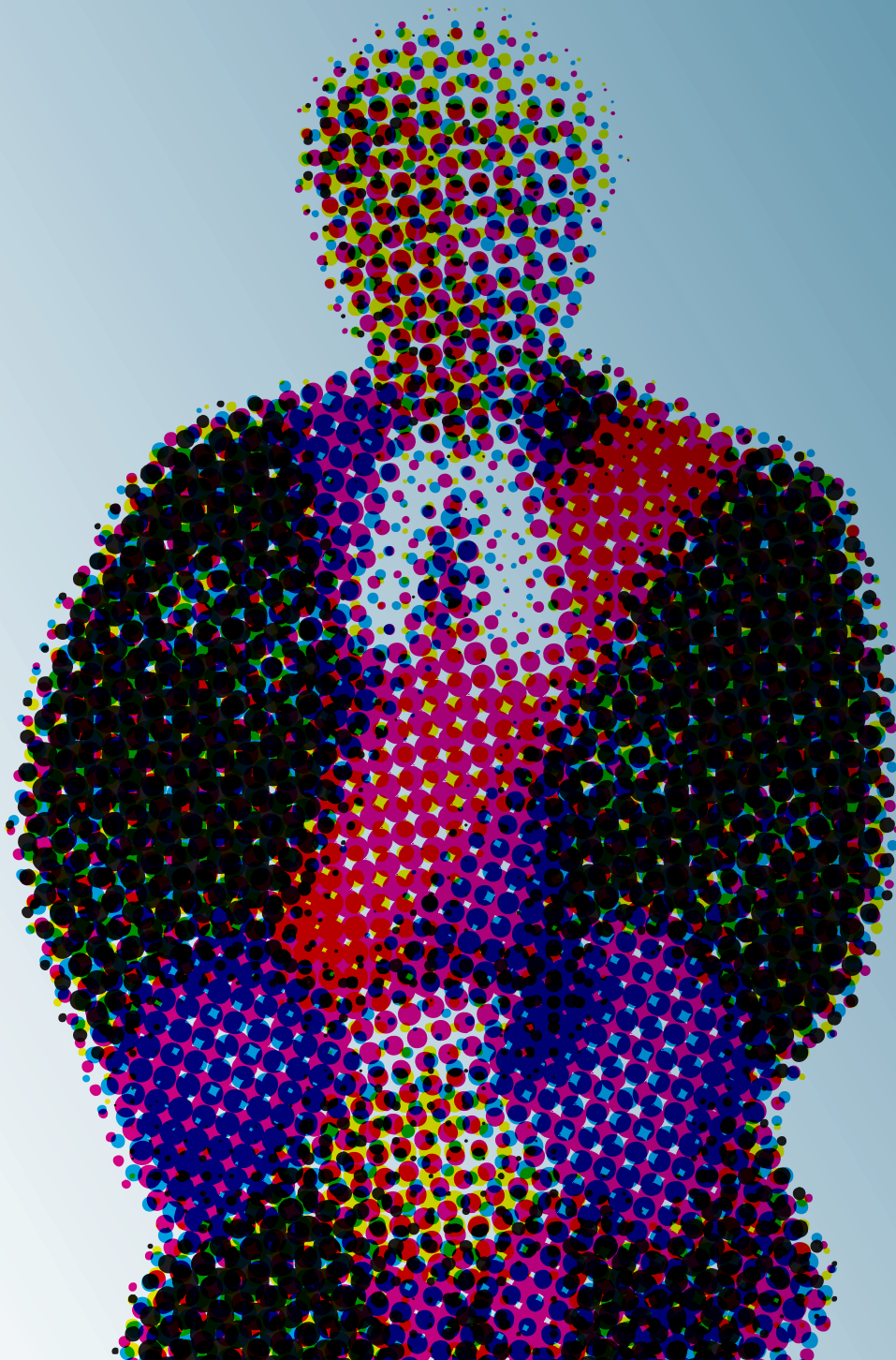




HM Crown Prosecution  
Service Inspectorate

# Effectiveness of recording and monitoring judges' orders audit report

October 2014





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## Chief Inspector's foreword

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This report sets out our findings in respect of an audit on the effectiveness of recording and monitoring the CPS's compliance with judicial directions (or judges' orders as they are more commonly termed). It arose from our findings of an irregular recording practice relating to this recording and monitoring in one CPS Area. The audit was carried out at four CPS sites, consisting of three metropolitan Crown Court units and one Complex Casework Unit. We sought to establish whether the apparently irregular practice was widespread or not, and to identify where further improvement could be made.

