

# CPS SURREY

THE INSPECTORATE'S REPORT ON  
CPS SURREY

FEBRUARY 2007





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CPS SURREY

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**Area Office**

Guildford

**Magistrates' Courts**

Dorking, Guildford, Redhill, Staines, Woking

**Crown Court**

Guildford

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## PREFACE

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

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

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

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

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

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

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

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

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

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

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

## I INTRODUCTION

- I.1 This is Her Majesty's Crown Prosecution Service Inspectorate's (HMCPIS) report about CPS Surrey (the Area) which serves the area covered by the Surrey Police. It now has one centralised office at Guildford (Saxon House),
- I.2 The documented Area structure at the time of the inspection was divided on geographical lines with two combined units, each handling magistrates' courts and Crown Court work. One team handles cases from Woking and Reigate police divisions and the other cases from Guildford and Staines. In reality, the structure has evolved into a hybrid of the above and Crown Court work is handled by a separate team. Plans were in place to change formally to a functional division in December with one unit handling all magistrates' courts' work and the other managing all Crown Court cases.
- I.3 At the time of the inspection in October 2006, the Area employed the equivalent of 69 full-time staff. The Area Secretariat comprises the Chief Crown Prosecutor (CCP), Area Business Manager (ABM) and the full-time equivalent of 3.8 other staff. There are also 1.8 staff working in the Witness Care Unit. Details of staffing of the other units is set out below:

Grade	Guildford & Staines	Woking & Reigate	Crown Court/ complex casework unit	Admin team
Level E	-	-	1	-
Level D	1	1	1	-
Level C lawyers	13.4	10.4	-	-
Designated caseworkers	2	3	-	-
Level B3/B2 caseworkers	-	-	2	1
Level B1 caseworkers	-	-	7.4	2
Level A caseworkers	-	-	-	16.2
<b>TOTAL</b>	<b>16.4</b>	<b>14.4</b>	<b>11.4</b>	<b>19.2</b>

- I.4 At the time of the inspection the Area was operating without 9.4 staff due to long-term sick absence, maternity leave, career breaks and secondments - the length of individual absence varied considerably. Staffing levels for lawyers and designated caseworkers have increased significantly since the last full inspection.
- I.5 Surrey has benefited from a 12.5% increase in its running costs budget over the two year period. A detailed breakdown of staffing and structure can be found at Annex B.

1.6 The Area's caseload in the year to September 2006 was:

Category	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge decisions	4,627	30.7	33.5
Advice	2	0	0.1
Summary	6,555	43.4	41.1
Either way and indictable only	3,860	25.6	25.1
Other proceedings	48	0.3	0.2
<b>TOTAL</b>	<b>15,092</b>	<b>100%</b>	<b>100%</b>

These figures include the cases set out in the next table, as all Crown Court cases commence in the magistrates' courts. In 2,907 of the 4,627 pre-charge decisions (63%) the decision was that there should be a prosecution. Once proceedings are instituted, the case will also be counted under the relevant category of summary or either way/indictable in the caseload numbers.

1.7 Details of the Area's Crown Court cases in the year to September 2006 are:

Crown Court cases	Area numbers	Area % of total caseload	National % of total caseload
Indictable only	359	31.4	28.4
Either way offences	462	40.3	43.1
Appeals against conviction or sentence	153	13.4	10.6
Committals for sentence	171	14.9	17.9
<b>TOTAL</b>	<b>1,145</b>	<b>100%</b>	<b>100%</b>

1.8 A more detailed table of caseloads and case outcomes compared to the national average is attached at Annex C and a table of caseload in relation to Area resources at Annex D. The Area has benefited from an increase of 12.5% in its running costs since our last inspection (September 2004) from £2,837,000 to £3,190,417. The cases that proceeded in the magistrates' courts (i.e. excluding the pre-charge decisions and advices) decreased from 12,109 to 10,463. Overall staff numbers have increased from 62.6 to 69 and the number of lawyers in post has increased from 23.4 to 27.8. This has reduced the number of contested magistrates' courts' trials per lawyer from 42.8 to 32.2 and a decrease in the number of committals or "sent" cases from 37.5 to 31.8.

#### The report, methodology and nature of the inspection

1.9 The inspection process is based on the inspection Framework summarised at Annex A. The chapter headings in this report relate to the standards and the section-headings relate to the criteria against which we measure CPS Areas. The italicised sub-headings identify particular issues within those criteria.

- I.10 There are two types of inspection. A full one considers each aspect of Area performance within the Framework. A risk-based inspection considers in detail only those aspects assessed as requiring scrutiny. This is based on our overall performance assessment (OPA) and other key data.
- I.11 The OPA of CPS Surrey, undertaken in December 2005, assessed the Area as "Fair". As a result of this and recent performance data it was determined that the inspection should be a tailored one. In the light of that, the inspection did not include detailed consideration of casework in the Crown Court, disclosure of unused material, custody time limits, managing performance to improve and securing public confidence.
- I.12 Our OPA report identified a total of 54 aspects for improvement. In the course of this inspection, we have assessed the extent to which these have been addressed and a synopsis is included at Annex E.
- I.13 Our methodology combined examination of 76 cases finalised between April-June 2006 and interviews with members of CPS staff at all levels, criminal law practitioners and local representatives of criminal justice agencies. We also examined a number of electronic files on the computerised case management system. Our file sample was made up of pre-charge decision cases, magistrates' courts and Crown Court trials (whether acquittals or convictions), and some specific types of cases. A detailed breakdown of our file sample is shown at Annex F.
- I.14 We make a number of assessments about the quality of decision-making and case handling in the course of the file examination. Key assessments are shown in tables at the start of Chapters 3, 4 and 5. The Area's performance cannot yet be compared to findings across other inspections, because this is one of the first in this programme of inspections.
- I.15 A list of individuals we met or from whom we received comments is at Annex G. The team carried out observations of the performance of advocates and the delivery of service at court in both the magistrates' courts and the Crown Court. We also carried out observations at two charging centres.
- I.16 Inspectors visited the Area between 23 October and 2 November 2006. The lay inspector for this inspection was Joanna Perry, who was nominated by Victim Support. The role of the lay inspector is described in the Preface. She examined files that had been the subject of complaints from members of the public and considered letters written by CPS staff to victims following the reduction or discontinuance of a charge. She also visited some courts and had the opportunity to speak to some of the witnesses after they had given evidence. This was a valuable contribution to the inspection process. The views and findings of the lay inspector have been included in the report as a whole, rather than separately reported. She gave her time on a purely voluntary basis, and the Chief Inspector is grateful for her effort and assistance.
- I.17 The purpose and aims of the Inspectorate are set out in Annex H and a glossary of the terms used in this report is contained in Annex I.



## 2 SUMMARY OF INSPECTION FINDINGS AND RECOMMENDATIONS

### Overview

- 2.1 Surrey is a mixture of rural and urban centres. The county has a population of just over a million with negligible unemployment. The addition of criminal justice cases from Staines five years ago increased the volume of work covered by the CPS in Surrey significantly. There are five magistrates' courts dealing with criminal cases and one Crown Court centre. The most serious cases are sent to the Central Criminal Court in London.
- 2.2 Taking account of the findings of the overall performance assessment (OPA) in December 2005 and more recent performance data, it was decided that this inspection would focus on eight of the 13 criteria in the inspection Framework. The other five have only been assessed with a light touch. It should be borne in mind when reading this report that the subjects covered in greater detail are those aspects of work that were considered weakest through our risk assessment process.
- 2.3 In September 2005 the Area decided to re-structure and, as part of this change, to withdraw its staff from co-located units in two police stations and to abandon plans to co-locate at a third site. These decisions and the way they were planned and implemented (early in 2006) have had a significant effect on Area performance and have led to tension in relationships with other agencies.
- 2.4 Since the move back to a centralised operation CPS administration has not functioned well over a sustained period. This has had severe knock-on implications for many strands of work and is a recurrent theme within this report. The consequent lack of case preparation and progression has had a significant impact on efficiency in the magistrates' courts. A timely, effective and lasting solution to these challenges would bring significant benefits to the Area and its partner agencies.
- 2.5 In addition to the difficulties experienced as a result of the re-structure, other agencies are concerned that the CPS has become less constructive and collaborative in inter-agency work than had previously been the case, adding further to tensions.
- 2.6 There are a number of other significant issues that need to be resolved to enable the Area to improve its contribution towards an effective criminal justice system in Surrey. These are detailed in the following summaries of individual chapters.

### Pre-charge advice and decisions

- 2.7 Since moving to the statutory charging scheme in January 2006, some progress has been made. The level of compliance by police has risen significantly and performance outcomes are gradually improving, with three of the six national benefits realisation targets currently being met. However, there are still some important matters that need addressing. The level of face-to-face advice needs to be increased to help the 'prosecution team' ethos to develop. Whilst decisions are generally satisfactory, there are tensions with the police over the amount of information required before a decision is made. There are hundreds of old cases that have not been finalised on the computerised case management system.

#### **Casework in the magistrates' courts**

- 2.8 The quality of decision-making is variable. Monitoring and analysis of casework decisions and adverse outcomes need to be more robust and timely. Preparation and case progression have been severely affected by problems and delays in administration, leading to ineffective hearings and significant inefficiencies for the CPS and partner agencies. This has adversely affected the reputation of the CPS locally and impacts on performance generally. The issues are detailed in paragraphs 4.18 to 4.27. The use of the case management system (CMS) needs to be improved.
- 2.9 The rate of ineffective trials is relatively static at 18.8% for the year ending September 2006, which is better than national performance of 19.9%. However, administrative problems have contributed towards increased inefficiency in the pre-trial stages of cases and there are sometimes multiple pre-trial reviews. Speed in dealing with persistent young offenders has been well within the 71 day target from arrest to sentence for a considerable time, but slipped to 78 days for the rolling quarter to June 2006.

#### **Casework in the Crown Court**

- 2.10 The quality of decision-making and casework in the Crown Court was considered good at the time of the OPA and that remains the case in general. However, there were some signs that the administrative problems were beginning to have some adverse impact and staff were concerned that standards were beginning to slip. Some recent and imminent changes add to the risk. Timeliness of committal preparation and the quality of briefs to counsel can be improved.

#### **Presenting and progressing cases at court**

- 2.11 The problems in preparation and case progression manifest themselves at the time cases are presented in court. Prosecutors and agents are often not able to progress cases properly because files have not been updated or worked on in the interim and this is leading to delays in progressing cases and ineffective hearings (see paragraphs 6.2 to 6.5). Delays are exacerbated by the very high usage of agents as they often need to ask for adjournments to consult with the CPS. The CPS has introduced a specific role (court liaison prosecutor) in an attempt to improve the situation. Whilst it is still early days there were some encouraging signs that the role is helping.
- 2.12 Feedback on advocacy skills was mixed but on the whole positive. This was confirmed by our own observations, where all but one of the advocates seen was rated as competent or better. Designated caseworkers (DCWs) are highly regarded by the courts and are a strength in the Area. Higher Court Advocates (HCAs) are also well respected.

#### **Sensitive cases and hate crime**

- 2.13 Most sensitive cases are handled reasonably well, although there are concerns over some domestic violence and rape cases. Performance in respect of successful outcomes is improving, but is still slightly worse than the national average. Of the four cases in our file sample that did not comply fully with the *Code for Crown Prosecutors'* tests, three related to sensitive cases. The management and handling of Anti-Social Behaviour Orders (ASBOs) is a strength.



**Disclosure of unused material**

- 2.14 This aspect was not fully examined, but we assessed the Area's performance as part of our analysis of the file sample. This indicated that there has been some deterioration since our last inspection and managers will need to keep this under review. Of particular concern was the occasional failure to disclose material that undermined the prosecution case or assisted the defence. There was also evidence of over-reliance on the opinion of the police disclosure officers.

**Custody time limits**

- 2.15 The management of custody time limits (CTLs) is satisfactory. All the relevant files examined had the time limit correctly calculated. Managers will need to be alert to the potential risks to CTLs caused by increased delays in administration and ineffective hearings.

**The service to victims and witnesses**

- 2.16 Significant effort has been made to try and improve the service to victims and witnesses. The commitment at strategic level is clear. However operational delivery is being hampered by delays in information flows, which leads to non-compliance with the timeliness targets of the *Victims' Code*.
- 2.17 There is scope to improve the options as to how evidence is given by vulnerable and intimidated witnesses through the better management of Special Measures. Whilst performance in respect of Direct Communications with Victims, when charges are dropped or significantly reduced, has improved, considerably more remains to be done.

**Delivering change**

- 2.18 Planning, managing and implementing change remains a weakness in CPS Surrey. They have struggled to translate high level plans into timely, effective operational delivery. The poor planning for the re-structure has contributed to subsequent problems. The management of risk needs further development.
- 2.19 There are some positive examples of joint planning but, overall, partner agencies consider that the CPS could be more collaborative. Reviews of national initiatives have taken place and have assisted the Area to make some improvement to outcomes.
- 2.20 The complete lack of performance and development reviews significantly inhibits progress on training.

**Managing resources**

- 2.21 The Area has good systems that enable it to understand its financial position, but low levels of in-house deployment of lawyers to court has put this year's budget in jeopardy. Control of prosecution costs is now more erratic than in the past.
- 2.22 There is limited evidence of a strong value for money approach. The Area has attempted to redress concerns over its structure and has made some significant changes, although they have yet to deliver the anticipated benefits.

- 2.23 The use of agents in the magistrates' courts is the highest in the country, although some plans have recently been put in place to reduce coverage. DCW deployment has improved significantly since July and is a strength. HCA deployment has also improved, but the consequent saving generated needs to be improved. The sickness rate has increased considerably and this has impacted on the Area's ability to deploy staff as effectively as they would have liked.

#### **Managing performance to improve**

- 2.24 Progress has been made in developing the performance management regime. Further work is required in ensuring the accuracy of some data and in addressing some important issues where the data indicates poor performance. Dissemination of performance data to staff can be improved. The Area uses the Management Information System extensively.
- 2.25 The ability to manage individual performance is severely undermined by the lack of formal objectives for staff. Casework Quality Assurance is undertaken, but not used fully effectively.

#### **Leadership**

- 2.26 Staff motivation and morale have been traditionally high in CPS Surrey but were clearly an issue at the time of this inspection, and a blame culture had developed. Managers are finding it difficult to communicate effectively and they are not perceived to be a cohesive team with a clear direction at the present time.
- 2.27 Working relationships with partner agencies are significantly less constructive and effective than was previously the case, although some positive work is still undertaken. The Area's approach to equality and diversity is sound.

#### **Community confidence**

- 2.28 The Area continues to do some positive work in community engagement aimed at improving public confidence. Some good joint working has been undertaken in connection with Neighbourhood Panels and monitoring outcomes in cases involving defendants from black and minority ethnic groups. The level of public confidence as measured by the British Crime Survey is higher in Surrey (47%) than the national average (44%).

#### **Added value of the CPS locally**

- 2.29 Whilst there are some individual aspects of good work going on in Surrey, the overwhelming view of staff and partner agencies is that, at the present time, the CPS is a weak link in the criminal justice process. This was confirmed by our findings and observations. Finding an effective sustainable solution to the administration problems would go some way to restoring confidence, although it is by no means the only issue that needs addressing.

