location in Kendal was achieved shortly before the inspection, and to co-location in Carlisle and Barrow only during the inspection itself.
- 6.12 The Area's plans for the location of the new Units have been governed by the geography of the Area, and the organisational arrangements of the police and magistrates' courts, which suggest a need for a continued CPS presence in the four existing locations. In addition, the Area is of the view that it is not possible to dedicate lawyers to TUs or CJUs as such an arrangement would not provide sufficient flexibility to deal with variations in Crown Court and magistrates' court workload, or adequate court coverage (based on three court starts per week per prosecutor). The Unit structure is therefore to be based on the existing office structure. The deployment of administrative staff will be determined following detailed discussions with the police about changes in administrative systems arising from co-location.
- 6.13 The Area's lawyer establishment is substantially greater than the needs of its workload using activity-based costing (ABC) calculations, and we discuss the consequent difficulties this presents for the Area budget in paragraph 6.35. However, options for change have not yet been costed, nor their implications for the Area budget considered, nor has an analysis of staffing levels within possible new structures been

carried out. In particular, no analysis has been carried out of lawyer numbers necessary to meet the workload and court sessions under any new arrangements. The establishment of new Units provides an opportunity for the Area to consider structures and numbers anew and in the longer-term work towards staffing arrangements which may help it to keep within budget.

- 6.14 While recognising the influences that have affected the Area's current thinking, we have some concerns about planned arrangements for development of TUs and the lack of designation of lawyers, and the impact that might have on achieving the improvement in Crown Court casework envisaged by Glidewell. Further work needs to be done to analyse the deployment of lawyers including an analysis of the number of court sessions undertaken, court finishing times, and options for structures developed, with targets set for future staff deployment. Paragraphs 4.32-4.37 refer to ways more could be done to use staff efficiently in the Crown Court. The Area should ensure that, as part of their implementation of the Glidewell recommendations, arrangements are made to ensure both lawyers and caseworkers are efficiently deployed in Preston and Lancaster Crown Courts and that there is a proper distribution of HCAs across the county.
- 6.15 Staff structures within the new Units have also yet to be determined, apart from the Unit Heads. In particular, the grading of staff to manage proposed CJUs in Barrow and Workington had yet to be decided.
- 6.16 We recommend that the Area produce costed options for the development of TUs and CJUs.**
- 6.17 The Area Business Plan was drawn up by the ABM and Unit Heads for discussion with the CCP. The plan reflects national objectives, and strategies and processes to achieve them are relevant and pertinent to the local situation in Cumbria. Arrangements for distributing the plan to staff varied from team to team; some managers providing a summary, some circulating the document. However, there appears to have been little discussion with staff about Area objectives, although staff were generally aware of the importance of meeting targets for the despatch of committal papers to the defence and briefs to counsel. Some staff reported that Area objectives were reflected in forward job plans.
- 6.18 The AMT, in drawing up terms of reference, has recognised the need to formalise some of its activity. It will be important in future for the AMT as a whole, and as a strategic group, to be involved in setting Area priorities in the light of national and local priorities and Area performance. Although some staff are now involved in the local Glidewell implementation groups, in general staff have had little involvement in the planning process and paragraph 6.61 discusses the fact that some staff feel remote from Carlisle. For the future, the Area should ensure that staff are involved in the planning process, to enable them to better understand the part they play in, and their importance to, the achievement of Area objectives. This is particularly important at a time of change.

**6.19 We recommend that the AMT, as a strategic group, is involved in determining Area priorities and strategies, and that the Area examines ways of involving staff in the planning process.**

### **Performance management**

- 6.20 The AMT considers some aspects of performance at its meetings, in particular budgetary and PYO performance. Performance in relation to national performance measures is not considered regularly.
- 6.21 The Area has recognised the need to produce and receive regular monthly performance information and graphs are now prepared showing Area and individual office performance against Area targets. Graphs are distributed to Unit Heads and senior lawyers. Performance is discussed with staff at team meetings (although as we discuss in paragraph 6.59 team meetings are not always held regularly) and graphs are displayed on some office notice boards. Not all staff understood the meaning of the performance information as it was presented, however, and further work needs to be done.
- 6.22 As we have already outlined, arrangements for the monitoring of the quality of work being undertaken vary from office to office. The regular arrangements to monitor review work on summary trial files, committals and guilty pleas in place in the Kendal office have not yet been extended to the Barrow office. Elsewhere, monitoring is irregular and outcomes not recorded and we set out our concerns about aspects of advice, review, endorsements, instructions to counsel and monitoring of advocacy earlier in our report. The Area should consider the adoption of countywide standards against which performance should be monitored consistently across the county.
- 6.23 No formal arrangements are in place for the monitoring of administrative systems; which tend to be ‘observed’ to ensure they are being carried out correctly, or that backlogs are not occurring. The review of administrative systems, which should be brought about by co-location, will enable the Area to consider whether more formal monitoring arrangements for some aspects of work are required.
- 6.24 We deal with the inconsistencies in office practice across the Area at paragraph 6.29 and recommend the development of common office systems.
- 6.25 The achievement of objectives in the Area Business and other Plans is not formally monitored by the AMT. In common with other Areas, the Area would benefit from identifying in its plans responsibilities for action and timescales for the achievement of objectives, against which progress can be monitored.
- 6.26 The AMT should now determine the range of performance information it wishes to consider, including information about quality, the frequency of reporting, and arrangements for consideration by AMT.

**6.27 In addition to the specific recommendations made elsewhere in this report, we recommend that it determine the range of performance information it needs to assure itself that it is performing effectively, the frequency of reporting and arrangements for consideration by AMT, and in particular that:**

- **Area standards are developed for key aspects of work;**
- **performance against standards is regularly and consistently monitored across the county;**
- **responsibilities and timescales for action are assigned to objectives in the Area Business and other Plans, and that;**
- **progress against the achievement of objectives is regularly monitored, reported, and evaluated.**

6.28 We discuss the use the Area should make of its SCL in any programme of quality assurance it might develop at paragraph 3.81.

### **Office systems**

6.29 Office systems vary widely across the Area. The formation of the new Units and the installation of the Connect 42 computer system provides an ideal opportunity to standardise office systems. Common systems should enable managers to use staff more flexibly across the Area and assist them in the development of performance measures applicable to the Area as a whole. Efforts have already been made to standardise working practices among typists.

6.30 We have already commented on deficiencies in the systems to monitor the return of child video evidence, domestic violence and racial incidents and the different systems employed to monitor custody time limits.

6.31 We discuss the backlog in case finalisations at paragraph 6.40. The Area archiving system should be reviewed to ensure that files received for archiving have been finalised, and that resources are used efficiently in their management.