I reported in 2011 the results of an audit of CPS handling of judges' orders in the Crown Court and recommended that recording and monitoring needed to improve. I was pleased to see that the CPS responded promptly by implementing a new national process which computerised the recording and monitoring of compliance with these orders. Since 2011 we found that not only has there been real genuine commitment to improving this aspect of performance through computerisation, but the CPS has also taken steps to improve the levels of compliance. Compliance is now monitored centrally by CPS Headquarters and performance in this regard forms part of the performance appraisal review process for individual members of staff.

The audit found that the apparent irregular recording practices were not widespread and arose out of a sincere attempt to overcome the limitations of computer software, in an attempt to accurately record levels of compliance.

The report makes a number of recommendations as to how improvements in monitoring can be brought about and the need for the CPS to improve levels of compliance. Our own file audit shows the level of timely compliance needs to be significantly better. The report recommends that this can be brought about through training; more proactivity, including agreeing extensions with the defence rather than burdening the court; and improved software functionality. The CPS should continue to stress the importance of compliance with judges' orders amongst its staff – there is no room for complacency.



Michael Fuller QPM BA MBA LLM LLD (Hon)  
Her Majesty's Chief Inspector



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## Executive summary

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This audit examined the methods of recording and monitoring judges' orders by the Crown Prosecution Service (CPS).<sup>1</sup> The previous judges' orders audit was published in 2011<sup>2</sup> and made five recommendations, including one related to the electronic recording and monitoring of these orders (see annex A). This is not a follow-up audit, which would have been much wider in scope and would have reviewed the progress made in respect of all the recommendations made in 2011. Instead, it focuses on one specific issue, because of irregular practices relating to the recording and monitoring of judges' orders highlighted by us during other inspections.

The CPS responded to the recommendations and in 2011 introduced a national electronic method of recording and monitoring judges' orders made in the Crown Court by revising its case management system (CMS), thus ensuring consistency and enhancing its ability to measure performance. The introduction of this system, combined with the CPS making compliance with judges' orders a 'high weighted' measure,<sup>3</sup> has created a greater focus around the performance and management of these orders.

These were all positive steps, and since 2011 the CPS data indicates timely compliance with judges' orders has improved from 48.1 per cent to 74.7 per cent in 2013-14. While we have concerns over the accuracy of judges' orders data, our examination of a sample of 215 directions during this audit also confirms a significant improvement since 2011, with

the proportion of orders complied with by the original court imposed deadline rising from 23.3 per cent to 49.3 per cent.

However, there are a number of functionality, practice and associated training issues with the new process. These affect the accuracy of data produced by the CPS concerning orders. They also affect the ability of the new process to help CPS staff and managers better record, monitor and progress orders at unit level. For example, the specific screen on CMS used to record these orders does not produce tasks or reminders, which would prompt busy staff to act in the event that the order has not been complied with. This lack of functionality is a weakness which had led to staff and managers in some units adopting additional time consuming processes.

We identified that only 41.5 per cent of orders were actively progressed before the deadline, with staff explaining to us that their workloads are too high to give each order sufficient attention. As a result, according to our file examination data, only 59.5 per cent of orders are complied with by the original or extended deadline. The remainder, 40.5 per cent, are either 'complied' with late, or not at all.

Prosecution advocates need to be more robust in challenging inappropriate and time bound issues which are unachievable. Such orders add to the administrative burden. The CPS is far too reliant on Criminal Procedure Rules (CPR) 3.6, which allows either party to apply to the court for an extension to the deadline originally imposed. In the vast majority of cases CPR 3.7 could be used, which allows the prosecution and defence to agree an extension between themselves, and could reduce the administrative burden across the criminal justice system.

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1 The CPS (and others within the criminal justice system) refer to directions made by the judge as judges' orders.

2 An audit of the Crown Prosecution Service handling of judges' orders in the Crown Court, September 2011.

3 One of the CPS's key performance indicators. The CPS have developed a set of 13 high weighted measures to reflect their current priorities.



# 1 Introduction and context

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1.1 This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPsi) and examines the effectiveness of the recording and monitoring of judges' orders by the CPS.