#### **Equality and diversity issues**

- 2.30 The Area has demonstrated commitment to equality and diversity issues and has a local Race Equality Scheme. The CPS workforce is representative of the local community. There is some concern that the business needs have not always been taken into account when applying family friendly policies, contributing to difficulties in maximising deployment to court.

### Follow-up from previous report

- 2.31 Progress since the last inspection in December 2005 has been disappointing. Of the 54 aspects for improvement (AFIs) that we identified, only four have been fully achieved, with substantial progress made in another eight. Whilst some action may have taken place on the others, we consider that this has resulted in limited or no progress being made against the aim of the individual AFIs. We have not repeated these within the text of this report, and Area managers will need to continue to monitor their progress.

### Recommendations and aspects for improvement

- 2.32 We make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance, which we consider to merit the highest priority.

- 2.33 We have made 13 recommendations to help improve the Area's performance.

- 
1. Area managers should ensure that the levels of face-to-face advice and early consultation are increased so as to speed up the progress of cases through charging, improve decision-making, and build a prosecution team ethos (paragraph 3.14).
- 
2. Area managers must ensure that the backlogs in administration are resolved as a matter of urgency, and that systems are put in place to prevent a recurrence (paragraph 4.22).
- 
3. Area managers should take immediate action to ensure that cases are prepared in an effective and timely manner; this should include checks that all post has been linked to the file, that the appropriate action has been taken, and that the case is ready for the next hearing (paragraph 6.5).
- 
4. Area managers should increase the level of in-house lawyer deployment thereby reducing its reliance on agents in the magistrates' courts. When agents are used they should be sufficiently prepared and experienced, and understand the scope of their authority (paragraph 6.9).
- 
5. The Witness Care Unit needs to minimise delays in information flows to improve compliance to the *Victims' Code* by ensuring;
    - earlier warning of witnesses; and
    - more timely and accurate updating of victims and witnesses of the outcome of hearings (paragraph 10.8).
- 
6. Area managers should ensure that the volume, timeliness and quality of Direct Communication with Victims letters is improved further (paragraph 10.19).
-

7. Area managers should improve the planning process to ensure that;
  - there are clearly defined detailed actions linked to the benefits and expected outcomes of the actions;
  - reviews are effective and lead to timely remedial action where necessary;
  - plans/business cases are documented and completed in a timely fashion; and
  - there are clear links between plans and processes, individual objectives and training requirements (paragraph 11.8).

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8. Area managers need to develop their change management skills to ensure that;
  - dependencies and links between initiatives are clearly established and managed;
  - actions identified in reviews are actively managed to ensure they are carried out;
  - planning is proportionate to the complexity and importance of the change; and
  - there is clear communication with CPS staff and other interested parties on the aims and rationale for changes (paragraph 11.15).

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9. All staff should be provided with an effective performance and development review setting objectives and identifying key individual training priorities as a matter of urgency. There is a need to agree clear ownership for managing the identification and delivery of staff training (paragraph 11.19).

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10. Area managers must ensure that records and data of sessions undertaken in the magistrates' courts is accurate and produced in a timely fashion (paragraph 12.15).

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11. Area managers must improve their relationships with other agencies significantly by demonstrating commitment to joint working and building a prosecution team ethos (paragraph 14.5).

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12. Area managers need to adopt a more cohesive and corporate approach - they also need to lead by example. Urgent work needs to be done to address the blame culture that has developed (paragraph 14.9).

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13. Area managers should implement structured and regular meetings with staff ensuring effective two-way communication between staff at different levels exists. Minutes should usually be made available to staff (paragraph 14.11).

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

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1. Some cases drift before a decision is made, or too much information is sought from the police (paragraph 3.6).

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  2. The outstanding advice cases on the case management system need to be cleared urgently and appropriately and recurrence of the problem prevented. The recording of ethnicity needs to be improved (paragraph 3.21).

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  3. The effective joined-up operation of prosecution team performance management has yet to be established (paragraph 3.27).

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  4. Ensuring that all files receive a thorough and timely review before the first hearing (paragraph 4.5).

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  5. The analysis of, and feedback on, adverse outcomes needs to be strengthened and more timely (paragraph 4.9).

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  6. Systems for ensuring that cases are ready for each hearing, particularly for pre-trial review and trial, need to be introduced and/or strengthened (paragraph 4.27).

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  7. Case management system usage needs to be more effective and timely, and monitored in such a way as to achieve this (paragraph 4.36).

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  8. There is scope for considerable improvement in the handling of domestic violence cases, and a need for training to be delivered (paragraph 7.3).

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  9. Lawyers should always view video recorded interviews with child witnesses, assess the quality of evidence and record this (paragraph 7.12).

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  10. When making Special Measures applications prosecutors should ensure:
    - that the witness's views have been obtained and that they have been made fully aware of the available options; and
    - that timely applications are made in all relevant cases (paragraph 10.6).

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  11. Following-up witnesses who fail to acknowledge their court warning should be carried out consistently (paragraph 10.12).

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  12. The process for reporting non-attendance of witnesses needs to be strengthened (paragraph 10.22).

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- 
13. The approach to risk management needs to be strengthened (paragraph 11.17).
- 
14. The Area needs to deploy its Higher Court Advocates more effectively (paragraph 12.18).
- 
15. More care needs to be taken to ensure that the tone of messages is appropriate (paragraph 14.17).
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#### **Good practice and strengths**

2.34 We identified four strengths within the Area's performance.

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1. Designated caseworkers are professional, deliver a high standard of advocacy, and are commended by court staff and users (paragraph 6.11).
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2. Applications for Anti-Social Behaviour Orders are subject to a good local protocol; prosecutors have been given thorough and helpful guidance, and cases are handled well generally (paragraph 7.8).
- 
3. Meetings between the Witness Care Unit and the Witness Service are constructive and encourage good inter-agency working (paragraph 10.10).
- 
4. The significant improvement in designated caseworker deployment since July 2006 (paragraph 12.16).
-

### 3 PRE-CHARGE ADVICE AND DECISIONS

Since moving to the statutory charging scheme in January 2006, some progress has been made. The level of compliance by police has risen significantly and performance outcomes are gradually improving, with three of the six national benefits realisation targets currently being met. However, there are still some important matters that need addressing. The level of face-to-face advice needs to be increased to help the 'prosecution team' ethos to develop. Whilst decisions are generally satisfactory, there are tensions with the police over the amount of information required before a decision is made. There are hundreds of old cases that have not been finalised on the computerised case management system.

#### Quality of advice and decisions

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

Pre-charge	Performance in the inspection programme to date*	Area performance
Advice and decisions complying with evidential test in the Code	-	98.3%
Advice and decisions complying with public interest test in the Code	-	98.2%
Appropriate alternative disposals and ancillary orders were considered and acted upon	-	N/A
Prosecutor was active in identifying and remedying evidential defects	-	69.6%

\*See explanation at paragraph 1.14. This inspection was one of the first in the programme and HMCPSP does not yet have a sufficient database for proper comparison

- 3.2 We considered that the advice did not comply fully with the Code in two cases - one on evidential grounds and the other under the public interest test. Both cases fell into sensitive casework categories (rape and child abuse) so were of particular concern. In our file sample, the standard of decision-making was generally good, although there was clear evidence elsewhere of inconsistencies.
- 3.3 In our file sample, the choice of charge was good. In all cases, the charge(s) reflected the seriousness, and in the large majority (92.7%) the charges proceeded without significant amendments. One particularly good advice identified a less obvious but more creative charge in a hate crime, which gave the court appropriate sentencing powers.
- 3.4 The recordings of decisions on the MG3 form were variable. Some did not record that the lawyer has considered Special Measures and other applications, and there was a tendency to record work needed in the body of the advice, rather than in the action plan.

- 3.5 In some cases, the charging lawyer sought more evidence than necessary for an evidential file, which caused delays. There appears to be an element of uncertainty as to the evidence required for a charging decision, and that required for trial. Also apparent is a reluctance on the part of a few charging lawyers to make decisions, and requesting additional evidence may be a way to deflect the decision to another day or to another prosecutor.
- 3.6 Many police officers perceive that the Area is not as robust or as realistic as CPS Direct in their charging decisions, and officers would sometimes delay cases to ensure that they could go to CPS Direct rather than local duty prosecutors. This is indicative of the lack of a prosecution team ethos.

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ASPECTS FOR IMPROVEMENT

Some cases drift before a decision is made, or too much information is sought from the police.

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- 3.7 We observed cases that ought to have been through the charging system but had not. This may be symptomatic of lack of faith in the charging process, or lack of understanding on the part of the officer(s) concerned. All such cases should be reported to the Unit Head, but there was no indication on the files we saw that this had been done.

*Bail/custody decisions*

- 3.8 Decisions by charging lawyers as to custody were sound, but police expressed concerns about the presentation of objections to bail at court.

**Operation of the charging scheme**

- 3.9 In the July-September 2006 period of the statutory scheme the Area made pre-charge decisions in 1,232 cases. The split of work between the four CPS charging centres is illustrated below:

Charging centre	Daily prosecutor coverage	Caseload
Staines	1	220
Woking	1	264
Guildford	1	436
Reigate	1	312
<b>TOTAL</b>	<b>4</b>	<b>1,232</b>

- 3.10 Workloads are currently being reviewed and this may result in changes in the deployment pattern.



- 3.11 There is some lack of trust between the police and CPS. Police managers would prefer CPS charging prosecutors to take an officer's view of the evidence into account to facilitate quicker decision-making - for example an officer's assertion of the evidence in CCTV. CPS lawyers are keen to avoid 'conditional charging' and therefore prefer to see all evidence themselves, partly based on isolated incidents of inaccurate summaries in the past. The police believe this could be managed through discipline in individual cases. We saw examples where decisions should have been made earlier and other cases where the requirement to see specific evidence was entirely justified. A proper balance needs to be struck in order to achieve a more harmonious joint working relationship, so that charging lawyers review essential key evidence.
- 3.12 Sporadic concerns about duty prosecutors not being available for the full 9am-5pm period have been resolved as and when they arise. There have also been instances of a lawyer being taken out of charging to cover court and, whilst officers can contact an alternative charging centre, this is not ideal.
- 3.13 A police casework unit checks files and filters and prioritises cases with the CPS to ensure that those with the nearest bail dates are seen first. Despite a two-week bail period, some cases are having to be re-bailed where the advice is late, or is that further evidence should be sought. The police view the current arrangements as unnecessarily restrictive and are introducing a new style of filtering system, which they hope will ensure that more cases are charged swiftly.
- 3.14 The usual practice is for the suspect to be bailed and the file left with the CPS for a paper review. An appointment system for face-to-face advice was being introduced at one police station, the impetus for this change having come from the police, not from the CPS. The low level of face-to-face discussion aggravates a lack of understanding of each other's roles, and contributes to delays in the charging process.

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## RECOMMENDATION

Area managers should ensure that the levels of face-to-face advice and early consultation are increased so as to speed up the progress of cases through charging, improve decision-making, and build a prosecution team ethos.

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- 3.15 Early advice is being sought in some cases, but the barriers between the CPS and police discourage closer working. The revised police filtering system may encourage more early consultation, but more should be done by the CPS to build better and closer working relationships, and to encourage early advice. Telephone advice is sought in some high profile and complex cases, and the police value this.
- 3.16 There is no continuing case ownership by lawyers in charging. If further evidence is needed, there is no system for the case to return to the same lawyer. This wastes time and resources, since the new lawyer will need to re-review the whole file, and may take a different view as to further work, which causes significant frustration to police officers.

- 3.17 There is a structured appeal system, although there are few formal appeals (more disputes are resolved through informal discussions). The CPS accepts that some decisions have been wrong, but generally the police level of disagreement with the final decision is comparatively low. There was a suggestion that the informal resolution of disagreements is done in a more 'bullish' fashion in one part of the county than commensurate with a true prosecution team ethos, and Area managers have directed lawyers to be robust in the face of representations.
- 3.18 The Area has recently introduced some monitoring of the numbers and quality of decisions in charging, by requiring lawyers to complete a form showing the number of cases with which they have dealt, together with copies of the MG3s. There are no meaningful results yet, and compliance on the part of the lawyers is not universal. There is no formal system to record, monitor, or analyse cases subject to an appeal, although the Area is planning to start this. The police report such incidents to their own Headquarters on a regular basis.
- 3.19 There is some monitoring of cases where no further action is advised (NFAs), although this is made less easy by the high number of cases classified as "undefined" (the number of which, whilst reducing, is still too high). In national data, which ignores these undefined outcomes, Surrey has about 6% more NFAs than the national average, although the real rate could be lower, as the majority of undefined cases tend to relate to those that are subsequently charged. On the other hand, there is a large backlog of cases that have not been finalised, and many of these are NFAs. Prosecution team performance management (PTPM) data is available for NFAs, but is somewhat unreliable and it is unclear whether or how this data is used with the police to drive improvements.
- 3.20 Cases requiring further action are not actively tracked. Some reports are issued from CMS but the process is not yet sufficiently robust. A 'clear up' operation was conducted prior to implementation of statutory charging, but this has not had the desired effect. There is a backlog (more than 400 from 2005 alone) of outstanding advice cases on CMS, many of which are likely to be NFAs, but some of which could still be awaiting advice. The police data for outstanding cases does not match that held by the CPS. Urgent action is needed to clear the outstanding cases appropriately.
- 3.21 The recording of the ethnicity of the defendant on the MG3 or CMS is patchy. Performance has improved since 2004, but at April 2006 the Area had 47.6% of cases with no ethnicity assigned, as compared with a national average of 21.5%.

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#### ASPECTS FOR IMPROVEMENT

The outstanding advice cases on the case management system need to be cleared urgently and appropriately and recurrence of the problem prevented. The recording of ethnicity needs to be improved.

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- 3.22 Some cases return for advice more than once, which hampers effective bail management by the police. Requests for further evidence, if the pre-charge advice is not given promptly, will necessitate a re-bail. The police are now required to obtain authorisation from a Chief Inspector for a re-bail and this level of focus has led to a reduction in applications.

#### Realising the benefits of pre-charge decision-making

- 3.23 The Area's caseload in the magistrates' courts consists of 30.7% pre-charge decisions (a little below the national average of 33.5%) and decisions to prosecute make up approximately 63% of these.
- 3.24 The Area is realising three of the benefits of the charging scheme. The most recent key outcomes are shown in the table below.

	Magistrates' courts' cases				Crown Court cases			
	National target March 07	National performance Apr-Oct 06	Area target March 07	Area performance Apr-Oct 06	National target March 07	National performance Apr-Oct 06	Area target March 07	Area performance Apr-Oct 06
Discontinuance rate	11%	15.8%	12%	14.3%	11%	13.2%	15%	10.4%
Guilty plea rate	52%	69.1%	70%	66.7%	68%	66.1%	64%	57.7%
Attrition rate	31%	22.1%	31%	22.2%	23%	22.4%	23%	28.4%

- 3.25 All the figures show an improvement since we conducted our overall performance assessment of the Area in 2005. In two of the measures (discontinuance in magistrates' courts and the Crown Court), Surrey is out-performing the national average, and it has met the target for guilty pleas and attrition in the magistrates' courts and discontinuances in the Crown Court. Whilst progress has been made, more needs to be done to attain the level of national performance and outstanding targets.
- 3.26 Whilst the number of CPS Direct cases finalised so far is comparatively low, the most recent data shows that their results are encouraging - the rate of discontinuances for all cases originating from Surrey was 10.7%, guilty pleas were 84.3% and attrition was 11.6%.
- 3.27 The PTPM system has only recently been introduced and the integrity of the early data is uncertain. It is still early, but effective and joined-up performance management has yet to develop.