6.32 The Area recently appointed a Business Manager for the North Cumbria Unit and hopes to establish a similar post in the South when the budget allows. In reality, therefore, the timing of such an appointment is uncertain. This inspection has highlighted some deficiencies in systems and the need for improved performance management. The Area should ensure that the post holder is deployed to bring about improvements across the Area.

**6.33 We recommend that the Area develop common office systems across the four offices.**

## **Financial management**

- 6.34 The Area's final budget allocation for 2000-2001 was £1,785,500. Area expenditure amounted to £1,934,280, and therefore exceeded budget by slightly more than 8%, the highest percentage overspend of any Area. For 2001-2002, the Area was funded at £2,056,160, higher than its ABC funding assessment. At the mid-year point, Area expenditure amounted to 48.7%, although the Area was again projecting an overspend by the year end.
- 6.35 Unlike other Areas, the increase in budget has not resulted in any increase in staff numbers. Staffing costs account for about 90% of current Area budget. Paragraph 6.45 refers to the fact that, for historical reasons, the Area carries excess level D lawyers. The Area is aware that the only way to reduce expenditure significantly is to reduce expenditure on staffing. It is vital, therefore, that plans for the implementation of Glidewell include an assessment of the effect of the options for organisational change on future budget. Work has yet to be done to examine the effect of the Glidewell proposals on the budget.
- 6.36 The budget is allocated to budget heads using information on projected staffing costs provided by the Service Centre and, for other heads, is informed by last year's expenditure. The budget is monitored using management reports from the Service Centre; committed expenditure is not included in forecasts of projected expenditure. The budget is reviewed mid-year and money is vired between budget heads if necessary as a result of that review.
- 6.37 The ABM and CCP receive budget reports monthly and we were pleased to find that the budgetary position is reported regularly to the AMT, and information is also, from time to time, circulated to staff via the *AMT Briefing Note*.
- 6.38 The Area has taken steps to minimise expenditure where possible. Training is held locally or in house when possible, and requests for use of agents are made centrally through the Secretariat, where expenditure is tightly controlled.

## **Performance indicators**

- 6.39 Accurate casework information is vital, not only in presenting a proper record of Area performance, but in assessing and securing the funding required to deal with its casework. As we have already discussed, the file sample requested by the Inspectorate included files that had been incorrectly categorised and cases recorded in the performance indicators (PIs) that the Area could not trace.
- 6.40 The Area's carry forward figures were inflated by a failure to finalise cases going back some years. This could have a significant impact on the funding of the Area, which is based on completed cases. We found that approximately 350 Crown Court cases had not been finalised, dating back as far as 1996. In addition, Crown Court and magistrates' court warrants are not being written-off for PI purposes and therefore credit not being received.

- 6.41 The Area has carried out some PI training courses for staff. However, there are no management checks in place to ensure the accuracy of performance indicator information.
- 6.42 The Inspectorate's Report on the Review of Performance Indicator Compliance and Case Outcomes (Thematic Report 3/2000) should assist the Area in ensuring the accuracy of its performance data.
- 6.43 **We recommend that in an effort to ensure that cases are promptly finalised the ABM arrange:**
- **an urgent stock-take with priority given to Crown Court cases; and**
  - **introduce systems to check that cases are finalised.**

## **Management of human resources**

### ***Staff numbers and deployment***

- 6.44 Using ABC calculations, the Area was overstaffed by six lawyers at the time of the inspection; caseworker and administrative staff numbers are, across the Area, broadly similar to the number achieved through ABC costing.
- 6.45 The Area employed 22.4 lawyers. Six lawyers are graded at level D. Four are either Joint Unit Heads or senior lawyers, one of whom has been on temporary promotion for some time following a difficult staffing situation; two are senior prosecutors. The Area also has an SCL. The Area has inherited this excess of senior lawyers, which severely affects its ability to operate within budget.
- 6.46 We discuss our concerns that insufficient attention has so far been paid to efficiency savings in developing options for the new structure in paragraph 6.14. In the short term, however, the Area is unlikely to be able to make significant progress in reducing expenditure unless its staff costs are reduced. The Area must therefore plan for the long term and have a clear sense of its final vision and structure, and plan its human resources accordingly.
- 6.47 The Area has made some adjustments to its staffing establishment and to staff deployment in the light of changing workload and new procedures. For example, a Crown Court caseworker was moved from Workington to Carlisle because of the increasing workload at that centre; all caseworkers in the south of the county are now based in Kendal to allow a fairer distribution of caseload and flexibility in court coverage; and a lawyer post was replaced by a DCW post.
- 6.48 The challenge for the Area lies in employing its staff efficiently in the current structure, and in its forthcoming structure. Paragraphs 4.32-4.37 set out our concern at the current deployment of casework and legal staff in the Preston and Lancaster Crown Courts, and paragraph 5.29 our concern that HCAs need to be utilised better across the county. The Area should also take steps to examine the utilisation of lawyers in Workington and Whitehaven where, during our period of observation, it appeared that a significant proportion of courts finished for the day at lunchtime. We

refer to the need to examine court finishing times in determining future structures at paragraph 6.14

- 6.49 We have already outlined our concerns in relation to the utilisation of the South Cumbria DCW at Barrow Magistrates' Court and the attendance by both DCW and lawyer to cover the same court. Although discussions have been held locally with the magistrates' court over listing arrangements, further discussion is needed at senior level. The DCW is currently in attendance two days a week. Better use may be made of her time if attendance was limited to a particular day or days when a full list of work suitable for a DCW could be achieved, including, for example, prosecuting appropriate sentence cases.
- 6.50 The DCW and a lawyer also attend the same court in Kendal although, as the CPS office is in the courthouse, both are able to make better use of their time when they are not needed in court. However, this arrangement also is not entirely satisfactory and does not represent an efficient use of resources.
- 6.51 We recommend that the CCP resume negotiations with the Justices' Clerk over listing arrangements in South Cumbria to ensure appropriate use of the DCW.**
- 6.52 Although all of the South Cumbria B1 caseworkers are now based in the Kendal office, Crown Court work continues to be undertaken by lawyers in both Kendal and Barrow. These new arrangements, although put into place for other reasons are, in fact, the arrangements planned when TUs are established. Some difficulties have arisen from the new situation. In particular, we saw evidence of less involvement by lawyers in decision-making, rather than the greater involvement envisaged by Glidewell. When considering options for the establishment of TUs and CJUs, therefore, the Area should ensure that this most recent change is fully reviewed.
- 6.53 The interim structure currently in place has led to some uncertainties about the role and responsibilities of senior lawyers in Workington and Barrow. Final grading of any staff who may lead co-located CJUs at these sites has yet to be determined, but in the meantime responsibilities should be clarified.
- 6.54 We suggest that the role and responsibilities of the senior lawyers in Workington and Barrow be clarified.**

### ***Induction and training***

- 6.55 Satisfactory systems are in place for the induction of staff. Induction meetings are arranged between the Secretariat manager and new members of staff, including casual staff, at which staff are given an introduction to the CPS and the CJS, and conditions of service. Initial meetings are followed up by a telephone call five weeks later to check whether all is well. Suggested training plans are in place for the initial training of administrative staff.