1.2 In 2011 HMCPsi published an audit of the Crown Prosecution Service handling of judges' orders in the Crown Court, which made five recommendations. One of these recommendations was to ensure that CPS Areas have a monitoring system in place to ensure compliance with orders issued by the court. In considering the HMCPsi Business Plan for 2014-15 and taking into account proposed changes the CPS intend to make to the way judges' orders are handled, a decision was taken to focus on how the CPS has taken forward our recommendation concerning monitoring and recording of orders. This decision was also informed by inconsistencies and concerns about the recording of judges' orders raised in other recent HMCPsi inspections. The overall purpose of the audit was therefore to assess the effectiveness of CPS processes and systems in the recording and monitoring of judges' orders.

1.3 This report is concerned with orders made in the Crown Court only. Directions, or orders, made in the magistrates' courts are therefore not covered.

1.4 Pre-trial hearings (PTRs) in the Crown Court provide the judge an opportunity to effectively manage a case before it comes to trial. This includes ensuring essential actions are completed before the trial date. Judges will issue directions for outstanding work to be done, mostly within specified timescales. It is preferable and more

efficient if the prosecution can provide all the appropriate material anticipated for an individual case in advance of these hearings so that judges' orders are kept to a minimum. Inevitably there may be material needed for the trial or requested by the defence which is not immediately available. The judge may make an order for such material to be made available.

1.5 The purpose of making time bound orders is to assist in effective case management, helping to reduce the number of unnecessary hearings which adversely affect the quality of justice and are costly.

1.6 It is important to distinguish the recording of orders on the case file and CMS, from the separate (but linked) process of monitoring them subsequently. We have assessed these two aspects separately.

1.7 Criminal case management is governed by the Criminal Procedure Rules, introduced in 2005 and most recently updated in 2013. The Rules define the relative roles of the court and other parties (prosecution and defence) in case management and set out standard processes and tools for joint case progression. These include the duty and power of the court to make directions,<sup>4</sup> enquire into any failure to comply<sup>5</sup> and impose appropriate penalties for non-compliance.<sup>6</sup> All parties, including the court, have the duty to monitor progress against judges' orders.

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4 Rule 3.2(3) and 3.5(2).

5 Rule 3.8(e).

6 Rule 3.5(6).

**1.8** Orders made by the court can often trigger a series of actions by the prosecution. For example, an order that CCTV be served by a certain date requires that the CCTV be requested from the police by an interim deadline and chased if necessary. There may be problems with the format or editing. It may then need to be reviewed by the prosecution, then sent to the defence and court. If the overall deadline cannot be met, the CPR require that the prosecution must seek to extend it, although this can be done out of time.

**1.9** The monitoring of individual judges' orders, and progress against the series of actions they entail, is central to case progression. These actions must also be prioritised against other actions, as part of the overall case progression process.

**1.10** The CPS has various guides on the conduct of casework in the Crown Court, including its Legal Guidance on the infonet.<sup>7</sup> The CMS process itself helps guide case progression, with a series of template letters which serve to embed the process.<sup>8</sup>

**1.11** The CPS is moving away from using paper case files towards full digitisation and has developed electronic systems for its casework. These are mostly incorporated into CMS, which should be used in all cases. However, Crown Court casework still usually involves the use of a counterpart<sup>9</sup> paper file. This was the position on all the cases we looked at and in all the CPS units we visited.

## **Methodology**

- 1.12** The inspection involved the following:
- Visits to three metropolitan CPS Crown Court units and one Complex Casework Unit (CCU)
  - Interviews with a range of CPS staff including lawyers and administrative staff, managers, paralegal officers and paralegal assistants
  - An analysis of documentation supplied by the units visited, CPS Headquarters and national guidance
  - A review of operational systems
  - Examination and analysis of 215 judges' orders contained on a selected CPS case file sample

A full methodology can be found at annex B.