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#### ASPECTS FOR IMPROVEMENT

The effective joined-up operation of prosecution team performance management has yet to be established.

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## 4 CASEWORK IN THE MAGISTRATES' COURTS

*The quality of review decisions in magistrates' courts' cases is variable. However, the timeliness of first reviews, recording of trial reviews, and the use of the case management system generally leave room for significant improvement. Some aspects of case preparation and magistrates' courts' work are being made difficult by fundamental failings in administration, which have been ongoing for many months. This has had an adverse impact on the standing and reputation of the CPS and has significant implications on their performance. The rate of effective trials is good, but some have multiple pre-trial reviews. Performance in handling persistent young offenders has been usually good, but lapsed in the rolling quarter to 30 June 2006.*

### Quality of case decisions and continuing review

4.1 We examined 44 magistrates' courts' case files from Surrey and our findings are set out in the following table.

#### *Magistrates' courts and youth court casework*

	Performance in the inspection programme to date*	Area Performance
<b>Case preparation</b>		
Cases ready for pre-trial review (PTR/CMH)	-	61%
Court orders complied with on time, or application made to court	-	44%
Correspondence from the defence dealt with appropriately	-	61%
Instructions to agents were satisfactory	-	100%
<b>Level of charge</b>		
Charges that were determined by the prosecutor and proceeded without amendment	-	93%
Cases that proceeded to trial or guilty plea on the correct level of charge	-	100%
<b>Discontinuance</b>		
Discontinuance was timely	-	50%
Decisions to discontinue complying with the evidential test	-	93%
Decisions to discontinue complying with the public interest test	-	100%
Discontinued cases where the prosecutor properly sought additional evidence/information before discontinuing the case	-	33%
<b>Cracked and ineffective summary trials</b>		
Cracked or ineffective trials that were foreseeable and the CPS took action to avoid the outcome	-	33%

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**Summary trial**


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Decisions to proceed to trial complying with the evidential test	-	97%
Decisions to proceed to trial complying with the public interest test	-	100%
Cases with timely summary trial review and properly	-	23%
No case to answers that were foreseeable, and the CPS took action to avoid the outcome	-	75%

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\* See paragraph 1.14. This inspection was one of the first in the programme and HMCPSI does not yet have a sufficient database for proper comparison

- 4.2 In our file examination we assessed the application of the *Code* tests (sufficiency of evidence and the public interest) at various key stages. Those were when the initial review or charging decision was made (discussed in the preceding chapter), when the file was reviewed for trial, and when a case was discontinued, if applicable. The majority of cases were therefore assessed twice on the application of the *Code* tests. We considered that the tests were not applied appropriately in two instances; one was a domestic violence case where we disagreed with the decision to discontinue, and the other was a speeding allegation which was dismissed no case to answer where we considered that there was insufficient evidence at the summary trial review.
- 4.3 The charge selection, as discussed earlier, was appropriate in the large majority of cases; consequently, none required amendment for trial.
- 4.4 The recording of full file reviews in the magistrates' courts was very poor. In only 22.6% of cases in our file sample were the reviews timely and properly recorded. Where the review was recorded on the file or on CMS, generally it was full and covered all relevant issues. In most cases, the failure related to the absence of any recorded review.
- 4.5 The timeliness of review for first hearing needs to be improved. Cases that have been through statutory charging will generally require a simple check to ensure that the pre-charge decision is still appropriate. Cases that have not been advised upon should have a full review before the first hearing. The Area agreed with the police that these cases would be bailed for a period of two weeks, but this extended bail period is out of line with current good practice and appears not to be yielding the benefit sought, since it is apparent that many files are still not being reviewed in good time for the first hearing.

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**ASPECTS FOR IMPROVEMENT**

Ensuring that all files receive a thorough and timely review before the first hearing.

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***Successful outcomes***

- 4.6 The Area's overall conviction rate for magistrates' courts' cases is 83.5% which is identical to the national average. It is doing better than nationally on discontinuances and discharged committals, but worse on cases dismissed as no case to answer or after trial. The Area's rate has shown steady improvement over the past two years. The key outcomes are shown in the following table.

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*Case outcomes in the magistrates' courts*


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	National performance year to September 2006	Area performance year to September 2006
Discontinuance and bindovers	11.2%	10.4%
No case to answer	0.3%	0.5%
Dismissed after trial	1.8%	2.6%
Discharged committals	0.2%	0%
Overall conviction rate	83.5%	83.5%

- 4.7 The CPS has set itself a combined target for reducing the rate of unsuccessful outcomes in magistrates' courts and Crown Court cases. We have transposed this in the table below into terms of successful outcomes, that is the overall conviction rate.

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


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National target 2006-07	National performance Apr-Sep 2006-07	Area performance Apr-Sep 2006-07
83%	83.4%	83.5%

- 4.8 The data should be approached with some caution, as there may be an issue with accurate recording of no case to answer cases, as adverse case results were not being systematically checked. A small dip-sample we conducted showed that three cases had been finalised as no case to answer which were in fact guilty pleas. The backlog in finalising cases could also affect the data.
- 4.9 The improving results are despite the lack of a systematic approach to monitoring casework and analysing adverse outcomes. The Casework Quality Assurance (CQA) system has not been operated robustly; forms are not completed by all the managers as expected; lawyers do not get regular feedback on the results; and there is little evidence of the outcomes being analysed. Adverse outcomes are also not subject to thorough analysis for trends and lessons to be learned. There was a backlog in finalising adverse case reports, which reduces their usefulness as a means of driving forward improvements.

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**ASPECTS FOR IMPROVEMENT**

The analysis of, and feedback on, adverse outcomes needs to be strengthened and more timely.

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*Offences brought to justice*

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

*Offences brought to justice*

	CJS Area performance rolling annual Sep 2006	
Against 2001-02 baseline	+42.8%	
Number	17,097	
Offences Brought to Justice made up of	National average September 2006	Area figure
Convictions	49%	40.8%
Taken into consideration	10%	14.4%
Cautions	26%	34.3%
Fixed penalty notice	9%	7.4%
Formal warnings for drugs	6%	3.1%

- 4.11 The criminal justice area performed well in 2004-05. In our OPA, we suggested that the good performance, bolstered as it was by high rates of cautions and offences taken into consideration, might not be sustainable. The following year, Surrey did indeed fall well short of target. In the current year, the area had the lowest conversion rate (of turning charges into convictions) in the country, which, with a falling crime rate, presented a challenge. At the request of the Local Criminal Justice Board, the Office of Criminal Justice Reform sent in a team to assist with developing plans for this year. The OBTJ rate is improving and is now not far short of target, although this is not attributable to convictions. Whilst the police always have more influence over OBTJ results, the CPS in Surrey makes a lower contribution than nationally in terms of the ratio of offences achieved via conviction.
- 4.12 We discuss partnership working between the police and CPS in Chapter 14. Offences brought to justice is one of the drivers for tension between the two agencies, with the police perceiving the CPS to be partly responsible for problems reaching the target, due to a cautious approach to charging and some "missing" results.

*Discontinuances in the magistrates' courts*

- 4.13 Discontinuances in the magistrates' courts have been reducing. The Area was performing worse than nationally in the financial years 2004-05 (13.5% of completed cases compared to 11.7% nationally) and 2005-06 (11.3% compared to 10.9%), but has turned this around since March 2006, and is now doing better than the CPS nationally (the rate for Apr-Sep 2006 was 9.1% compared to 10.9% nationally). We considered one decision to discontinue to be inappropriate, and timeliness of decision-making needs to improve.

*Committal preparation and discharged committals*

- 4.14 The Area had only three discharged committals in 2005-06, and none in the first quarter of 2006-07. The problems with preparing cases have not impacted on committal preparation. The CPS is given eight weeks by the court. Since it is rare for papers to be served on the defence two weeks in advance, as is meant to be the case, the CPS has the whole period to prepare. This and a focus on the more serious cases may help to explain the better performance than in other cases in the magistrates' courts.



*Youth cases*

- 4.15 The Area is performing better than nationally for the timeliness of youth trials, with 88% of cases within the 176 day target, compared to 86.9% nationally. However, the rate is worse for youth initial guilty pleas; 81% are within the target of 59 days, as opposed to 89.3% nationally.
- 4.16 Decision-making was good in cases which involved a young defendant. Prosecutors are allowed a day to prepare and review youth cases when they are covering a youth court. The proper recording of trial reviews in our file sample, at 50%, is not good, but is better than the overall rate. Dealing with defence correspondence and readiness for pre-trial reviews (PTRs) was better in youth cases, but worse for compliance with court orders. There appear to be some of the same difficulties arising in preparation as result of the administrative problems, which appear to be tempered by the better preparation time allowed.

*Persistent young offenders**Overall persistent young offender performance (arrest to sentence)*

National target	National performance (3 month rolling average to June 2006)	Area performance (3 month rolling average to June 2006)
71 days	71 days	78 days

- 4.17 There have been fluctuations in performance, but the Area stayed within target until recently. As at March 2006, the rolling three month average was 62 days, in part due to the focus at local performance group meetings on persistent young offenders (PYOs). However, performance had slipped to 78 days by June 2006, which caused concern at the Local Criminal Justice Board level. It has been suggested that several long-running cases concluded at around that time had affected the data in the short-term. We saw one of those cases in our file sample, and it was apparent that the CPS could have done more to avoid the delay.

*Case progression and effective hearings*

- 4.18 HM Courts Service collects data on time intervals for initial guilty pleas, trials, and committals, but very little is available for Surrey. The evidence from our file sample and that gathered on-site indicates that in terms of timeliness, case preparation and case progression, the Area is now having difficulty reaching the standards expected. The obvious cause (which may mask other causes) is a significant breakdown in the provision of administrative support in the Area. The systems put in place after the CPS moved out of co-location with the police were not fit for purpose, and there has been a failure to find a sustainable effective solution to recover the position. The result is that there are significant delays in all aspects of administration, including updating files back from court, linking post, locating files for court lists, and passing files to lawyers where action is needed. The impact is being felt on readiness for all types of hearings, from the first hearing, where information may be missing or the file un-reviewed; at pre-trial review, where the case has not been prepared; and on to the trial itself, where lateness of witness warnings means that witnesses in some cases are no longer available.
- 4.19 Because the effects are so widespread, they may be masking other issues, such as lack of proper timely preparation by lawyers. It is not easy to judge the real impact, and the problems in administration may be a convenient scapegoat in some instances.

- 4.20 The Area has taken some steps to address the long-standing administrative difficulties, but to date, they have not been resolved satisfactorily. The backlogs have reduced to some extent, but it was apparent that delays were still at an unacceptable level. In general terms it was taking approximately two weeks for cases returned from court to be actioned. However, we found approximately 75 cases that had been outstanding for over a month. Not all senior managers were aware of the extent of the backlogs.
- 4.21 There was some evidence that staff had 'given up' on the administration team and were under the impression that finding files was impossible. In contrast, whenever we needed a file that was awaiting update, administrators were able to locate it very quickly.
- 4.22 Some new measures were about to be introduced to try and alleviate the problems. This involved increasing staffing levels by one and transferring responsibility for Crown Court case updating to BI caseworkers. The Area had set itself a target of clearing the current backlogs within two weeks. Whether they are able to achieve and sustain this remains to be seen.

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## RECOMMENDATION

Area managers must ensure that the backlogs in administration are resolved as a matter of urgency, and that systems are put in place to prevent a recurrence.

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- 4.23 The impact of the difficulties was clear in our file sample. Files were not ready for pre-trial review in 39% of cases, and court orders were not complied with in good time in 56% of cases. Correspondence from the defence was not dealt with properly in 39% of cases, and reports and additional evidence from the police was not actioned appropriately in 43%. Discontinuance was timely in only half the cases we examined, and the CPS could have done more to avoid having to offer no evidence in two cases, and to avoid a finding of no case to answer in another case. The CPS took no steps to avoid or reduce the delay in any of the four cases where there was an avoidable and unacceptable delay.
- 4.24 Police regularly have to re-submit memos and evidence, and fax copy files to court when the original file cannot be located. Those copy files were not always linked to the file, once found, which exacerbates the lack of case progression. Finding CPS files for court lists became such an issue that the court offered to hold the files going over for up to two weeks where no CPS work was needed, but this was declined. The police in some parts of the Area have taken to sending full files direct to court for the pre-trial review, simply to ensure that they are linked with the CPS file. Such a step makes it inevitable that the pre-trial review will not be as effective as it could be if the lawyer had the file in advance. Applications such as those to adduce hearsay or bad character evidence are not being made in a timely manner. There are instances both of the court refusing to hear the application because it was out of time, and of the lawyer deciding it was not worth making the application because it was so late.
- 4.25 The lack of proper preparation ahead of the trial has exacerbated the need for agents to call for instructions, and for problems to arise on the day which require the assistance of a member of CPS staff. Such was the difficulty in getting hold of a lawyer in the office that the Area introduced the role of court liaison prosecutor, which is beginning to show benefits (see paragraph 6.5.)

- 4.26 Victim and witness care have been affected adversely, notably in the timeliness of Special Measures applications and warning of witnesses for trials. These are discussed in Chapter 10.
- 4.27 A new package of counter-measures was being put together towards the end of our visit. This includes the introduction of more administrative staff from the Secretariat amongst other things. Bearing in mind the measures the Area is adopting to reduce reliance on agents, it is particularly important to ensure that lawyers' office time will be made more effective by proper administrative and support systems.

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#### ASPECTS FOR IMPROVEMENT

Systems for ensuring that cases are ready for each hearing, particularly for pre-trial review and trial, need to be introduced and/or strengthened.

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#### Effective, ineffective and cracked trials

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

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#### *Trial rates in the magistrates' courts*

	National target 2006-07	National performance year ending Sep 2006	Area target 2006-07	Area performance year ending Sep 2006
Effective	N/A	43.4%	N/A	51.3%
Ineffective	19.4%	19.9%	18%	18.8%
Cracked	N/A	36.7%	N/A	29.9%

- 4.29 The Area's performance on ineffective trials recently has been better than nationally, but it has not hit its target, and performance is not improving; during 2005-06, the rate was 18.6% as compared to 18.8% for the year to September 2006. The levels of effective and cracked trials are good compared to national performance. However, cracked trials have increased slightly (28.6% last year, and now 29.9%), possibly as a result of cases being dropped at court rather than seek an adjournment and drive up the ineffective trial rate. The slightly worsening rates may bear out fears locally that improvements cannot be made, given the current predicament within the CPS administration.
- 4.30 In a number of key aspects, the prosecution is at fault for ineffective trials more in Surrey than nationally; these are for failures in disclosure of unused material, failure to serve additional evidence on the defence, and absence of witnesses, especially professional or expert witnesses. The attendance of police witnesses is patchy, which ought to be of concern to the Area.
- 4.31 The readiness for hearings is identified as problematic, at paragraphs 4.18-20. The ineffective trial rate may be positively affected by the trial-setting process in the Area. The trial date is not being fixed until late in the process, so there may be a number of ineffective hearings, including multiple ineffective PTRs, leading up to an effective hearing at which the date for trial is fixed.