- 6.56 The Area's training plan is drawn up by the Secretariat manager and based on an analysis of personal development plans and national training requirements. The Area tries to ensure that as many courses as possible are delivered locally in order to prevent excessive travel and subsistence claims in the light of constraints on the Area budget.

### ***Employment practice***

- 6.57 For the year 2000, sickness levels stood at 10.5 days per employee, whilst the Area's target for 2001 is 7.5 days. The Area has recognised the need to try to reduce levels of sickness absence and managers were reminded during 2001 of procedures to address this issue where appropriate. The Area has a reasonably good record in relation to other CPS Areas on completion of staff appraisal with all appraisals for the 2000-2001 reporting year having been completed by the end of October 2001. Even so, this is an aspect of performance where a general improvement is needed.
- 6.58 Staff are aware of how to receive advice on personnel issues and of systems for reporting complaints and grievances.

### ***Communication***

- 6.59 Methods for, and the quality of, communication vary across the Area, from Unit to Unit and office to office. Unit Heads and senior lawyers are responsible for disseminating information to their teams. In some offices team meetings are held reasonably regularly and specific attempts made to talk to separate groups of staff when meetings cannot be held; in others meetings are less frequent. As we discussed in paragraph 3.50 communication of learning points is poor.
- 6.60 The minutes of AMT meetings are circulated to staff, and one Unit Head also prepares an *AMT Briefing Note*, a synopsis of the main issues, which is circulated to staff along with accompanying papers. The *Briefing Note* was well received by staff and, although prepared for use in one Unit only, is also circulated in part of the other Unit. It is not formally circulated across the Area, however.
- 6.61 Some offices reported a sense of isolation and separation from Carlisle, which is seen as the centre of Area activity. The CCP and ABM are aware of the need to be more visible across the Area. The ABM has visited local offices, particularly in order to take forward issues concerning co-location, but until recently visits had not been regular. The ABM has now drawn up a programme of regular visits to offices but the CCP has yet to do so.
- 6.62 The Area is in the process of undergoing important changes and communication needs to be properly managed during this time. The Area should establish a communications strategy, which includes, amongst other things, arrangements for staff meetings, and arrangements for visits by the CCP and ABM to the offices. In considering their contact with the offices, it will be important for the CCP and ABM to have a clear sense of purpose for their visits. Other Areas have found it helpful to use them as an opportunity to discuss performance, Glidewell implementation and other relevant national and local issues, and to receive feedback from staff.



- 6.63 Consideration will need to be given to the use to be made of Connect 42 in communication across the Area.
- 6.64 We recommend that the Area establish a communication strategy that includes arrangements for meetings, for contact between the CCP and ABM and Area offices, and use of Connect 42.**
- 6.65 The Area has an active Whitley Council, which meets regularly, but staff interest in the Area Sounding Board has waned, partly we understand because links via the family group with the Chief Executive's Sounding Board were seen as tenuous. In developing its communications strategy the Area should also consider the role of the local Sounding Board and how interest may be revived.

### *Equality and diversity*

- 6.66 The Area has drawn up a Diversity and Equality Action Plan for 2000-2003. The plan sets out Area activity in a number of aspects including staff education and recruitment. However, progress against the achievement of objectives is not monitored regularly and this should be addressed.
- 6.67 Some 6% of Area staff are disabled and the Area has worked conscientiously to adapt both equipment and working practices to ensure that disabled staff are able to work to the full extent of their abilities.
- 6.68 No members of Area staff are from minority ethnic groups. The minority ethnic population from traditionally classified groups in Cumbria is 0.46%, which translates for the Area into a benchmark figure of 0.5 members of staff. The Area has considered how to address the absence of staff from minority ethnic groups by recruitment, and has considered advertising vacancies in minority ethnic publications. However, the absence of information about levels of readership in the county has meant that the Area has not seen this medium as a cost-effective way of recruiting staff, given current constraints on the budget. The Area has found it difficult to connect with minority ethnic groups in the Cumbria area in the absence of a Racial Equality Council. Contact has now been made with relevant staff in the local authority and the Area is hoping that this will assist them in understanding local populations and indicate how to proceed.
- 6.69 The Area recruits permanent administrative staff through the Job Centre. Some non-permanent positions are filled through staffing agencies, but sometimes casual staff are recruited by word of mouth. The Area needs to satisfy itself that this approach meets CPS objectives in relation to equality and diversity, as such a practice may have the effect of restricting access to opportunities. While it may occasionally be necessary and acceptable to recruit staff in this way, for example at times of extreme urgency or for very limited holiday cover, care needs to be taken.

- 6.70 Areas are now required to analyse current staff composition by gender, minority ethnic background, and disability, and set targets for the staff mix for 2002 and 2005. Although analysis of the current composition had been carried out, targets had not been set for later years. This should be remedied. In reality, the staff profile is unlikely to be open to change immediately as Cumbria, unlike some Areas, is not involved in the substantial recruitment of new staff. However, targets should be set for 2005.
- 6.71 At the time of our inspection, the majority of Area staff had only recently attended the national equality training programme and some still had to attend. As yet, there had been no formal discussions within the offices about the programme or how issues raised in the training may be relevant to Cumbria.
- 6.72 Staff had also received the national *Dignity at Work* leaflet although, again, there had been no formal discussion of how the relevant issues might apply in Cumbria. The Area has had to deal with a number of difficult staffing issues in recent years, some arising from poor behaviour between members of staff. While staff relationships had generally improved, some residual difficulties remain. The Area is also unusual in having several couples in its offices. In some cases, both partners are employed in the same office. Such circumstances require consideration of all parties to the sensitivities of others. The Area had yet to appoint an equal opportunities officer. This should be addressed. With this appointment, the Area should consider how best to involve staff across the Area in the development of diversity and dignity initiatives.
- 6.73 We recommend that the Area appoint an equal opportunities officer and carry out work with staff to consider how the principles of equality and diversity, and the *Dignity at Work* initiative, should best be applied in Cumbria.**
- 6.74 The Area is a member of the Race Issues sub-group of the Area Criminal Justice Strategy Committee, which is chaired by the Justices' Chief Executive. It is represented by the Secretariat manager, who also co-ordinates the RIMS returns. The Race Issues sub-group has carried out an audit to establish the current position within each agency in respect of responses to the Stephen Lawrence enquiry, training on race issues and responses to the Human Rights and Crime and Disorder Acts, to enable it to develop a Race Issues Strategy for the Area. Action is also being taken to invite views from the community on the operation of the CJS in Cumbria. The CCP should ensure that the CPS is fully involved in these initiatives and that the Area is represented at the right level.

