



HMCPSI

HM Crown Prosecution
Service Inspectorate

Area inspection programme

CPS London South

Baseline assessment

March 2022

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Who we are

HM Crown Prosecution Service Inspectorate inspects prosecution services, providing evidence to make the prosecution process better and more accountable.

We have a statutory duty to inspect the work of the Crown Prosecution Service and Serious Fraud Office. By special arrangement, we also share our expertise with other prosecution services in the UK and overseas.

We are independent of the organisations we inspect, and our methods of gathering evidence and reporting are open and transparent. We do not judge or enforce; we inform prosecution services' strategies and activities by presenting evidence of good practice and issues to address. Independent inspections like these help to maintain trust in the prosecution process.

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1. Summary

1.1. HM Crown Prosecution Service Inspectorate (HMCPISI) last inspected all 14 Crown Prosecution Service (CPS) Areas between 2016 and 2019. Since then we have carried out a number of thematic inspections across the CPS, including inspections of the CPS's response to Covid-19, the handling of serious youth crime, charging decisions, disclosure of unused material, dealing with correspondence on witness care, and the standard of communications with victims of crime.

1.2. A common theme from the 2016–19 Area inspection programme and from more recent thematic inspections is the need for the CPS to improve aspects of casework quality. We have therefore developed a new inspection framework which is based wholly on assessing casework quality, and which we will deploy across all 14 Areas over the next two years. Our findings from the 90 cases we examine for each Area will form a baseline against which the Area will be assessed again in a follow-up inspection in 24 months' time.

1.3. The CPS aspires to deliver high-quality casework that, taking into account the impact of others within the criminal justice system, provides justice for victims, witnesses and defendants, and represents an effective and efficient use of public funds. The function of the CPS is to present each case fairly and robustly at court, but the CPS's is not the only input. The involvement of criminal justice partners and the defence inevitably affects what happens in criminal proceedings and, in contested cases, the outcome is determined by juries or the judiciary. It follows that good quality casework can result in an acquittal, and a conviction may ensue even if the case handling has not been of the standard the CPS would wish.

Our findings from the 90 cases we examine for each Area will form a baseline

1.4. This report sets out our findings for CPS London South.

1.5. This baseline assessment was carried out during the Covid-19 pandemic. The files we examined will have included work carried out by the Area before and after the pandemic struck.

1.6. CPS London South experienced a significant increase in its caseload during the pandemic due to court closures in the initial lockdown in March 2020 and an increase in receipts from the police. From April to June 2020 pre-charge receipts across the three casework types averaged 901 cases per month against an average for the same period in 2021 of 732, which is more in keeping with the pre-Covid receipts. This represented a 23% increase for the Area to address.

1.7. In the magistrates' courts the impact was most significant in 2020 with the brought-forward live cases peaking at 14,235 in quarter three – October to December 2020. By comparison, the number of brought-forward live cases pre-pandemic was 7,818 for January to March 2020. The number of live cases brought forward has reduced with the re-opening of magistrates' courts in the Area and joint criminal justice system measures such as trial 'blitz' courts. However, the caseload remains high with the quarter one 2021-22 figure being 12,086, a 54.6% increase on the pre-pandemic figure.

Many of the more complex cases involving multiple defendants could not be accommodated within existing court rooms

1.8. In the Crown Court, the impact was not as immediate but even once Crown Court centres re-opened, the caseload continued to increase. This is because the Court centres were constrained in the listing of cases due to the requirement to maintain social distancing in the Court centre buildings, actual court rooms, jury retiring rooms and the cells. Many of the more complex cases involving multiple defendants

could not be accommodated within existing court rooms as there was insufficient room to accommodate the volume of people required whilst maintaining social distancing. As a result of the limitations on listing, at the time of writing, the Area Crown Court caseload continues to increase. The brought-forward live figure for Crown Court cases in CPS London South is 6,646 in quarter one 2021-22 against the pre-pandemic figure of 3,579 for January to March 2020, an 85.7% increase.

1.9. Such increases create obvious pressures, particularly given the extra work in maintaining victim and witness engagement and trial readiness across longer waiting times. The added pressures, coupled with the relative inexperience of new prosecutors (a large number of prosecutors have been recruited in the past 18 months), has clearly had an impact on casework quality in the Area. This is understandable given the context, but an increase in quality from the pre-charge review onwards will save resources as cases will be managed much more proactively, rather than reacting to each issue as it arises, requiring multiple reviews as we have found in this inspection.

1.10. There has been a substantial decrease in cases listed in court during the pandemic. Court sittings reduced dramatically and cell capacity at court centres was reduced because of social distancing. Some of the Crown Court centres in the Area take cases from other CPS Areas through existing committal pathways – for example from Staines Magistrates' Court in Surrey to Kingston Crown Court – which further reduces capacity for CPS London South's cases to be

listed. In addition, both Kingston Crown Court and Woolwich Crown Court, two of the five Crown Court centres in the Area, are designated as high-security centres meaning that cases requiring high security from all CPS Areas, including terrorism cases, take precedence over the Area's casework. Again, this reduces available court time for London South cases. Given the pressure on court capacity there has been an inevitable increase in custody time limit cases leading to additional work for the Area in drafting applications to extend custody time limits, sometimes multiple times per case. As a response to the pandemic, custody time limits were increased for Crown Court cases from 182 days to 238 days. This was a finite amendment that came into force for any cases with a custody time limit starting on or after 28 September 2020, reverting back to the original shorter periods for new custody time limits on or before 28 June 2021.

Whilst this alleviated some of the pressure for that period, as CPS London South still has a significant backlog of custody trials, the pressure has increased again.

As a response to the pandemic, custody time limits were increased for Crown Court cases

1.11. The pressures of the pandemic coincided with a period of change in the Area's workforce, including the senior leadership team. The Chief Crown Prosecutor was appointed in June 2020, taking up his post during the pandemic. The Area business manager took up a new post in August 2021 and two of the

Area's three Deputy Chief Crown Prosecutors (DCCPs) have only recently joined the Area, while the third more longstanding Deputy has moved units as the new DCCPs were placed in the Area. The Area's recruitment of prosecutors has also seen significant movement at Crown Prosecutor, Senior Crown Prosecutor, legal manager one (LM1) and legal manager 2 (LM2) grades. This has therefore been a period of instability at all levels, particularly within the legal cadre, where experienced prosecutors and managers have had to deal with increased caseloads and the more complicated cases or legal issues on their respective teams whilst also supporting the new prosecutors or managers through coaching and mentoring. Our view is that this has impacted on the Area's ability to deliver quality casework at a time when it was also dealing with the pandemic.

1.12. The Area has been proactive in the past year trying to recruit more prosecutors, carrying out an Area-specific campaign when participation in the national recruitment campaign failed to deliver the required numbers of prosecutors. Despite both national and local recruitment, the Area remains under resourced for Senior Crown Prosecutors (SCPs). According the CPS national resource model, the rape and serious sexual offences (RASSO) team should have 26 full-time equivalent SCPs, but currently it has 19.2 full-time

equivalent SCPs. The Crown Court unit should have 59.5 full-time equivalent SCPs, but currently has 47.4 SCPs (including secondees) and the magistrates' court unit should have 59.3 full-time equivalent SCPs, but currently has 51.6. This level of under resourcing, more than 20% in both the RASSO and Crown Court units, would be a strain for most units in normal times. But in the time of increasing caseloads, case backlogs and increased custody time limits, the impact on quality and prosecutor well-being cannot be underestimated.

It is a credit to the Area that there has been a demonstrable focus on staff well-being during these unprecedented pressures

1.13. Many of the new prosecutors appointed have joined the magistrates' court teams. This is a sensible approach to prosecutor development and has allowed the Area to consider how best to induct and support new prosecutors. However, the magistrates' court teams in London have many complex and highly contentious cases. Extinction Rebellion cases are dealt with in the Area. These cases

come with human rights issues, appeals and potential High Court action, as well as being of high media interest. This caseload has had to be delivered by the more experienced prosecutors on the teams while they are also supporting their newer colleagues with training, mentoring and development and dealing with increased caseloads due to the pandemic.

1.14. It is a credit to the Area that there has been a demonstrable focus on staff well-being during these unprecedented pressures. The Area took a conscious decision to prioritise staff welfare during this time. That decision has clearly had a positive impact on staff engagement with London South having a 71% employee engagement index score, as assessed by the 2020 Civil Service People Survey, which is above the CPS national average.

1.15. The Area has a sound understanding of the wider strategic issues they face and an awareness of the aspects of casework that need to be improved. We saw and heard about this when we observed the Area Casework Quality Board. Once the unique pressures of the pandemic recede, and the Area can recruit staff numbers to the necessary level, our assessment is that it should be possible for the Area to deliver noticeable improvements. The Area's plans for targeted support and a training programme should, if delivered as proposed, help drive up casework quality. We will assess progress during our next visit in two years' time.

Added value and grip

1.16. We have focused our evaluation of casework quality on two key measures: added value and ‘grip’. We define added value as the CPS making good, proactive prosecution decisions by applying its legal expertise to each case, and grip as the CPS proactively progressing its cases efficiently and effectively.

1.17. Table 1 shows our baseline assessment of CPS London South’s added value and grip. It demonstrates that grip is good in Crown Court and RASSO casework, however grip needs to significantly improve in magistrates’ court casework, as does the value the Area adds to casework across all units.

Table 1: Baseline assessment of CPS London South

CPS London South	Added value	Grip
Magistrates’ courts casework	55.8%	56.8%
Crown Court casework	58.2%	75.7%
Rape and serious sexual offences casework	58.9%	71.7%

1.18. In terms of quality of Area casework, the file examination found that the Area demonstrated a sound application of the Code for Crown Prosecutors, particularly in magistrates’ court and RASSO cases, and that the right defendants were correctly prosecuted for the correct offences.

1.19. However, there were many aspects of casework quality where improvement is needed. Most notably, the quality of case analysis and strategy in reviews needs to be improved. Compliance with disclosure obligations particularly in magistrates’ court cases needs to improve. The pre-charge consideration of victim and witness issues across all units must be improved.

1.20. Our file examination highlighted that there was a level of grip in Crown Court and RASSO casework where processes clearly work well and timeliness of processes was found to be positive.

1.21. There are aspects of case grip that the Area could improve. Our findings highlight that the Area needs to ensure there is effective preparation for the first hearing and improved compliance with court directions in magistrates’ court cases. In RASSO cases there needs to be more effective preparation for the pre-trial preparation hearings.

Casework themes

1.22. We examined the cases in accordance with five casework themes to allow us to set out our findings in greater detail. The themes fed into the scores for added value and grip¹. The themes were:

- pre-charge decisions and reviews
- post-charge reviews
- preparation for the plea and trial preparation hearing (Crown Court and RASSO only)
- disclosure
- victims and witnesses.

1.23. Some of the aspects for improvement we have identified could be seen simply as a matter of record keeping. We do not share this view. A consistently high standard of recorded actions, case analysis, and disclosure and other casework decisions promotes legal rigour and is more likely to identify flaws in reasoning before a decision is made, or to identify weaknesses or other issues in the case that need addressing. A good standard of reviews also reduces the need for later reworking by others and allows legal managers to understand how those they manage are arriving at their legal decisions, and thus identify development or training needs.

Pre-charge decisions and reviews

1.24. Compliance with the Code for Crown Prosecutors requires charging lawyers to assess the material supplied by the police and to apply the two-stage test. The first stage is deciding whether there is sufficient evidence for a realistic prospect of conviction and the second is deciding whether a prosecution is required in the public interest. Only if both stages are met should the lawyer advise charging.

¹ See annex F for scoring methodology.

1.25. We describe as ‘wholly unreasonable’ any decision:

- that is not compliant with the Code for Crown Prosecutors
- which no reasonable prosecutor could have made:
 - in the circumstances in which it was made
 - at the time it was made or ought to have been made.

1.26. In our file sample, we found that 86.8% of the Area’s 76 charging decisions² complied with the Code for Crown Prosecutors at the pre-charge stage. Within the different teams, the Code compliance rates were:

- magistrates’ court cases: 92.3%
- Crown Court cases: 81.8%
- rape and serious sexual offences (RASSO) cases: 88.2%.

1.27. While getting the initial charging decision correct is essential, a clear analysis of the material and a thoughtful case strategy are also fundamental to the efficiency and effectiveness of the subsequent stages. These elements support the initial application of the Code for Crown Prosecutors and selection of charges as the case moves through the criminal justice system. A case strategy should ‘tell the story’, encompassing what the case is about, and should set out how to address potentially undermining material – such as material impugning the credibility of a victim or witness, or which supports likely lines of defence.

1.28. We found that the quality of pre-charge reviews did not meet the required standard across all types of casework examined. Reviews often failed to address key issues such as outstanding reasonable lines of enquiry, issues raised or likely to be raised by the defence, unused material, providing instructions to the court prosecutor for the first hearing, and victim and witness issues. In our file examination we rated the Area’s added value for magistrates’ court casework at 33.9%, Crown Court casework at 44.8% and RASSO casework at 44.8% for pre-charge review. As such, all three Area units are rated as not meeting the standard required for pre-charge review.

² At the pre-charge stage we assessed only the cases charged by Area prosecutors, and excluded those charged by the police and CPS Direct, the out of hours national service.

Post-charge decisions and reviews

1.29. As with pre-charge reviews, the quality of ongoing reviews and strategy is of critical importance to the effective and efficient progress of cases through the criminal justice system. In our file sample, we found that 88.9% of the Area's 90 post-charge decisions complied with the Code for Crown Prosecutors. Within the different teams, the Code compliance rates were:

- Magistrates' court cases: 93.3%
- Crown Court cases: 85%
- RASSO cases: 90%.

1.30. The standard of initial review in magistrates' court cases was a particular cause for concern. Post-sending reviews in the Crown Court and in RASSO cases were inconsistent. Overall, 16.7% of magistrates' cases were assessed as fully meeting the standard for the initial review, 16.7% as partially meeting it, and the remaining 66.7% assessed as not meeting the standard. In the Crown Court, 35% of cases were assessed as fully meeting the standard for the post-sending review, 32.5% as partially meeting it, and 32.5% as not meeting the standard. In RASSO cases performance was slightly better with 40% of cases assessed as fully meeting the standard for the post-sending review, 30% as partially meeting it, and 30% as not meeting the standard.

1.31. We found that although the post-charge reviews were generally of better quality than the pre-charge reviews, many still lacked good analysis and case strategy. A common theme identified by inspectors was that pre-charge reviews were copied and pasted into post-charge reviews without the prosecutor considering issues further, therefore adding no value. If the pre-charge review was good, and nothing had changed between the reviews, then this would have been acceptable. Where the initial quality was poor, however, this simply perpetuated case deficiencies.

1.32. Post-charge reviews should also be carried out at other stages during the case. In Crown Court cases (including RASSO cases listed before the Crown Court), a review should be conducted when the prosecution is required to serve the full evidence upon which the prosecution is to be based. This is also the deadline for service of initial disclosure (the unused material that, at that stage, is deemed capable of either undermining the prosecution case or assisting the case of the defendant). Also by this point, additional material should have been submitted by the police to allow the prosecution to review it before it is served on the defence.

1.33. Very few Crown Court or RASSO cases had a service review, with the result that 81.3% of Crown Court cases and 88.2% of RASSO cases were assessed by inspectors as not meeting the standard.

1.34. As cases progress, things can change that affect whether or how a prosecution should be brought. If additional information brings about a fundamental change, then a prosecutor should review the case again to:

- ensure that it still complies with the Code for Crown Prosecutors
- ensure that the charges remain appropriate
- determine whether the change raises additional lines of enquiry
- determine whether the case strategy should be altered.

1.35. An effective review at this stage can add real value.

1.36. In magistrates' court and Crown Court cases, on-going case reviews were not always taking place or, where they did, were not always adequate. In magistrates' court cases we rated 23.5% to be fully meeting the standard with a further 35.3% partially meeting the standard and the remaining 41.2% assessed as not meeting the standard. Crown Court cases were assessed as fully meeting the standard in 21.1% of cases, 31.6% as partially meeting the standard and 47.4% as not meeting the standard. There was a more positive picture in RASSO cases with 66.7% of relevant cases assessed as fully meeting the standard and the remaining 33.3% as not meeting the standard.

1.37. Timely and appropriate decisions about bail and custody were generally well done with few cases assessed as not meeting the standard. The combined scores across all casework strands for decisions about bail and custody were that 45.6% of cases were assessed as fully meeting the standard, 45.6% as partially meeting the standard and 8.9% as not meeting the standard.

Preparation of cases for the Plea and Trial Preparation Hearing in the Crown Court³

1.38. There are key tasks that the prosecution should complete before the Plea and Trial Preparation Hearing (PTPH), including preparing the indictment, uploading the prosecution case papers to the Crown Court Digital Case System, engaging with the defence and properly instructing the advocate. Completing the PTPH form is a fundamental aspect of preparing for the hearing. Full and accurate information from the prosecution and defence allows the court to manage the case effectively and make the relevant orders required to progress the case to trial.

1.39. The preparation for the PTPH was assessed overall, for both the Crown Court and RASSO teams, as not meeting the standard for this work. The Crown Court team's overall score was 54.2%, better than the RASSO team score of 46.6%. A common theme across both units was the failure of reviewing lawyers to address the acceptability of pleas; a key ingredient of an instruction to advocate document. Instructions to advocates need to be improved, with 16.7% of Crown Court and 10.5% of RASSO cases assessed as fully meeting the standard. There was a notable lack of engagement with defence advocates across both units. However, there were some positives, in particular in respect of the timeliness of the service of the indictment and key evidence in Crown Court cases, with 78.4% assessed as fully meeting the standard and 13.5% as partially meeting the standard. Service was not as timely in RASSO cases, with 55% assessed as fully meeting the standard and 25% as partially meeting the standard. The quality of indictments was relatively positive across both units. In the Crown Court, 59.5% were assessed as fully meeting the standard and 27% as partially meeting the standard. In RASSO, 50% were assessed as fully meeting the standard and 25% as partially meeting the standard.