4.32 Data is made available to Unit Heads on cracked and ineffective trial rates. The joint analysis and discussion of how to remedy defects ought to take place at local performance group meetings, but in parts of the Area, these have not been held with sufficient regularity to be robust. There is little evidence of the data, reasons, or steps needed to improve being fed back to staff.

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

4.33 The backlogs in administration are evident from examining the case management system (CMS). Finalisation or updating of cases should be undertaken swiftly, however, the percentage of cases finalised more than six days after the last hearing has gone up from 23% when the Area was co-located with the police to 83% in August 2006. Over the same period, the percentage of all hearings updated more than six days later has risen from 17% to 51%. Backlogs have made the effective use of task lists much more problematic.

4.34 Usage by lawyers is also not good. In March 2006, the rate for full file reviews was 17.8% as against a national performance (also not good) of 32.8%. In most of these cases, there was no review recorded on CMS at all. The position has deteriorated since June 2006 when we conducted our thematic review on CMS usage, during which Surrey was one of the CPS Areas examined. At that time, we considered that the use by lawyers was just above average, although use for administrative tasks was poor. CMS is available at court, but is little used by lawyers.

4.35 In our file sample, CMS was used properly in 32.5% of cases.

4.36 Monitoring of CMS usage appears to be a low priority. The Area told us in their self-assessment that they were addressing the issue, and that lawyers and other staff have performance targets for usage in their Forward Job Plans. Since we note below that no staff have objectives set yet, this is an aspirational statement. We were also told that CQA is used to monitor CMS usage; we have already commented on the lack of robustness in the Area's use of CQA.

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#### ASPECTS FOR IMPROVEMENT

Case management system usage needs to be more effective and timely, and monitored in such a way as to achieve this.

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## 5 CASEWORK IN THE CROWN COURT

*Casework in the Crown Court was not assessed as a specific topic as part of this Area Effectiveness Inspection. In the OPA carried out in late 2005, the handling of Crown Court cases was assessed as being "Good". We identified one aspect for improvement, and progress against it is outlined in Annex E.*

- 5.1 We examined a total of 28 of Surrey's Crown Court case files, primarily as part of our assessment of the handling of sensitive cases. Decision-making was of good quality at committal review or when the case was sent to the Crown Court, and the Area took appropriate action to avoid a judge-directed or judge-ordered acquittal (JDA/JOA) in all appropriate cases. Court orders were complied with in three-quarters of the cases we examined, but there was less satisfactory performance on responding to correspondence from the defence, although it was markedly better than in magistrates' courts' cases. The recording of full file reviews and instructions to counsel showed scope for improvement. Appeal cases were not as well prepared as trials.
- 5.2 The Area is performing better than nationally on their rates of JOAs and JDAs, but their rate for acquittals after trial is noticeably worse, leading to a lower overall conviction rate than nationally.

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### *Case outcomes in the Crown Court*

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	National performance September 2006	Area performance September 2006
Judge ordered acquittals	13.4%	9.8%
Judge directed acquittals	1.5%	1.4%
Acquittals after trial	6.5%	10.6%
Overall conviction rate	77.1%	76.2%

- 5.3 Case progression is more effective in the Crown Court than in the magistrates' courts, and the rates for cracked and ineffective trials are both better than nationally. However, the ineffective trial rate has increased since last year, and there are signs that the administrative difficulties are impacting on Crown Court casework.

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### *Trial rates in the Crown Court*

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	National target 2006-07	National performance year ending Sep 2006	Area target 2006-07	Area performance year ending Sep 2006
Effective	N/A	48.3%	N/A	58.1%
Ineffective	14.2%	12.7%	15.5%	14.3%
Cracked	N/A	39.0%	N/A	27.7%



## 6 PRESENTING AND PROGRESSING CASES AT COURT

*The presentation and progression of cases at court are being hampered by a lack of adequate administrative processes and prosecutors not reviewing and preparing cases. When combined with an over-reliance on agents who have to deal with under-prepared cases, the damage to CPS standing and staff morale has been significant. On a more positive note, most of the advocates seen were of a good standard, and the skills of CPS Higher Court Advocates and designated caseworkers were recognised and highly valued by court users.*

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

### **Advocates ensure cases progress and hearings are effective**

- 6.2 The administrative difficulties being experienced by the Area have significantly affected case progression and effectiveness in the magistrates' courts. All advocates are suffering from the lack of effective systems and administration. Files are missing; correspondence or additional evidence is not being linked to files prior to court; and work is not being done on files before they are next listed. We observed one case where the video tape of the evidence-in-chief of the child witness was not available at the trial. Cases adjourned for a fortnight would often not be updated or worked on in the interim. Lack of time in the office not only means that they have little opportunity to prepare their own cases, but also that they have little time to carry out remedial work on the files they have in their court lists. It is not uncommon for cases to go through multiple pre-trial reviews in an effort to ensure they are ready for trial. The lack of preparedness and inefficiencies of administrative functioning have led to delay, lack of compliance with court orders, and significant damage to both the morale of advocates and the reputation of the CPS locally.
- 6.3 Files are sent to agents in the afternoon of the day before they are listed for trial. If they are substantial this does not allow for adequate preparation, nor does it permit any remedial work to be undertaken.
- 6.4 Designated caseworkers (DCWs) are normally scheduled to cover four days a week in court, which gives limited time for review and preparation of their lists. The lack of proper administrative systems and adequate case preparation hampers them as it does all other advocates. In addition, some cases ought to have gone through the statutory charging scheme, and so need to be reviewed by a lawyer. These add to the work required from the DCWs to prepare their lists. Whilst it is evident that their professionalism and commitment ensure that the work is done to as high a standard as possible, it is also apparent that the demands can be excessive.

6.5 At present, there is often no in-house lawyer at court. Agents and DCWs needing to take instructions must therefore telephone the office, and we were told that this was problematic. Callers could often not find a lawyer to speak to, and there was disruption to the court business, to such an extent that it was becoming a real concern. The Area has responded to representations from the magistrates' courts and has introduced a court liaison prosecutor to deal with requests for instructions from agents and DCWs, and urgent queries from the court. This is showing some benefits. It is apparent that the role is not understood by all, however; and it is unclear as to whether it also covers urgent work needed on files back at the office. On the administrative side, a specified point of contact (a mobile telephone being covered by an administrator at all times) has been designated for urgent enquiries from court, such as obtaining warrant files. However, this role also is not fully understood. There are some staff who are unaware of it, and others were uncertain whether it extended to all administrative matters, such as files missing from the court list.

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### RECOMMENDATION

Area managers should take immediate action to ensure that cases are prepared in an effective and timely manner; this should include checks that all post has been linked to the file, that the appropriate action has been taken, and that the case is ready for the next hearing.

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#### The standard of advocacy

6.6 We observed 13 of advocates in different courts. Our findings are set out in the table below.

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

Assessment:

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

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

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

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



- 6.7 Most of the advocacy we observed was competent or above average. We received feedback from other regular court users that most advocates are satisfactory, but that standards do slip from time to time. There were concerns over the advocacy of a few prosecutors and agents. We observed a weak performance from an in-house prosecutor; the agents we saw were all satisfactory or better.
- 6.8 Missing files and lack of preparation of cases are causing the standards of advocacy to deteriorate, which is harming the standing of the CPS locally.
- 6.9 The Area has had a high rate of agent usage and this, combined with the issues raised above regarding preparedness, has inevitably led to instances of poorer performance. On occasions agents cover Youth Court remand lists, which is contrary to accepted good practice. There is regular use of one agent who was previously a CPS employee, and it was suggested to us that the agent is making decisions which ought to be made by CPS prosecutors. The Area is already working to reduce the use of agents; notwithstanding this, given the very high rates, and the impact it has on confidence, we make a recommendation.

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#### RECOMMENDATION

Area managers should increase the level of in-house lawyer deployment thereby reducing its reliance on agents in the magistrates' courts. When agents are used they should be sufficiently prepared and experienced, and understand the scope of their authority.

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- 6.10 The Area does not currently conduct any structured advocacy monitoring. It relies heavily on feedback from court users, but in a few cases, it has used agents again despite negative feedback about their performance.
- 6.11 The professionalism and advocacy skills of the Higher Court Advocates (HCAs) and the DCWs were commended to us. Some of the DCWs are new in post, and their induction in court could have been more structured and effective. This and the limited time for preparation mentioned above make it particularly praiseworthy that they are receiving consistently good reports. Listing practices in the courts accommodate them and so they are deployed often.

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#### STRENGTHS

Designated caseworkers are professional, deliver a high standard of advocacy, and are commended by court staff and users.

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- 6.12 There were concerns expressed by the police about some aspects of advocacy, particularly the handling of bail applications. In some instances, an officer is sent to court in an effort to ensure that their views on a remand in custody and the reasons for it are conveyed. Attendance of an officer can be very useful, but the evidence suggested that the motivation was less to ensure that all information was available and more a lack of faith in the robustness of objections to bail.
- 6.13 Until recently, there has been no administrative support at the magistrates' court. However, in an attempt to process current cases and prevent an increase of the backlog of files awaiting updating, an administrator is now attending the pre-trial review courts at Guildford Magistrates' Court, and the scheme will be rolled-out to Reigate shortly. In addition, the police have been providing an administrator at court to record requests for full files. These measures are largely aimed at addressing administrative difficulties back at the CPS office rather than providing support to advocates in court.
- 6.14 In the Crown Court, again as part of measures to tackle the administrative issues, the level of caseworker coverage in court is being reduced; this is to enable caseworkers to conduct more administrative tasks on Crown Court cases in the office. This move has attracted adverse comments, and is perceived to be lessening of the level of service provided at court.
- 6.15 The facilities in most CPS rooms at the various courts visited were fit for their purpose and adequately equipped, including IT facilities, but the CPS room at Guildford Magistrates' Court is too small to accommodate more than one prosecutor comfortably, and it has no fax machine.

## 7 SENSITIVE CASES AND HATE CRIMES

*Most sensitive cases are handled and prioritised appropriately, but some decisions were inappropriate. There is some perception that allegations of sexual offences are pursued when they are weak, and that this affects the attrition rate in the Crown Court. Outcomes of hate crimes, are gradually improving but have yet to reach target or national averages. Anti-Social Behaviour Orders are handled properly, and the Area Champion has promulgated useful guidance.*

### Quality of advice and decisions

- 7.1 Generally, the criminal justice agencies consider that most types of sensitive cases are handled and prioritised appropriately, although there are some concerns about rape and domestic violence cases, the latter particularly where the alleged victim withdraws co-operation with a prosecution. The Area has yet to deliver training on domestic violence cases, or indeed to schedule it, and it is apparent that the lack of training or awareness of best practice is impacting on casework. The conviction rate for domestic violence cases was lower in our file sample than for any other sensitive case category apart from rape, and there appeared to be little consideration of proceeding after a retraction, whether a witness summons should be sought, or whether the case could proceed without the victim.
- 7.2 There is a broad perception that the Area is pursuing weak cases alleging sexual offences, and that this is responsible for the high rate of attrition in the Crown Court. In our file sample, all five rape cases resulted in an acquittal, although we considered the decisions complied fully with the *Code* in four of them. There were two further sensitive cases in which we considered the review decisions inappropriate. One was a child abuse allegation which we consider was not in the public interest to prosecute, and the other was a domestic violence case where we disagreed with the decision to discontinue. Our findings tend to support the concerns voiced about the handling of rape and domestic violence cases. Other sensitive cases appear to receive more careful consideration, and there was a perception that generally, performance was improving in this aspect of work.
- 7.3 There is little evidence that Surrey has sought out good practice from other CPS Areas, or reports such as the HMCPSI thematic reports on the handling of racially or religiously aggravated offending or rape cases, in order to improve their performance on sensitive cases. There is a protocol in place for the handling of domestic violence cases, but it does not address key areas, such as measures to improve the evidential strength of cases, or the impact of statutory charging.

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### ASPECTS FOR IMPROVEMENT

There is scope for considerable improvement in the handling of domestic violence cases, and a need for training to be delivered.

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*Specialists and experts*

- 7.4 Serious sensitive cases are routed to the Head of the Combined Units by the police at the charging stage, and are then allocated to a specialist prosecutor. Lawyers in charging centres are expected to take advice from specialist colleagues in other sensitive cases, or to liaise with the Unit Head to ensure that the case is handled appropriately. Charging cases for persistent young offenders are fast-tracked, as are most domestic violence cases, but there is no system for prioritising other sensitive cases at charging.
- 7.5 The Area has Champions appointed for the various categories of sensitive cases, but there is little evidence of their pro-activity or of dissemination of learning points and good practice.
- 7.6 All reductions in charge or discontinuances of racially or religiously aggravated offences or domestic violence, must be approved by a Level D lawyer.

*Outcomes*

- 7.7 The outcomes for domestic violence cases are discussed at paragraph 7.1. Overall, there has been some improvement in the rate of successful outcomes for hate crime cases, but the Area has yet to exceed the national average. In the first half of 2006-07, the rate was 63.7% as against a national average of 66.5%.

*Anti-Social Behaviour Orders*

- 7.8 There is a helpful protocol between the police, CPS, courts and Youth Offending Teams which covers applications for, and the issuing of, Anti-Social Behaviour Orders (ASBOs). The Area Champion has also produced a "plaster" which is a guide to the relevant case law, matters to be proved, and terms which can be incorporated into orders. It is a thorough and helpful piece of work, and undoubtedly has contributed towards the perception that ASBOs are generally well-handled by the CPS. In our file sample, there was an instance of the creative charging of breach of an ASBO charge, instead of the more obvious minor public order charge, which gave the court appropriate sentencing powers to reflect the homophobic nature of the offence.

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STRENGTHS

Applications for Anti-Social Behaviour Orders are subject to a good local protocol; prosecutors have been given thorough and helpful guidance, and cases are handled well generally.

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**Identification and management of sensitive cases**

- 7.9 The flagging of sensitive cases is somewhat erratic, and does not appear to have been the subject of management scrutiny beyond instructions to staff to flag cases and to managers to check flagging. We carried out a spot check of racist offences, which showed that 20% had not been properly flagged, and this was supported by the file sample we saw. As those not flagged were all successful outcomes, the Area performance may be a little better than that shown in nationally collated statistics.

- 7.10 Monitoring of sensitive cases is largely through the Casework Quality Assurance (CQA) scheme and through reports on adverse outcomes. CQA is not being robustly operated, and adverse case reports are subject to a backlog, so it is questionable how thoroughly or speedily failures can be identified and corrected. There is data available on racially and religiously aggravated cases, but there is little evidence of systematic analysis of, and dissemination of learning from, these or sensitive cases generally.

#### *Safeguarding children*

- 7.11 The Victim and Witness group of the Local Criminal Justice Board raised concerns about four child cases in which there had been exceptional delays and difficulties, and all the agencies were to examine them to identify any failings and learning points. The CPS response has been submitted, but the Board review has not yet been issued.
- 7.12 There were several instances where it was impossible to tell from the file whether the CPS lawyer had viewed the video recorded interview of the child victim before advising on charge, which is a breach of CPS policy. However, case progression and instructions to counsel were generally better in child abuse cases in our file sample than in other cases.

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#### ASPECTS FOR IMPROVEMENT

Lawyers should always view video recorded interviews with child witnesses, assess the quality of evidence and record this.