#### **Accommodation and health and safety**

- 6.75 Staff at each office carry out monthly health and safety checks, and quarterly reports are made to the Service Centre. Arrangements for any necessary work are made jointly between the Area, the Service Centre and the managing agents. Although health and safety improvements have recently been carried at several office sites, the Area should consider producing action plans to enable them to ensure required work is carried out and to monitor progress.

- 6.76 Arrangements for the testing of fire alarms and the carrying out of fire drills rests with the major occupier of each of the buildings used by the Area, and are carried out regularly except in the Workington office. Staff in the Workington office are unable to hear the fire alarm and drills are not carried out. Action needs to be taken immediately to remedy this shortcoming.
- 6.77 We recommend that action is taken immediately to ensure that the fire alarm is audible by staff in the Workington office and that fire drills are held regularly.**
- 6.78 The standard of accommodation across the Area is generally satisfactory, and staff have sufficient space, although at the time of the inspection offices had recently had Connect 42 equipment installed, and some old equipment remained in situ. However, files were not kept securely in some sites. Attention needs to be given to the appropriate storage of live files.
- 6.79 Good arrangements are in place in Carlisle for the logging in and out of visitors. Arrangements elsewhere are unsatisfactory.
- 6.80 We recommend that the Area review security arrangements within its offices, in particular the security of files and arrangements for dealing with visitors.**
- 6.81 In the longer term, the Area's accommodation strategy depends on co-location with police at some sites. Final arrangements for accommodation had not been finalised at the time of the inspection.

#### **Victims and witnesses**

- 6.82 A key CPS performance target is to meet the needs of victims and witnesses in the CJS, in co-operation with other agencies. The CCP sees this as one of his priorities for the Area. The CPS nationally is committed to improving the satisfaction level of victims and witnesses with their treatment in the CJS by 5% over 2001-2002, as measured by the British Crime Survey.
- 6.83 Victim Support is well established in Cumbria. The Witness Service operates in all of the Crown Courts served by the Area and is in the process of establishing itself in magistrates' courts. Relationships with Area staff are good but liaison arrangements tend to be informal.
- 6.84 The Witness Service relies on information from the CPS to enable it to deliver a quality service to victims and witnesses. The information presently provided by the Area is insufficiently detailed, particularly in more run-of-the-mill cases, and the Witness Service is rarely given any information about witnesses with special needs.
- 6.85 Witness waiting times at Carlisle Crown Court are poor. A significant contributory factor is the long-established Area practice of warning all prosecution witnesses to attend court on the first day of trial, irrespective of whether they are likely to be called to give evidence that day. This practice appears to find its roots in a local custom of parading witnesses in front of juries to ensure they do not know each other. Travel difficulties faced by witnesses is relied upon by way of additional justification. As a result, it is not unusual for witnesses to wait for several days to give evidence.

- 6.86 Other courts face these difficulties without resorting to this practice. The Area should take urgent steps to rectify this unsatisfactory situation. Court waiting times are discussed at every Crown Court user group meetings yet the practice of warning all witnesses for the first day of a trial has not been effectively addressed by the Area.
- 6.87 We recommend that the AMT work together with other CJS agencies to improve the quality of service to victims and witnesses attending Carlisle Crown Court.**

### **Handling of complaints**

- 6.88 The CCP deals with all parliamentary correspondence. Unit Heads and senior lawyers respond to all other complaints, with input from the reviewing lawyer if necessary. Complaints registers are kept at each office, except Workington where the register is kept at Carlisle.
- 6.89 The national CPS target for substantive replies to complaints is within 10 days of receipt in 93% of cases. Area figures for timeliness of response to complaints in the year to September 2001 was 100%. Our examination of the complaints registers revealed that timeliness is being inaccurately recorded. One register did not record timeliness at all.
- 6.90 Responses to complaints tended to be formulaic, using standard paragraphs and legalistic terminology, instead of addressing the issue raised and providing a clear answer to the complainant. As a result, there was a risk that some complainants were unlikely to be satisfied by the CPS response. By contrast, two telephone complaints had been handled well, with typed notes prepared setting out the nature of the complaint and the response given.
- 6.91 In light of the recent moves into Units, the Area should formulate an Area-wide complaints procedure, with specific guidance being given to ensure that all complaints are handled appropriately and sensitively. The AMT should analyse complaints to ensure lessons are learned.
- 6.92 We suggest that the AMT:**
- **introduce an Area-wide complaints procedure with specific guidance on the appropriateness of responses;**
  - **monitor the timeliness of responses; and**
  - **analyse complaints to establish whether any trends are emerging.**

## **External relations**

### ***Inter-agency working***

- 6.93 The Area enjoys constructive and cordial relationships with other CJS partners.
- 6.94 Liaison at senior officer level is the responsibility of the CCP. He is a member of the Area Criminal Justice Strategy Committee (ACJSC) and chairs the Trial Issues Group. He contributed to the formulation of the ACJSC Strategic Plan for 2001-2003 and is responsible for championing two key objectives: reducing delay and meeting the needs of victims and witnesses.
- 6.95 Local liaison is the responsibility of Unit Heads and senior lawyers. Formal structures for local liaison include magistrates' court user groups and prosecution meetings with the police. The continuing development of Glidewell plans will require a considerable expansion in liaison with the police.
- 6.96 Existing inter-agency liaison arrangements are not always as effective as they could be, however. The Area could do more to develop or make better use of formal structures to support inter-agency working. The development of the PYO Action Plan represented a positive response by all agencies, including the CPS, to address deteriorating performance but the impetus for change came from central government. The challenge for the Area is to identify and address those areas where it can secure improvements in its own performance as well as that of other agencies.
- 6.97 We have made recommendations elsewhere in the report aimed at enabling the Area to contribute to improved performance on PYOs and cracked trials by monitoring. Our recommendation relating to witness care is designed to address a situation where regular but ineffective liaison has failed to address poor performance.
- 6.98 Recent listing initiatives at Preston Crown Court will impact on the Area's work, yet Area input has been minimal. Although Cumbria is responsible for a small proportion of work at that Crown Court centre, the number of cases is significant for CPS Cumbria. It is important, therefore, that the Area's needs are taken into account. The Area should improve liaison arrangements with Preston Crown Court by ensuring it is represented at a senior level.

### ***Joint performance management***

- 6.99 Joint Performance Management (JPM) is the mechanism agreed nationally for use by the police and CPS to improve the timeliness and quality of files, and to monitor the reasons for failures in the Crown Court.
- 6.100 Timeliness and quality are principally measured by analysis by the police of TQ1 forms completed by lawyers upon receipt of summary trial and committal files. The failure by police to include TQ1s with files, and of Area lawyers to complete and return the forms that have been supplied, have meant that this aspect of JPM is virtually defunct.