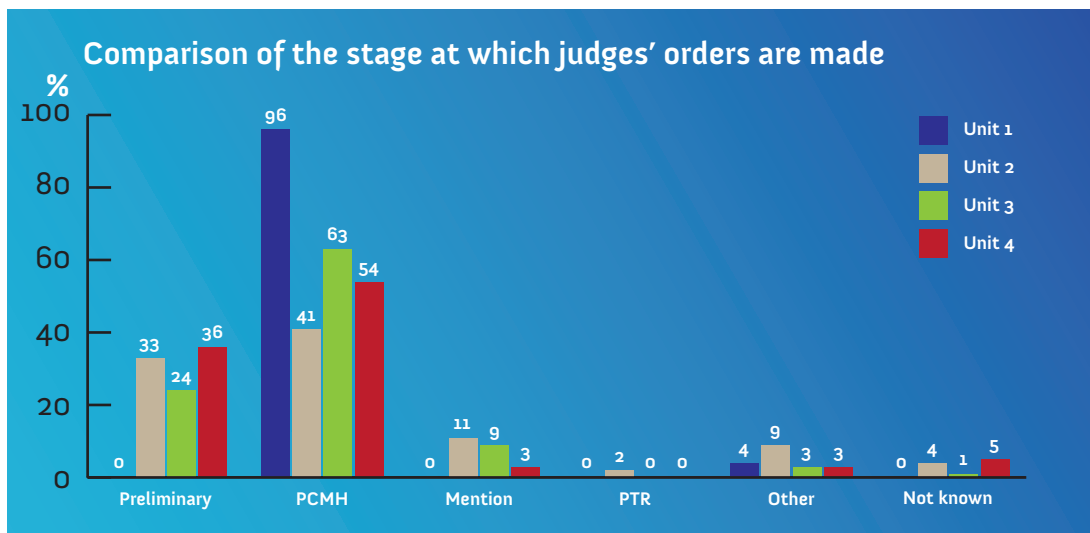
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<sup>7</sup> The CPS internal intranet.

<sup>8</sup> While the CPS has introduced Standard Operating Practices (SOPs) for the conduct of casework in the magistrates' courts, a SOP for Crown Court casework is still awaited.

<sup>9</sup> Electronic and hard copy file.

## 2 Findings



### Recording of judges' orders at Crown Court

**2.1** It is important that judges' orders are accurately recorded otherwise their intent when making the order may be lost, which would result in delay, further adjournment and cost.

**2.2** Nearly all of the orders examined in our file sample were made at either the preliminary Crown Court hearing (22.3 per cent) or the plea and case management hearing (PCMH - 64.2 per cent). Generally, the orders made at the preliminary hearings were much broader and less specific than those made at PCMH. We take the sample to be broadly representative of the position nationally.

**2.3** There is no agreed system of how judges' orders are recorded at court. Paralegal assistants are generally responsible for endorsing the case file in court and should therefore record the order made, but quite often they cover more than one courtroom and therefore may not be in the particular courtroom when an order is

made. If this is not possible it is expected that the prosecution advocate will make a written note of the judges' orders made on the case file. Whilst many advocates rely on the paralegal assistant to accurately record orders onto the file the ultimate responsibility for ensuring accuracy rests with the prosecuting advocate.

**2.4** There is no universally practised reconciliation system to ensure what the judge has said and intended has been recorded accurately. The incorrect recording of orders can lead to wasted activity and, ultimately, a failure to comply with the intended purpose of the order. In turn this can affect the case's progress, causing delay and further waste, as well as a potential liability in costs. Interviews with staff indicated that it would be very useful if one accurate record could be agreed between the court, CPS and defence at the time of the hearing. This would properly reflect the intentions of the judge and reduce the potential for delay.

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**2.5** In some courts the judge signed a PCMH form ratifying the orders recorded on the form. We also saw examples of the PCMH form being altered by the judge to accurately reflect the intention of the order. CPS staff used this form to input the orders accurately onto CMS. This seems to be good common sense practice but was limited to a few courts rather than widespread. In the absence of an imminent electronic solution CPS managers need to make local arrangements to ensure that there is a joint process to reconcile the recording of orders by the court and defence.

**2.6** Some issues came to our attention which, though not directly on the point, are relevant more generally. As reported in our inspection of the quality of prosecution advocacy in 2008, criminal advocates have not always been sufficiently robust in challenging either the substance of a proposed judge's order, which is known by the CPS to be irrelevant or already complied with, or a proposed deadline for compliance which is already known by the CPS to be unachievable. This came to the fore during the course of this audit; we were informed that these issues continue. In addition we were informed that some advocates did not challenge unnecessary orders, such as ones for bad character even though the papers indicated that the issue of bad character was not applicable.

**2.7** The consequence of not challenging inappropriate orders means that they need to be recorded, addressed and managed, which creates unnecessary work. Two of the four units visited had already recognised these issues and have made in-house advocates aware of them, which has resulted in fewer problems.

## **Recording and monitoring of judges' orders on the case management system**

**2.8** Our 2011 report highlighted that monitoring the compliance with orders and action following non-compliance was not always consistent or apparent. Paralegal officers used various systems to record and monitor orders on receipt of the case file from court. They recorded orders into their Outlook diaries, a hard copy diary, or the CMS task list screen. Problems were often only noticed close to the trial date. Where monitoring was being done it was not to a standard system and ambiguity existed over whose responsibility it was to chase outstanding orders and record that these had been completed.