Disclosure of unused material

1.40. For justice to be served, it is vital that the police and CPS comply with their duties in relation to material that does not form part of the prosecution case ('unused material'). There are specific processes, rules and a wealth of guidance for disclosure, including for handling sensitive and third-party unused material. The police have duties to retain, record and reveal material to the CPS, which then must decide what unused material meets the test for disclosure to the defence. The test is whether the unused material is something "which might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused". If it meets the test, it is disclosable. The defence is told about all non-sensitive unused material, and

³ This theme only relates to Crown Court cases and RASSO cases listed before the Crown Court.

is given copies of or access to material that meets the test for disclosure. This is 'initial disclosure'.

1.41. In the magistrates' courts, the defence may serve a statement setting out the defendant's case. In the Crown Court, the defence must serve such a statement. This is reviewed by the police and CPS, and any additional non-sensitive unused material that meets the test must be disclosed as 'continuing disclosure'.

1.42. Sensitive material that meets the disclosure test can be subject to an application to the court to withhold it. If this application is granted, the prosecution need not disclose the material.

1.43. Table 2 summarises our findings about the standard of initial and continuing disclosure.

Table 2: Compliance with disclosure duties all cases

Ratings	Cases
Initial disclosure	
Fully meeting the expected standard	31.7%
Partially meeting the expected standard	34.1%
Not meeting the expected standard	34.1%
Continuing disclosure	
Fully meeting the expected standard	44.4%
Partially meeting the expected standard	37.8%
Not meeting the expected standard	17.8%

1.44. As can be seen from the above table, the Area needs to significantly improve compliance with its disclosure obligations. Breaking the above table down into units: in the magistrates' court, 56.7% of cases were found to be fully meeting the standard for initial disclosure, 10% of cases were rated as partially meeting standard and 33.3% did not meet the standard. This was more positive than in the Crown Court where 21.2% of cases were found to be fully meeting the standard for initial disclosure, 45.5% were assessed as partially meeting the standard and 33.3% did not meet the standard. In RASSO the position was weakest of all, with 10.5% of cases found to be fully meeting the standard, 52.6% rated as partially meeting the standard and 36.8% assessed as not meeting the standard.

1.45. Compliance with continuous disclosure obligations was more positive. This was only relevant in two magistrates' court cases (one of which was assessed as fully meeting the standard and one as not meeting the standard). In

the Crown Court, 51.9% of relevant cases were assessed as fully meeting the standard, 37% as partially meeting the standard and 11.1% as not meeting the standard. Again, performance in RASSO was weaker with 31.3% of relevant cases assessed as fully meeting the standard, 43.8% as partially meeting the standard and 25% as not meeting the standard.

Victims and witnesses

1.46. The CPS's commitment to support victims and witnesses states that the "fundamental role of the Crown Prosecution Service (CPS) is to protect the public, support victims and witnesses and deliver justice. The CPS will enable, encourage and support the effective participation of victims and witnesses at all stages in the criminal justice process". It is a framework that provides prosecutors with easy access to all the key considerations that they should reflect in their dealings with victims and witnesses.

1.47. Early focus on relevant applications and ancillary matters to support victims and witnesses is important. The measures available can support victims and witnesses from the outset, providing certainty about the trial process and reducing the anxiety of the unknown in being called to give evidence.

1.48. There were strengths for the Area in respect of the service provided to victims and witnesses post-charge. In particular, the timely and appropriate warning of witnesses was a real positive across all casework strands, with 94.7% of all relevant cases assessed as fully meeting this standard. Witness care unit correspondence was also dealt with well, and was rated as fully meeting the standard in 76.8% of all relevant cases across the three units. Appropriate orders to protect victims, witnesses and the public were sought upon sentence in all relevant magistrates' court cases, and most RASSO cases. However, our findings show that there is room for improvement in this aspect of victim and witness care in Crown Court casework. In relevant Crown Court cases, 43.8% were assessed as fully meeting the standard, 12.5% as partially meeting it, and 43.8% as not meeting the standard

1.49. Improvements are needed in victim communication letters in respect of both timeliness and quality. Overall, 33.3% of letters were assessed as fully meeting the standard for being sent on time, 5.6% as partially meeting the standard, and 61.1% as not meeting the standard for timeliness. In respect of quality, we assessed 27.3% of letters as fully meeting the standard, 54.5% as partially meeting the standard and 18.2% as not meeting the standard. Victim personal statement obligations can also be improved; 34.4% of relevant cases were assessed as fully meeting the standard, 31.3% as partially meeting the standard and 34.4% as not meeting the standard.

2. Context and background

Background to the inspection

2.1. HMCPsi last inspected Crown Prosecution Service (CPS) Areas in the Area Assurance Programme between 2016 and 2019. At that stage, although good performance was identified in some aspects (such as leadership and financial management), the assessments highlighted that the core elements of the CPS's business – legal decision-making and case management – needed more attention to achieve compliance with the CPS's quality standards and what the public ought reasonably to expect.

2.2. Since 2019, the thematic inspections we have carried out – notably those covering charging⁴, serious youth crime⁵ and disclosure⁶ – have reached similar findings, suggesting that more remains to be done to improve aspects of casework quality. We therefore decided to focus our geographical inspections of the CPS on casework quality. Other aspects of Areas' work, such as strategic partnerships and digital capability, will be addressed only to the extent that they have an impact on casework quality.

2.3. On 12 August 2019, the government announced that the CPS would be allocated £85 million of additional funding over a two-year period. To determine whether the additional resources have had a material impact on casework quality, we are inspecting all 14 Areas to provide a baseline – and will follow up in each Area at least once, no earlier than 24 months after their baseline inspection. This will enable us to report on the use made of the additional resources, as well as other improvements made through training and casework quality measures.

2.4. This report sets out the findings of the initial baseline inspection of CPS London South, assessing current performance against the inspection framework and deriving scores from our judgements of the added value and grip displayed by the Area in its casework. The scoring mechanism is set out in more detail in chapter 3 and annex F.

2.5. A complicating factor in establishing a baseline and assessing current performance is the very real and ongoing pressure on the CPS as a result of the global Covid-19 pandemic. We were mindful of potentially adding to the burden

⁴ *Charging inspection 2020*; HMCPsi; September 2020.

www.justiceinspectorates.gov.uk/hmcp/inspections/charging-inspection-2020/

⁵ *Serious youth crime*; HMCPsi; March 2020.

www.justiceinspectorates.gov.uk/hmcp/inspections/serious-youth-crime/

⁶ *Disclosure of unused material in the Crown Court – a follow-up*; HMCPsi; December 2020.

www.justiceinspectorates.gov.uk/hmcp/inspections/disclosure-of-unused-material-in-the-crown-court-a-follow-up/

faced by the CPS, but it is the role of HMCPsi, as a criminal justice inspectorate, to report on the effectiveness and efficiency of the agencies it inspects. This inspection programme needs to reflect the pressures and burdens being faced by the CPS, but equally has to weigh compliance with the requirement for high-quality legal decision-making and case management. This is what the public deserves.

2.6. Our findings and scores will therefore be based on existing expectations and standards, but where the pressures of the pandemic have had a material impact, we will set out relevant and clear context to enable better understanding of the Area's performance.

The current landscape and the Covid-19 pandemic

2.7. The global pandemic has had a significant impact on the CPS and the wider criminal justice system. Court closures during the first UK-wide lockdown from March to May 2020 resulted in significant backlogs in cases awaiting hearings and an increase in caseloads for all case types within the CPS. Since the initial lockdown, there have been more national and local lockdowns across the UK.

2.8. In June 2020, we published a report on the CPS's response to the first lockdown⁷. We reported how the CPS had been able, with a high degree of efficiency and success, to move most office-based activities to remote digital working. The report also highlighted that some police forces had taken the opportunity of the first UK lockdown and the consequent reduction in the level of crime to work on long-running cases and clear case backlogs. These cases came into the system as pre-charge receipts and increased both the number of cases in Areas and court backlogs.

2.9. From June 2020, prosecutors attended many magistrates' court hearings in person to prosecute cases, including trials, as well as using the cloud video platform (CVP), Her Majesty's Courts and Tribunals Service's video application, to facilitate remote hearings. There has been a drive to reduce the backlogs in the magistrates' courts, which has been successful but has brought with it added pressure for the CPS to deal with an increased number of cases, within a short period of time, with the same resources.

⁷ *CPS response to COVID-19: 16 March to 8 May 2020*; HMCPsi; June 2020. www.justiceinspectorates.gov.uk/hmcpai/inspections/cps-response-to-covid-19-16-march-to-8-may-2020/

2.10. In the Crown Court, at the early stage of the pandemic, most hearings were confined to administrative hearings using the CVP, with trials only starting to be listed in nine Crown Court centres. By September 2020, jury trials were being heard in 68 of the 81 Crown Court centres. Nightingale courts⁸ were also set up as one of the measures to address the growing backlogs of Crown Court cases. In CPS London South's Area, seven additional court rooms were set up at staggered times during the year. Two court rooms were set up in the Jury's Inn in Croydon to assist with work listed at Croydon Crown Court, two court rooms at the Royal Courts of Justice to assist with cases listed at the Inner London Criminal Court, and three court rooms at Prospero House, Borough High Street to assist with cases listed before the Southwark Crown Court. While this assists with easing listing issues caused by the need to maintain social distancing, it impacts on the Area's resources as they had to ensure cover for these additional court rooms and venues.

2.11. In March 2021, we published a report looking at the CPS's response to the continuing pandemic⁹, with a focus on how it was coping with increased caseloads and backlogs. All Areas saw an increase in their caseloads, although not all were equally affected; for charging, for example, one Area's caseload increased by 13.6% between April and June 2020, while another Area saw an increase of 30.3%.

2.12. Our findings need to be read in the context of the Covid-19 pandemic and the backlogs created by it, but also bearing in mind the other pressures on the Area, such as the impact of staffing issues, including under resourcing, recruitment and staff movements set out above. Police file quality also remained an issue during this time. In our sample we rated 40% of all files submitted by the police across the casework types as fully meeting the standard set out in the national file standard (NFS). This meant that the Area had to address the deficiencies in the remaining 60% of cases as part of their case preparation at a time when resources were stretched by the Covid-19 impact.

⁸ Nightingale courts were set up in venues other than traditional court centres to provide temporary extra courtroom capacity to help deal with the impact of the pandemic.

⁹ *CPS response to COVID-19: dealing with backlogs*; HMCPSI; March 2021.

www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-response-to-covid-19-dealing-with-backlogs/

Impact on the Area

Caseloads and backlogs

2.13. CPS London South was affected, as was the CPS nationally, by significant backlogs in the magistrates' courts and Crown Court as a result of the closure of courtrooms during the initial UK-wide lockdown. There were extra cases coming in as the police progressed existing investigations faster and submitted them to the CPS for charging advice, but cases were not being finalised as the courts heard at first no trials, then later, far fewer trials than pre-Covid. This created obvious pressures, particularly given the extra work of maintaining victim and witness engagement and trial readiness across longer waiting times.

2.14. Table 3 shows the changes from April–June 2020 and April–June 2021 for the number of live cases the Area was carrying in the two teams at the end of each month.

Table 3: Changes in live cases 2020–21

Month	2020 #	2021 #	Difference #	Difference %
Magistrates' courts				
April	7,017	7,294	+277	+ 4%
May	8,094	7,086	-1,008	-12.5%
June	8,953	6,772	-2,181	-24.4%
Crown Court				
April	3,456	6,505	+3,049	+88.2 %
May	3,987	6,624	+2,637	+66.1 %
June	4,410	6,709	+2,299	+52.1 %

2.15. The Area remains significantly affected by the substantial increase in caseload which has occurred over the past year.

Magistrates' courts

2.16. There was a 38.2% increase in the magistrates' court live caseload from quarter 1 of 2020/21 to quarter 1 of 2021/22.

2.17. During the same period overall receipts fell by 2.4%.

The Crown Court

2.18. There was a 68.3% increase in the Crown Court live caseload from quarter 1 of 2020/21 to quarter 1 of 2021/22.

2.19. During the same period overall receipts rose by 20.6%.

Rape and serious sexual offences

2.20. There was a 363% increase in the rape and serious sexual offences (RASSO) caseload from quarter 1 of 2020/21 to quarter 1 of 2021/22.

2.21. During the same period overall RASSO receipts rose by 266.2%

Moving forward

2.22. There remain significant pressures, particularly with Crown Court listing, and we were told by the Area that Her Majesty's Courts Service plans to bring more circuit judges into London to increase the number of court sittings available and to explore listing suitable London cases in other courts outside of London.

Police service to the Area

2.23. Police file quality is a long-standing issue nationally, and one that we have reflected on frequently in previous reports. The advent of the pandemic has had a substantial impact.

2.24. The Director of Public Prosecutions issued new charging guidance (referred to as the Director's Guidance on Charging, sixth edition or DG6) in December 2020, and it came into force on 1 January 2021. It reflected, among other changes, the revisions to the Attorney General's Guidelines on Disclosure 2020 and the related Code of Practice. National reporting of police file quality data was suspended during the pandemic, and compliance with DG6 was not formally required until 1 April 2021, after a three-month introductory period. The new monitoring process for police file quality under DG6, called DG6 Assurance, was introduced nationally on 21 July 2021.

2.25. Metropolitan Police file quality is a big challenge for the Area. The Metropolitan Police has made a commitment to improve file quality. This includes expanding the remit of their case management team beyond pre-charge files at the beginning of 2021, as well as allocating funds to create specific teams to process and progress action plans in RASSO cases.

Performance data

2.26. The CPS has a suite of performance measures that each CPS Area is measured against. Some of these are designated as high weighted measures.

2.27. While we have considered the performance data available, our assessment of the quality of CPS London South's casework is predicated upon our file examination. This focused on the effectiveness of the CPS's actions against their own standards around the quality of legal decision-making and case management, which is solely within the control of the CPS. It is from this alone that the inspection scores have been awarded.

2.28. While outcomes, often reported as performance measures, are of course important, this inspection programme focuses on how the CPS can increase the value it adds and improve its grip on casework. We identify where there are issues to address in the drive to deliver further improvement, and we also highlight good practice and strengths we have found in the quality of service that the CPS delivers within the criminal justice system.

3. Framework and methodology

Inspection framework

3.1. The Area inspection programme framework has been designed to focus on the Crown Prosecution Service's (CPS's) delivery of quality casework, which is its core function and one of the five strands of the CPS 2025 strategy¹⁰. To do this, we are examining 90 cases from each Area, which will form the basis of our findings, judgements, and scoring. The inspection will include an assessment of the other four strands of CPS 2025 (people, digital capability, strategic partnerships, and public confidence) only in so far as they have an impact on, support, and promote casework quality.

3.2. The inspection framework is set out in full in annex A.

Methodology

File examination

3.3. The primary evidence for our findings and judgements comes from the examination of 90 cases from CPS London South. We looked at 30 magistrates' court cases, 40 Crown Court cases, and 20 cases involving rape and serious sexual offences (RASSO). We recognise that 90 files is not statistically significant in relation to the Area's caseload, but long experience shows us that it is sufficient to identify what is working well, and what the themes or issues are when the need for improvement is indicated.

3.4. The file sample composition is set out in annex E. We selected the cases according to these criteria to ensure the same balance of successful and unsuccessful outcomes, and of sensitive and non-sensitive case types, for each Area. We chose live cases for 10% of the file sample to enable us to examine cases that were affected by pandemic pressures, particularly pressures in listing practices. Most of the remaining 90% were finalised between April and June 2021, although we had to go forward to July 2021 and back to the previous quarter (and in one instance back two quarters) to find sufficient cases in a few instances, almost all of which were RASSO cases. Within the criteria, cases were chosen at random.

¹⁰ CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.
www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

3.5. Each case was examined by an experienced legal inspector against a set of 60 questions, with guidance to ensure a common understanding of how to apply the questions to the cases. The work was assessed as fully meeting the expected standard, partially meeting the standard or not meeting the standard.

3.6. HMCPSI house style is to round figures to a single decimal point, so where percentages are cited, they may not total 100%.

Other inspection activity

3.7. We asked CPS London South to send us a range of documents across all aspects of the framework, which we reviewed with a focus on the evidence that shed light on the Area's delivery of high-quality casework.

3.8. We also attended virtually the Area's casework quality committee (CQC) meeting on 4 October 2021 to better understand how the Area views its casework quality and the improvement work going on in the Area.

3.9. After examining the files, we produced a summary of our preliminary findings, mainly from the files, but supplemented by evidence from the documents and attendance at the casework quality board. We sent this assessment document to the Area in advance of a meeting to discuss its contents with senior managers. At the meeting, the Area was able to put the findings in context, explain more about the pandemic and other pressures its was dealing with, and supply more evidence where necessary.

Quality assurance

3.10. This programme of inspections has been developed in consultation with the CPS, including three Chief Crown Prosecutors who provided helpful feedback on the framework, methodology and context.

3.11. In line with our methodology¹¹, we held consistency exercises for our inspectors on the question set and guidance, and we invited staff from a number of Areas including CPS London South. Our file examination assessments were then subject to internal quality assurance, which included data checks and dip-sampling. Dip samples were then checked to ensure consistency of approach.

3.12. As set out in detail in our methodology, we follow a robust quality assurance process for cases where we reach a provisional conclusion that a decision to charge, proceed to trial, accept pleas, or discontinue was not in compliance with the Code for Crown Prosecutors. The process involves two

¹¹ *Inspection handbook*, HMCPSI; January 2021.
www.justiceinspectorates.gov.uk/hmcpsi/wp-content/uploads/sites/3/2021/02/HMCPSI-Inspection-handbook.docx

stages of internal review and between one and three stages of consultation with the CPS on our provisional finding. The number of consultation stages depends on whether the Area agrees with our provisional finding and, where we cannot agree, how many stages the Area wishes to invoke. Ultimately, the decision is ours.