6.101 Some moves have been made to kick-start the JPM process. Hopes appear to have been pinned on a new JPM system being devised at national level. In the meantime, late delivery of files and the impact that can have on the prosecution's preparedness for PTRs and cracked trials are not being addressed. We recommend Area monitoring of receipt of summary trial files and readiness for PTRs at paragraph 4.22.

6.102 It is important that the police are given regular feedback as part of the JPM process in order to secure improvements in their performance. The CCP's bulletin and case dismissed reports go some way to providing this feedback. Some meetings are held to discuss and analyse discontinued and adverse cases but these are irregular, and rarely at senior officer level. We make a recommendation aimed at improving feedback arrangements at paragraph 3.54.

**6.103 In addition, we recommend that:**

- **the number of full files received without TQ1s is monitored and raised with the police at senior officer level; and**
- **prosecutors complete all TQ1s relating to full files.**

***Community engagement***

6.104 Area efforts to reach out to the community tend to be one-off initiatives, such as attendance at court 'open' days and talks to local schools and colleges. The Area occasionally attends Crime and Disorder Strategy Partnership Group meetings but could do more to raise its profile.

6.105 We discussed the opportunity presented by the launch of the revised national domestic violence policy to reach out to the community and made a recommendation about attendance at domestic violence forum meetings at paragraph 3.63. We discuss the CCP's efforts to reach out to minority ethnic groups at paragraph 6.68.

6.106 The treatment of victims and witnesses, and the calibre of responses to complaints, are also examples of ways the Area engages with the community and we make recommendations to improve the level of service currently provided at paragraphs 6.87 and 6.92.

## **CONCLUSIONS, RECOMMENDATIONS AND SUGGESTIONS**

### **Conclusions**

- 7.1 The Area has come some way since it ceased to be part of CPS North, and Area management and staff deserve praise for the work done so far to further raise the profile of the Area with CJS partners in the county. The CPS is pivotal to the success of area initiatives and the CCP has firmly established himself among senior officers. Casework decisions and advocacy are generally sound.
- 7.2 The challenge for the Area now is to deliver on commitments already made, and to identify and address those areas where it can secure improvements in its own performance as well as that of other agencies. In order to do so, it is vital that the Area develop a rigorous performance management regime. The move into Units in preparation for the implementation of Glidewell provides an ideal opportunity for the Area to look at key aspects of casework quality and systems, identify shortcomings and establish monitoring arrangements.
- 7.3 Although progress towards implementation of Glidewell has been slow, the Area should look at the numbers and deployment of lawyers and caseworkers it needs to deliver existing and future casework and court commitments, whilst securing the administrative savings and improvements in the quality of Crown Court casework envisaged by Glidewell. The establishment of the new Units presents an opportunity for the Area to consider structures and staff numbers anew and in the longer-term work towards staffing arrangements which keep within budget.

### **Recommendations and suggestions**

- 7.4 The distinction between recommendations and suggestions lies in the degree of priority that the Inspectorate considers should attach to its proposals. Those meriting the highest priority form the basis of recommendations.
- 7.5 With a view to improving Area performance, we make the following recommendations that:
1. the AMT formulate an Area-wide standard on the provision of advice (paragraph 2.18);
  2. an Area-wide monitoring standard be introduced to assess the quality of review (paragraph 3.23);
  3. the CCP ensure that:
    - a log is kept of all Crown Court adverse case reports;
    - analysis of adverse decisions in the magistrates' courts is included in his bulletin on adverse cases and acquittals;

- the bulletin is produced at regular intervals and circulated to all lawyers and caseworkers;
  - the bulletin be used to identify training needs, good practice and highlight successes; and
  - any trends identified are regularly discussed with the police in order to improve performance (paragraph 3.54);
4. the AMT ensure that:
- lawyers and caseworkers understand the importance of complying with national domestic violence monitoring requirements; and
  - the Area is represented at all local domestic violence forum meetings (paragraph 3.63);
5. the AMT ensure that:
- the location of the RIMS designated prosecutors for North and South Cumbria be re-visited in light of existing data;
  - the remit of designated prosecutors should include consideration of racist incident files and completion of RIMS returns from their Unit; and
  - the reasons for, and importance of, accurate racist incident monitoring be communicated to all staff (paragraph 3.70);
6. the CCP ensures that:
- all lawyers and caseworkers are kept informed about Area PYO initiatives and given regular feedback on Area performance;
  - agents in the magistrates' court and counsel in the Crown Court are instructed on the need to take proactive steps to reduce delay in all youth cases and particularly PYO cases; and
  - the Area monitors its own contribution to the reduction in delay in relation to PYO cases (paragraph 3.77);
7. police failure to serve MG6E be monitored and discussed at senior officer level (paragraph 4.12);



8. the Area should:
  - monitor delivery of trial files by the police and CPS readiness for PTRs; and
  - regularly share its findings with the police and the Magistrates' Court Service with a view to improving performance (paragraph 4.22);
9. the Unit Heads ensure that:
  - caseworkers are allocated committals to prepare in straightforward cases;
  - caseworkers prepare all briefs under the guidance of lawyers; and
  - the quality of briefs to counsel is monitored and targets for improvement set (paragraph 4.30);
10. the AMT ensures that:
  - effective and consistent CTL monitoring systems are in place across the Area;
  - CTL desk instructions are updated and published to all staff;
  - appropriate training is given to staff preparing applications to extend CTLs; and
  - instructions to counsel contain details of defendants' custody status (paragraph 4.45);
11. the Area develop a formal monitoring system to assess the performance of CPS lawyers, DCWs, agents in the magistrates' court and counsel in the Crown Court (paragraph 5.37);
12. the Area produce costed options for the development of Trials Units and Criminal Justice Units (paragraph 6.16);
13. the AMT, as a strategic group, is involved in determining Area priorities and strategies, and that the Area examines ways of involving staff in the planning process (paragraph 6.19);
14. the Area determine the range of performance information it needs to assure itself that the Area is performing effectively, the frequency of reporting and arrangements for consideration by AMT, and in particular that:
  - Area standards are developed for key aspects of work;
  - performance against standards is regularly and consistently monitored across the county;