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- 7.13 The conviction rate in child abuse cases was low, but most decisions to prosecute were proper, although in one case the prosecution was clearly not in the public interest. Counsel who was instructed in a separate case involving the same victim advised to that effect at an early stage, and the case was discontinued quickly, but no letter of explanation was sent to the parents of the child.
- 7.14 Applications for Special Measures were not sufficiently focussed on witness needs, and were often late in the magistrates' courts. However, where a child witness was involved, the applications tended to be better and more timely (see paragraphs 10.4-10.6).
- 7.15 The Area Business Plan includes an action to promulgate the *Children's Charter* and associated guidance to staff by 31 May 2006, but this has yet to be done. There are no other specific actions regarding safeguarding children or developing closer links to the Local Safeguarding Children Board.



## 8 DISCLOSURE OF UNUSED MATERIAL

*Disclosure was not assessed as a specific topic as part of this inspection. In the OPA the quality of decision-making and compliance with the duties of disclosure was assessed as being "Fair". We identified four aspects for improvement, and progress against those is outlined in Annex E.*

### Decision-making and compliance with the duties of disclosure

- 8.1 Current performance for initial disclosure shows deterioration since the OPA in magistrates' courts' cases, but an improvement in Crown Court cases. There was one case in our file sample, and one seen in court, where material that clearly undermined the prosecution case or assisted the defence was not considered appropriately at either the initial or continuing disclosure stages or at all (neither case resulted in a conviction). Some prosecutors relied too heavily on the disclosure officer's opinion rather than reaching their own conclusion as to what, if anything, ought to be disclosed to the defence.
- 8.2 There was no separate folder for unused material in magistrates' courts' cases, and the disclosure record sheet is still not being used in the Area. The rate of ineffective trials due to disclosure issues in the magistrates' courts is consistently worse than the national average. Sensitive and third party material was handled properly in the majority of cases. The CPS have made a limited contribution to police training on disclosure since we last visited.





## 9 CUSTODY TIME LIMITS

*The OPA rated performance in relation to managing custody time limits as "Fair" and generally satisfactory, and therefore we have only inspected this with a light touch. The Area's documented systems complied with national guidance and there had been no custody time limit failures. Three aspects for improvement were identified and progress against these is outlined in Annex E.*

- 9.1 There have been no custody time limit (CTL) failures in 2005-06 or in the first half of 2006-07. Court representatives are generally satisfied with the CPS handling of CTLs. Progress has been made on two of the three aspects for improvement (see Annex E).
- 9.2 We examined five files and found that the expiry dates had been correctly calculated in all cases. Endorsements were still variable, but on the whole slightly better than during the last inspection. Extensions were handled well in the Crown Court.
- 9.3 The difficulties with CPS general administration bring some risk to the custody time limit system. Long delays in processing files and a high level of ineffective hearings mean that managers need to be even more vigilant than usual.



## 10 THE SERVICE TO VICTIMS AND WITNESSES

*The Area demonstrates a strong commitment to improve the service to victims and witnesses, but delivery is variable. Delays in the flow of information to the Witness Care Unit adversely affects its ability to deliver Victims' Code obligations. Special Measures applications need improving to ensure they are always timely and reflect the informed views of the witness. There has been some improvement in the quantity and timeliness of Direct Communication with Victims, but further work is required to ensure that relevant files are always identified, letters are written on time and the content is appropriate and accurate.*

### Meeting the needs of victims and witnesses

#### *Case decision-making*

- 10.1 When applying the public interest test lawyers should take into account the consequences for the victim of not prosecuting and the views expressed by the victim or their family and ensure that this is recorded. The file sample revealed that this information is generally recorded in domestic violence cases and is taken into account when a case is discontinued due to the victim retracting. In other cases, endorsements tended to have little reference to such considerations.
- 10.2 The views of the victim, or where appropriate their family, are taken into account when considering whether to proceed to a re-trial when the jury has failed to reach a verdict.
- 10.3 Victims who are present at court are consulted in the majority of cases when decisions about the acceptability of pleas are made, but there is scope for greater consistency.

#### *Special Measures*

- 10.4 Early identification of witnesses as vulnerable or intimidated is sometimes missed. Evidential reports do not always contain sufficient information from the officer as to witnesses' needs or other relevant information about how they could best give their evidence. The No Witness No Justice (NWNJ) action plan identified the requirement for an escalation process to be implemented to deal with this issue. Lawyers need to be more alert to this issue at the pre-charge stage and pro-active in obtaining missing information. Witness care officers (WCOs) carry out an abridged needs assessment when making initial contact with a witness. This provides a useful opportunity to identify witnesses' needs that have been overlooked.
- 10.5 Applications for Special Measures are not always appropriate. On some occasions this is because witnesses are not consulted and assumptions are made on their behalf; on others, when asked for their views, witnesses are not made sufficiently aware of the available options to make a properly informed decision.
- 10.6 Special Measures applications in the Crown Court are, generally timely although regular delays in hearing them means witnesses are kept in suspense awaiting the outcome. Applications in the magistrates' courts are rarely timely and are often made on the day of the trial, and in one case we examined without a written application. An interview with a child witness at court revealed that Special Measures were not discussed in advance of the trial.

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## ASPECTS FOR IMPROVEMENT

When making Special Measures applications prosecutors should ensure:

- that the witness's views have been obtained and that they have been made fully aware of the available options; and
  - that timely applications are made in all relevant cases.
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### *Witness Care Units*

- 10.7 An increase in staffing and the appointment of a permanent CPS manager have contributed to the Witness Care Unit (WCU) being in a stronger position to deliver results. Although there is more work to be done the unit is making a positive difference to preparing witnesses for court. We spoke to a small number of witnesses at court and the majority described the performance of individual WCOs as "very good".
- 10.8 The WCU's delivery of its *Victims' Code* obligations is hampered by CPS administrative backlogs and delays in the general flow of information (internal and external). These result in non-compliance with time limits for contact with and supply of information to witnesses. The timely warning of witnesses for court is also affected (4.3% of trials in April-September 2006 were ineffective because of prosecution witnesses not attending, but this is not broken down into those who were warned late). In some cases earlier chasing/escalation of overdue files might have improved the situation, whereas in others there is no easy way for the WCU staff to be aware of the need for further action. A recent innovation of sending CPS administrative staff to pre-trial review hearings to conduct follow-up work should assist with the timeliness of witness warning.

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## RECOMMENDATION

The Witness Care Unit needs to minimise delays in information flows to improve compliance to the *Victims' Code* by ensuring;

- earlier warning of witnesses; and
  - more timely and accurate updating of victims and witnesses of the outcome of hearings.
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- 10.9 The WCU is dependent on the HM Courts Service for information on outcomes to pass to witnesses. Confusion over terminology has, on occasions, led to the provision of inaccurate information to witnesses. Managers will need to ensure that all staff are familiar with the terminology of the various agencies to ensure that accurate and consistent information is given to victims.
- 10.10 Regular meetings between the WCU and the Witness Service provide an opportunity to deal with issues as they arise and lead to enhanced inter-agency working. The meetings are considered to be constructive and an effective forum for identifying aspects of work that require attention.

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## STRENGTHS

Meetings between the Witness Care Unit and the Witness Service are constructive and encourage good inter-agency working.

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- 10.11 On occasions individual witness care officers have demonstrated a lack of awareness of the role of the Witness Service by asking volunteers to perform tasks that form part of their regular service. A perception by some agencies that the WCU is merely a “call centre” and that staff have no practical knowledge of what witnesses face at court has been addressed by visits by WCU staff to courts in Guildford. Visits to more distant courts have been prevented by resource implications, although they would undoubtedly reap benefits by better equipping WCOs to provide information about each individual court to witnesses and understand the work of the Witness Service.
- 10.12 There is inconsistency in following-up witnesses who do not acknowledge warnings for court. A significant number of ineffective trials are due to absent witnesses and courts express considerable frustration upon hearing that their lack of response has not triggered some further action by the WCU. We encountered cases at court where follow-up calls had not been made and witnesses failed to attend.

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## ASPECTS FOR IMPROVEMENT

Following-up witnesses who fail to acknowledge their court warning should be carried out consistently.

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

- 10.13 The carrying out of needs assessments by WCOs has led to significantly more referrals to the Witness Service and a resultant increase in court familiarisation visits. Some witnesses turn down a referral when it is offered by the WCO, which regularly results in witnesses in the same case receiving differing levels of support. More effective sharing of information with the Witness Service would enable them to make further offers of support in appropriate cases.
- 10.14 Waiting times continue to be an issue for witnesses. During court observations we saw some examples of effective practice with witnesses' attendance being phased. We also saw cases in which a number of witnesses were warned for 9.30am, despite there being no expectation that they would be heard until later. Prosecutors fixing trials and passing on instructions for the warning of witnesses should provide realistic times, especially in the light of the *Victims' Code* which directs that two hours is the maximum any witness should wait.
- 10.15 Our evidence indicates that when fixing trials prosecutors need to be more robust in discussions with the defence about whether witnesses are required for court or whether their evidence can be dealt with in some other way. It is not unusual for witnesses, particularly police officers, to attend court only to be told their evidence is not required. There is also a need for lawyers to demonstrate more awareness for victims' needs at pre-trial review,

advising the court that some cases - such as those involving vulnerable witnesses - should not be double listed. Where feasible through knowledge of the local court they should identify if the layout of an individual court makes it inappropriate for particular types of trial including domestic violence.

- 10.16 There is a lack of consistency in the treatment witnesses receive at court. Prosecutors in both the magistrates' courts and the Crown Court do not routinely introduce themselves despite the expectation raised in the *Victims' Code*. We observed first hand the benefits of interaction between prosecutors and witnesses - a witness interviewed at court commented that she really valued the experience and that the barrister had "put everyone at ease".

#### *Direct Communication with Victims*

- 10.17 There is some improvement in compliance with and timeliness of Direct Communication with Victims (DCV) when the charge is dropped or reduced significantly, albeit from a very low base. Data for September 2006 shows the Area to have sent letters in 60.5% of the target number of cases, the highest figure it has achieved and very much higher than in the preceding months. However, our file sample confirmed that many cases are missed and the quality of the letters varies. Whilst some were satisfactory others appeared formulaic and included jargon that a witness might not understand. Others were insufficiently detailed or contained careless errors.
- 10.18 Timeliness of DCV letters is erratic. In September 2006 only 26.1% of letters were sent within five days. Monthly figures varied between 0% and 100% with no discernable trend.
- 10.19 Although complaints from victims received a response they were not always timely and, as with DCV letters, sometimes were not personalised and contained simple errors such as being addressed to "Sir or Madam". Admitting mistakes was avoided and issues were sometimes fudged by failing to provide an appropriately detailed explanation.

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### RECOMMENDATION

Area managers should ensure that the volume, timeliness and quality of Direct Communication with Victims letters is improved further.

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#### **No Witness No Justice**

- 10.20 The Area demonstrates a good level of commitment to victims and witnesses at a strategic level and contributes to joint analysis of the NWNJ scheme. The Chief Crown Prosecutor (CCP) is the Senior Responsible Officer (SRO) for victims and witnesses and attends the Local Criminal Justice Board sub-group, of which the WCU manager is also a member. This provides a useful forum for joint working with other agencies including Victim Support, the Witness Service and the NSPCC.
- 10.21 The NWNJ sign-over report for the Area is generally positive although further action is required in relation to six of the 16 aspects measured. Whilst performance data, including primary and secondary measures, is collected and analysed it is not always understood or used constructively to drive up performance where needed.

I0.22 The method of alerting the WCU to witnesses who have failed to attend court is inconsistent, with information potentially being received from a number of sources. This needs to be formalised to enable lessons to be learned from experience. We observed cases where the relevant WCO had not been made aware of non-attendance in a timely fashion.

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ASPECTS FOR IMPROVEMENT

The process for reporting non-attendance of witnesses needs to be strengthened.

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I0.23 Necessary improvements to the NWNJ scheme can be communicated to staff in a number of ways. The CCP regularly uses the Area newsletter as a communication tool, although whether staff take the message on board is open to question; there is an Action Plan following the sign-over report that sets out the actions needed to meet the minimum requirements; and a performance notice board in the WCU raises staff awareness, although the data displayed is not always a true reflection of current performance.

I0.24 The WCU is the only unit in the Area that holds regular team meetings, and changes and issues can be discussed at this forum. Overall the unit has made solid progress in a number of aspects of work, but the potential benefits of the improvements made are not being fully realised, primarily because of the delays in information flows.





## 11 DELIVERING CHANGE

*The Area has not implemented major change to maximum effect. Translating high level aims into effective delivery has proved a challenge. The weak planning for the re-structuring has contributed to the subsequent problems and these have affected performance. Risk management is not strong. Some joint planning has been successful, but some has not, and the CPS could be more collaborative. Training has suffered as other issues have taken priority and the complete lack of performance and development reviews significantly inhibits progress.*

### Purpose and planning

- 11.1 The senior management team has set out its high level priorities in the Area Business Plan (ABP) following some wider staff consultation. Some of the changes made in the year were aimed at implementing the Director of Public Prosecution's (DPP) vision. The high level strategy is reasonably clear, but there is much less clarity as to how it will be achieved. Planning at the detailed level is weak for some initiatives, particularly those where no national template exists. There are widespread perceptions that planning is often done at the last minute - this was particularly true for the move to statutory charging and the decision not to co-locate at Reigate.
- 11.2 The ABP establishes ownership and milestones for many of the objectives and the plan is aligned satisfactorily to the national performance management framework. The plan is weaker in establishing the benefits of individual actions and their impact on high level targets. The HMCPSI follow-up report and an action plan on the two "Poor" aspects that were identified during the overall performance assessment in December 2005 were appended to the ABP. However, they added little to clarify how many of the weaknesses were to be addressed.
- 11.3 The Area has improved the frequency of review of the ABP, albeit the effectiveness of the reviews is questionable. Reviews took place in July and September. Milestones have been missed and the reviews have not identified effective remedial actions to bring about improvement, although a new deadline may be introduced. An example is the lack of performance and development reviews (PDRs) that has had multiple target dates but was still outstanding at the time of our visit.
- 11.4 There are no unit plans and the lack of PDRs (and Forward Job Plans and appraisal reports from previous years) means that there is limited linkage of ABP goals to formal individual objectives. This does not help staff understanding of issues, although two workshops were held to discuss the Director's vision.
- 11.5 There was no co-ordinated plan to cover all the important aspects of the decision to withdraw from co-location and re-structure into two combined units. Whilst managers may have had a good idea of what they wanted to do, staff and other agencies were not clear on the rationale and objectives for the change. This is due to poor communication to some extent, but a clearly presented plan or business case could have minimised the feelings of discontent that have subsequently arisen.
- 11.6 Such a significant change should have been the subject of detailed planning on processes, responsibilities, staffing levels, measures, training requirements and risks among other things. There is little evidence of such planning. Staff perceive that some of the difficulties encountered after the move had taken place were predictable.

- 11.7 Performance in respect of joint planning is mixed. There have been some examples of good work - such as the work with the magistrates' courts to facilitate designated caseworker deployment and the joined-up approach to community engagement. On the other hand, there are examples whereby other agencies feel that more pro-activity or greater collaboration from the CPS would have been beneficial; the transfer of cases to the Crown Court sitting at Kingston; additional magistrates' courts' sessions to reduce backlogs/time delays; more positive involvement in analysing the shortfall in offences brought to justice; and consultation on the decision to withdraw from co-location. These issues have contributed to tensions between agencies.
- 11.8 Overall, the lack of effective internal and joined-up planning has had an adverse impact on morale and has contributed to a reduction in confidence in CPS managers. In a number of interviews, staff expressed the view that the Area had 'lost its way' and planning was considered to be 'knee-jerk' or based on 'trial and error'. This may in part be due to communication issues. At the time of the inspection, almost all planning was re-active.