3.13. The Area assessment document, containing our preliminary findings, was reviewed by the Deputy Chief Inspector (Inspections). They held a ‘check and challenge’ session with the team before our meeting with the Area’s senior managers to discuss the findings.

Scoring

3.14. Historically, HMCSI has awarded a single score to a CPS Area at the conclusion of an Area inspection: excellent, good, fair, or poor. While this provided an overall score which was easily accessible to those reading the report, it did not always reflect the variety of findings we found in each Area, and across the Areas.

3.15. In this inspection, with the focus on casework quality, we have assessed whether the Area has added value to the prosecution through good, proactive prosecution decision-making and whether the Area has gripped case management. These two aspects of the Area’s casework handling are scored as percentages for each of the three types of casework examined within this inspection: magistrates’ court casework, Crown Court casework and RASSO casework. The scores are derived solely from our file examination.

3.16. We assessed how well CPS London South met the standards against 60 questions¹² covering themes from pre-charge to case conclusion. Inspectors applied ratings to each question for each case – fully meeting the standard, partially meeting the standard or not meeting the standard. Inspectors also applied the CPS’s own casework standards.

3.17. In reaching our assessments around added value and grip, we examined Area cases against a set of questions that we brigaded into casework themes. These are examined in detail within the report to provide a fair and transparent assessment of the Area’s work across the three types of volume casework assessed. Each theme received a score – recorded as a percentage and calculated in the same way as for added value and grip – which then translated into an assessment of how well the Area met the standard for that specific theme¹³.

¹² See annex D for the full question set.

¹³ See annex F for the scoring methodology and annex G for which questions contributed to each of the casework themes.

3.18. By presenting our findings in this way, the CPS, the public and the Attorney General (as the superintending officer for the CPS) will have clarity around the Area's performance.

4. Key stages in a prosecution case

Pre-charge decision-making

4.1. While it is the police who investigate criminal allegations, in most cases it is the Crown Prosecution Service (CPS) who decides whether a suspect should be charged and with what. The CPS then conducts the case through to the end. Within the CPS, charging decisions are made either by one of the 14 geographical Areas or by the out-of-hours service, CPS Direct. In less serious cases, and provided the case fits certain criteria, the police can make the decision to charge. In all cases, the police should decide not to charge (or to take 'no further action') where the evidence does not pass the threshold for referral to the CPS.

4.2. Once the case is with the CPS, its prosecutors review the evidence and other material sent by the police, and make their decisions based on the Code for Crown Prosecutors ('the Code')¹⁴. This is a public document, issued by the Director of Public Prosecutions, which sets out the general principles that prosecutors should follow when they make decisions on cases.

Complying with the Code

4.3. To comply with the Code, prosecutors must assess the material supplied by the police and apply a two-stage test. The first stage is deciding whether there is sufficient evidence for a realistic prospect of conviction. The second is deciding whether a prosecution is required in the public interest.

4.4. The first ('evidential') stage is an objective test that the prosecutor must consider. It means that a bench of magistrates, a District Judge or a jury, properly directed in accordance with the law, will be more likely than not to convict the defendant of the charge alleged. This is a different test to the one the criminal courts must apply – whether that is a bench of magistrates, a District Judge, or a jury – which is that they should only convict if they are sure of a defendant's guilt.

4.5. Prosecutors must be fair and objective, considering each case on its merits. It is the duty of the prosecutor to make sure that the right person is prosecuted for the right offence and to bring offenders to justice wherever possible. Prosecutors must make sure that the law is properly applied, that relevant evidence is put before the court and that the obligations of disclosure are met.

¹⁴ *The Code for Crown Prosecutors*; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

4.6. The second ('public interest') stage will only be considered if the prosecutor concludes that the evidential test has been met. If there is insufficient evidence for a realistic prospect of conviction, then regardless of the seriousness of the offence or the impact on an alleged victim or the public, the prosecutor cannot go on to consider the public interest.

4.7. Where there is sufficient evidence for a realistic prospect of conviction, a prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In reaching this decision, prosecutors must bear in mind paragraphs 4.14(a) to 4.14(g) of the Code for Crown Prosecutors.

4.8. As part of our methodology, we assess Code compliance. If we conclude that the Code decision was incorrect, and that no reasonable prosecutor could have made that decision in the circumstances in which it was made and at the time it was made (or ought to have been made), we describe this as a 'wholly unreasonable decision'.

Selecting the most appropriate charges

4.9. The facts and circumstances of each case are different and there are often a number of charges that can be considered and selected by the prosecutor. Prosecutors should select charges which:

- reflect the seriousness and extent of the offending
- give the court adequate powers to sentence and impose appropriate post-conviction orders
- allow a confiscation order to be made in appropriate cases, where a defendant has benefited from criminal conduct
- enable the case to be presented in a clear and simple way.

4.10. This means that prosecutors may not always choose or continue with the most serious charge, where there is a choice and the interests of justice are met by selecting the lesser charge.

4.11. Prosecutors should not select more charges than are necessary to encourage the defendant to plead to some of the charges, nor should a prosecutor charge a more serious offence with a view to encouraging a defendant to plead to a less serious one.

4.12. Charging standards set by the CPS also help prosecutors select charges in some types of offending. One example is the charging standard for offences against the person. This standard helps to ensure a consistent approach in

cases where the circumstances of an assault would fit either a charge of common assault by beating – an offence that can be tried only in the magistrates' courts – or an assault occasioning actual bodily harm: an offence that can be tried either in the magistrates' courts or the Crown Court, and which attracts a greater maximum sentence.

Quality of the pre-charge decision review, including analysis and case strategy

4.13. Getting the initial charging decision correct is essential. But it is also fundamental to set out a clear analysis of the material and a clear strategy. It helps to ensure the efficiency and effectiveness of the subsequent stages, supporting the initial application of the Code and the selection of charges as the case moves through the criminal justice system.

4.14. Without clear contemporaneous records of how prosecutors have made their legal decisions, it is not possible to know whether they have taken into account all relevant factors and demonstrated sound reasoning to reach their conclusions – including anticipating issues that may cause difficulties or delays at a later date, and taking action or devising strategies to overcome them. In our view, the CPS must have a proper understanding of how all its prosecutors arrive at their decisions in order to achieve its 2025 strategy aim of high-quality casework.

4.15. The prosecutor's review, which should be recorded on a police manual of guidance form 3 (or 3A for any subsequent reviews after the first review), should set out a clear and cogent analysis of the material, identifying how the evidential test is met and setting out a clear case strategy. A case strategy should encompass what the case is about, or 'tell the story'; and set out how potentially undermining material, such as material with an impact on the credibility of a victim or witness, can be addressed.

4.16. A prosecutor's review that meets the standard will fulfil the following criteria.

- It sets out a clear trial strategy demonstrating how each of the essential legal elements of the offence were to be proved (or could not be proved). In particular, where there were two suspects or more, the prosecutor has considered the case of each one separately and applied the Code individually to all charges, including where joint enterprise was alleged.
- It identifies reasonable lines of enquiry. These can be very different from case to case but often include the need for scientific evidence or examination of communications, for example. The review should also identify those lines of enquiry that may point away from a prosecution. There should be a

proportionate action plan identifying those reasonable lines of enquiry and setting a realistic target date for completion.

- It addresses issues or defences that could reasonably arise and the prosecutor has articulated how they could be countered.
- It addresses relevant issues of admissibility, including hearsay, identification or the significance of hard media.
- The prosecutor has considered the credibility and/or reliability of key witnesses, including previous convictions and past reports to the police. Where a video-recorded interview took place, it should have been properly assessed.
- It demonstrates that relevant CPS policies were followed: for example, the domestic abuse policy.
- The prosecutor has rationally assessed the strengths and weaknesses of the case and any impact they might have, identifying a strategy for how to address any weaknesses. The review considers any ancillary applications that may strengthen the case, such as bad character evidence of the defendant.
- It considers victim and witness issues.

4.17. Another important function of a pre-charge decision review is to provide instructions to a court prosecutor, who may have many cases to deal with in a court list and little time to review cases before the hearing. Inadequate instructions can limit the progress that can be made at the first hearing, or require the advocate to duplicate the review and make fresh decisions about aspects of the case, including whether there should be any change in bail status or acceptability of pleas. Clear instructions improve effectiveness and efficiency, and reduce the risk of something being overlooked at court.

4.18. Instructions will vary depending on the relevant factors in each individual case, but may include:

- the approach to be taken to bail and/or custody for all suspects, including threshold test conditions, objections to bail, any appropriate conditions of bail and whether or not an appeal against bail being granted was necessary
- which applications and/or ancillary orders were to be made at first hearing or notice given to the court and defence

- advice on representations to the court as to venue, including sentencing guidelines where appropriate
- what possible pleas may be acceptable and the rationale for the approach to be taken
- details of any material that either assists the defence case as it is known at that stage, or undermines the prosecution case, and needs to be disclosed to the defence at the first hearing under the prosecution's common law duties
- what should be included in the initial details of the prosecution case. This is the bundle of material that is served on the defendant or their legal representative before the first hearing in the magistrates' courts¹⁵.

Post-charge decision-making and reviews

Police file quality – the National File Standard

4.19. The National File Standard¹⁶ is a document setting out the material and information that the police must send to the CPS at different stages of criminal cases and for different case types. It lists what is required when a case is submitted for a pre-charge decision, for an anticipated guilty plea case in the magistrates' courts, and for a more complex matter listed before the Crown Court. It seeks to achieve consistency and proportionality across all CPS Areas and police forces throughout England and Wales.

4.20. The CPS case management system allows the CPS to report whether a police file submission complied with the National File Standard. This national file quality data is collated and considered at local prosecution team performance meetings, which are held between CPS local legal managers and their police counterparts as a way of improving police file quality. It was suspended nationally during the initial period of the Covid-19 pandemic, although some Areas carried on monitoring the police's compliance with the expected standards. Compliance checking restarted nationally on 21 July 2021 with the introduction of DG6 Assurance.

¹⁵ The contents of the initial details of the prosecution case are regulated by [Part 8 of the Criminal Procedure Rules \(CrimPR\)](#) and the [Criminal Practice Directions \(CPD\) 2020 Division 1, at Part 3A](#).

¹⁶ The latest version of the National File Standard is contained in [the Director's Guidance on Charging, sixth edition \(DG6\)](#). Many of the files we examined pre-date the 6th edition coming into force on 1 January 2021, when [an earlier version of the National File Standard](#) applied.

Post-charge reviews

4.21. The quality of ongoing reviews and strategy is of critical importance to the effective and efficient progress of cases through the criminal justice system. Making a decision in compliance with the Code without supporting analysis of the case material and a clear strategy – addressing matters such as undermining material, special measures and applications – diminishes the value added by the CPS and results in a reactive approach to the case. This can lead to key issues being missed, cracked and/or ineffective trials, duplication of effort, wasted resources and delays in decision-making and case progression that can have an impact on victims, witnesses, and defendants, especially where they are in custody.

4.22. In reaching our assessment we considered a number of factors related to the quality of these reviews:

- whether the post-charge review included a proper case analysis and case strategy
- whether any pleas accepted (other than to all offences) were appropriate, with a clear basis of plea
- whether there were quality reviews dealing with any significant developments (that is, those representing a major change in the case strategy). This includes applying the Code for Crown Prosecutors to decide whether there remained a realistic prospect of conviction and whether it remained in the public interest to prosecute, but also how any new evidence or weaknesses would be addressed
- whether decisions about bail and/or custody were timely and appropriate
- whether appropriate applications – for example, bad character – were used effectively to strengthen the prosecution case.

Significant events

4.23. As cases progress, things can change which have a material impact on the prosecution case or which represent a major change in the case strategy.

4.24. If this happens, the Area should carry out a quality review dealing with the significant development, applying the Code for Crown Prosecutors to decide whether there remains a realistic prospect of conviction and whether it remains in the public interest to prosecute. The review should also address how any new evidence or other material will be dealt with, and how the case strategy should be adapted.

4.25. We call this a significant event review.

Stage 1 reviews

4.26. In contested Crown Court cases, there are key stages following on from the first hearing in the Crown Court. The first of these is service of the bulk of prosecution materials, which should be accompanied by a review of the case and updates on any developments since the last review. We call this a stage 1 review. We discuss the other aspects of the plea and trial preparation hearing (PTPH) in paragraphs 4.27 to 4.32.

Preparation for the Plea and Trial Preparation Hearing

4.27. In Crown Court contested cases, a number of orders to manage the case will be made at the first hearing in the Crown Court. This is called the Plea and Trial Preparation Hearing (PTPH). In most such cases, the court will be able to set four dates for the parties to complete the four key stages in pre-trial preparation – although where the case requires it, other dates can be set. The four stages are:

- Stage 1 – for the service of the bulk of prosecution materials. This date will ordinarily be 50 days (custody cases) or 70 days (bail cases) after sending. This is in line with the timetable for the service of the prosecution case provided in the Crime and Disorder Act (Service of Prosecution Evidence) Regulations 2005. The court does not have the power to abridge this time (without consent) but does have the power to extend it.
- Stage 2 – for the service of the defence’s response, including the defence statement and standard witness table. This date will ordinarily be 28 days after stage 1, reflecting the time provided for the service of a defence statement.
- Stage 3 – for the prosecution’s response to the defence statement and other defence items. This date will ordinarily be 14 or 28 days after stage 2, depending on the anticipated date of trial.
- Stage 4 – for the defence to provide final materials or make applications that will commonly arise out of prosecution disclosure.

4.28. Following a plea of not guilty and the stage dates being set, the prosecution will ask the police to supply any additional material required to prove the case to the criminal standard of proof, so that the jury is sure of the defendant’s guilt. This may require more information than the key evidence served on the defence for the PTPH.

4.29. At the point that material is supplied, the prosecutor should review the case again in accordance with the Code, analysing all the material, confirming the case strategy and compiling the structured bundle of evidence the prosecution will rely on at trial. If it has not already been done, the prosecutor will also complete initial disclosure at this stage. This means serving any material that satisfies section three of the Criminal Procedure and Investigations Act 1996 – in that it may be considered to be capable of undermining the prosecution case or assisting the defendant’s case – together with the schedules of all non-sensitive unused material. This is a central point in the preparation of the prosecution.

4.30. In assessing the Area’s preparations for the PTPH, we considered the key tasks the prosecution is required to complete, including:

- filling in the PTPH form for use by the Judge presiding at the hearing
- carrying out direct engagement with the defence
- drafting the indictment
- making sure the relevant material is uploaded to the Crown Court Digital Case System (DCS) before the hearing
- making sure an advocate is instructed before the hearing, so they have time to prepare.

4.31. Instructions to the advocate should include the acceptability of pleas, the prosecution’s view on custody or bail, any applications that could be made in court (such as special measures), any issues about receipt of evidence such as hard media or scientific material, details of linked cases or defendants, and details of any contact with the defence.

4.32. If the instructed advocate is not employed by the CPS, they should read the instructions promptly and advise or confer with the Area within five days of receiving them. This does not need to be a formal advice; a note in a hearing record sheet or email, or a discussion with the Area lawyer, will suffice. There is no similar provision for those holding the equivalent role in-house, called crown advocates, although the requirement to prepare fully for the PTPH is no different.

The indictment

4.33. The indictment is the document that contains the charge(s) (known as counts) to be faced by the defendant at trial in the Crown Court. It is the responsibility of the prosecutor to prepare the draft indictment.

4.34. It is important that the indictment is legally correct and accurately worded, and that the number and nature of the counts are appropriate. The draft indictment and key evidence must be served in a timely manner before the PTPH to allow for an effective hearing.

Direct engagement

4.35. The principles of better case management¹⁷ apply in the Crown Court. One of these principles is the duty of direct engagement. Rule 3.3 of the Criminal Procedure Rules requires parties to engage with each other about the issues in the case from the earliest opportunity and throughout the proceedings. The parties are required to establish whether the defendant is likely to plead guilty or not guilty; what is agreed and what is likely to be disputed; what information, or other material, is required by one party or another and why; and what is to be done by whom and when. The parties are required to report on that communication to the court at the first hearing.

4.36. Although the duty is placed on all parties, in practice the prosecution tends to take the lead in contacting the defence and providing the information to the court. The CPS case management system includes a duty of direct engagement log; this should be completed by the prosecutor and then uploaded to the Digital Case System, where it can be viewed by the Judge and the defence. Good conversations with the defence at an early stage can lead to resolution of the case without the need to list and prepare for trial, which is positive for resources but also provides certainty for victims, witnesses and defendants.

¹⁷ Better Case Management; Courts and Tribunals Judiciary; September 2015. www.judiciary.uk/publications/better-case-management/

Disclosure of unused material

4.37. It is a crucial element of the prosecution's role to make sure that unused material is properly considered, applying the tests set out in section 3 of the Criminal Procedure and Investigations Act (CPIA) 1996. This stipulates that any material that might reasonably be considered capable of undermining the case for the prosecution, or of assisting the case for the defendant, is disclosed to the defence. This underpins and ensures the fairness of the trial process.

Police duties

4.38. The police are required to accurately record all material, retain it, and reveal it to the prosecutor. In magistrates' court cases, the police use a streamlined disclosure certificate to disclose any unused material to the CPS. In Crown Court cases, the police schedule relevant non-sensitive unused material on a police manual of guidance form 6C (MG6C) and any sensitive material on a police manual of guidance form 6D (MG6D). These are sent to the prosecutor who, in turn, applies the test in section 3 of the CPIA 1996; any material that meets the test must be disclosed to the defence.

4.39. The police disclosure officer, who in many cases will be the investigating officer, is required to review the material and provide a clear and adequate description of all documents on the schedules so that the prosecutor understands what the documents are and their significance.

4.40. The police are also required to supply a manual of guidance form 6E (MG6E), in which the disclosure officer should identify any material that they think is capable of meeting the test in section 3 of the CPIA 1996 and why. They must also supply copies of those items to the prosecutor. If there is no disclosable material in magistrates' court cases, the officer need not supply a MG6E.