- responsibilities and timescales for action are assigned to objectives in the Area Business and other Plans, and that;
  - progress against the achievement of objectives is regularly monitored, reported, and evaluated (paragraph 6.27);
15. the Area develop common office systems across the four offices (paragraph 6.33);
  16. the ABM arrange:
    - an urgent stock-take with priority given to Crown Court cases; and
    - introduce systems to check that cases are finalised (paragraph 6.43);
  17. the CCP resume negotiations with the Justices' Clerk over listing arrangements in South Cumbria to ensure appropriate use of the DCW (paragraph 6.51);
  18. the Area establish a communication strategy that includes arrangements for meetings, for contact between the CCP and ABM and Area offices, and use of Connect 42 (paragraph 6.64);
  19. the Area appoint an equal opportunities officer and carry out work with staff to consider how the principles of equality and diversity, and the *Dignity at Work* initiative should best be applied in Cumbria (paragraph 6.73);
  20. action is taken immediately to ensure that the fire alarm is audible by staff in the Workington office and that fire drills are held regularly (paragraph 6.77);
  21. the Area review security arrangements within its offices, in particular the security of files and arrangements for dealing with visitors (paragraph 6.80);
  22. the AMT work together with other CJS agencies to improve the quality of service to victims and witnesses attending Carlisle Crown Court (paragraph 6.87);
  23. the number of full files received without TQ1s is monitored and raised with the police at senior officer level and prosecutors complete all TQ1s relating to full files (paragraph 6.103).

7.6 We also suggest that:

1. that all prosecutors should endorse files with a record of what material is served by way of advance information (paragraph 4.4);
2. that discussions take place between the ABMs for CPS Cumbria and Lancashire to arrange court coverage at Preston Crown Court in order to make the best use of Area resources (paragraph 4.37);

3. the role and responsibilities of the senior lawyers in Workington and Barrow be clarified (paragraph 6.54);
4. the AMT:
  - introduce an Area-wide complaints procedure with specific guidance on the appropriateness of responses;
  - monitor the timeliness of responses; and
  - analyse complaints to establish whether any trends are emerging (paragraph 6.92).

## **KEY STATISTICS**

- 8.1 The charts at Annex 2 set out the key statistics about the Area's casework in the magistrates' courts and in the Crown Court for the year ending 30 September 2001.

## **EXTERNAL CONSULTATION**

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

## TOTAL NUMBER OF FILES EXAMINED FOR CPS CUMBRIA

FILE CATEGORY	No of files examined
<b>Advice Files</b>	10
<b>Magistrates' courts</b> Guilty pleas, convictions and acquittals after trial Traffic offences Acquittals where magistrates found no case to answer Cases where custody time limits applied Discontinued cases	31 10 2 10 41
<b>Crown Court</b> Guilty pleas, convictions and acquittals after trial Judge ordered acquittals Judge directed acquittals Cases where custody time limits applied Appeals against conviction	29 11 0 10 5
<b>TOTAL</b>	159