**2.9** As a consequence, in the 2011 report we recommended that a standardised recording and monitoring system should be implemented. The CPS introduced a national system in late 2011 which was added to its existing case management system.<sup>10</sup> CMS now has a dedicated tab called the directions screen for the recording and management of judges' orders.

**2.10** Each order is input onto the directions screen, either by CPS staff at the Crown Court if they have access to CMS, or later in the CPS office when court papers are returned. Each should be entered as an individual order although there were occasions when ones such as 'serve interview tapes and CCTV evidence' were entered as one order instead of two. This practice made it difficult to manage orders,

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<sup>10</sup> Some functionality to record judges' orders existed on CMS at the time of our original audit but little use was made of it. The CPS made recording judges' orders mandatory and increased the functionality of CMS.

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particularly when one aspect (interview tapes) could be served immediately, but other aspects (CCTV) may be delayed. The CPS therefore needs to ensure that composite orders are avoided and individual actions are entered on the system.

**2.11** One of the main frustrations experienced by CPS staff is that inputting information on the CMS directions screen does not generate a task or notification for the paralegal officer allocated to the case<sup>11</sup> when an order has been made, indicating it is awaiting their attention. This means that paralegal officers may be completely unaware that a judge's order has been made in one of their cases. Therefore, directions can be missed for monitoring and prioritisation purposes. This may go some way to explaining why 17.2 per cent of orders in our file sample were never fully complied with. In some units paralegal officers did a regular search of their caseload to pick up cases where an order had been made, but others either lacked this ability or did not have time to complete these checks.

**2.12** There are also CMS functionality issues. First, when the order is entered onto the directions screen it is not also logged onto the electronic case history, which means it is not apparent to anyone seeking to understand the progress of the case on a single electronic page. To achieve this would involve increased work through 'double keying' and it rarely happens.

**2.13** All paralegal officers interviewed in the four units we visited were concerned about the number of cases allocated to them, which ranged from 70 to 100 cases per staff member. All paralegal officers stated that their caseload had increased substantially over the past three years. It was clear that many put this forward as a reason for relying on the passage of time (rather than proactivity) for items to be received from the police, even if they knew that an order had been made in the case. They would then check nearer the deadline to see if everything requested by the order(s) had been received. There was therefore often last minute chasing of items with the default position being to apply to the Crown Court for more time.

**2.14** Many paralegal officers stated that due to lack of time to monitor all of their cases to see if an order had been made, they relied on managers to inform them of any outstanding issues. This lack of proactivity was also evidenced in the file examination which indicated that only 41.5 per cent of orders demonstrated some degree of proactivity. Our file sample also indicated that 42.3 per cent of orders were either not met (17.2 per cent), met late (14.9), or met only after an extension had been granted (10.2).

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<sup>11</sup> All units visited operated a personal case allocation system.

**2.15** Because the directions screen does not notify or create a task for the paralegal officer allocated to the case, we found a number of practices being used in order to make the system more user-friendly. In one unit paralegal officers were often using the CMS task screen to record judges' orders. Whilst this allowed staff to create tasks (reminders to chase for items outstanding) it meant that not all orders were being recorded on the directions screen. Consequently not all judges' orders were being accounted for.<sup>12</sup> It also meant that checks by supervisors looking for outstanding orders missed those recorded elsewhere on the system.

**2.16** Despite the issues with CMS functionality, in one unit we visited paralegal officers were checking the status of the orders on their cases by running a CMS unit report. This allows them to be proactive in chasing outstanding work on their cases and ensuring timely compliance with orders.

<sup>12</sup> CPS national performance concerning orders is only taken from the directions screen, therefore if recorded elsewhere it cannot be counted.

**2.17** All units visited had systems in place to check the progress of orders. These checks were normally conducted by the paralegal business manager and varied from daily to three times a week. In two units these checks were often made on the day the order was due to be complied with, which left paralegal officers very little time to comply with the requirements of the order if they had not been completed by then. Consequently applications to extend the time limit were more prevalent in these two units with one of them accounting for half of all extensions examined in our file sample.

**2.18** There is also an issue with the reliability of CPS compliance data because the monitoring process is not always followed properly. In 38.0 per cent of orders recorded on CMS in our file sample, the recorded date on which the orders was complied with differed between CMS and the hard copy file. In 10.9 per cent of orders which were recorded on CMS as complied with, there was no actual evidence of compliance on the case file.