4.41. Where the police do not comply with their disclosure obligations, it will result in the prosecutor requesting more relevant information or further enquiries to be made on the inadequate schedules. This often results in delays to the case while the matter is addressed.

4.42. The joint national disclosure improvement plans aim to drive up the quality of the handling of unused material. Despite the pressures on CPS Areas, feedback to the police about disclosure failings remains central to the effectiveness of these plans.

Initial disclosure

4.43. The prosecutor should assure themselves that all material that should be listed is included on the right schedules and is adequately described. The prosecutor makes an initial assessment and confirms the position to the defence, either by sending any documents that meet the test or confirming that no material meets the test. In either case, they must supply the MG6C so that the defence has sight of the list of non-sensitive documents.

4.44. There is a provision in the template disclosure letter to add any disclosable items not listed on the MG6C by the police. The MG6C and letter must be served by stage 1 of pre-trial preparation. This is called initial disclosure.

Continuing disclosure

4.45. In the Crown Court, the defence is required to respond to initial disclosure by serving a defence statement that sets out the details of the defence case. This is stage 2 of pre-trial preparation. If the defence fails to serve a defence statement in a Crown Court case, an inference may be drawn from that failure at trial.

4.46. In magistrates' court cases, the defence may serve a defence statement but it does not have to.

4.47. Upon receiving the defence statement, the prosecutor should review it and send it to the disclosure officer in a timely manner. The prosecutor should draw the disclosure officer's attention to any key issues raised in the defence statement, and any actions that should be taken. The prosecutor should give advice to the disclosure officer about the sort of material to look for, particularly in relation to legal issues raised by the defence.

4.48. The police should then carry out another review of the unused material and advise the prosecutor (on another MG6E) of any previously undisclosed material that now meets the disclosure test in light of the defence statement. At that point, the prosecutor must reconsider the unused material and either disclose any further material that satisfies the disclosure test, or confirm that no other material falls to be disclosed. This 'continuing disclosure' is stage 3 of pre-trial preparation.

4.49. Any other material that is provided after that date must also be considered by the prosecutor and either served as evidence or dealt with as unused material. If it falls to be disclosed, it should be served on the defence. If it does not, it should be added to the MG6C schedule, which should be re-served so that the defence is aware of the additional material.

Sensitive material

4.50. All sensitive material must be scheduled on a separate schedule which the prosecutor must consider, applying the same tests. If the prosecutor concludes that there is sensitive material that meets the tests, they should either disclose this in a way that does not compromise the public interest in issue; abandon the case; or make an application to the court to withhold the material on the grounds of public interest immunity.

Recording decisions

Disclosure record sheets

4.51. In all cases, prosecutors must complete a disclosure record sheet on the CPS case management system (CMS). This provides an audit trail for the receipt and service of the streamlined disclosure certificate; any sensitive unused material schedules; and the disclosure decisions and actions made, including reasons for disclosing or withholding unused material to or from the defence. Disclosure documents added to the CMS and actions taken through Modern CMS (the newer version of the CMS) are logged automatically on the disclosure record sheet, so the main input expected from the prosecutor is to record any actions or rationales for disclosure decisions that have not been logged automatically.

Disclosure management documents

4.52. In all rape and serious sexual offences (RASSO) cases, a disclosure management document (DMD) is required. Since 1 January 2021, a DMD is also obligatory in Crown Court cases. A DMD sets out the prosecution's approach to disclosure (for example, which search terms have been used on digital material and why) and identifies what reasonable lines of enquiry have been pursued. This invites the defence to identify any additional lines of enquiry that they consider to be reasonable and which have not yet been pursued by the first hearing in the Crown Court. The DMD is also expected to help the Judge to robustly manage disclosure in the case.

Victims and witnesses

4.53. We assessed a range of aspects of victim and witness issues at both pre-charge and post-charge stages, including:

- consideration of relevant and ancillary matters at charging to support victims and witnesses
- timely and accurate witness warning
- consideration of special measures
- addressing witness issues
- consultation with victims and witnesses
- Victim Personal Statements (where a victim makes a statement explaining the impact of the offending behaviour on them)
- Victim Communication and Liaison scheme letters explaining the reasons for decisions to drop or substantially alter a charge.

Before charge

4.54. We examined whether appropriate consideration was given to the relevant issues before charge in cases involving victims and witnesses. These issues include considering special measures to support vulnerable or intimidated victims and witnesses to give their best evidence; appointing an intermediary to facilitate communication with a victim or witness; whether the victim wanted to make a Victim Personal Statement about the impact the offence has had on them; and considering orders such as restraining orders (which prevent the defendant from doing things, usually contacting the victim) and compensation orders.

After charge

4.55. At the post-charge stage, we assessed a number of aspects of casework including witness warning, handling of witness care unit correspondence, consultation with victims and witnesses (including speaking to witnesses at court), Victim Personal Statements, orders on sentence or acquittal, and Victim Communication and Liaison scheme letters.

Communications with witness care units

4.56. Witness care units are separate from the CPS. They manage the care of victims and witnesses throughout the post-charge phase of a case, including updating victims and witnesses on the progress of the case. Where required, they obtain information to help make a special measures application to support the victim or witness to give their best evidence. They also arrange pre-trial witness visits to court to reduce anxiety about the surroundings or offer practical support to get the victim or witness to attend court, such as making travel arrangements.

4.57. As witness care officers are in regular contact with victims and witnesses, where issues arise that may impact on the victim or witness's ability to attend court as required, the witness care unit will send information to the CPS. It is important that this information is dealt with in a timely manner, with effective actions put in place to minimise any impact on the effectiveness of the trial. Such information could be, for example, that witnesses are no longer able to attend court on the date that the trial is listed.

Consulting victims and speaking to witnesses at court

4.58. Victims should be consulted where the CPS is considering accepting pleas to less serious charges, or a basis of plea, or discontinuing the case altogether. Victims should also be asked their views on restraining orders or other orders on sentencing that have an impact on them.

4.59. Victims and witnesses are entitled to be given information when they attend court for a trial. This is referred to as the speaking to witnesses at court (STWAC) initiative¹⁸ and is intended to explain what they can expect to happen, to better prepare them for the trial and to reduce their apprehension, so that they can give their best evidence.

Victim Personal Statements

4.60. Victims are entitled, if they wish, to provide a Victim Personal Statement (VPS). The VPS sets out the impact that the offence has had on them, and helps inform the court's decision on sentencing. The police should tell the CPS, and the CPS should give effect to the victim's preferences for how the VPS is presented to the court. For example, the victim may read the statement in court, the prosecution advocate may read it for them, or the Judge or magistrates may be given it to read.

¹⁸ *Speaking to witnesses at court*, CPS; March 2018.
www.cps.gov.uk/legal-guidance/speaking-witnesses-court

Victim Communication and Liaison scheme letters

4.61. Victim Communication and Liaison scheme (VCL) letters should be sent to victims whenever a charge related to them is either dropped or substantially altered. Where the victim is deemed to be vulnerable or intimidated, is a victim of serious crime (which includes domestic abuse), or has been targeted repeatedly over a period of time, the letter should be sent within one working day. The timescale in all other cases is five working days.

4.62. The letter should include a clear and understandable explanation of the decision. In applicable cases, it should also include a referral to the Victims' Right to Review scheme (which allows a victim to ask the prosecution to reconsider a decision to drop or substantially alter a case) and offer a meeting

Rape and serious sexual offences

4.63. Most rape and serious sexual offences (RASSO) cases proceed in the same way as Crown Court cases, and are usually heard there. The information we have set out in relation to Crown Court cases applies equally to most RASSO cases. There are, however, the following differences.

Venue

4.64. A small number of RASSO cases may be heard in the lower courts, usually in the youth court (for a defendant aged 10 to 17). Some of the questions in our file examination, especially those related to preparation for Crown Court hearings, will not be applicable in youth court cases.

Selection of charges

4.65. In RASSO cases, the selection of charges can be complicated, with different charges being relevant depending on the date of the offence(s) or the age of the victim. Non-recent allegations can require particular care if they span the transitional provisions in, and the changes to, offences brought about by the Sexual Offences Act 2003.

The trial advocate's duties

4.66. The CPS and National Police Chiefs' Council have agreed protocols which set an expectation for there to be a conference with the trial advocate in rape and penetrative assault cases. This conference is attended by the CPS, the officer in the case and any expert witnesses.

5. Added value and grip

What are added value and grip?

5.1. The Crown Prosecution Service (CPS) is one of a number of key organisations within the criminal justice system. Others include the police, who take reports of and investigate alleged criminal offences; the magistrates' courts and the Crown Court, which hear cases and deal with pleas, trials, and sentence; and the defence, who represent defendants.

5.2. In many cases, the CPS provides advice to the police at the pre-charge stage – based on the material gathered during the course of the police investigation – and makes the decision whether or not to prosecute. If the decision is to prosecute, the CPS then reviews the case and prepares it for court, whether that is for a plea, trial, other hearing, or sentence.

5.3. All parties are required to work together effectively. This requirement is set out in the Criminal Procedure Rules (CPR) 2020, which set out the framework within which cases should be progressed post-charge in the criminal courts. The overriding objective of the CPR 2020 is that criminal cases are dealt with justly, which includes being dealt with efficiently and expeditiously.

5.4. The CPS sets its own standards for the delivery of high-quality casework to ensure effective and efficient prosecution. These are the standards that we applied to assess the quality of casework within the Area.

5.5. We broke down casework quality into two key measures: whether the Area added value with its casework decisions and whether the Area had a grip on its casework. We supported these with five casework themes:

- charging advice and decision-making
- post-charge reviews
- preparation for the Plea and Trial Preparation Hearing in the Crown Court
- disclosure of unused material
- victims and witnesses.

Added value

5.6. We defined added value as the difference made by prosecutors throughout the life of a case, through good and proactive prosecution decision-making in accordance with the legal framework, at both pre- and post-charge and throughout the case. We drew on the relevant questions in our file examination that most show added value:¹⁹

- the decision to charge and with what offence
- decisions about admissibility and credibility of evidence
- choosing, and clearly and correctly drafting, the counts to be faced by defendants on indictment in cases to be heard at the Crown Court
- good quality reviews including, at all stages, a cogent and clear analysis of the case – which includes whether the prosecutor has, in each case:
 - analysed the material
 - identified additional lines of enquiry, including those that might point away from a prosecution, and asked the police to investigate further
 - considered any defence raised, identified ways to strengthen the case and also addressed how any weaknesses might be overcome
 - a clear strategy for trial in contested cases, by which we mean how the case will be presented at trial
- appropriate handling and decision-making around unused material throughout the case
- effective consideration and decision-making around victim and prosecution witness issues including seeking appropriate orders to protect the victim, witnesses and the public
- robust and fair decisions about custody and bail
- sound use of applications to strengthen the prosecution case, such as evidence of bad character of the defendant or hearsay evidence.²⁰

¹⁹ See annex G for which questions contributed to each of the casework themes.

²⁰ A statement not made in oral evidence that is evidence of any matter stated s114(1) Criminal Justice Act 2003.

Grip

5.7. When we assessed grip, we considered the effectiveness and efficiency of case progression or management of cases by the Area. We looked at whether the Area made sure that cases have been effectively progressed at each relevant stage, whether required processes had been adhered to, and whether any timescales or deadlines had been met.

5.8. We assessed grip by identifying the questions in our file examination that had significant impact in terms of case management. The questions that contributed to our overall score and findings for grip included:²¹

- timeliness of reviews, including timeliness of any decisions to discontinue cases
- effective preparation for first hearing, including sharing hard media
- compliance with court orders
- conferences, where mandatory, in rape and penetrative sexual offence cases
- appropriate and timely handling of correspondence from the court and defence
- timely and effective handling of additional police material, including requests for editing or additional material, and escalation of unanswered requests for outstanding material where required
- timely and effective handling of witness care unit correspondence
- clear audit trails of all aspects of casework on the CPS case management system.

²¹ See annex G for which questions contributed to each of the casework themes.

Added value and grip scoring

5.9. The scores for added value and grip are set out as percentages. They were obtained by taking the questions that feed into the aspect (see paragraphs 5.6 and 5.8) and allocating:

- two points for each case marked as fully meeting the expected standard
- one point for each case marked as partially meeting the standard
- no points for cases marked as not meeting the standard.

5.10. We then expressed the total points awarded as a percentage of the maximum possible points. “Not applicable” answers were excluded. There is a worked example in annex F.

5.11. Applying this mechanism, we have scored CPS London South as follows:

Table 4: Added value and grip scoring

CPS London South	Added value	Grip
Magistrates’ courts casework	55.8%	56.8%
Crown Court casework	58.2%	75.7%
Rape and serious sexual offences casework	58.9%	71.7%

5.12. These findings need to be seen in the context of the substantial increase in caseload across all teams, the large court backlogs, the significant staffing changes at all levels and the overall shortfall in the numbers of legal staff, as well as the additional challenges placed on the magistrates’ court team by the Extinction Rebellion prosecutions.

Magistrates’ court casework added value and grip

5.13. The measure of value added by the Area in respect of its magistrates’ court casework was assessed as 55.8%.

5.14. While the vast majority of review decisions applied the Code for Crown Prosecutors correctly and defendants were prosecuted for the correct offences, the overall quality of reviews both at pre-charge and post-charge stage did not meet the required standard. This, together with disclosure decision-making also being rated as not meeting the required standard, impacted the added value score considerably.

5.15. The measure of grip by the Area in respect of its magistrates’ court casework was assessed as 56.8%.

5.16. Timeliness of pre-charge decisions was good: 76.9% of cases were assessed as fully meeting the standard, 7.7% as partially meeting it and 15.4% not meeting the standard. The timeliness of the initial review was also positive with 12 of the 17 reviews conducted (70.6%) assessed as fully meeting the standard.

5.17. In our sample we found that effective preparation for the first hearing required improvement with six of the 30 cases (20%) assessed as fully meeting this standard, four (13.3%) partially meeting the standard and 20 (66.7%) not meeting the standard. Added to this, 13 of 17 cases (76.5%) were assessed as not meeting the standard for timely compliance with court directions, meaning that these aspects of case preparation impacted the overall score for grip in the magistrates' court casework.

Crown Court casework added value and grip

5.18. The value added by the Area in respect of its Crown Court casework was assessed as 58.2%.

5.19. In just over 80% of cases, the Code for Crown Prosecutors was applied correctly and defendants were prosecuted for the correct offences. However, the quality of reviews both at pre-charge and post-charge stages did not meet the required standard. Furthermore, the score for stage one reviews was very low, with 26 out of 32 of cases (81.3%) assessed as not meeting the standard (14 of 32 cases had no stage one review at all). This score contributed to lowering the added value assessment.

5.20. The measure of grip by the Area in respect of its Crown Court casework was assessed as 75.7%.

5.21. Generally, timeliness in Crown Court casework was good, contributing to the higher grip score. For example, the draft indictment and key evidence was found to have been served in a timely manner for the pre-trial preparation hearing in 29 of 37 cases (78.4%), with five cases (13.5%) assessed as partially meeting the standard and three cases (8.1%) assessed as not meeting the standard. Timely compliance with court directions or Judge's orders was good with 24 of 35 cases (69.6%) assessed as fully meeting the standard and nine (25.7%) as partially meeting the standard. Two cases were assessed as not meeting the standard.

5.22. Correspondence was generally well handled with timely and appropriate actions being taken in response to material received from all parties. The Area dealt with new material from the police effectively, with inspectors rating 88.9% of files as fully meeting the standard. The Area also made effective requests for additional material from the police, with 71.4% of cases rated as fully meeting the standard. Handling of correspondence from the court and defence fully met the standard in 75.8% of cases.

Rape and serious sexual offences casework added value and grip

5.23. The value added by the Area in respect of its RASSO casework was assessed as 58.9%.

5.24. Most review decisions applied the Code for Crown Prosecutors correctly. Almost all defendants (93.3%) were prosecuted for the correct offences, which was a significant positive given the challenge of selecting the correct charges in RASSO cases. However, like in the magistrates' and Crown Court cases we examined, the overall quality of reviews did not meet the required standard, particularly in respect of case analysis and case strategy. This brought the overall score down, as again did the poor score for stage one reviews, with 15 of 17 cases (88.2%) assessed as not meeting the standard, and no review completed in 13 of those cases.

5.25. The measure of grip by the Area in respect of its RASSO casework was assessed as 71.7%.

5.26. Case progression of RASSO cases within the Area is good, with new material from the police being dealt with well (80% fully meeting the standard), as was correspondence from the court and defence (78.9% were assessed as fully meeting the standard with the remaining 21.1% rated as partially meeting the standard). Requests for editing, additional material and escalation were also dealt with proactively and in a timely fashion in 95% of cases examined. This is a strength.

5.27. Nine of 19 cases were assessed as fully meeting the standard for timely compliance with Judge's orders (usually stage dates), six as partially meeting it and four as not meeting the standard.

5.28. Conferences with the trial advocate were evidenced in seven out of eight cases where this was required, which was positive.

6. Casework quality: magistrates' court casework themes

Introduction to magistrates' court casework

Does the Area deliver excellence in magistrates' court prosecutions by making sure the right person is prosecuted for the right offences, cases are progressed in a timely manner and cases are dealt with effectively?

6.1. We examined 30 magistrates' court cases for casework quality. We assessed added value and grip, and analysed the cases with regard to the four relevant casework themes. We used the same scoring mechanism as for added value and grip (set out more fully in chapter 5 and annex F).

6.2. Our findings should be seen in light of the context we set out in chapter 2, concerning the impact on the Area of Covid-19 coupled with the staffing challenges faced by the Area and the additional burden of the Extinction Rebellion prosecutions.