CHARTS & TABLES

Chart 1: Magistrates' Courts - Types of case

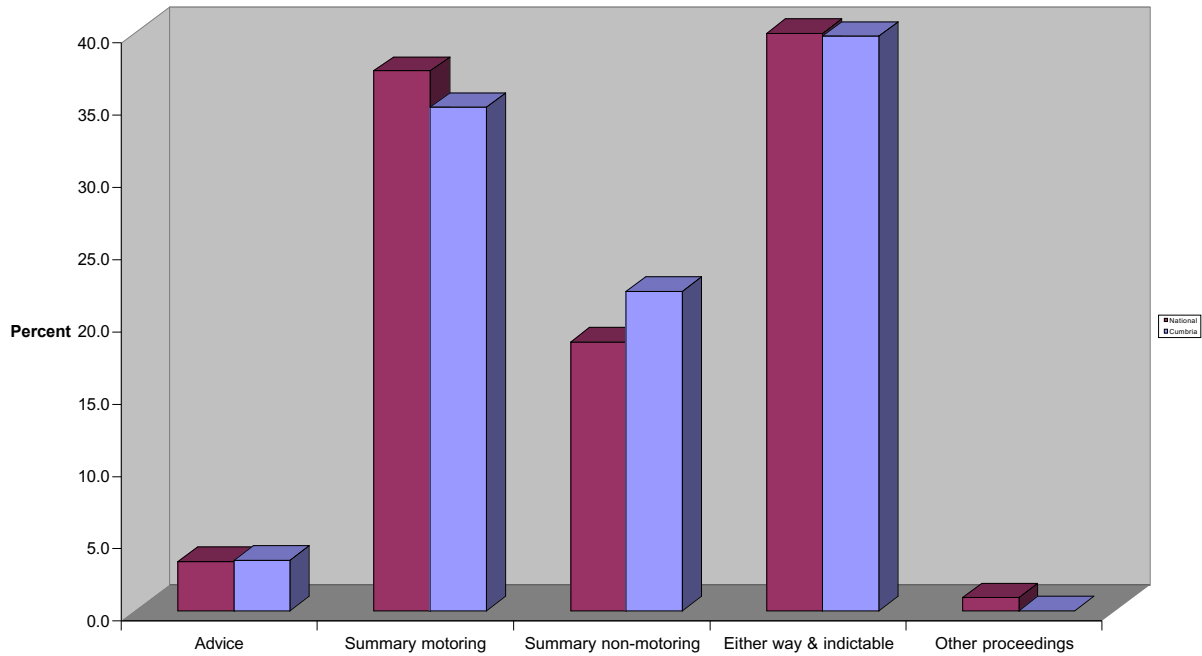


Chart 2: Magistrates' Court - Completed cases

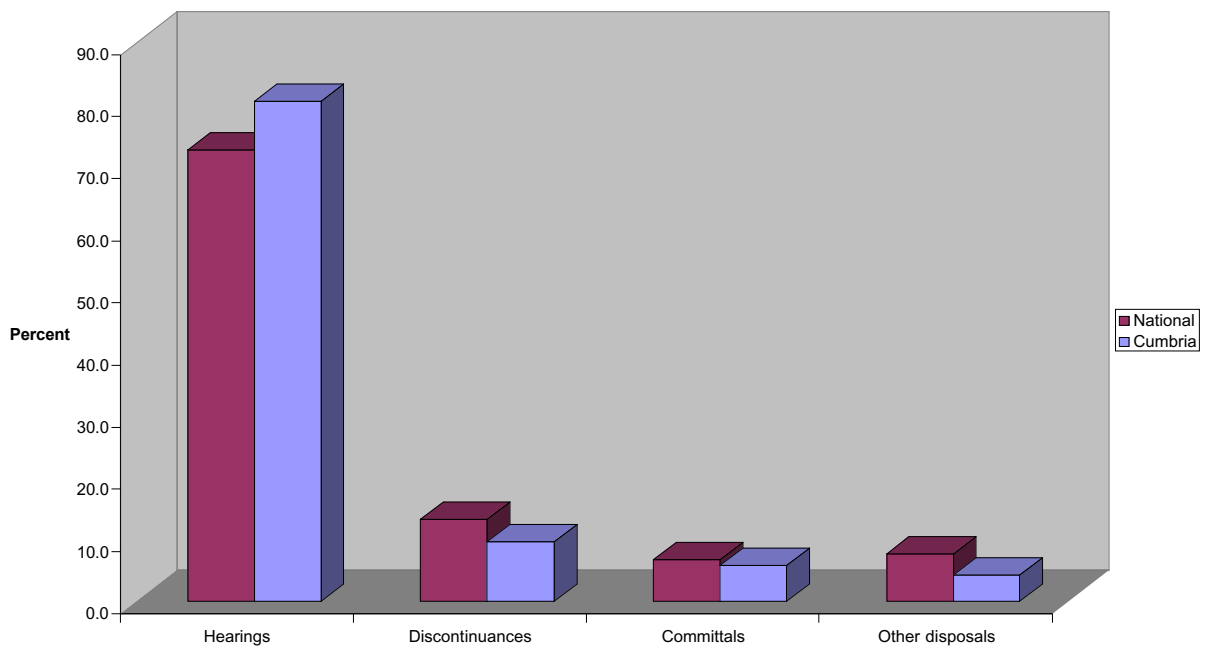


Chart 3: Magistrates' Courts - Case results

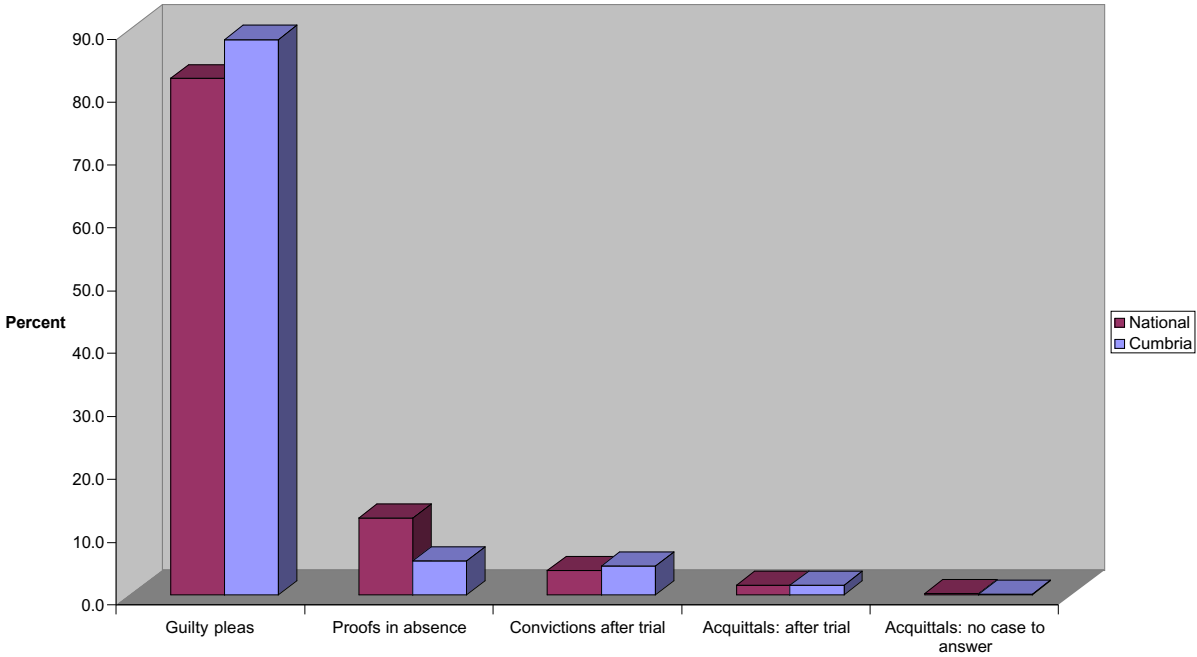


Chart 4: Crown Court - Caseload

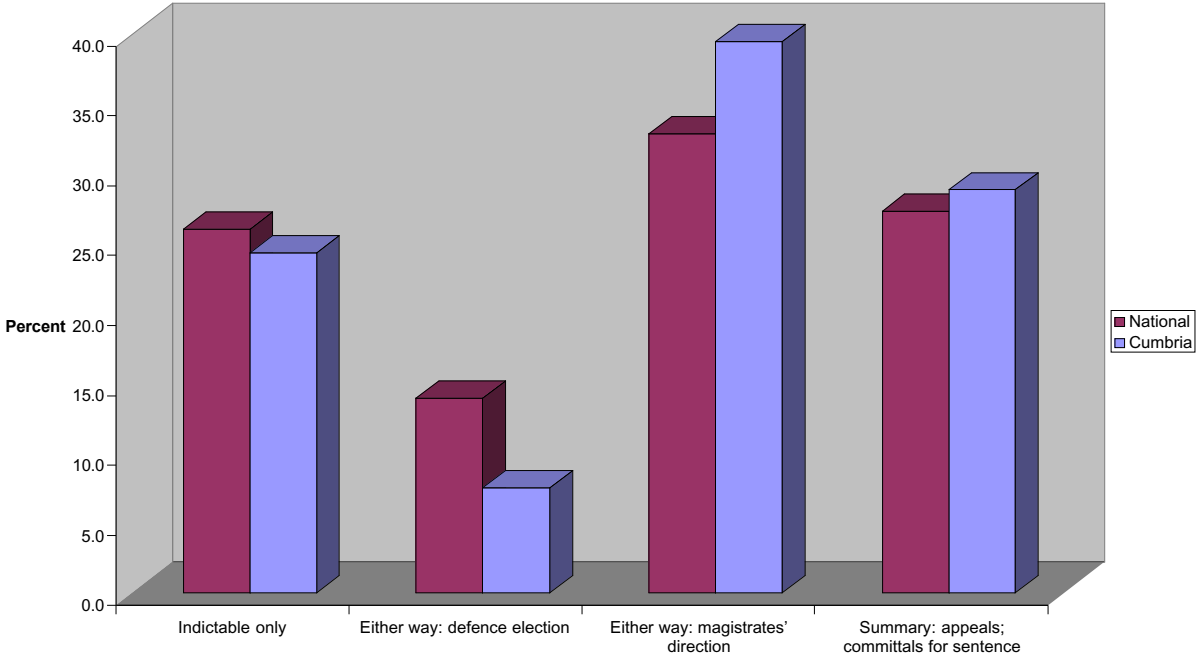


Chart 5: Crown Court - Completed cases

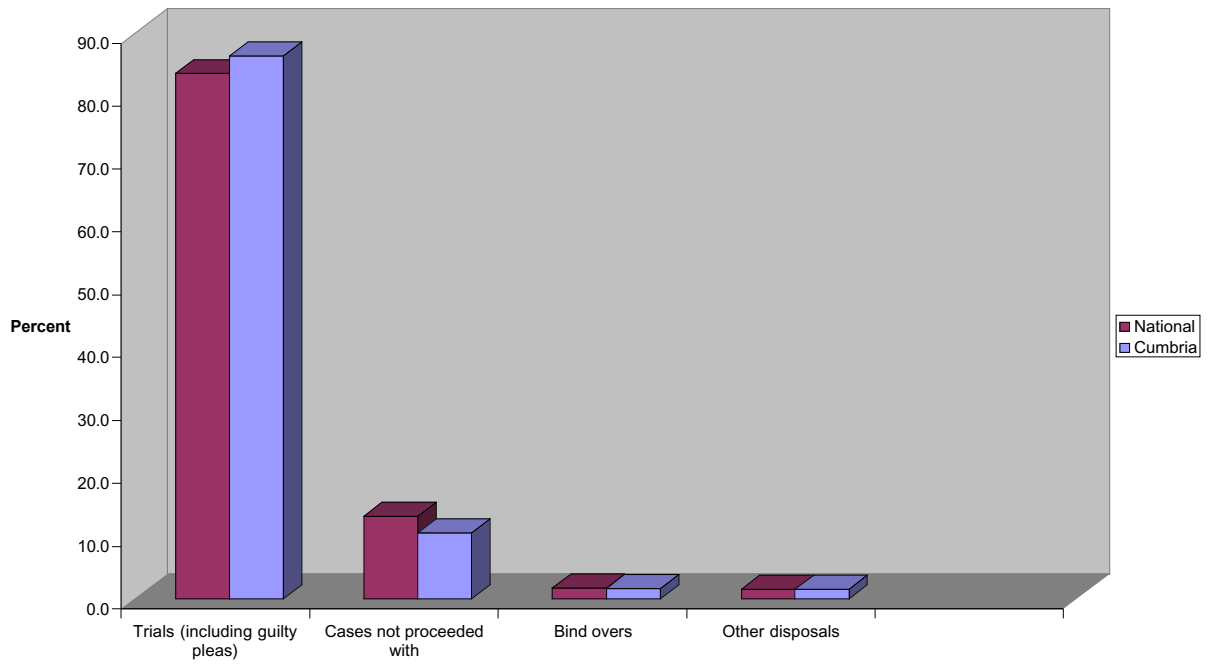
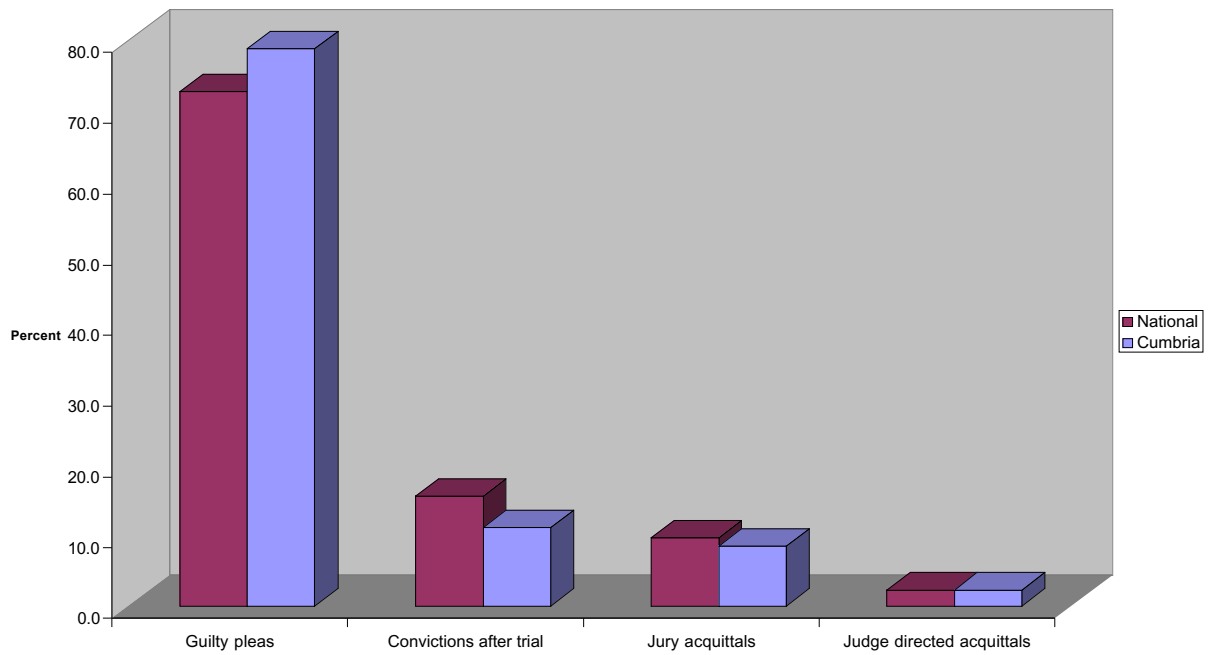


Chart 6: Crown Court - Case results





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

**Crown Court Judge**

His Honour Judge Phillips, Resident Judge, Carlisle Crown Court

**Chairman of the Magistrates' Court Committee**

Mr M Little

**Magistrates**

Mr W Armstrong JP, Chairman of the West Allerdale and Keswick Bench

Miss J Bailey JP, Chairman of the Carlisle Youth Panel

Mr B Beckett JP, Chairman of the Barrow-in-Furness Bench

Mr T Coxon JP, Chairman of the South Lakeland Youth Panel

Mr P Donnelly JP, Chairman of the West Cumbria Youth Panel

Mr B Fell JP, Chairman of the South Lakeland Bench

Mrs L Jackson JP, Chairman of the Whitehaven Bench

Mrs M Lamb JP, Chairman of the Eden Bench

Mr T Thompson JP, Chairman of the Carlisle & District Bench

**Justices' Chief Executive**

Mr S Evans

**Justices' Clerk/Head of Legal Services**

Mr C Armstrong

Mr G Rees, Head of Legal Services, East Cumbria

**Crown Court Manager**

Mrs B Kerrison, Carlisle Crown Court

**Cumbria Police**

Mr A Dunn, Chief Inspector

Miss L McConnell, Carlisle

Ms C Twigg, Acting Chief Constable

Mr E Winfield, Barrow

**Probation Service**

Mr A Gadman, Assistant Chief Probation Officer

**Crime and Disorder Partnership**

Ms C Grainger

**Victim Support**

Mrs P Robson

**Witness Service**

Mrs J Worth, Carlisle Crown Court

**Counsel**

Mr T Holroyde QC

Ms B Baxter

Mr T Eaton

**Defence Solicitors**

Mr K Commons

Mr P Sharp

## HM CROWN PROSECUTION SERVICE INSPECTORATE

### Statement of purpose

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

### Aims

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