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## RECOMMENDATION

Area managers should improve the planning process to ensure that;

- there are clearly defined detailed actions linked to the benefits and expected outcomes of the actions;
  - reviews are effective and lead to timely remedial action where necessary;
  - plans/business cases are documented and completed in a timely fashion; and
  - there are clear links between plans and processes, individual objectives and training requirements.
- 

### Change management

- 11.9 Many of the issues raised above hold equally true for change management generally. Failures in planning will tend to have a significant impact on the successful delivery of change.
- 11.10 Surrey has been a little behind many CPS Areas in implementing some national initiatives. They were amongst the last Areas to move to statutory charging and the Effective Trial Management Programme (ETMP) is not fully implemented. The advocacy strategy has just started to take shape, although more needs to be done in respect of Higher Court Advocate deployment. On the other hand Surrey was a pilot in the implementation of the case management system (CMS), and they moved to Area-wide shadow charging at an early stage.
- 11.11 It seems to take longer than normal for implementation of initiatives to lead to improvements in outcomes. The use of CMS is an example whereby use of the system by magistrates' courts' prosecutors is still poor despite the fact that they have been involved since project inception in 2002. Similarly, whilst we are encouraged that outcomes in respect of pre-charge decision cases are now improving, only three of the six key performance measures have been met.

- 11.12 Formal reviews have taken place for statutory charging, ETMP and the No Witness No Justice projects. The ETMP is affected by the problems with CPS administration and the review shows limited progress. For the other two initiatives there are indicators of progress, but also findings that show that more needs to be done, with a further visit scheduled by the National Charging Team.
- 11.13 As with a number of smaller CPS Areas, Surrey does not have dedicated resources to manage change. A member of the senior management team is allocated lead responsibility for most individual initiatives and the management team as a whole are charged with overseeing activity. This tends to work a little better for national initiatives that have a standard framework or template to support implementation and follow-up activity.
- 11.14 More careful consideration needs to be given at an early stage to the links between initiatives and the impact that decisions for one work stream can have on another. Whilst managers may have considered the potential impacts of the restructure on other aspects of work there is no evidence that this happened to the appropriate level. While some links are made between initiatives and processes, training and objectives, this is not done consistently and they do not often lead to effective actions.
- 11.15 While we have covered a number of the weaknesses in change management in the recommendation under the planning section, we consider that it needs further re-inforcement in this theme.

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## RECOMMENDATION

Area managers need to develop their change management skills to ensure that;

- dependencies and links between initiatives are clearly established and managed;
  - actions identified in reviews are actively managed to ensure they are carried out;
  - planning is proportionate to the complexity and importance of the change; and
  - there is clear communication with CPS staff and other interested parties on the aims and rationale for changes.
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- 11.16 The management of risk is not as strong as it should be. The ABP contains a register listing nine risks. In terms of identifying ownership and likelihood the register complies with CPS policy, but it is weaker in terms of identifying effective counter-measures and the impact of any such measures. Some of the stated existing counter-measures are overstated. For example the register states that the Area has a sound track record in implementing initiatives.
- 11.17 Whilst there are risks with some financial implications, we consider that financial management issues could have been better integrated (possibly including issues from the OPA action plan). We also consider that the local re-structuring should have been the subject of a formal risk assessment. Staff perceive that some of the eventual problems were predictable and therefore counter-measures could have been designed to minimise the risk.

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## ASPECTS FOR IMPROVEMENT

The approach to risk management needs to be strengthened.

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### Staff skills and training

- 11.18 The Area has produced a training plan, although it is more of a framework of possible training courses than a carefully constructed plan. For most courses it only identifies target groups without any indication of how many people/who needs the specific type of training. There is no reference to the time or resource implications of the plan or the timescale for delivery for most training. A review was conducted in August and updates show against seven of the 20 training themes in the plan. Due to the lack of detail in the plan it is difficult to judge if the Area is meeting its deadlines, although other evidence suggests that they are not. There is clearly scope to improve the standard of the plan once the Area has a better idea of the training priorities of individuals.
- 11.19 The absence of up-to-date performance and development reviews (PDRs) presents a significant problem for the Area. It was envisaged that the PDRs would form the basis of a training needs analysis to further inform the Area further of its training priorities. As a result of the non-completion, the training plan and priorities have not developed. There was a lack of ownership for driving this issue forward. We understand that staff are to be given basic generic reports/objectives by December but it is unclear if this will include training requirements.

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## RECOMMENDATION

All staff should be provided with an effective performance and development review setting objectives and identifying key individual training priorities as a matter of urgency. There is a need to agree clear ownership for managing the identification and delivery of staff training.

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- 11.20 While most staff have had the relevant mandatory training a few important training needs are outstanding. There were still five lawyers awaiting the Pro-active Prosecutor training, and domestic violence training has yet to be delivered. The Area has suggested that all non-mandatory training will go on hold until such times as their current difficulties in administration and deployment are overcome.
- 11.21 In the 2006 staff survey the satisfaction levels with the provision of development opportunities in Surrey were just below the national average and, more worryingly, 12% below the 2004 result. The Investors in People (IIP) report also raised some concerns on development.
- 11.22 The Area re-structuring in April required administrative staff to take on new and additional responsibilities. It was stated that this would bring development opportunities and acknowledged that training would be an important factor in the success of the transition. Intentions to multi-skill staff were quickly dropped as the administration team encountered difficulties. There has been some revitalisation of the training in October and some administrative staff are now being developed. The training plan developed within the unit is not integrated into the overall training plan.

## 12 MANAGING RESOURCES

*The financial performance was better in 2005-06 with a comparatively small overspend, although the Area is projecting an overspend in the current year. Systems give a good appreciation of the budget position, but more could have been done at an earlier stage to address potential causes of overspending. The deployment of designated caseworkers has improved greatly since July, but the deployment of in-house lawyers to court is unsatisfactorily low. This has led to extremely high agent usage which contributes significantly to the current financial position. HCA usage has improved, but more remains to be done to achieve good value for money. Sickness levels have increased dramatically and this has contributed to the Area's difficulty in deploying prosecutors effectively.*

### Use of resources and budget control

- 12.1 In 2005-06 the Area overspent against its non-ring fenced running costs budget by £4,117 (0.13%). This represented a considerable improvement on the previous two years, although it should be noted that the Area was granted an extra allocation of £19,000 just before the end of the financial year to help minimise the overspend. The position in the current year is a cause for concern and the Area are currently £120,000 over their profiled budget. They have attempted to find ways to reduce this and some remedial actions have been identified that mean they are now projecting a reduced overspend of approximately £50,000. These latest plans include some assumptions that rely on the co-operation and agreement of others and therefore may not be deliverable.
- 12.2 The Secretariat has good systems for monitoring actual and committed expenditure. Their systems for projecting spend are sound and the current position is more attributable to management of deployment and high sickness levels rather than a lack of appreciation of the budget position. Whilst some managers are clearly aware of the issues, unit staff do not fully appreciate the situation. The high use of agents (as a result of low deployment of in-house prosecutors) is at the heart of the problem and this is discussed in more detail later in this chapter.
- 12.3 The control of prosecution costs continues to fluctuate. Performance in respect of timely processing of fees was better than the national average in 2005 and the early part of 2006, but has deteriorated significantly in recent months. In terms of absolute expenditure the Area is 64% over budget at the midway point of the year (highest in the country), although the budget allocation appears to be out of kilter with the previous year. There is limited awareness or understanding as to why the Area's unit costs for cases paid under the graduated fees scheme is high.

### Value for money principles

- 12.4 There is limited evidence of a strong value for money culture or approach in CPS Surrey. Some steps have been taken to make economies in IT equipment and stationery, and use of the Government purchasing card is encouraged to obtain discounted rates for some products. However, in the more significant areas of efficiency and effective deployment there is still scope for improvement.

- 12.5 There is considerable inefficiency in many of the Area's processes at the present time and these contribute to ineffective and additional hearings that involve cost and/or delays. We saw a number of cases in our file sample, court observations and in our CMS checks whereby the CPS should have done more to ensure that hearings were effective.
- 12.6 The Area contributed almost £300,000 towards the set up costs of co-location at the police stations. Co-location was never achieved at Reigate, where there were substantial costs. The early withdrawal of CPS staff (save for the duty charging lawyer) means that this does not represent particularly good value from a CPS funding perspective.
- 12.7 Whilst there may be a perfectly valid explanation for their high unit costs in Crown Court cases, the Area needs to do more to understand the reasons for this. More can be done to generate higher savings from their Higher Court Advocates. We have made recommendations or raised aspects for improvement elsewhere in the report which, if successfully implemented, should enable the Area to deliver better value for money.

#### Staff deployment

Designated caseworker deployment (as % of magistrates' courts' sessions)			Higher Court Advocate savings (per session)	
National target 2006-07	National performance Apr-Sep 2006	Area performance Apr-Sep 2006	National performance Apr-Sep 2006	Area performance Apr-Sep 2006
17.2%	12.6%	11.2%	£324	£175

- 12.8 The Area management team decided in September 2005 upon re-structuring, and as part of this process they would withdraw their co-located staff from Guildford and Staines Police Stations (we have already commented on the unsatisfactory planning for this). Some work was undertaken on the permutations for combining the work of the four police divisions into a two unit structure. Whilst it had been envisaged that this would lead to two combined units handling magistrates' and Crown Court work, the reality was that after a short time the Crown Court work reverted to the small group of lawyers who handled it prior to the re-structuring. This has resulted in the unusual situation that while Crown Court lawyers technically report to Level D Unit Heads, their day-to-day work is allocated and supervised by another manager.
- 12.9 We have been able to ascertain (from a variety of unrelated documents) a number of benefits that the re-structure hoped to achieve, but the reality is that few have been realised as yet. A number of revisions have subsequently been made to personnel, numbers and processes, and whilst some progress is evident, there is still a need for considerable improvement.

12.10 The Area is now planning another re-structuring in which they will move to one magistrates' courts' unit and one Crown Court unit. Whilst this will clarify reporting lines and responsibilities, we are concerned that it will create an imbalance of workload, particularly among managers. The primary catalyst for this new change appears to be the departure of the Special Casework Lawyer on secondment, coupled with the impending national CPS re-organisation. There was some uncertainty at the time of the inspection as to the staffing levels for the new Crown Court unit, whose numbers have reduced over time. Insufficient thought has been given to this new change and that it carries some risk.

12.11 Historically, CPS Surrey has benefited from comparatively low sickness rates. The situation has changed, and the rate of absence (13.6 days per person) is now significantly above the national average (8.5 days) and target, and is rising. A high percentage of absence is due to long-term sickness, and more worrying, some is related to stress. This is of particular concern, as the pressure to improve performance and productivity was being increased at the time of our visit. The level of absence experienced in more recent times has had an adverse impact on Area deployment opportunities.

12.12 Records of sickness are satisfactorily maintained and there was evidence of 'back to work' interviews in most cases.

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*Sickness absence (per employee per year)*

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<b>National target 2006</b>	<b>National performance year to June 2006</b>	<b>Area performance year to June 2006</b>
7.5 days	8.5 days	13.6 days

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12.13 There is still a need for significant improvement in the effective deployment of staff in the magistrates' courts. The low percentage of in-house court coverage continues to be a feature in Surrey. During interviews, managers expressed the view that lawyers were operating within the local policy of one office day each per week, but this is not supported by the Area's own data. In the first six months of the year, its records indicate that a total of 788 half day sessions were covered by in-house lawyers - equating to a total of 30 sessions per week. The Area has the full time equivalent of 27.8 lawyers and therefore the average of just over one half day session per lawyer per week is extremely low. The Area has suffered from fairly high absence rates during the year and some deployment is restricted on health grounds. However, even making allowances for this and if all Crown Court lawyers are excluded the average is still modest. Covering charging centres would account for a further two sessions per week per lawyer. While the high number of staff working part-time could influence the figures a little, it is difficult to reconcile the Area managers' views that lawyer deployment was maximised.

- 12.14 The corollary of the low deployment of in-house prosecutors is the very high usage of agents. In the first half of 2006-07, agents covered 63% of all magistrates' courts' sessions (almost three times the national average). This has a big impact on the budget and is the primary reason that Surrey is likely to overspend. There is an added down-side to such heavy agent usage as they cannot make key legal decisions in court without reference to the CPS, and this can lead to significant disruption to court proceedings. Further plans were being developed at the time of the inspection with a view to freeing up more lawyer time for court coverage. The plan envisages a reduction in reliance on agents by up to 28 sessions per week, although there are some assumptions and dependencies in the plan that require third party compliance that had not yet been agreed. We have made a recommendation at paragraph 6.9 with regard to lawyer deployment and agent usage. Whilst this is aimed at reducing inefficiencies in court, implementing it will also help achieve the Director's vision and will reduce the pressure on the budget.
- 12.15 At the time of the OPA we expressed concerns over the data regarding the number of sessions recorded. No work has been undertaken to validate the numbers and the integrity of the data is still highly questionable. This may affect the accuracy of data regarding in-house and designated caseworker (DCW) coverage. As the volume of sessions is such a key factor in deployment it is vital that the Area has an accurate appreciation of its commitments. In addition to the overall volume there are wide variations on a monthly basis that are not logical given the relative stability in sitting patterns. This suggests that there are delays in preparing data. At the present time the CPS Surrey would prefer less sessions, and the courts would prefer more. It is difficult to hold meaningful negotiations if the data is flawed.

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#### RECOMMENDATION

Area managers must ensure that records and data of sessions undertaken in the magistrates' courts is accurate and produced in a timely fashion.

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- 12.16 On a much more positive note, the Area has significantly improved its usage of DCWs. Negotiations with the courts have led to better court listing arrangements to facilitate their effective deployment and the Area has increased its cadre from two to five. In the period January-June 2006 DCWs covered on average only 29 sessions per month, but this increased to 87 sessions per month for July-September. (This equates to about five sessions each DCW per week, albeit in the holiday period, but recent rosters indicate that they are normally scheduled to cover eight sessions each per week.) As a result they were able to cover 16.6% of magistrates' courts' sessions in the period July-September. This exceeds the national average and is close to the Area target of 17% - it is also a huge improvement on last year's outturn of 6.1%. As some of the newer staff only started covering court in July, there is scope for further growth on a per person basis, although one of the 'team' was due to begin maternity leave shortly after the inspection. We both observed and received feedback on their good performance in court.

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#### STRENGTHS

The significant improvement in designated caseworker deployment since July 2006.

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- 12.17 Whilst some progress has been made in usage of Higher Court Advocates (HCAs), there is still an opportunity to make more effective use of their skills. Some new candidates are being - or already have been - trained, thus broadening the number of advocates available for deployment. One of the goals of the re-structure in April was to enable designated lawyers to shadow experienced Crown Court lawyers with a view to further developing HCA coverage. This aim has not been achieved.
- 12.18 The Area has been able to increase the number of sessions covered by HCAs and the savings generated per session has improved since the OPA. However, the average saving is still among the lowest in the country (£178 against a national rate of £332) and the overall counsel fee saving stood at 50.3% of its target at the mid-year point. There is scope to improve the targeting of hearing types covered to realise more savings. Plans to appoint a dedicated resource to support effective HCA deployment have been put on hold pending re-structuring and other issues being resolved.