6.3. We have scored CPS London South for its magistrates' court casework as follows:

Table 5: Scoring for magistrates' court casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²² at pre-charge decision stage	Fully meeting the standard	92.3%
The Area selects the most appropriate charge(s) at pre-charge decision	Fully meeting the standard	91.7%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	33.9%
Quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	93.3%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy, including custody and/or bail	Not meeting the standard	42.7%
Disclosure		
The Area fully complies with its duty of disclosure throughout its magistrates' court casework	Not meeting the standard	55.8%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its magistrates' court casework	Partially meeting the standard	65.7%

6.4. Our assessment of magistrates' court casework was that there were aspects of casework that were done well, including the timeliness of making the pre-charge decision, the selection of the most appropriate charges at the pre-charge stage, the correct and timely warning of witnesses for trial and the seeking of appropriate orders on sentencing to protect the victim, witnesses and the public. There were other aspects that required more focus, specifically the quality of reviews at all stages in respect of case analysis and case strategy, especially pre-charge, the preparation of the case in advance of the first hearing, and compliance with disclosure obligations.

²² Code for Crown Prosecutors, 8th edition; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

Pre-charge decision-making and review

6.5. In order to assess the Area’s decision-making at the pre-charge stage, we have split the inspection assessment into three sub-themes. These reflect the different aspects that contribute to effective decision-making at the pre-charge stage:

- compliance with the Code for Crown Prosecutors
- selection of the most suitable charges
- the quality of the analysis and case strategy set out within the prosecutor’s review.

Complying with the Code for Crown Prosecutors in pre-charge decisions

6.6. We discuss the process by which cases are charged, and compliance with the Code for Crown Prosecutors, in chapter 4 above (paragraphs 4.1 to 4.8).

6.7. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with 24 of the Area’s pre-charged magistrates’ court cases being compliant with the Code for Crown Prosecutors.

Table 6: Pre-charge Code compliance in magistrates’ court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	24	92.3%
Not meeting the required standard	2	7.7%

6.8. Inspectors found two wholly unreasonable decisions within the 26 Area charged magistrates’ court cases. That represents 7.7% of cases.

Selecting the most appropriate charges

6.9. We discuss the criteria and guidance that help prosecutors decide the most appropriate charges in chapter 4 (paragraphs 4.9 to 4.12).

6.10. We rated the Area as **fully meeting the standard** for selecting the most appropriate charges at the pre-charge stage, with a score of 91.7%. The score is based on the examination of the 24 Area pre-charged cases, in which 20 (83.3%) were assessed as fully meeting the standard and the remaining four (16.7%) as partially meeting the standard. Two of the four cases that were partially meeting the standard ought to have had additional charges to properly reflect the wrongdoing. In the other two cases, a more appropriate charge

should have been selected based on the evidence. An example of a good selection of charges was in a case involving a suspect who was involved in disorder outside a public house during which he assaulted another male and threw a bottle into a crowd of people and then assaulted a police officer. It was prudent to charge offences of affray and assault of an emergency worker as these ensured that all of the offending behaviour was properly reflected, giving the court adequate sentencing powers. It also avoided an additional, superfluous charge of assault in respect of the other male, which would have added nothing to any ultimate sentence.

Quality of the pre-charge decision review, including analysis and case strategy

6.11. Our assessment is that the Area is **not meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in magistrates' court cases is 33.9%.

6.12. We discuss the standards expected of a pre-charge review, and what should be included in instructions to the court prosecutor, in chapter 4 (paragraphs 4.13 to 4.18).

6.13. We found that the Area's pre-charge decision-making was largely timely, but this contrasted with the quality of the reviews. It is clear that the Area has processes in place to ensure reviews are completed in a timely manner, but the Area needs to focus on the quality of the reviews to ensure they add value and allow cases to progress effectively and efficiently through the courts.

The Area needs to focus on the quality of the reviews to ensure they add value and allow cases to progress effectively and efficiently through the courts

6.14. The Area has faced challenges with increased caseloads as a result of the pandemic, combined with many new and inexperienced prosecutors within the magistrates' court teams while also dealing with the Extinction Rebellion cases. Given the Area pressures, maintaining quality was always going to be a challenge, however some of our findings highlight some basic issues. The Area is clearly aware of the issues and the quality of

reviews is a focus for improvement driven through the casework quality committee chaired by the Chief Crown Prosecutor. As the pressure of the pandemic eases and the new prosecutors become more experienced, it is our view that the Area is well placed to improve quality and add more value to casework.

Case analysis and strategy

6.15. The main theme that inspectors identified was that many reviews lacked clear case analysis and strategy. We rated six of 26 cases (23.1%) as fully meeting the standard, a further seven (26.9%) as partially meeting the standard and the remaining 13 cases (50%) as not meeting the standard.

6.16. There is a clear need for the quality of pre-charge reviews to improve so that they add value to the case and enable it to progress towards a successful conclusion. We identified a number of themes in pre-charge decisions, including those listed below.

- Cases without proper analysis. Too often, we found that the prosecutor failed to break down what the prosecution needed to prove to secure a conviction for a particular offence, and there was little or no consideration of potential defences and how they might be overcome. For example, in a burglary case that rested on an identification made from CCTV footage, the case analysis consisted of little more than the prosecutor setting out that the footage was of poor quality and stating "...I guess an identification could be made".
- Over-reliance on the use of templates to draft charging decisions. These were frequently poorly edited, with considerable irrelevant text left in place, as well as the insertion of the word "yes" or "no" beside standard paragraphs. This made the document both difficult to follow and more of a checklist than a properly drafted review.
- Cases lacked detailed strategy. We saw examples of cases where the strategy was often confined to which witnesses to call without addressing how weaknesses would be overcome.

Case study

The suspect was stopped by plain clothes police officers who failed to identify themselves and insisted they would detain and search him. The suspect repeatedly asked them who they were and why he was being stopped. The officers did not respond and took hold of the suspect. At this point the suspect ran off.

After the suspect was arrested, the police interviewed him and he gave a clear account that he had not known that the people who had stopped him had been police officers. The police sought a charge for an offence of obstructing an authorised person from conducting a search.

The legal position is very clear that for a search to be lawful in these circumstances an officer must have shown the suspect a warrant card, stated the reason why he was being stopped and given either his name or the name of his police station. The officers did not do this, making the search unlawful and meaning that there was no realistic prospect of conviction for the offence.

The prosecutor did not consider these issues as to whether the elements of the offence could be proved, or the defence raised, and authorised the police to charge the suspect with the offence. The case proceeded beyond the first hearing but was subsequently discontinued by a CPS legal manager after representations from the defence.

Instructions to the court prosecutor

6.17. Cases did not contain sufficient instructions to the court prosecutor. We assessed one case out of 26 as fully meeting this standard. Key issues required by the court prosecutor to properly progress the case at court were either overlooked or not set out in sufficient detail. We found important issues around bail or custody, and special measures or venue were simply not covered, leaving the court advocate no option but to read the case. This led to duplication and created a risk as advocates in busy courts do not have the time to read cases in detail. The quality of instructions to the court prosecutor needs to improve to ensure an effective first hearing.

Reasonable lines of enquiry and action plans

6.18. Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan, which is a specific section of the police manual of guidance form 3. This allows for actions to the police to be prioritised and timescales set to make sure that all appropriate avenues of investigation have been completed, including those that may point away from a prosecution.

6.19. In 17 of 24 cases (70.8%) action plans were rated as not meeting the standard. In three cases (12.5%) they were assessed as partially meeting the standard and four cases (16.7%) were rated as fully meeting the standard. Common failings were requesting material that had either already been supplied by the police or which the police file made clear did not exist. This suggests that prosecutors are not properly reading the material supplied to them at the pre-charge stage which can lead to poor or incorrect decisions being made. While clearly under pressure from staffing challenges and the pandemic, it remains important for prosecutors to make sure they have fully grasped the details of each individual case by considering all the available material. This helps to ensure that decisions are accurate and reduces unnecessary work created by requests for material already supplied or for material that does not exist. This is an aspect of casework that the Area will want to focus on.

Applications and ancillary matters

6.20. Where more information is needed from the police to support applications – such as more details of the defendant’s bad character or why a victim or witness needs special measures – a timely request at charging can prevent delays in making the application. Having a special measures order made as soon as possible provides reassurance to the victim or witness.

6.21. We assessed the consideration of relevant applications and ancillary matters to support victims and witnesses as fully meeting the standard in six of 19 cases (31.6%), partially meeting the standard in six cases (31.6%) and not meeting the standard in seven cases (36.8%).

Post-charge decision-making and reviews

Complying with the Code for Crown Prosecutors in post-charge decisions

6.22. Our assessment is that the Area is **fully meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for Code compliance in magistrates' court cases is 93.3%. These cases included those that were originally charged by either the police or CPS Direct.

Table 7: Post-charge Code compliance in magistrates' court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	28	93.3%
Not meeting the required standard	2	6.7%

6.23. A decision that is not compliant with the Code for Crown Prosecutors is said to be a wholly unreasonable decision: that is to say, it is a decision which no reasonable prosecutor could have made in the circumstances in which it was made, and at the time it was made or ought to have been made.

6.24. As the table above shows, the majority of review decisions were Code compliant. Both of the cases identified as wholly unreasonable decisions proceeded to the first hearing without the issues being recognised by Area prosecutors. One of those cases was subsequently discontinued following defence representations.

Quality of post-charge reviews, analysis, and case strategy

6.25. Our assessment is that the Area is **not meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in magistrates' court cases was 42.7%.

6.26. We discuss the standards expected of a post-charge review in chapter 4 (paragraphs 4.21 and 4.22).

6.27. There was some improvement in the overall quality of post-charge reviews from the pre-charge stage (42.7% compared to 33.9%), but as our findings below highlight there remains significant room for improvement.

Case analysis and strategy

Table 8: Standard of magistrates' court case analysis and strategy, pre- and post-charge

Question	Magistrates' court cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	23.1%
Partially meeting the required standard	26.9%
Not meeting the required standard	50%
Post-charge analysis and strategy	
Fully meeting the required standard	16.7%
Partially meeting the required standard	16.7%
Not meeting the required standard	66.7%

6.28. It is notable that 66.7% of initial reviews were assessed as not meeting the required standard. Significantly, in 40% of cases there was no review before the first hearing when there should have been because key issues required for that hearing had not been addressed at the pre-charge decision stage. If they had been addressed in the pre-charge review, no post-charge review would be required in accordance with the transforming summary justice process. There were also some instances where the pre-charge advice had simply been copied and pasted with no evidence that any further consideration by the prosecutor of the case had taken place. There remained similar issues to those identified in the pre-charge stage with case analysis not always being clearly addressed and trial strategy lacking in detail.

6.29. In our file sample, we did see several examples where post-charge reviews were of good quality and added real value, as set out in the case study below.

Case study

The suspect was a serving prisoner. He was having a shower and refused to come out when asked to do so by prison officers. Instead, he adopted a fighting stance. Prison officers approached and he punched one in the face. He was then restrained. No injuries were sustained by either the suspect or the prison officers.

In interview, the suspect provided a prepared statement in which he claimed that he was the one who had been assaulted by prison officers and that he had been injured and had his injuries recorded by a prison nurse. Prison records showed that no injuries were recorded.

The post-charge review was thorough and covered the ability of the prosecution to rebut the defence raised by the suspect of self-defence, identifying that the evidence of the prison nurse contradicted the suspect's account. This contrasted with the pre-charge review which had not covered the issue at all. The prosecutor requested a statement from the nurse to strengthen the prosecution case which was a proportionate and appropriate action.

The suspect was ultimately convicted of the offence after trial.

Significant events

6.30. As cases progress, things can change which materially impact on the prosecution case. We discuss at the expectations around reviews that should follow these significant events in paragraphs 4.23 to 4.25.

6.31. Inspectors reported significant event reviews were sometimes completed when appropriate. In four of 17 cases (23.5%) where a significant event review was appropriate, inspectors assessed these as fully meeting the standard. A further six (35.3%) were rated as partially meeting the standard and seven (41.2%) were rated as not meeting the standard. We found that these events were not routinely addressed and often, when they were, the consideration by the prosecutor lacked detail around the impact the event would have on the existing trial strategy. Few cases had clear reviews setting out whether the charge remained compliant with the Code for Crown Prosecutors or detailing how the issue should be handled.

Feedback on police file quality

6.32. We discuss the agreed National File Standard (NFS) for police file submissions, and the CPS's role in feeding back to the police on compliance with it, in paragraphs 4.19 and 4.20. One of the measures introduced across the CPS nationally to ease pressure resulting from the pandemic was to suspend the requirement to use the national file quality (NFQ) feedback mechanism on the CPS case management system.

6.33. Some of the files we examined will have been reviewed after the suspension of the NFQ requirement, and this will account for why there is not a higher rate of feedback in our file sample.

6.34. Within our file examination, over half of the files submitted by the police to the CPS did not meet the requirements set out in the national file standards. We found that the Area used the national file quality (NFQ) tool within CMS to feed back the deficiencies in half of the cases (eight out of the 16) where it was relevant.

Does the Area fully comply with its duty of disclosure?

6.35. Our assessment is that the Area is **not meeting the standard**. Overall, the score for disclosure in magistrates' court cases is 55.8%.

6.36. The duties of the police and CPS in relation to the disclosure of unused material are set out in chapter 4, paragraphs 4.37 to 4.52. We assessed the Area's performance across a range of different aspects pertaining to unused material, including compliance with the duty of initial disclosure, correct endorsement of the schedules, timeliness, recording of the decisions on the disclosure record in the CPS case management system, and feeding back to the police where necessary.

Police service on disclosure

6.37. Police compliance with their disclosure obligations was poor, and was assessed as fully meeting the standard in six out of 30 cases (20%). We rated 16 cases (53.3%) as partially meeting the standard and eight cases (26.7%) as not meeting the standard.

6.38. The lack of compliance requires prosecutors to identify missing material and outstanding reasonable lines of enquiry. This delays their ability to deal with initial disclosure and results in a piecemeal approach that impacts on how many times a prosecutor has to consider the case.

6.39. Feedback to the police is an important part of driving improvement, and should occur despite the pressures on CPS Areas, so that the Area receives a better service in future. Feedback by the CPS to the police was found to be fully meeting the standard in 11 of 24 cases (45.8%) where the police either did not meet or partially met the standard. There were nine cases (37.5%) assessed as not meeting the standard by inspectors and four (16.7%) which were rated as partially meeting the standard. Cases would be rated as partially meeting the standard in situations in which only some of the disclosure failings were raised with the police, or where the feedback provided was not sufficiently detailed. The Area will want to look at improving the level of feedback provided to the police.

Initial disclosure

6.40. We assessed initial disclosure in the magistrates' courts as fully meeting the required standard in 17 of 30 applicable cases (56.7%). Another three cases (10%) were assessed as partially meeting the standard and 10 cases (33.3%) as not meeting the standard.

6.41. Of the 13 cases that were rated as either partially or not meeting the standard, we identified a number of common themes. The most prevalent theme was that the prosecutor had failed to identify that obvious items of unused material had not been scheduled. We also saw cases where initial disclosure was not carried out at all. Both of these issues can result in material not being disclosed to the defence that should have been as it met the test in section 3 of the Criminal Procedure and Investigations Act 1996.

6.42. One example was a prosecution for a burglary offence. The defendant's mother had provided the police with an alibi statement, which was clearly disclosable material. This was on CMS from the time the file was submitted for pre-charge advice. However, it was not on either the streamlined disclosure certificate or the schedule of non-sensitive unused material (the police provided both). Initial disclosure was completed on the basis of the supplied non-sensitive schedule, without this statement being disclosed to the defence. (The position was rectified two months later when the statement was properly disclosed.) We found no cases where any failure impacted such as to lead to a miscarriage of justice.

6.43. We assessed the timeliness of initial disclosure obligations as not meeting the required standard in 16 out of 26 cases (61.5%). Seven cases (26.9%) were assessed as fully meeting the standard and three (11.5%) as partially meeting the standard. One example of late compliance was a prosecution for offences of assault occasioning actual bodily harm and possession of an offensive weapon. At the first hearing the CPS was ordered to complete initial disclosure by 18 August 2020. However, the CPS did so on 23

April 2021, four days in advance of the trial. This would have potentially enabled the defence to seek an adjournment of the trial given the statutory entitlement to serve a defence statement within 14 days of the completion of initial disclosure. In contrast to this, in a case involving two youth defendants who were both charged with offences of assault occasioning actual bodily harm and possession of a bladed article – which had been authorised by CPS Direct – the Area reviewing lawyer proactively reviewed the case in a very timely manner. They challenged the police on an inadequate schedule of unused material, obtained a correct schedule and then correctly completed initial disclosure within 10 days of the first remand hearing and in advance of the first youth court hearing. This was exemplary work.

Sensitive material

6.44. There were two cases featuring sensitive material in our magistrates' courts sample, the handling of which we assessed in one case as fully meeting the required standard and in the other case as not meeting the standard.

Other disclosure matters

6.45. There were very few cases in the magistrates' court sample where the duty of continuous disclosure arose – just two, one being assessed as fully meeting the standard and the other as not meeting the standard. Third-party material was only relevant in a single case and this was assessed as having been dealt with correctly.

Disclosure records

6.46. The majority of disclosure records were found to have been endorsed as required, with actions and decisions taken on disclosure and 69.2% fully meeting the standard.

Area training

6.47. The Area has delivered key CPS national training on disclosure guidelines. The Area also has disclosure champions across all teams who hold sessions across the Area to raise awareness of disclosure issues. In addition, the Area has continued to conduct individual quality assessments (IQAs) on disclosure throughout the pandemic – despite the national suspension of the requirement to conduct any IQAs – meaning that prosecutors have been given feedback on their disclosure work. All of this should mean that the Area is well placed to see its disclosure performance improve once the pressures of the pandemic recede and staff recruitment increases.

Does the Area address victim and witness issues appropriately?

6.48. Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for victim and witness issues in magistrates' court cases is 65.7%.

6.49. The duties owed by the CPS to victims and witnesses are set out in paragraphs 4.47 to 4.54 above. We assessed a range of aspects to victims and witnesses, including measures to support them giving their best evidence, witness care at court, and communicating and consulting with victims.