**2.19** However, even though it is clear some problems exist with the current CMS recording and monitoring system, overall performance has improved since our last audit, as shown in the table below. The orders reviewed during this audit are broken down in the table on the next page.

	Results from 2011 audit	Results from 2014 audit
Orders met by original deadline	23.3%	49.3%
Orders met by original deadline and within extended period granted	No data available	59.5%
Eventual compliance with order including those out of time	67.4%	74.3%



HMCSI file sample	Orders	Percentage
Orders complied with by original deadline	106	49.3%
Orders complied with within extended deadline	22	10.2%
Orders complied* with out of time	32	14.9%
Orders not complied with at all	37	17.2%
Other/Not known	18	8.4%
<b>Total</b>	<b>215</b>	<b>100%</b>

\* Full compliance involves completing the action by the existing deadline. Here we have stretched the definition to include actions completed at some point, even out of time.

### Applying for additional time to comply with an order

**2.20** In cases where the CPS cannot comply with an order within the time specified they usually apply to the court under Criminal Procedure Rule 3.6 (see annex C) to extend the deadline. In the files we examined, there was an application to extend in 37 orders (17.2 per cent).<sup>13</sup> The CPS is required to provide an explanation for the delay in complying with an order and this had been given in 33 of the 37 applications seen. We found evidence of a response from the court in only 16 of these agreeing the proposed new date for compliance.

**2.21** Paralegal officers adopted various practices when applying for an extension. Most would suggest a date to the court (usually a seven day extension) and write to the court (mostly via email) explaining why additional time was needed.<sup>14</sup> Some would then input the new proposed date into CMS, while others would only put the new date in when they had

a reply from the court confirming that the date proposed was approved. Where the court did not respond there was no evidence of further contact with the court to establish whether they had received the request or whether it had been approved. All units visited took a lack of reply from the court as tacit approval for their request.

**2.22** Once an extension has been applied for, the directions screen is changed to 'App' status meaning that an application for extension is pending. However where a new date is pending for approval by the court this makes it difficult for managers to search for orders that are due because CMS does not generate a task or reminder. Despite these problems with CMS only one order in our sample was not met after an extension was granted.

**2.23** In one unit, to avoid the 'searching' problem generated by the application to extend tool (App) on CMS, managers told paralegal officers to record the original order as being complied with before applying for an extension and then to create a new order. However, this action had the consequence of double counting the order on CMS and made the

<sup>13</sup> Half of these extensions were from one unit alone.

<sup>14</sup> The defence is also notified by letter at the same time the extension application is made to the court.

performance measure for orders complied with in time higher than it actually was. CPS staff informed their managers about the problems caused by adopting this practice. Upon further consideration by management, the practice was stopped.

**2.24** These workarounds indicate the need for a much more user-friendly system. The ability to generate and notify tasks using the directions screen should be incorporated into any update of CMS.

**2.25** Furthermore, as stated above the CPS tend to rely on CPR 3.6 whereas their legal guidance rightly identifies that under CPR 3.7 a deadline attached to a direction made by the court can be extended, as long as the court has not prohibited this, by agreement between the parties. Under CPR 3.7 the court must be notified, but no active involvement is required by the judiciary unless the court case progression officer feels the variation might affect the hearing date or significantly affect the progress of the case in any other way. In many instances an extension is not controversial and the use of 3.7 could be a much more efficient approach: this is (presumably) why it exists. The CPS needs to re-consider the unnecessary impact of its current practice on its own resources, those of the judiciary, and the fact that there is a ready alternative.