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ASPECTS FOR IMPROVEMENT

The Area needs to deploy its Higher Court Advocates more effectively.

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### 13 MANAGING PERFORMANCE TO IMPROVE

*Whilst the performance management systems needed some development at the time of the OPA, we were satisfied that things were being taken forward on most fronts. Some progress has been made, but the new challenges brought about following the re-structure have hindered progress to some degree.*

#### Overview of current position

- 13.1 The Area has continued to make gradual progress in its performance management regime. It has better data now than at the time of the OPA, but some inaccuracies remain and sufficient attention has not been paid to some important data - for example in-house lawyer sessions data and counsel graduated fees scheme unit costs. Dissemination of the information to staff still needs improvement. The Area performance officer continues to use the Management Information System (MIS) extensively. The inter-agency local performance groups are making slow progress, but there is a perception that CPS staff could be more participative and effective.
- 13.2 The lack of formalised objectives and development plans for individuals makes managing personal performance extremely difficult.
- 13.3 The volume of cases analysed under the Casework Quality Assurance scheme has improved, although it fluctuates widely from month-to-month, and its use through feedback to individuals or in units was unclear. A high percentage of the forms seen had been completed by the Chief Crown Prosecutor rather than the Unit Heads.



## 14 LEADERSHIP

*Staff motivation and morale have been traditionally high in CPS Surrey but was clearly an issue at the time of this inspection, and a blame culture had developed. Managers are finding it difficult to communicate effectively and they are not perceived to be a cohesive team with a clear direction at the present time. Working relationships with partner agencies are significantly less constructive and effective than was previously the case, although some positive work is still undertaken. The Area's approach to equality and diversity is sound.*

### Vision and management

- 14.1 The Area has adopted national vision and values and these are incorporated in its Business Plan (ABP), which has been promoted to staff through two 'Director's Vision' workshops and an in-house newsletter, *Shout*.
- 14.2 It was intended to link objectives from the ABP into individual performance and development reviews (PDRs), but this has not been achieved. None of the staff interviewed had received a PDR or Forward Job Plan for the current year, and many had not received a proper appraisal for the previous year.
- 14.3 There was a lack of clarity among managers about what was expected of them to deliver the Area's vision and the comprehension among operational staff was low. The Area's direction has suffered as staff are primarily operating in a 'fire-fighting' mode with much work done at the last minute or late.
- 14.4 The joint inspection report published in 2005 was complimentary of the commitment of CPS staff to inter-agency work. However it is evident that within criminal justice agencies the reform agenda has become a distraction. Additionally, the consequence of the Area's re-structuring has also further distracted agencies from stronger working relationships and driving the Local Criminal Justice Board agenda forward. At the present time, the CPS are seen by other partners as the weakest link in progressing issues. It is also evident that a measure of mistrust exists between the agencies that are not conducive to building a prosecution team ethos.
- 14.5 There is a perception among partners at the strategic level that although there is commitment to partnership working and initiatives from senior CPS staff, in particular the CCP, that they are highly pressured, have budgetary constraints and consequently struggle to engage and develop wider links. Consequently the Area has not consistently delivered against the aims of various initiatives.

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### RECOMMENDATION

Area managers must improve their relationships with other agencies significantly by demonstrating commitment to joint working and building a prosecution team ethos.

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### Governance

- 14.6 The recent re-structure and continuing fine tuning of roles has meant that there has not been a clearly defined governance structure. Regular moves and change of line managers have left many staff feeling unsupported. 'Ownership' of some aspects of work needs clarification and formalising through the staff appraisal process (a recommendation on the need for more effective use of objectives and development plans has been made in Chapter 10).
- 14.7 While Unit Heads are clearly accountable for the performance of their units, the lines of reporting and lines of responsibility for certain issues criss-crossed between units making staff confused and feeling they lacked direction. The lack of any meaningful performance data concerning their particular unit also makes it difficult to drive performance and direct staff.
- 14.8 There were indications that decision-making among managers lacked consistency or structure, leading to confusion among staff concerning direction. This situation is exacerbated by infrequent meetings to discuss staff concerns.
- 14.9 It was clear from documents and interviews that a blame culture has developed, and there were too many instances of people distancing themselves from a problem and pointing the finger at colleagues. This is happening at most levels including managers, and it is also happening on an inter-agency basis.

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### RECOMMENDATION

Area managers need to adopt a more cohesive and corporate approach - they also need to lead by example. Urgent work needs to be done to address the blame culture that has developed.

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- 14.10 We were told consistently that the communication from management was poor with the in-house newsletter being the primary means of cascading information. The meeting structure is inadequate with little evidence of two-way communication between staff at different levels and very few team meetings. Senior management team minutes or issues arising are not widely circulated, contributing to staff perception that management decisions lacked transparency. Requests for meetings by staff to discuss important operational issues with managers have not always been accommodated. It is a little surprising that there has only been one Whitley Council meeting in 2006 (in January) in light of some of the issues raised during the inspection.
- 14.11 The Area has sought to address some communication issues by the introduction of an all staff meeting (under the banner 'Simply Surrey'). The first meeting was held in October, although it was not minuted.

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### RECOMMENDATION

Area managers should implement structured and regular meetings with staff ensuring effective two-way communication between staff at different levels exists. Minutes should usually be made available to staff.

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14.12 Irrespective of these concerns staff within units are frequently supportive of each other despite work pressures that were clearly being felt at the time of our inspection.

#### **Ethics, behaviours and the approach to equality and diversity**

14.13 Staff morale as evidenced in the staff surveys has been traditionally high; the one conducted in early 2006 indicates that staff satisfaction levels were above the national area average. However the 2006 survey results reveals a trend around leadership, management and communication issues that indicate a worsening picture than that of the 2004 survey. Interviews with most staff reveal a much deteriorated position than earlier in the year. Whilst some good work is recognised, staff feel managers concentrate on the negative rather than the positive. A regular 'Dinner for two' award was re-introduced in the summer to recognise strong individual contribution.

14.14 The recent Investor in People post-recognition review (June 2006) concludes that the Area no longer meets the required standard. The report highlights that while effective processes exist, not all managers are effectively applying them and that there are clear gaps to effective people management. The report echoes many of our findings in respect of staff understanding their contribution, lack of feedback, inadequate recognition, lack of consultation and involvement that has led to staff confusion and loss of ownership. There are recommendations around most of these points within this report.

14.15 A wide variety of working patterns are operated to accommodate individual needs. The results of the 2006 staff survey were significantly better than national averages in many aspects of promoting Dignity at Work. The Area has made significant efforts to be an employer of choice with its flexible working arrangements, but there was a perception that these at times outweighed the business need. It will continually need to be aware of and balance these difficult issues.

14.16 Staffing is generally representative of the local population. A higher percentage number of black and minority ethnic staff are employed than is representative of the local community and, similarly, the proportion of female staff is higher than the local benchmark.

14.17 There continues to be occasional use of inappropriate language in internal documents (particularly the Area newsletter). In some cases, it is in an attempt to be humorous, and in others the tone is unnecessarily combative. This can lead to ill feeling and is not conducive to good working relationships, nor does it set a good example.

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#### **ASPECTS FOR IMPROVEMENT**

More care needs to be taken to ensure that the tone of messages is appropriate.

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## 15 SECURING COMMUNITY CONFIDENCE

*The OPA rated this aspect as "Fair" and it was considered that the Area was making steady progress. The level of public confidence in the criminal justice agencies in Surrey was, and still is, higher than the national average. This aspect was therefore only considered with a light touch in this inspection.*

### Overview on current position

- 15.1 The Area has produced a Community Engagement Action Plan (2005-08) but this has not yet been updated. Most actions do not have target dates or milestones. It is difficult therefore to be fully confident that the Area is on track. However, feedback from external interviews suggests that it is making solid progress.
- 15.2 The engagement activity has not been logged in the past and was subject to an aspect for improvement in the 2005 OPA. However the Area now produces a very useful diary of events that may reflect a more concerted effort or better recording practices (or both). In addition, an information sheet and questionnaire have been devised for staff to complete when they carry out community engagement, which will assist in evaluating the effectiveness of engagement work.
- 15.3 The Area has continued its involvement in a Neighbourhood Panel pilot initiated by the police and is actively involved in this programme, having recently chaired these groups. It has also done some useful work with the National Association for the Care and Resettlement of Offenders (NACRO) and other partner agencies on tracking the outcomes of cases involving defendants from black and minority ethnic groups at various stages of the criminal justice process.
- 15.4 We examined some recent complaint files to ascertain the quality of the responses. As with Direct Communication with Victim scheme letters, the quality was variable. Attention to detail is sometimes overlooked and responses did not always deal with the issues fully.
- 15.5 There is no measure of public confidence specific to the CPS. The level of public confidence in the effectiveness of criminal justice agencies in bringing offenders to justice, as measured by the British Crime Survey, is higher in Surrey (47%) than the national average (44%).



## ANNEX A: AREA EFFECTIVENESS INSPECTION FRAMEWORK

### Standards and Criteria

#### 1 Pre-charge advice and decisions

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

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

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

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

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

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

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

**Criteria 2B:** Cases progress at each court appearance.

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

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

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

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

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

**Criteria 3B:** Cases progress at each court appearance.

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

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

#### 4 Presenting and progressing cases at court

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

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

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

5 Sensitive cases and hate crimes

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

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

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

6 Disclosure

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

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

7 Custody time limits

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

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

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

8 The service to victims and witnesses

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

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

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

9 Delivering change

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

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

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

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

10 Managing resources

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

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

**Criteria 10B:** All Area staff are deployed efficiently.

## 11 Managing performance to improve

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

**Criteria 11A:** Managers are held accountable for performance.

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

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

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

## 12 Leadership

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

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

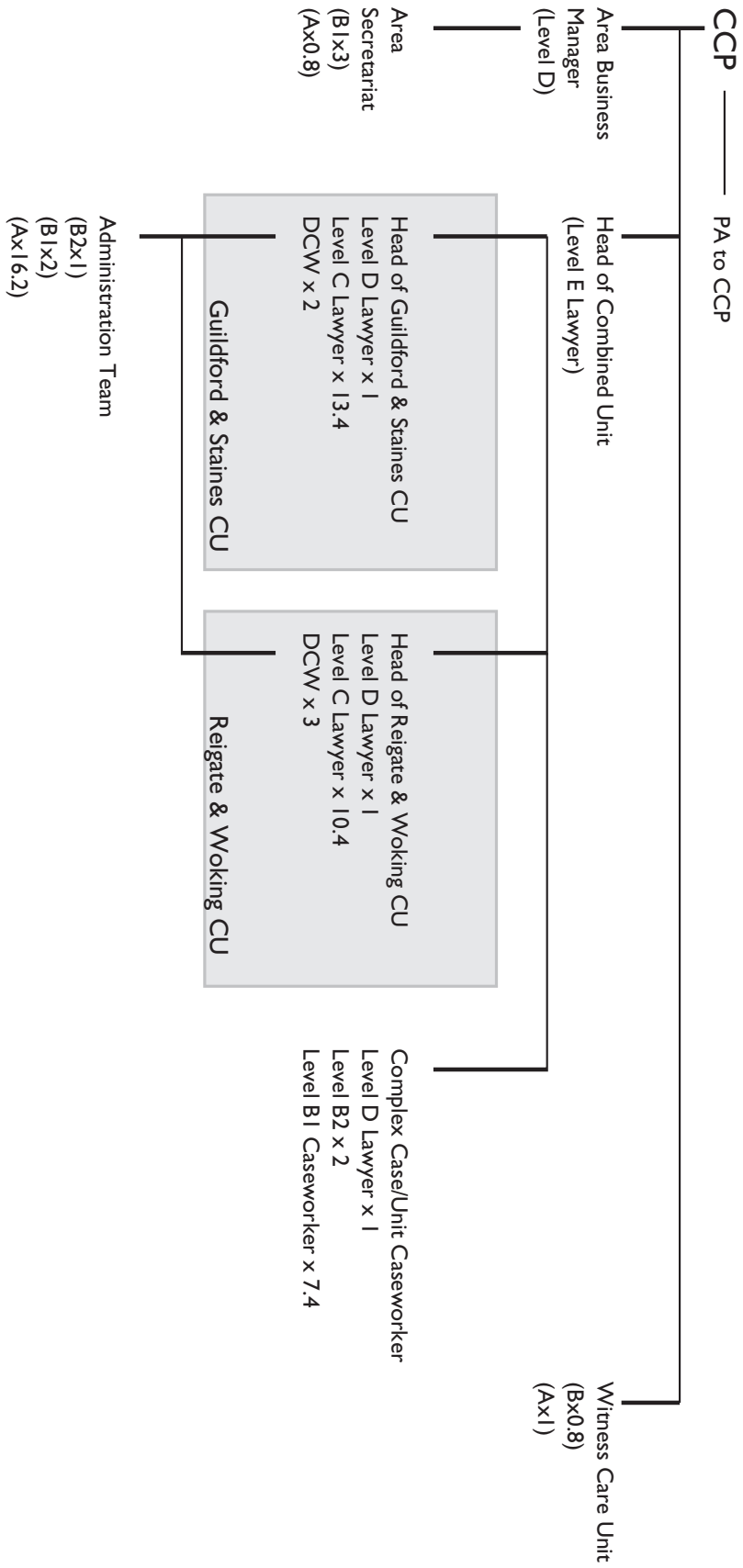
**Criteria 12B:** Senior managers act as role models for the ethics, values and aims of the Area and the CPS, and demonstrate a commitment to equality and diversity policies.