Pre-charge

6.50. At charge, the prosecutor should actively consider relevant applications and ancillary matters to support victims and witnesses. We assessed the consideration of relevant applications and ancillary matters to support victims and witnesses as fully meeting the standard in six out of 19 cases (31.6%). We found that prosecutors had either not properly considered what support could be put in place at this early stage by way of ancillary orders or relevant application for victims and witnesses. In one case, in which a vulnerable victim was assaulted outside her residence by a neighbour, there was no consideration of special measures and no request for an MG2 made, no request for a victim personal statement and no request to establish whether a restraining order would be appropriate. The latter was mentioned in the text of the charging decision, but not set as an action point for the police.

After charge

Witness warning

6.51. The Area has clear and effective processes for the warning of victims and witnesses, which are timely and good in most cases.

Communications with witness care units

6.52. Witness care officers are in regular contact with victims and witnesses. If issues arise that may affect the victim's or witness's ability to attend court, the unit sends information to the CPS. It is important that this information is dealt with in a timely manner with effective actions to minimise any impact on the effectiveness of the trial. This information may be that witnesses are no longer able to attend court on the trial date. We found that the Area handled correspondence from the witness care units well. Inspectors rated 50% of cases as fully meeting the standard for timely and effective actions, with a further 35.7% being assessed as partially meeting the standard.

Consulting victims and speaking to witnesses at court

6.53. Victims were consulted as required in over 60% of the cases. This includes consultation out of court as well as at court. We rated eight of 13 cases (61.5%) as fully meeting the standard, two cases (15.4%) as partially meeting the standard and three cases (23.1%) as not meeting the standard. We found that, generally, hearing record sheets did note that victims or witnesses had been spoken to and the note was sufficient to confirm that the 'speaking to witnesses at court' guidance had been followed. However, victims were not always consulted about a basis of plea, or pleas to lesser offences.

Victim Personal Statements

6.54. Victims are entitled, if they wish, to provide a victim personal statement (VPS) and to choose whether they would like to read it at sentencing, have it read out in court on their behalf, or for the judge to read it. Victim Personal Statement scheme obligations were rated as fully meeting the standard in seven out of 20 cases (35%), with a further three cases (15%) partially meeting the standard and 10 cases (50%) not meeting the standard. This entitlement is set out within the Victims' Code of Practice and is something the Area will need to improve to ensure they comply with their obligation under the code of practice.

Orders at sentencing

6.55. In all relevant cases, the Area sought appropriate orders on sentencing to protect the victim, witnesses, and the public. This is a strength. In all four cases in which a restraining order was required, the Area made the application and obtained one. In one case, in which the defendant was convicted of an offence of exposure committed against a lone female on a public recreation ground, the Area applied for and obtained a Criminal Behaviour Order restricting the defendant's right to attend public spaces or to engage with others when in such spaces. Furthermore, it required him to engage with medical services in relation to his behaviour. This was a good example of an order being sought to protect the public from further offending.

Victim Communication and Liaison scheme letters

6.56. Three victim communication letters were sent. Two of these were timely. One was assessed as fully meeting the standard for quality and the remaining two rated as partially meeting the standard. Two cases should have had victim letters and did not. The Area clearly has systems and reports to ensure that letters are sent in appropriate cases. There is work ongoing in the Area to drive up quality in terms of ensuring letters are sent where required and that those letters are of good quality.

7. Casework quality: Crown Court casework themes

Introduction to Crown Court casework

Does the Area deliver excellence in Crown Court prosecutions by making sure the right person is prosecuted for the right offences, cases are progressed in a timely manner and cases are dealt with effectively?

7.1. We examined 40 Crown Court cases for casework quality. We assessed added value and grip and analysed the cases with regard to the five casework themes – or, for some of the themes, scored two or more sub-themes. We used the same scoring mechanism as for added value and grip (set out more fully in chapter 5 and annex F).

7.2. Our findings should be seen in light of the context we set out in chapter 2, concerning the impact on the Area of Covid-19 coupled with the staffing challenges faced by the Area and the increase in receipts.

7.3. We have scored CPS London South for its Crown Court casework as follows.

Table 9: Scoring for Crown Court casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²³ at pre-charge decision stage	Fully meeting the standard	81.8%
The Area selects the most appropriate charge(s) at pre-charge decision	Fully meeting the standard	88.9%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	44.8%
The quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	85%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	48.4%
Preparation for the Plea and Trial Preparation Hearing		
The Area prepares its cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to ensure progress is made	Not meeting the standard	54.2%
Disclosure		
The Area fully complies with its duty of disclosure throughout its Crown Court casework	Partially meeting the standard	63.9%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its Crown Court casework	Partially meeting the standard	67%

²³ Code for Crown Prosecutors, 8th edition; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

7.4. Our assessment of Crown Court casework was that there were aspects that were done well, including:

- the selection of the most appropriate charges at the pre-charge stage
- the timeliness of the service of the indictment and evidence in advance of the pre-trial preparation hearing
- the correct and timely warning of witnesses for trial
- the handling of correspondence and new case material
- the timeliness of the completion of both initial and continuous disclosure.

7.5. There were other aspects that required more focus, specifically:

- the quality of reviews at all stages in respect of case analysis and case strategy
- the lack of stage one reviews
- compliance with disclosure obligations
- the timeliness and quality of Victim Communication and Liaison scheme letters
- the quality of instructions to advocates
- conduct of defence engagement.

Pre-charge decision-making and reviews

7.6. In order to assess the Area's decision-making at the pre-charge stage, we have split the inspection assessment into three sub-themes. These reflect the different aspects that contribute to effective decision-making at the pre-charge stage:

- compliance with the Code for Crown Prosecutors
- selection of the most suitable charges
- the quality of the analysis and case strategy set out in the prosecutor's review.

Complying with the Code for Crown Prosecutors in pre-charge decisions

7.7. We discuss the process by which cases are charged, and compliance with the Code for Crown Prosecutors in chapter 4 (paragraphs 4.1 to 4.8).

7.8. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with prosecutors correctly applying the evidential and public interest stages in 27 of the 33 Area-charged Crown Court cases.

Table 10: Pre-charge Code compliance in Crown Court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	27	81.8%
Not meeting the required standard	6	18.2%

7.9. The Code for Crown Prosecutors was correctly applied in most of the cases we examined. However, our inspectors found six wholly unreasonable decisions within the 33 Area-charged Crown Court cases. That represents 18.2% of cases. In accordance with our scoring methodology for this Area inspection programme, any percentage above 70% is rated as fully meeting the standard. However, the Area will want to focus urgently on improving this percentage in accordance with the CPS's own expectations and standards around compliance with the Code for Crown prosecutors.

Selecting the most appropriate charges

7.10. We discuss the criteria and guidance that help prosecutors decide which are the most appropriate charges in chapter 4 (paragraphs 4.9 to 4.12).

7.11. We found that prosecutors were selecting the most appropriate charges in most cases. In a potentially complicated 'dangerous dog' case – in which the victim was bitten on his head and leg by the defendant's dog which was potentially a prohibited breed – the prosecutor kept things admirably simply by authorising charge for an aggravated dangerous dogs act offence. This gave the court ample sentencing powers without the need to prove the breed of dog. Having to do so would have complicated the case and created delay due to the need to obtain expert evidence, and yet, would not have affected the sentencing powers of the court.

Quality of the pre-charge decision review, including analysis and case strategy

7.12. Our assessment is that the Area is **not meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in Crown Court cases is 44.8%.

7.13. We discuss the standards expected of a pre-charge review, and what should be included in instructions to the court prosecutor, in chapter 4 (paragraphs 4.13 to 4.18).

Case analysis and strategy

7.14. In just under half, 15 of 33 cases (45.5%), the Crown Court pre-charge decisions we examined were assessed as not meeting the standard around analysis and case strategy. Some cases were dealt with very well. In one case – in which the two suspects became involved in an altercation with the victim and damaged his van with weapons – the charging lawyer carefully analysed the evidence and acknowledged and addressed the weaknesses in the case. They made a sensible and effective decision to authorise charge for offences, which were supported by more than one source of evidence. However, inspectors found that in many cases prosecutors did not clearly analyse the evidence and set out on what basis the case would be prosecuted by way of a cogent case strategy. We found a number of common issues within the cases we examined including:

- Case analysis often did not adequately assess the legal points to prove, the strengths and weaknesses of the evidence, or consider the defence(s) raised. This included not identifying reasonable lines of enquiry arising from the accused's account that may point away from a prosecution, and not setting out how any defence would be overcome within the trial strategy. In one case involving an offensive weapon offence, the defendant provided a prepared statement in interview which set out that the defendant had been attacked by others and had disarmed them. This account was supported by the 999 call. The pre-charge decision ignored this defence of reasonable excuse and focused on the issue of possession (which was not disputed).
- Case strategy was often limited to which witnesses to call and did not adequately address how any undermining aspects of the case might be overcome. For example, in an assault occasioning actual bodily harm case the defendant claimed he had been acting in defence of his wife. The pre-charge decision did not contain a proper analysis of the law on defence of another. Furthermore, the defendant's son had provided evidence which partially supported the defendant's account. The pre-charge decision was that the prosecution would rely on the son as a witness, with no

consideration given either to his account not being particularly helpful, or to the fact that he would likely be a hostile witness.

- Unused material was not always handled appropriately. While 14 of 33 cases (42.4%) were assessed as fully meeting the standard, there were a number of cases in which the prosecutor did not recognise that there was undermining material which would need to be disclosed (11 cases, 33.3%, were assessed as not meeting the standard). One example is an assault matter, where a hospital record in which the complainant said a third party, not the defendant, was responsible for the assault was not identified as disclosable.

Case study

The victim was assaulted at about 5.30am by an unknown man and knocked to the ground. He was then kicked in the head by another man. The scene was dark, busy, noisy and confused. Those present had been up all night. The suspect was pointed out by witness A to the police as the man who had kicked the victim. Witness B (a friend of witness A) saw the suspect detained by the police and told them that he had not been involved. He also said that the offender had been wearing a white top (the suspect was dressed in black).

At a subsequent identification procedure four months later, witness B identified the suspect as the man who had kicked the victim. The suspect had a distinctive and visible tattoo on his neck. Both witness A and witness B saw the suspect detained after the assault when his neck was visible and in witness B's first description of the offender he said nothing about a neck tattoo, only mentioning it for the first time in his witness statement made two months later.

In the pre-charge decision, the prosecutor did not consider the legal requirements of identification evidence and specifically did not consider the Turnbull guidelines on identification which, if applied to these facts, highlighted that the identification evidence in this case was poor. Witness B could not be considered to have made a reliable identification given his assertion at the scene that the suspect was not the offender. Witness A had no more than a fleeting glance of the offender in difficult circumstances, which would make it impossible for a jury to rule out his identification as a mistake.

At trial, the Judge withdrew the case from the jury in accordance with his duty, given the poor and unsupported identification evidence and ordered that the suspect be acquitted.

Instructions to the court prosecutor

7.15. There were insufficient instructions set out for court prosecutors meaning that an opportunity to be able to progress or clarify matters at an earlier stage may have been lost. None of the 33 cases we examined had instructions that were rated as fully meeting the standard. We rated 20 cases (60.6%) as partially meeting the standard, with the remaining 13 cases (39.4%) as not meeting the standard. There was often little reference to bail or custody and acceptability of pleas. Allocation guidance often amounted to no more than naming the appropriate venue. For example, two separate 'bladed article' matters contained no guidance on venue, and mandatory minimum sentence provisions for knife offences were missed in both cases. Including appropriate instructions to court prosecutors ensures that the first hearing will be effective and is an important way in which pre-charge decisions should add value to the case.

Reasonable lines of enquiry and action plans

7.16. Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan, which is a specific section of the police manual of guidance form 3 (MG3). This allows for actions to be prioritised and timescales set to make sure that all appropriate avenues of investigation have been completed, including those that may point away from a prosecution.

7.17. Nine out of 30 cases (30%) had action plans set by prosecutors that were assessed as fully meeting the standard. A further 13 cases (43.3%) were rated as partially meeting the standard. Eight cases (26.7%) were assessed as not meeting the required standard. We found that reasonable lines of enquiry were often not identified, particularly those that arose from consideration of matters the defence raised. Many of the issues identified relate back to the poor quality of the case analysis.

Applications and ancillary matters

7.18. Where more information is needed from the police to support applications – such as more details of the defendant's bad character or why a victim or witness needs special measures – a timely request at charging can prevent delays in making the application. Having a special measures order made as soon as possible provides reassurance to the victim or witness.

7.19. We assessed the consideration of relevant applications and ancillary matters to support victims and witnesses as fully meeting the standard in nine out of 27 relevant cases (33.3%), partially meeting it in seven cases (25.9%) and not meeting the standard in 11 cases (40.7%). Special measures were addressed in most of the cases assessed as either not meeting or partially meeting the standard. However, at the pre-charge stage, more consideration needs to be given to any other applications or orders that should be made to

support victims and witnesses, in particular restraining orders and compensation. An example from our file sample was a robbery case where the victim had money stolen and was injured. The pre-charge decision was silent on the issue of compensation.

Post-charge decision-making and reviews

Complying with the Code for Crown Prosecutors in post-charge decisions

7.20. Our assessment is that the Area is **fully meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for Code compliance in Crown Court cases is 85%. These cases included those that were originally charged by either the police or CPS Direct.

Table 11: Post-charge Code compliance in Crown Court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	34	85.0%
Not meeting the required standard	6	15.0%

7.21. A decision that is not compliant with the Code for Crown Prosecutors is said to be a wholly unreasonable decision: that is to say, it is a decision which no reasonable prosecutor could have made in the circumstances in which it was made, and at the time it was made or ought to have been made.

7.22. As Table 12 above shows, there were six cases that were identified as wholly unreasonable decisions. These are the same six case identified at the pre-charge stage; all progressed beyond the post-sending review stage when that review would have been an opportunity to identify the issue and stop the case. In three of the cases, Area prosecutors recognised that there were issues with the evidence and these cases were discontinued before trial; two before the Plea and Trial Preparation Hearing (PTPH) – one of these after the initial PTPH had been adjourned at the request of the CPS – and one after the PTPH. The remaining three cases progressed to trial. In one, the Area lawyer made the decision to offer no evidence two days before trial. The other two proceeded to trial: one resulted in a Judge-directed acquittal, the other in a jury acquittal.

Quality of post-charge reviews, analysis, and case strategy

7.23. Our assessment is that the Area is **not meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in Crown Court cases is 48.4%.

7.24. We discuss the standards expected of a post-charge review in chapter 4 (paragraphs 4.21 and 4.22).

7.25. The concerns about the standard of the reviews at the pre-charge stage remain at the post-charge stage; the quality being only marginally better at the latter stage.

Case analysis and strategy

Table 12: Standard of Crown Court case analysis and strategy, pre- and post-charge

Question	Crown Court cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	18.2%
Partially meeting the required standard	36.4%
Not meeting the required standard	45.5%
Post-charge analysis and strategy	
Fully meeting the required standard	35%
Partially meeting the required standard	32.5%
Not meeting the required standard	32.5%

7.26. Fewer than half of all post-sending reviews, 14 out of the 40 cases (35%), were rated as fully meeting the standard required of a proportionate review. Inspectors rated a further 13 cases (32.5%) as partially meeting the standard and the remaining 13 cases (32.5%) were rated as not meeting the standard.

7.27. We found examples of cases where prosecutors had carefully considered the case afresh and addressed relevant issues within the review, clearly adding value.

Case study

The victim stated that she had been sexually assaulted by a work colleague on a bus. The defendant had made no comment to all questions put to him by the police in interview, but at the first hearing said that the victim had consented.

The pre-charge review by the prosecutor lacked detail and had not considered the points that would need to be proved, or set out a trial strategy. The post-sending review contained a proper analysis of the law, set out coherently what the prosecution case was and how consent could be disproved, pointing to the evidence of CCTV from the bus.

There was subsequent pressure from the Judge to drop the case, but the advocate in court was assisted by the presence of a detailed review setting out the prosecution position, which ensured that the case properly proceeded to trial and that a conviction was secured.

7.28. In those cases that were assessed as not fully meeting the standard, a number of clear issues were identified.

- Failure to address or understand points of law. For example, both ‘wholly unreasonable decision’ cases that proceeded to trial failed due to insufficient evidence of identification. None of the reviews in either of those cases demonstrated a proper understanding of the legal requirements of identification evidence.
- Prosecutors replicating the charging advice and adding no further review – and so, no added value – where key aspects of the case had not previously been addressed. We saw multiple examples of where the prosecutor had imported the pre-charge decision into the post-sending review (and other reviews). This made it difficult to establish what had actually been added and often resulted in an incoherent document.
- Acceptability of pleas was not being addressed.
- Reviews did not consider police compliance with the pre-charge action plan.

Significant events

7.29. As cases progress, things can change which materially impact on the prosecution case. We discuss the expectations around reviews that should follow these significant events in paragraph 4.23.

7.30. Inspectors found limited evidence of reviews taking place to set out an appropriate strategy or approach at these specific points in Crown Court cases. Four of 19 cases (21.1%) were rated as fully meeting the standard. A further six

(31.6%) were assessed as partially meeting the standard. The remaining nine cases (47.4%) were assessed as not meeting the standard because we found little or no evidence to support any decision-making around the progress of the case as a result of the significant event. For example, in one case involving an allegation of a serious assault, the police supplied a witness statement indicating that the victim had attempted to withdraw his complaint and had said that the wrong man was being prosecuted. This crucial piece of undermining evidence did not lead to any further review of the case.

Stage 1 reviews

7.31. In contested Crown Court cases, there are key stages following on from the first hearing in the Crown Court. The first of these is service of the bulk of prosecution materials, which should be accompanied by a review of the case and updates on any developments since the last review. This is a stage 1 review.