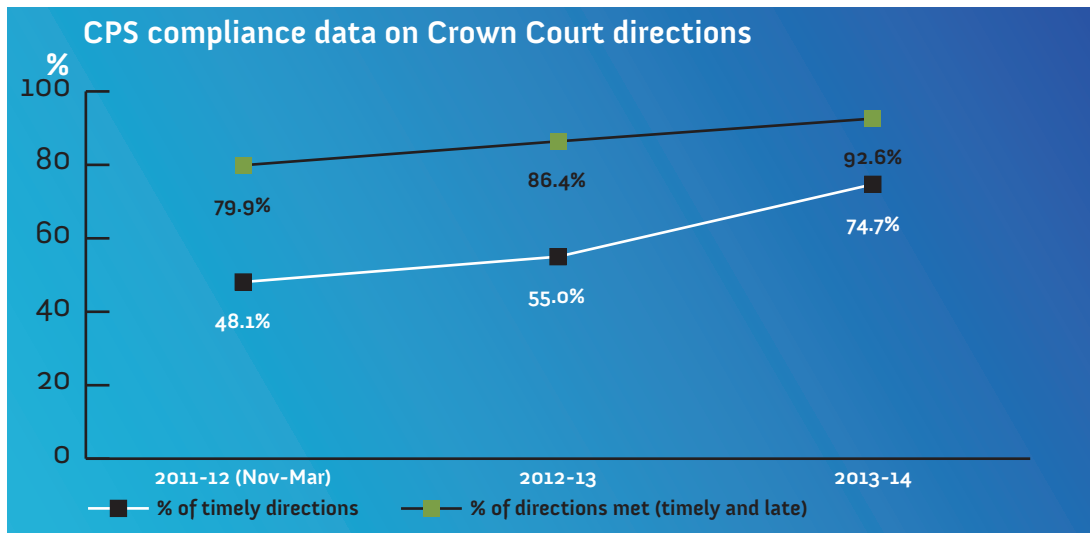
## **Performance and assurance issues**

**2.26** Since the mandatory introduction of CMS to monitor judges' orders the CPS has been able to measure performance at national and unit level, providing a level of assurance to the CPS Board. This is very positive but the CPS needs to be mindful of the data issues already described.

**2.27** Compliance is a high weighted measure and it is clear great emphasis is given to improving performance in this aspect. In all of the units visited performance concerning judges' orders was high on the agenda at all levels and daily monitoring was common in most units. We were told that compliance with orders featured in many, but not all, staff objectives for paralegal officers and managers.

**2.28** However, compliance performance around judges' orders is only measured when a case is finalised, which can be several months after an order was made. So there is a time lag between identifying problems, putting in place measures to improve performance and seeing improvements in outcomes. Therefore some managers are keeping their own up-to-date records of statistical data in order to provide a real time analysis of current performance. Real time functionality should be incorporated into any update of CMS.

**2.29** All data concerning orders is centrally maintained and forms part of the Area's/unit's quarterly performance review. Anomalies in the data are examined and discussed at review. The central performance team also conduct ad hoc audits of judges' orders which inform the review process. This central oversight also provides emphasis and importance in ensuring orders are addressed appropriately.



**2.30** It is accepted at Headquarters level that CMS lacks functionality in some aspects of the recording and monitoring of judges' orders. The CPS is currently scoping the needs requirement of a new case management system and any new system should take into account the lack of functionality highlighted in this report. A balanced judgement needs to be made whether it is more efficient to upgrade the existing CMS or incorporate any upgrades into a new system.

**2.31** It is clear, both in our file sample and CPS data, that performance in the compliance with judges' orders has improved significantly.

**2.32** The number of recorded orders has also increased from 80,016 (2012-13) to 119,451 (2013-14). This increase could be due to a number of factors including better awareness, compliance and recording practices. However, some of the recording issues highlighted in this report indicate that the recording of judges' orders is not currently entirely accurate and requires improvement.

## Training

**2.33** Training was provided in late 2011 on use of the CMS directions screen, through provision of written instructions via the CPS ifonet, and is still available. However, few staff we interviewed were aware of the documentation available. This has led to various and inconsistent practices across the units we visited. Most staff have received deskside training or learnt from others. No unit had a set of instructions for the recording and monitoring process to ensure a consistent approach.

**2.34** Whilst CMS's shortcomings are of concern, many of the problems and issues raised in this audit concern a lack of awareness of how to use the system properly. In two of the units visited staff and managers were unaware that supervisors were able to alter the directions screen if a mistake or omission had been made by a paralegal officer. For example if an order had been complied with within the time limits but for some reason had not been recorded, a supervisor can access the system to ensure the Area or unit was credited with its compliance.<sup>15</sup>

<sup>15</sup> The manage directions feature can also ensure that incorrect information is put right. This feature is needed because once the deadline for the order has passed no changes can be made on CMS, other than through a manage directions intervention.



## 3 Conclusion

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**3.1** Since the publication of our last report the CPS has made significant progress in addressing the recommendation to improve the way in which orders are recorded and monitored, including mandatory use of the national case management system. This has allowed the CPS to collect performance information on compliance with orders and their importance has been elevated by introducing compliance as one of its high weighted measures.

**3.2** The importance attached to judges' orders was apparent in the level of staff awareness. In some units this importance had been emphasised by staff having specific objectives in relation to complying with orders.