## 13 Securing community confidence

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

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

## ANNEX B: ORGANISATION CHART



## ANNEX C: CASEWORK PERFORMANCE DATA

Caseloads and outcomes	Surrey		National	
	Number	Percentage	Number	Percentage
<b>1. Magistrates' Courts - Types of case</b>				
Pre-charge decision	4,627	30.7	564,650	33.5
Advice	2	0	2,201	0.1
Summary	6,555	43.4	694,135	41.1
Either way and indictable	3,860	25.6	423,541	25.1
Other proceedings	48	0.3	3,979	0.2
<b>Total</b>	<b>15,092</b>	<b>100.0</b>	<b>1,688,506</b>	<b>100.0</b>
<b>2. Magistrates' Courts - Completed cases</b>				
Discontinuances and bind overs	1,001	10.3	116,001	11.2
Warrants	297	3.1	30,881	3.0
Dismissed no case to answer	47	0.5	2,846	0.3
Acquittals after trial	250	2.6	18,908	1.8
Discharged	3	0	2,455	0.2
<b>Total Unsuccessful Outcomes</b>	<b>1,598</b>	<b>16.5</b>	<b>171,091</b>	<b>16.5</b>
Convictions	8,065	83.5	868,557	83.5
<b>Total</b>	<b>9,663</b>	<b>100.0</b>	<b>1,039,648</b>	<b>100.0</b>
<b>Committed for Trial In the Crown Court</b>	<b>885</b>		<b>91,533</b>	
<b>3. Magistrates' Courts - Case results</b>				
Guilty pleas	6,348	75.9	659,989	74.1
Proofs in absence	1,118	13.4	159,352	17.9
Convictions after trial	599	7.1	49,216	5.5
Acquittals after trial	250	3	18,908	2.1
Acquittals no case to answer	47	0.6	2,846	0.3
<b>Total</b>	<b>8,362</b>	<b>100.0</b>	<b>890,311</b>	<b>100.0</b>
<b>4. Crown Court -Types of case</b>				
Indictable only	359	31.4	35,229	28.4
Either way defence election	93	8.1	5,081	4.1
Either way magistrates' direction	369	32.2	48,464	39.0
Summary appeals; committals for sentence	360	29.8	35,343	28.5
<b>Total</b>	<b>1,145</b>	<b>100.0</b>	<b>124,117</b>	<b>100.0</b>
<b>5. Crown Court - Completed cases</b>				
Judge ordered acquittals and bind overs	82	9.8	12,389	13.4
Warrants	17	2	1,363	1.5
Judge directed acquittals	12	1.4	1,422	1.5
Acquittals after trial	89	10.6	6,005	6.5
<b>Total unsuccessful outcomes</b>	<b>200</b>	<b>23.8</b>	<b>21,179</b>	<b>22.9</b>
Convictions	641	76.2	71,111	77.1
<b>Total</b>	<b>841</b>	<b>100.0</b>	<b>92,290</b>	<b>100.0</b>
<b>6. Crown Court – Case results</b>				
Guilty pleas	524	70.6	59,574	75.9
Convictions after trial	117	15.8	11,537	14.7
Acquittals after trial	89	12	6,005	7.6
Judge directed acquittals	12	1.6	1,422	1.8
<b>Total</b>	<b>742</b>	<b>100.0</b>	<b>78,538</b>	<b>100.0</b>

## ANNEX D: RESOURCES AND CASELOADS

<b>Area Caseload/Staffing</b>		
<b>CPS Surrey</b>		
	<b>October 2006</b>	<b>September 2004</b>
Cases	10,463 (year to 30 Sep 06)	12,109
Staff in post	69	62.6
Lawyers in post (excluding CCP)	27.8	23.4
Pre-charge decisions/advices per lawyer (excluding CCP)*	166.5	63.7
DCWs in post	5	1.8
Magistrates' courts' cases per lawyer and DCW (excluding CCP)	319	480.5
Magistrates' courts' contested trials per lawyer (excluding CCP)	32.2	42.8
Committals for trial and "sent" cases per lawyer (excluding CCP)	31.8	37.5
Crown Court contested trials per lawyer (excluding CCP)	7.8	8.4
Level B1, B2, B3 caseworkers in post (excluding DCWs)	15.4	17
Committals for trial and "sent" cases per level B caseworker	57.5	51.6
Crown Court contested trials per level B caseworker	14.2	11.5
Level A1 and A2 staff in post	17.8	18.4
Cases per level A staff	587.8	658.1
Running costs (non-ring fenced)	£3,190,417	£2,837,000

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

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



## ANNEX E: IMPLEMENTATION OF ASPECTS FOR IMPROVEMENT FROM REPORT PUBLISHED IN DECEMBER 2005

Aspects for improvement	Position in October 2006
1 Non compliance with the shadow charging scheme is widespread	Substantial progress - implementation of statutory charging has led to improved compliance, although the police sometimes avoid using the Area's charging scheme and arrange timing to use CPS Direct
2 Low level of face-to-face advice	Limited progress - face-to-face advice continues to be the exception rather than the norm, but an appointments system is being trialled at one charging centre
3 Experience levels of pre-charge advice prosecutors needs improving	Limited progress - experience levels continue to be variable. Some lawyers have not had Pro-active Prosecutor training and demonstrate less expertise than others. The TU lawyers do not routinely participate in the scheme, but do some written advices on complex cases
4 The analysis of NFA cases is weak	Substantial progress - there has been monitoring of NFA cases, including formal Division-wide checks by police. Work undermined to some extent by backlogs and too many 'undefined' cases
5 Benefits realisation outcomes are worse than national average	Substantial progress - all outcomes have improved although only two of the six performance measures are better than the national average, and three meet national targets.
6 The quality of continuing review in magistrates' courts' cases needs improving	Limited progress - there is a lack of consistency in the quality and incidence of continuing review
7 There are breakdowns in communication with the police on individual cases	No progress - there are still many occasions where requests for additional evidence or even full files are subject to delay or duplication
8 The timeliness of service of committal papers is well below national average	No progress - rate at 62.4% is still well below average (73%). Papers normally served on day of committal
9 The use of CMS in magistrates' courts' cases is significantly below national average	Limited progress - effective use of CMS for full file reviews remains variable, many containing little detail or a reference to the review being on the paper file

Aspects for improvement	Position in October 2006
10 ETMP has not been implemented in the Crown Court	No progress - this requires co-operation of CJS partners
11 Unsuccessful outcome rates are higher than the national average	Achieved - successful outcome rates are improving and match the national performance
12 There was inaccuracy in finalisation of adverse cases	Limited progress - inaccuracy in finalising adverse cases is not uncommon, demonstrating a lack of understanding of legal terms
13 Conviction rate in cases subject to pre-charge advice was low	Substantial progress - rate has improved and is now very similar to the national average
14 There was scope to improve the analysis of performance in relation to sensitive cases	Limited progress - while data is now routinely available there was limited evidence of its effective use
15 Lack of clarity in role of Champions for sensitive case types	No progress
16 There were delays in taking decisions in domestic violence cases involving retractions	Limited progress - there remains scope for improvement in the management of domestic violence cases
17 No agreement with courts over managing custody time limits	No progress - there is an acceptance that management of CTLs is the responsibility of the CPS
18 Senior managers were not involved in managing/monitoring CTLs	Limited progress - this continues to be primarily a Level B responsibility
19 There were errors and inconsistencies in CTL details in files examined	Substantial progress - CTL details were generally correct with extension applications where appropriate
20 Limited monitoring of disclosure and Casework Quality Assurance results inconsistent with file sample findings	No progress
21 Inconsistencies in the quality of handling of disclosure	Limited progress - initial disclosure is variable and in some cases lawyers relied on the disclosure officer's assessment and did not inspect the material. Continuing disclosure is less consistent, often late and sometimes ignored
22 There was limited training of police on disclosure resulting in some poor schedules	Limited progress - some work done but other pressures have limited wider CPS involvement

<b>Aspects for improvement</b>	<b>Position in October 2006</b>
23 Performance on disclosure was worse than in previous inspections	No progress - performance has deteriorated in some categories
24 Volume and timeliness of Direct Communication with Victims letters was unacceptably low	Limited progress - the level of improvement is erratic in terms of volume and timeliness
25 The Area was not meeting the minimum standards of No Witness No Justice initiative	Substantial progress - only one target not met and this is attributable to problems with CPS administration. Five other aspects require some more work
26 Limited monitoring of advocacy was being undertaken	No progress - there continues to be very little formal monitoring
27 Multiple pre-charge reviews taking place leading to delays in progressing cases	Limited progress - the introduction of administrative support at PTR is bringing about some improvement, but multiple PTRs remain an issue
28 Objectives in Business Plan not met, with no clear strategy to cope with changing and competing priorities	Limited progress - still a lack of direction
29 Reviews of plans were limited and effective remedial actions not identified	Limited progress - frequency of reviews has improved, but this does not always lead to timely or effective remedial actions
30 Expected benefits of major initiatives not being delivered	Limited progress - variable performance. Although the gap between Area and national performance has narrowed, it seems to take longer for benefits to come through in Surrey
31 Reviews of major initiatives were not always effective	Limited progress - still some issues over translating reviews into effective remedial actions that bring sustained improvements
32 Limited evaluation of training was evident	Limited progress - not helped by lack of performance appraisal process
33 Controls of committed expenditure needed improving	Achieved
34 Area had overspent budget in two previous years	Limited progress - Area was on course to overspend but recent proposals may reduce this risk

Aspects for improvement	Position in October 2006
35 The Area structure was expensive with high numbers of senior grade staff	Substantial progress - level of senior staff has reduced. There are, however, some fundamental concerns around the wider repercussions of last re-structure
36 Low deployment of in-house prosecutors to cover court	No progress - level of sessions covered by lawyers has reduced (although partly countered by improvements in DCW deployment below)
37 Very high use of agents in the magistrates' courts	No progress - rate is the highest in the country. Some recent steps may improve situation
38 Deployment of DCWs needs improving	Achieved - DCW usage has improved greatly
39 HCA usage was ineffective in both volume and value of sessions	Limited progress - whilst the volume is increasing, the savings per session are among the lowest in the country
40 Limited performance data regularly available	Substantial progress - more data is available to managers on a regular basis. MIS is used extensively
41 Limited evidence of effective use of performance data by the senior management team	Limited progress - a new analysis was available for first time in September
42 Variable effectiveness of inter-agency local performance groups	Limited progress - moving in the right direction but progress is slow
43 Some key data requirements needed to manage specific aspects of work had not been identified	Limited progress - some of those not done at time of OPA have been rectified, but new shortcomings have emerged
44 There was significant mis-recording of case outcomes in CMS	Limited progress - error rates were lower but still too frequent
45 Dissemination of performance data was not systematic	No progress
46 The CQA scheme was operated inconsistently	Limited progress - there continues to be only limited operation of the scheme. CCP has had to get personally involved
47 Remedial actions to modify structures and finance outcomes were not fully effective	Limited progress - Area still struggles to identify and implement effective remedial actions

<b>Aspects for improvement</b>	<b>Position in October 2006</b>
48 There were inconsistent processes in place across the various units - specific issues at Staines	No longer applicable
49 Inter-agency groups involving CPS staff were not very effective in delivering results	Limited progress - variable performance between groups
50 Team meetings infrequent in most units	Limited progress - team meetings are not taking place routinely across the Area. Only the WCU has any regular meetings
51 There were inappropriate messages in some internal communications	Limited progress - inappropriate messages, albeit of a different nature, remain an issue
52 Community engagement focuses around small number of staff	Limited progress - still the domain of a comparatively small group of staff
53 Limited evidence of change directly related to engagement activity	Limited progress - may be affected by limited assessment of this aspect of work
54 Engagement activity was not logged or evaluated effectively	Achieved

## ANNEX F: TOTAL NUMBER OF FILES EXAMINED FOR CPS SURREY

	Number of files examined
<b>Magistrates' courts' cases:</b>	
Pre-charge advice/decision	8
No case to answer	4
Trials	15
Youth trials	5
Discontinued cases	5
Discharged committals	1
Race crime	4
Domestic violence cases	6
Fatal road traffic offences	0
Cases subject to custody time limits	0
<b>Crown Court cases:</b>	
Discontinued (sent cases dropped before service of case)	0
Judge ordered acquittals	3
Judge directed acquittals	1
Trials (acquittals and convictions)	5
Child abuse cases	6
Race crime	3
Homicide	5
Rape cases	5
Cases subject to custody time limits	0
<b>TOTAL</b>	<b>76</b>

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

### **Crown Court**

His Honour Judge Crocker

Ms G Cook, Crown Court Manager

### **Magistrates' Courts**

Ms J Richards

Mr J Lavers JP, Chair of the Bench for North West Surrey LJA

Mr C Pulman JP, Chair of the Bench for North Surrey LJA

Mrs S Barnes JP, Deputy Chair of the Bench for South East Surrey LJA

Mr P Jeans JP, Deputy Chair of the Bench for South West Surrey LJA

Mr S Townsley, Area Director of HM Courts Service

Mr J Baker, Justices Clerk

### **Police**

Mr R Quick, Chief Constable

Deputy Chief Constable B Moore

Assistant Chief Constable L Owens

Chief Superintendent K Deanus

Chief Superintendent S Warren

Chief Superintendent R Morris

Superintendent M Parker

Superintendent G Hill

Superintendent J Boshier

Chief Inspector L Ashworth

Chief Inspector G Little

Chief Inspector S Salmon

Chief Inspector S Sang

Detective Chief Inspector M Preston-Heard

Detective Chief Inspector R Blythe

Detective Constable J Ball

Police Constable McGovern

Mr M Morley

Detective Sergeant J Drinkwater

Ms P Clare

Ms A Rooke

**Defence Solicitors**

Mr R McCauley

Mr A Lovett

**Counsel**

Mr S Russell-Flint QC

Mr R Bendall

Mr B Altman

Miss S O'Neill

**Probation Service**

Ms K Page, Chief Officer of Probation (and Chair of Local Criminal Justice Board)

**Witness Service**

Mr G Burge

Mr M Hall

Ms J Wells

**Victim Support**

Mr M Goodridge

Ms S Marlow

**Youth Offending Teams**

Mrs S Warnke, Redhill Youth Offending Team

Mr B Byrne, Staines Youth Offending Team

**Community Groups**

Mr E Shaylor, Surrey Community Safety Unit

Mrs French, Domestic Violence Strategy Implementation Unit

Ms N Samota, NACRO Race Unit

**Local Criminal Justice Board**

Ms D Emery, Performance Officer

In addition, during the course of our inspection, a number of other representatives of the criminal justice agencies, together with victims and witnesses, assisted this inspection either through interview or attending group discussions.



## ANNEX H: HMCPSI VISION, MISSION AND VALUES

### Vision

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

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

### Mission

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

### Values

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

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

Taken together, these mean:

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

## ANNEX I: GLOSSARY

### **Adverse Case**

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

### **Agent**

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

### **Area Business Manager (ABM)**

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

### **Area Management Team (AMT)**

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

### **Aspect for improvement**

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

### **Compass CMS**

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

### **Caseworker**

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

### **Charging Scheme**

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

### **Chief Crown Prosecutor (CCP)**

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

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

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

### **Co-location**

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

### **Committal**

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

### **Court Session**

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

### **CPS Direct**

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

**Cracked trial**

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

**Criminal Case Management Framework**

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

**Criminal Justice Unit (CJU)**

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

**Custody time limits (CTLs)**

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

**Designated caseworker (DCW)**

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

**Direct Communication with Victims (DCV)**

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

**Disclosure, *Initial and continuing***

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

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

**Discontinuance**

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

**Early Administrative Hearing (EAH)**

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

**Early First Hearing (EFH)**

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

**Effective Trial Management Programme (ETMP)**

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

**Either way offences**

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

**Evidential test**

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

**Glidewell**

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

### **Good practice**

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

### **Higher Court Advocate (HCA)**

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

### **Joint performance monitoring (JPM)**

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

### **Indictable only offences**

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

### **Ineffective trial**

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

### **Judge directed acquittal (JDA)**

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

### **Judge ordered acquittal (JOA)**

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

### **Level A, B, C, D, E staff**

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

### **Local Criminal Justice Board**

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

### **MG6C, MG6D etc**

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

### **Narey courts, reviews etc**

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

### **Narrowing the Justice Gap (NTJG)**

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

### **No Case to Answer (NCTA)**

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

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

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

### **Persistent young offender**

A youth previously sentenced on at least three occasions.

### **Pre-trial review**

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

**Proceeds of Crime Act 2002 (POCA)**

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

**Prosecution Team Performance Management**

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

**Public Interest test**

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

**Public Service Agreement (PSA) targets**

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

**Recommendation**

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

**Review: initial, continuing, summary trial etc**

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

**Section 9 Criminal Justice Act 1967**

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

**Section 51 Crime and Disorder Act 1998**

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

**Sensitive material**

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

**Specified proceedings**

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

**Strengths**

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

**Summary offences**

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

**Threshold test**

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

**TQI**

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

**Trial Unit (TU)**

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