7.32. In our sample, very few cases (six out of 32) had a review at stage 1 (when the service of the prosecution's case is required in Crown Court cases). of 32 cases (81.3%) were rated by inspectors as not meeting the standard, with 14 of the 26 having no review at all. We also saw two examples where the review consisted of an entry to the effect that no review was required. These cases all required further review as service was completed, as was initial disclosure after the PTPH.

Feedback on police file quality

7.33. We discuss the agreed National File Standard (NFS) for police file submissions, and the CPS's role in feeding back to the police on compliance with it, in paragraphs 4.19 and 4.20. One of the measures introduced across the CPS nationally to ease pressure resulting from the pandemic was to suspend the requirement to use the national file quality (NFQ) feedback mechanism on the CPS case management system.

7.34. Some of the files we examined will have been reviewed after the suspension of the NFQ requirement, and this will account for why there is not a higher rate of feedback in our file sample.

7.35. We assessed 60% of police files (24 cases of the Crown Court file sample) as not meeting the NFS. Inspectors assessed Area feedback on over half of these files (54.2%) as not meeting the standard. The Area told us about the ongoing work with the police at all levels to improve the quality of police files. The Area will want to consider its approach to feedback on individual files to ensure that this work is supported by accurate data.

Preparation for the Plea and Trial Preparation Hearing in the Crown Court

7.36. Our assessment is that the Area is **not meeting the standard** for this casework theme. Overall, the score for the Plea and Trial Preparation Hearing (PTPH) in Crown Court cases is 54.2%.

7.37. In assessing the Area's performance when preparing for the PTPH, we considered the key tasks the prosecution are required to complete – including filling in the PTPH form for use by the Judge presiding at the hearing; carrying out direct engagement with the defence; drafting the indictment; making sure the relevant material is uploaded to the Crown Court Digital Case System (CS) before the hearing; and making sure an advocate is instructed in advance of the hearing, so that they have time to prepare. There is more detail on these tasks in chapter 4 (paragraphs 4.25 to 4.32).

7.38. The completion of PTPH forms together with the setting out of acceptable pleas were found to be fully meeting the standard, in 12 out of 38 cases (31.6%). In a further 14 cases (36.8%), we rated the cases as partially meeting the standard, with the remaining 12 cases (31.6%) not meeting the standard. By far the most common theme was the failure of prosecutors to address acceptable pleas.

7.39. The police upload hard media (such as CCTV footage or body worn videos) to secure online locations and send the links to the CPS. We found that in 20 of 31 cases (64.5%), the Area shared hard media with all parties prior to the PTPH. This did not happen in the remaining 11 cases (35.5%) where there was hard media. This performance needs to improve as hard media can be vital to the effective and efficient progress of the case, whether as the key evidence that leads to an early guilty plea or as part of case management and agreement to admissions.

Direct engagement with the defence

7.40. The prosecution and defence are under a duty to engage with each other to make sure that the case progresses as effectively as possible. We explain more about this duty in chapter 4 (paragraphs 4.31 and 4.32). Usually, the prosecution makes the first approach to the defence, and this should be logged on a duty of direct engagement (DDE) log. The prosecution creates this on the CPS case management system and should then share it with the court and defence by uploading it to the Crown Court Digital Case System (DCS).

7.41. Covid-19 has had a significant impact on the defence's ability to respond to direct engagement approaches from the prosecution. Many defence firms

furloughed employees, and their staff faced the challenges of home working, home schooling, illness and caring responsibilities that so many others have experienced during the pandemic and consequent lockdowns. This hampered Areas' efforts to engage with defence practitioners.

7.42. There was some form of direct engagement with the defence (usually by means of a letter) in half the cases we examined. However, there was no evidence of defence engagement carried out in the other 50% of cases. We noted that no logs were uploaded to the DCS by the Area. This is a requirement and something the Area will need to address urgently.

The indictment

7.43. We found the indictment was properly drafted in 22 of 37 cases (59.5%), which we assessed as meeting the standard. A further 10 cases (27%) were rated as partially meeting standard and the remaining five cases (13.5%) were rated as not meeting the standard. The timeliness of service of the draft indictment and key evidence was good, with 78.4% being assessed as fully meeting the standard. (We applied the standard of uploading to the DCS seven days before the PTPH.)

The timeliness of service of the draft indictment and key evidence was good, at 78.4%

Instructing the advocate

7.44. We set out the expectations for what should be contained in instructions to the court advocate in paragraph 4.28. Instructions to the advocate need to be improved, with 16.7% of cases being rated as fully meeting the required standard, 29.2% partially meeting it

and 54.2% not meeting the standard. There was a lack of detailed instructions to the advocate, particularly around acceptability of pleas and applications, such as special measures and bad character, which would impact on the advocate's effectiveness at the hearing. In addition, we found that advocates were not always being instructed at least seven days before the PTPH, with 28.6% of cases fully meeting this standard, 42.9% partially meeting it and 28.6% not meeting the standard.

Does the Area fully comply with its duty of disclosure?

7.45. Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for disclosure in Crown Court cases is 63.9%.

7.46. The duties of the police and CPS in relation to the disclosure of unused material are set out in chapter 4, paragraphs 4.33 to 4.46. We assessed the performance of the Area across a range of different aspects pertaining to disclosure, including compliance with the duty of initial disclosure and continuing disclosure, handling of sensitive and third-party material, the correct endorsement of the schedules, timeliness, recording of the decisions on the disclosure record in the CPS's case management system and feeding back to the police where necessary.

Police service on disclosure

7.47. Police compliance with their disclosure obligations was assessed as fully meeting the standard in 10 out of 34 cases (29.4%) and partially meeting the standard in a further 10 cases (29.4%). The remaining 14 cases were rated as not meeting the standard. This again is an aspect that the Area is addressing with the police at all levels as it has a direct impact on CPS resources where additional requests have to be made for material that should be provided by the police at the outset.

7.48. Feedback to the police is an important part of driving improvement, and should occur despite the pressures on CPS Areas, so that the Area receives a better service in future. Feedback by the CPS to the police was found to be fully meeting the standard in four out of the 24 cases (16.7%) where the police either did not meet or partially met the standard, and partially meeting the standard in another five cases (20.8%). This is a matter of concern. Given that the police complied with their disclosure obligations in less than a third of cases, it is vital that the CPS recognises and draws attention to these disclosure failings.

Initial disclosure

7.49. We found that decisions around the initial disclosure of unused material were inconsistent. We assessed initial disclosure in the Crown Court as fully meeting the required standard in seven out of 33 applicable cases (21.2%). Another 15 cases (45.5%) were assessed as partially meeting the standard and 11 cases (33.3%) as not meeting the standard.

7.50. We identified the most common issues that led to cases either not meeting or partially meeting the standard as being:

- prosecutors not identifying obvious items of unused material that had not been included by police on a schedule (seven of 26 cases)
- prosecutors assessing disclosable unused material as not disclosable.

In one 'supply of drugs' case, which was clearly part of a wider undercover operation, the schedule supplied by the police was entirely generic. It covered nothing bespoke to the defendant apart from the custody record when it was evident that there was other relevant material. The prosecutor did not identify or address this issue. In a robbery case, the first description was inconsistent with the age of the defendant and was clearly disclosable. This was contained in the crime report, but not referred to in the description of that item on the schedule. The prosecutor marked the report as not disclosable, using the endorsement "ND" meaning they had read the report.

Continuing disclosure

7.51. We rated continuing disclosure as fully meeting the standard in 14 out of the 27 relevant cases (51.9%), partially meeting the standard in 10 cases (37%) and not meeting the standard in three cases (11.1%). There was a variety of reasons for cases being rated as partially and not meeting the standard, including assessing disclosable unused material as not disclosable, not endorsing decisions on newly revealed items, and setting out the wrong test for disclosure (all of which were assessed as courtesy disclosure).

7.52. We found that defence statements were not consistently reviewed by prosecutors which led to reasonable lines of enquiry and directions not being given to the police in a significant number of cases. The most common issue was the defence statement being forwarded to the police (by both paralegal officers and prosecutors) with no guidance at all. This missed an opportunity for the prosecutor to add value and ensure that all reasonable lines of enquiry had been followed and any material needing to be disclosed is disclosed prior to trial.

Timeliness

7.53. The Area's timely handling of its Crown Court disclosure of unused material was a strength. Timeliness was rated as fully meeting the standard for initial disclosure in 87.9% of cases, and for continuing disclosure 88.9% of cases.

Sensitive and third-party material

7.54. There were four cases featuring sensitive material in our Crown Court sample. We found two of those cases to be fully meeting the standard and two to be not meeting the standard. In one case, the police informed the CPS of intelligence-related material and supplied a document setting this out. This was not listed on any schedule and the schedule of sensitive unused material was blank. The lawyer noted the intelligence material on the disclosure record sheet, but in the same entry stated that there was unlikely to be any sensitive material. We found no cases where any such failure had an impact, such as leading to a miscarriage of justice.

7.55. Third-party material was correctly dealt with in five of eight cases, with one case partially meeting the standard and two cases not meeting the standard.

Disclosure records

Disclosure management documents

7.56. Disclosure management documents (DMDs) were not mandated in routine Crown Court cases until 1 January 2021, a change brought about by the release of the sixth edition of the Director's Guidance on Charging. The vast majority of Crown Court cases were governed by the guidance that preceded the change, so DMDs were not obligatory in volume cases.

Disclosure record sheets

7.57. The completion of the disclosure record on modern CMS was assessed as fully meeting the standard in seven out of 35 cases (20%), with a further 23 cases (65.7%) rated as partially meeting the standard and the remaining five cases (14.3%) not meeting the standard. We found that the reasoning for decisions was not routinely recorded.

Does the Area address victim and witness issues appropriately?

7.58. Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for victim and witness issues in Crown Court cases is 67%.

7.59. The duties owed by the CPS to victims and witnesses are set out in chapter 4, paragraphs 4.47 to 4.54. We assessed a range of aspects related to victims and witnesses, including measures to support them to give their best evidence, witness care at court, and communicating and consulting with victims.

Pre-charge

7.60. Failure to properly consider special measures at charge risks delaying any request to the police for additional information, or delaying the application itself and with it, the reassurance for victims and witnesses that comes from knowing they will have the benefit of appropriate measures at the trial.

7.61. We assessed the consideration of relevant applications and ancillary matters to support victims and witnesses at the pre-charge stage as fully meeting the standard in nine out of 27 relevant cases (33.3%). Seven cases (25.9%) were assessed as partially meeting the standard and 11 cases (40.7%) as not meeting the standard. In one assault occasioning actual bodily harm case a police officer was bitten and suffered injury. The pre-charge advice did not address compensation nor was a Victim Personal Statement (VPS) requested from the officer.

After charge

Witness warning and communications with witness care units

7.62. Warning witnesses and communications with witness care units (WCUs) was good. The correct and timely warning of witnesses occurred in 93.9% of cases and WCU correspondence was handled well and in a timely manner in 84.6% of cases. This demonstrates that the Area has effective and efficient processes for this aspect of case management.

Consulting victims and speaking to witnesses at court

7.63. Consultation with victims and witnesses was found to be fully meeting the standard in 15 out of 20 cases examined (60%), partially meeting it in five cases (20%) and not meeting it in five cases (20%). There were many cases where advocates had endorsed on hearing record sheets that they had spoken to witnesses at court, but there was often too little detail to be able to ascertain whether the 'speaking to witnesses at court' guidance had been properly adhered to. According to CPS guidance, a note of the conversation is required and can be of significant importance to disclosure should a witness say anything contrary to their statement during the conversation. One notable exception was a serious assault case in which the paralegal officer or paralegal assistant at court made an extremely comprehensive and helpful note on the hearing record sheet of all the conversations counsel had with each witness who attended court.

Victim Personal Statements

7.64. The victim's wishes in respect of their Victim Personal Statement (VPS) were not universally complied with. We rated 10 of 27 cases (37%), as fully meeting the standard. The issue in cases assessed as not meeting the standard is linked to the VPS position not being considered in reviews and to poor-quality instructions to advocates which often do not adequately address the VPS. This is an obligation under the Victims' Code of Practice and needs to be improved.

Orders at sentencing

7.65. Appropriate orders were sought on sentence and rated as fully meeting the standard in seven out of 16 cases (43.8%), with two cases (12.5%) partially meeting the standard. The remaining seven cases (43.8%) were assessed as not meeting the standard. The most common omission was a failure to apply for a Criminal Behaviour Order when the police had submitted the relevant paperwork. This occurred in three separate cases (an explosives case, an assault case, and a drugs case). In two of those cases there had been prior notice by the CPS of the intention to seek such an order. However, the hearing record sheets are silent as to whether the applications were ever made and both the outcomes and lack of specific instructions to counsel imply they were not. In the other case, no action was taken by the CPS in response to the police request for an application for a Criminal Behaviour Order.

Victim Communication and Liaison scheme letters

7.66. The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge. Performance around Victim Communication and Liaison scheme (VCL) letters was not consistent. In three of nine cases (33.3%), VCL letters were assessed as timely. In the remaining six cases (66.6%), they were rated as not meeting the timeliness standard. There were four cases where no letter was sent at all when one was required. Of the five cases where VCL letters were sent, we rated one as fully meeting the standard, two as partially meeting the standard and two as not meeting the standard. The Area has processes in place to monitor and escalate where letters are not sent and also to assess quality. These are ongoing and it remains a focus for improvement within the Area.

8. Casework quality: rape and serious sexual offences casework themes

Introduction to rape and serious sexual offences casework

Does the Area deliver excellence in rape and serious sexual offences (RASSO) prosecutions by making sure the right person is prosecuted for the right offences, cases are progressed in a timely manner and cases are dealt with effectively?

8.1. We examined 20 RASSO cases for casework quality. We assessed added value and grip, and analysed the cases with regard to the five casework themes – or, for some of the themes, scored two or more sub-themes. We used the same scoring mechanism as for added value and grip (set out more fully in chapter 5 and annex F).

8.2. Our findings should be seen in light of the context we set out in chapter 2, concerning the impact on the Area of Covid-19 coupled with the staffing challenges faced by the Area and the exceptional increase in receipts.

8.3. We have scored CPS London South for its RASSO casework as follows.

Table 13: Scoring for RASSO casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²⁴ at pre-charge decision stage	Fully meeting the standard	88.2%
The Area selects the most appropriate charge(s) at pre-charge decision	Fully meeting the standard	96.7%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	42.6%
Quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	90%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	49.4%
Preparation for the Plea and Trial Preparation Hearing		
The Area prepares its cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to ensure progress is made	Not meeting the standard	46.6%
Disclosure		
The Area fully complies with its duty of disclosure throughout its RASSO casework	Partially meeting the standard	62.7%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its RASSO casework	Partially meeting the standard	69%

²⁴ Code for Crown Prosecutors, 8th edition; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

8.4. Our assessment of RASSO casework was that there were aspects that were done well, including:

- the selection of the most appropriate charges at the pre-charge stage
- the correct and timely warning of witnesses for trial
- the handling of correspondence from all parties
- requesting and reviewing additional material from the police
- the timeliness of the completion of both initial and continuous disclosure.

8.5. There were other aspects that required more focus, specifically:

- the quality of reviews at all stages in respect of case analysis and case strategy
- the lack of stage 1 reviews
- effective preparation of the case for the pre-trial preparation hearing
- compliance with disclosure obligations
- conduct of defence engagement
- the timeliness and quality of victim communication scheme letters.

8.6. There are factors relating specifically to RASSO casework, which we cover in paragraphs 4.55 to 4.58.

Pre-charge decision-making and reviews

8.7. In order to assess the Area decision-making at the pre-charge stage, we have split the inspection assessment into three sub-themes. These reflect the different aspects that contribute to effective decision-making at the pre-charge stage:

- compliance with the Code for Crown Prosecutors
- selection of the most suitable charges
- the quality of the analysis and case strategy set out in the prosecutor's review.

Complying with the Code for Crown Prosecutors in pre-charge decisions

8.8. We discuss the process by which cases are charged, and compliance with the Code for Crown Prosecutors in chapter 4 (paragraphs 4.1 to 4.8).

8.9. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with 15 of the Area’s 17 pre-charged RASSO cases being compliant with the Code for Crown Prosecutors.

Table 14: Pre-charge Code compliance in RASSO cases

Rating	Number of cases	Percentage
Fully meeting the required standard	15	88.2%
Not meeting the required standard	2	11.8%

Selecting the most appropriate charges

8.10. We discuss the criteria and guidance that help prosecutors decide which are the most appropriate charges in chapter 4 (paragraphs 4.9 to 4.12). This is a strength in the Area.

We found that Area prosecutors were selecting the correct charges in the vast majority of cases which is a strength for the Area

8.11. In RASSO cases, the selection of charges can be complicated, with different charges being relevant depending on the date of the offence(s) or the age of the victim. Non-recent allegations can require particular care if they span the transitional provisions in, and the changes to offences brought about by, the Sexual Offences Act 2003. We found that Area prosecutors were selecting the correct charges in the vast majority of cases which is a strength

for the Area. We rated the Area as **fully meeting the expected standard** with an overall score of 96.7% for this sub-theme of pre-charge casework.

Quality of the pre-charge decision review, including analysis and case strategy

8.12. Our assessment is that the Area is **not meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in RASSO cases is 42.6%.

8.13. We discuss the standards expected of a pre-charge review, and what should be included in instructions to the court prosecutor, in chapter 4 (paragraphs 4.13 to 4.18).

Case analysis and strategy

8.14. Inspectors found issues in relation to case strategy and analysis. Five out of 17 cases (29.4%) were assessed as fully meeting the standard, six (35.3%) as partially meeting the standard and six (35.4%) as not meeting the standard. We found that although the correct charges were selected, the analysis of the evidence that led to the offences did not always clearly identify the strengths and, in particular, the weaknesses of the case, and what the strategy would be to address those weaknesses at trial, nor was proper consideration given to defences raised.