**3.3** However there are a number of factors where improvements can be made:

- Managers need to assure themselves that CPS advocates are robust in challenging inappropriate judges' orders
- There is no agreed reconciliation system to ensure that orders have been accurately recorded
- There is a lack of functionality with CMS which is leading to a number of inefficiencies
- Comprehensive instructions and training are required to ensure consistent use of the system
- A lack of proactivity was clear in a significant number of cases, which is inefficient
- CPS guidance relating to the use of CPR 3.7 needs to be adhered to where relevant

### Recommendations

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**1** Develop and implement consolidated instructions regarding the accurate recording and monitoring of judges' orders.

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**2** Ensure all appropriate staff receive training on the recording and monitoring of judges' orders.

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**3** Ensure that systems are in place to support/drive a proactive approach to compliance with judges' orders.

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**4** Ensure the existing and any new CPS case management system enable effective functionality of judges' orders to enable efficient case progression.

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# Annexes

## A Recommendations made in our 2011 report

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<b>Recommendation 1</b>	Areas should have systems in place to ensure that: <ul style="list-style-type: none"><li>• The return of Bar standard forms is monitored to make sure that instructions are read in good time; and</li><li>• Advice provided by counsel or the Crown Advocates on this form should be dealt with promptly.</li></ul>
<b>Recommendation 2</b>	Post-plea and case management hearing, the court endorsement should be cross-referenced with the record of orders provided by the court to ensure that all orders are identified and action taken.
<b>Recommendation 3</b>	The CPS should work with the senior judiciary to ensure compliance with Rule 3.11 (2) of the Criminal Procedure Rules to secure a clear and comprehensive record of the orders made at the PCMH for all parties.
<b>Recommendation 4*</b>	Areas should have a monitoring system in place to ensure compliance with orders issued by the court and which: <ul style="list-style-type: none"><li>• Monitors defence compliance if prosecution compliance with an order is reliant on defence action; and</li><li>• Ensures that procedures are followed to apply for an extension if the CPS is unable to comply with an order in the time allowed.</li></ul>
<b>Recommendation 5</b>	Areas should ensure that where a brief is not available for the Crown Advocate at the plea and case management hearing they should endorse the orders issued for inclusion in the brief.

\* The audit centred around this recommendation only

## B Methodology

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We examined a total of 215 judges' orders in situ in each of the units, along with the paper file and electronic record on the CPS case management system. We examined cases that were very recent, some of which were still ongoing or yet to be finalised. This gave us an up-to-date picture of how judges' orders were being managed. Cases ranged from having just one order to ten or more and included those with single and multiple defendants. We restricted ourselves to examining a maximum of five orders per case in order not to adversely influence good or poor management outcomes in cases that contained numerous orders. We purposely did not choose any particular case type or category, therefore our sample was a mix of all types of offences.

Inspectors recorded their findings on a file record sheet which covered 28 separate questions concerning each order examined.

These questions included:

- Type of order made
- Nature of offence(s)
- Type of hearing
- How the order was managed on CMS
- Evidence of proactivity
- Evidence that the order was complied with correctly
- If dates had been appropriately entered into the system
- How the application to extend had been managed

We made on-site visits to three metropolitan Crown Court units and one Complex Casework Unit (CCU) where we examined the case files. During our visit to these four CPS sites we conducted interviews with a range of staff including lawyers and administrative staff, managers, paralegal officers and paralegal assistants. We undertook a review of their operational systems in relation to judges' orders, including responsibilities and management of orders at court and in the office, and performance management.

In addition we examined the documentation provided to us from these units and CPS Headquarters, national guidance and the performance data available. We also conducted interviews at CPS Headquarters to ascertain a strategic overview of how orders were being managed centrally.



## **C Criminal Procedure Rules 3.6 and 3.7**

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### **Application to vary a direction**

3.6.—(1) A party may apply to vary a direction if—

- (a) the court gave it without a hearing;
- (b) the court gave it at a hearing in his absence; or
- (c) circumstances have changed.

(2) A party who applies to vary a direction must—

- (a) apply as soon as practicable after he becomes aware of the grounds for doing so; and
- (b) give as much notice to the other parties as the nature and urgency of his application permits.

### **Agreement to vary a time limit fixed by a direction**

3.7.—(1) The parties may agree to vary a time limit fixed by a direction, but only if—

- (a) the variation will not—
  - (i) affect the date of any hearing that has been fixed, or
  - (ii) significantly affect the progress of the case in any other way;
- (b) the court has not prohibited variation by agreement; and
- (c) the court's case progression officer is promptly informed.

(2) The court's case progression officer must refer the agreement to the court if he doubts the condition in paragraph (1)(a) is satisfied.





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