8.15. In one case the defence was that the allegations had been fabricated for the purposes of benefiting the victim in a property dispute with the defendant. Despite there being considerable evidence to support that contention, no proper consideration was given to that issue. In another case relating to indecent photographs found on the defendant's computer, the defence put forward in interview that other people had access to the computer was not addressed in the review. In both of these cases the undermining evidence fatally weakened the prosecution case and meant that no charges should have been authorised. Eventually the Area discontinued both of these cases, after service of the evidence in each and hearings in the magistrates' court and Crown Court. The failure to properly analyse either case at an early stage does not demonstrate value being added. It is vital that cases are analysed fully to avoid resources being wasted on preparing and prosecuting cases unnecessarily.

Instructions to the court prosecutor

8.16. Instructions to court prosecutors to assist them at the first hearing in court were poor. We assessed one case out of 17 (5.9%) as fully meeting the standard. We assessed those instructions as partially meeting the standard in five cases (29.4%) and not meeting the standard in 11 cases (64.7%). This mirrors the findings in both Crown Court and magistrates' court cases. This requires improvement across all casework strands to ensure effective and efficient progress of cases at first hearing.

Reasonable lines of enquiry and action plans

8.17. Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan, which is a specific section of the police manual of guidance form 3 (MG3). This allows for actions to be prioritised and timescales set to make sure that all appropriate avenues of investigation have been completed, including those that may point away from a prosecution.

8.18. Reasonable lines of enquiry were clearly being identified in most cases. However, action plans were assessed as fully meeting the standard in five out of 17 cases (29.4%), partially meeting the standard in a further nine cases (52.9%)

and not meeting the standard in three cases (17.6%). Several of the cases were assessed as partially meeting the standard due to no Victim Personal Statement (VPS) being requested not because reasonable lines of enquiry were missed. There were some issues around digital evidence with all three of the cases assessed as not meeting the standard containing inappropriate actions in this regard. Two of these cases had requests to conduct digital downloads which were considered to be unnecessary and disproportionate, the other set no parameters for the digital downloads when guidance to the police was clearly needed. All three also failed to request a VPS.

8.19. Two cases out of 17 (11.8%) were assessed as fully meeting the standard for consideration of possible unused material and reasonable lines of enquiry at the pre-charge stage. Nine cases (52.9%) were assessed as partially meeting the standard and six cases (35.3%) as not meeting the standard. In a number of the six cases assessed as not meeting the standard, the MG3 simply referred to the disclosure management document (DMD) in relation to disclosure. This was inappropriate for two reasons: first, there was then no consideration of whether there was undermining material and what the strategy should be for dealing with any such material. Secondly, there was sometimes no DMD created at the time of the pre-charge decision. In one case the DMD was created on CMS over two months after the MG3 which referred to it.

Applications and ancillary matters

8.20. Where more information is needed from the police to support applications – such as more details of the defendant’s bad character or why a victim or witness needs special measures – a timely request at charging can prevent delays in making the application. Having a special measures order made as soon as possible provides reassurance to the victim or witness.

8.21. We found a mixed approach to ancillary measures and applications, with five out of the 17 cases (38.5%) rated as fully meeting the standard. A further two cases (15.4%) were rated as partially meeting the standard and six cases (46.2%) were rated as not meeting the standard. We found that although in most RASSO cases victims are automatically eligible for special measures, prosecutors did not always ask the police for the police manual of guidance form 2 (MG2). This is the form that sets out the measures that the police have discussed with the victim, so that the most appropriate measures can be secured, and the views of the victim obtained. We also found that prosecutors often failed to recognise the relevance of bad character evidence.

Post-charge decision-making and reviews

Complying with the Code for Crown Prosecutors in post-charge decisions

8.22. Our assessment is that the Area is **fully meeting the standard** for this sub-theme of pre-charge decision-making. Eighteen of the 20 Area decisions post-charge were rated as being compliant with the Code for Crown Prosecutors – that is, the evidential and public interest limbs had been properly applied. These cases included reviews of the one case that was originally charged by CPS Direct.

8.23. Both pre-charge cases identified as wholly unreasonable decisions proceeded beyond PTPH in the Crown Court. Both cases had trials fixed and proceeded beyond stage 1 service before being listed for the Crown to offer no evidence.

Table 15: Post-charge Code compliance in RASSO cases

Rating	Number of cases	Percentage
Fully meeting the required standard	18	90%
Not meeting the required standard	2	10%

Quality of post-charge reviews, analysis, and case strategy

8.24. Our assessment is that the Area is **not meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in RASSO cases is 49.4%.

8.25. We discuss the standards expected of a post-charge review in chapter 4 (paragraphs 4.21 to 4.22).

8.26. We found some improvement in the quality of reviews post-charge compared to pre-charge as can be seen below.

Case analysis and strategy

Table 16: Standard of RASSO case analysis and strategy, pre- and post-charge

Question	RASSO cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	29.4%
Partially meeting the required standard	35.3%
Not meeting the required standard	35.3%
Post-charge analysis and strategy	
Fully meeting the required standard	40%
Partially meeting the required standard	30%
Not meeting the required standard	30%

8.27. Inspectors rated eight of 20 cases (40%) as fully meeting the standard, six cases (30%) as partially meeting the standard and the remaining six cases (30%) as not meeting the standard. We found that the post-sending review was often a duplicate of the pre-charge decision review with little further consideration to increase the value added by the initial review (which inspectors had previously rated as not meeting the standard). There was also a pattern of reviews failing to address key further work set out in action plans, which had been set for the police, or to chase again where actions had not been completed by the police. The Area agreed a joint RASSO Improvement Action Plan in quarter 4 of 2020/21 which included a reinvigorated escalation process which we are told has now been implemented. While the quality of the reviews was not good, the timeliness of the reviews generally was, although two cases did not receive a post-sending review at all.

Case study

The suspect was a taxi driver and was accused of raping the victim during a journey. He accepted that there had been sexual activity between him and the victim, but claimed that it had been entirely consensual after they had exchanged telephone numbers at the victim's request.

The case was charged by CPS Direct (out of Area service) on the threshold test. The police file indicated that there had possibly been some telephone contact between the victim and the suspect at about the time of the taxi journey and shortly afterwards. The Area lawyer applied the full code test at the post-sending review despite a number of the items requested in the initial action plan, which had been requested by CPS Direct of the police, remaining outstanding.

Crucially the review also failed to address the communications evidence the police had supplied, which created a strong inference that the suspect had exchanged telephone numbers with the victim, and had been in contact with her by telephone after the incident. This was potentially significantly undermining to the prosecution case. Full telephone analysis was required (a very clear reasonable line of enquiry which had been requested at the outset, but the police had failed to provide).

The Area prosecutor should not have made a full code test decision. However, having made a full code test decision, the prosecutor failed to set out or consider what strategy should be employed for dealing with the evidence and the opportunity to explain any contact. No action was set to deal with this issue, it having been overlooked.

At trial, there was late revelation of the key communication evidence. This was caused by the failure to properly review the case and grasp the significance of the communication evidence in advance of the trial. The late revelation left the prosecution with no choice but to concede that the victim and suspect had exchanged telephone numbers prior to the incident as it was by then too late to conduct any rigorous enquiry into the position, meaning that the credibility of the prosecution and the victim had been undermined. This precipitated the collapse of the case as the Judge then ruled that the case should be withdrawn from the jury and ordered that the suspect be acquitted.

As this case study demonstrates, the lack of an effective post-sending review significantly prejudices both the effective preparation of a case for trial and the prosecution's compliance with their disclosure obligations. It is only possible to assess what material needs to be disclosed if there is a clear idea of what the prosecution case is and how this is affected by the evidential position. This can then easily lead to the collapse of a case, which is detrimental to the interests of victims, defendants and the wider public.

Significant events

8.28. As cases progress, things can change which materially impact on the prosecution case. We discuss the expectations around reviews that should follow these significant events in paragraph 4.23. We found that at these significant events reviews were generally being completed. Examples include a case involving a defendant who had committed a sexual act in public. The defence supplied a medical report that showed the defendant suffered from dementia and Parkinson's disease. This was subject to careful review and the case was properly discontinued. We assessed six out of the nine relevant cases as fully meeting the standard, with the other three rated as not meeting the standard.

Stage 1 reviews

8.29. In contested Crown Court cases, there are key stages following on from the first hearing in the Crown Court. The first of these is service of the bulk of prosecution materials, which should be accompanied by a review of the case and updates on any developments since the last review. This is a stage 1 review.

8.30. We found in the RASSO cases that the stage 1 reviews were not routinely being completed. This contributed to the low overall score for this theme and impacts on the overall score for added value. In 13 of the 17 cases where a stage 1 review was required, no stage 1 review was conducted at all. As with the Crown Court cases, in all but one of those 13 cases, service and initial disclosure were completed after the PTPH but without an accompanying review. Given the lack of resources on the unit and the increase in caseload, there has been an understandable focus on prioritising the completion of disclosure obligations and ensuring that case material is served over the completion of a stage 1 review. This aligns with the good performance in respect of timeliness of compliance with disclosure obligations.

Feedback on police file quality

8.31. We discuss the agreed National File Standard (NFS) for police file submissions, and the CPS's role in feeding back to the police on compliance with it, in paragraphs 4.19 and 4.20. One of the measures introduced across the CPS nationally to ease pressure resulting from the pandemic was to suspend the requirement to use the national file quality (NFQ) feedback mechanism on the CPS case management system.

8.32. Some of the files we examined will have been reviewed after the suspension of the NFQ requirement, and this will account for why there is not a higher rate of feedback in our file sample.

8.33. Police file quality was assessed as fully meeting the standard in six of 20 cases (30%) and the remaining 14 cases (70%) were assessed as not meeting the standard. Feedback to the police needs to improve with CPS feedback assessed as fully meeting the standard in two of the 14 cases, partially meeting the standard in four cases and not meeting the standard in the remaining eight. However, as set out above, the CPS nationally had suspended the NFQ requirement which partially accounts for the low score.

Conferences with counsel

8.34. In cases with allegations of rape or penetrative assault, a conference should be held between counsel, the officer in the case and any expert witness. This conference presents another opportunity to review cases.

8.35. It is a chance for the case team to come together to discuss the trial strategy, the strengths and weaknesses of the case, and if any further actions are needed. Where experts are involved, it is also an opportunity for the expert to help the trial advocate to better understand the relevant material, how to present it to a jury, and what possible areas of agreement and conflict there may be between the prosecution and defence expert evidence.

8.36. Conferences with the trial advocate were evidenced in seven of the eight cases (87.5%) where this was required, which was positive. Effectively engaging the trial advocate in the preparation of the case for trial can make a significant difference to the ultimate success of a case and also helps make sure that the advocate will be aware of the needs of the victim in advance of them attending court. In one case, in which the defendant had violently assaulted his partner and raped her, there was a timely conference with the trial advocate, who also played a key role in drafting a vital bad character notice which helped to ensure that the defendant was convicted.

Preparation of RASSO cases for the Plea and Trial Preparation Hearing in the Crown Court

8.37. Our assessment is that the Area is **not meeting the standard** for this casework theme. Overall, the score for preparation for the Plea and Trial Preparation Hearing (PTPH) in RASSO cases is 46.6%.

8.38. In assessing the Area's performance when preparing for the PTPH, we considered the key tasks the prosecution are required to complete – including filling in the PTPH form for use by the Judge presiding at the hearing; carrying out direct engagement with the defence; drafting the indictment; making sure the relevant material is uploaded to the Crown Court Digital Case System (DCS) before the hearing; and making sure an advocate is instructed in advance of the hearing, so that they have time to prepare. There is more detail about these tasks in chapter 4 (paragraphs 4.27 to 4.36).

8.39. We found preparation for the first hearing, including completion of the PTPH form, was inconsistent with 31.6% rated as fully meeting the standard. A further 36.8% were assessed as partially meeting the standard and the remaining 31.6% as not meeting the standard.

8.40. The police upload hard media (such as CCTV footage or body worn videos) to secure online locations and send the links to the CPS. The Area shared hard media with all parties prior to the PTPH in 61.1% of cases assessed as fully meeting the standard, 11.1% of cases assessed as partially meeting it, and 27.8% of cases assessed as not meeting it. In RASSO cases, hard media will often be the video interviews conducted with the victim(s) that forms their evidence. It is crucial that this is shared prior to the first hearing so that the case can be effectively progressed with appropriate orders made for actions to take place to ensure that the trial is effective.

Direct engagement with the defence

8.41. The prosecution and defence are under a duty to engage with each other to make sure that the case progresses as effectively as possible. We explain more about this duty in chapter 4 (paragraphs 4.35 and 4.36). Usually, the prosecution makes the first approach to the defence, and this should be logged on a duty of direct engagement (DDE) log. The prosecution creates this on the CPS case management system and should then share it with the court and defence by uploading it to the DCS.

8.42. Covid-19 has had a significant impact on the defence's ability to respond to direct engagement approaches from the prosecution. Many defence firms furloughed employees, and their staff faced the challenges of home working, home schooling, illness and caring responsibilities that so many others have experienced during the pandemic and consequent lockdowns. This hampered Areas' efforts to engage with defence practitioners.

8.43. This explains why direct defence engagement was not routinely conducted in the RASSO cases we examined; it was rated as not meeting the standard in 17 of 20 cases (85%). The DDE Log was not uploaded to the DCS in the three cases where it was carried out.

The indictment

8.44. RASSO cases present specific challenges when drafting indictments, particularly where the victim is a child, or the allegations are not recent. Indictments were generally well drafted with 59.5% rated as fully meeting the standard and 27% as partially meeting the standard.

8.45. Timeliness was positive, with 78.4% of indictments and key evidence being uploaded in a timely fashion and rated as fully meeting the standard. A further 13.5% were assessed as partially meeting this standard.

Instructing the advocate

8.46. We set out the expectations for what should be contained in instructions to the court advocate in paragraph 4.31. We found that clear instructions to advocates were provided in two out of 19 cases (10.5%). In a further 12 cases (63.2%) the instructions were rated as partially meeting the standard and in five cases (26.3%) they were rates as not meeting the standard. Advocates were instructed seven days before PTPH in just over half of cases. Improvement in this aspect will have a positive impact on the effectiveness of the PTPHs. We saw examples where the prosecutor was proactive in ensuring counsel was briefed well in advance of the PTPH, and with clear instructions in complex cases.

Does the Area fully comply with its duty of disclosure?

8.47. Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for disclosure in RASSO cases is 62.7%.

8.48. The duties of the police and CPS in relation to the disclosure of unused material are set out in chapter 4, paragraphs 4.37 to 4.52. We assessed the Area's performance across a range of different aspects pertaining to disclosure, including compliance with the duty of initial disclosure and continuing disclosure, handling of sensitive and third-party material, the correct endorsement of the schedules, timeliness, recording of the decisions on the disclosure record in the CPS case management system and feeding back to the police where necessary.

Police service on disclosure

8.49. We found police compliance with their disclosure obligations to be fully meeting the standard in four out of 20 cases (20%), partially meeting it in 10 cases (50%) and not meeting the standard in six cases (30%).

8.50. Feedback to the police is an important part of driving improvement, and should occur despite the pressures on CPS Areas, so that the Area receives a better service in future.

8.51. Prosecutors did not feedback issues in 50% of the cases where the police had not complied with their disclosure obligations. As with the Crown Court cases, it is critical that feedback is provided, especially given the significant level of lack of compliance in the police service on disclosure.

Initial disclosure

8.52. We assessed initial disclosure in RASSO cases as fully meeting the required standard in two of 17 cases (10.5%). Another 10 cases (52.6%) were assessed as partially meeting the standard and seven cases (36.8%) as not meeting the standard.

8.53. The main reason we rated cases as either not meeting or partially meeting the standard was failure to identify items of unused material that had not been scheduled. For example, in one historic child abuse case the schedule of non-sensitive unused material listed only 12 items, nine of which were administrative in nature. This was not identified or challenged. This was despite the fact that the charging lawyer (a different prosecutor) had set out in the pre-charge decision that the medical and social care records of one victim were disclosable because they did not mention the defendant as an abuser. None of that material was listed on the schedule of unused material or identified as an issue at initial disclosure stage.

Continuing disclosure

8.54. The quality of continuing disclosure was also inconsistent, with five out of 16 cases (31.3%) assessed as fully meeting the standard, seven cases (43.8%) as partially meeting it and four cases (25%) as not meeting it. The main reason for the partially meeting and not meeting assessments was not endorsing decisions on newly revealed items. There were also cases remaining in which prosecutors did not identify obvious items not scheduled. In one child abuse case, police supplied a supplemental schedule of unused material on which there were numerous additional items; this was never endorsed or provided to the defence.

8.55. Inspectors found that late defence statements were usually chased, with the majority of cases being rated as fully meeting the standard and no cases assessed as not meeting it.

8.56. While late defence statements were chased, inspectors assessed the review of defence statements and provision of directions to the police on further reasonable lines of enquiry as inconsistent. Five of 17 cases (29.4%) were assessed as fully meeting the standard, eight (47.1%) as partially meeting the standard and four (23.5%) as not meeting the standard. A partially meeting assessment means that the defence statement had either been reviewed and sent to the police with no guidance, or had not been reviewed but the police had been asked to carry out further enquiries. In relation to the partially meeting assessments of these files, seven were cases in which no guidance had been given to the police, the defence statement had simply been forwarded to them

without any comment. This is a lost opportunity to add value to the case by making sure that all reasonable lines of enquiry and material falling to be disclosed is properly handled prior to trial.

Timeliness

8.57. The timeliness of service of initial disclosure was good, with 16 out of 19 cases (84.2%) fully meeting the standard. The remainder were assessed as partially meeting the standard.

8.58. Timeliness for continuing disclosure was good and assessed as fully meeting the standard in 14 out of 16 cases (87.5%). The remaining two cases (12.5%) were rated as partially meeting the standard.

Sensitive and third-party material

8.59. There were seven cases featuring sensitive unused material in our Crown Court sample. One of these cases was assessed as fully meeting the standard for the handling of sensitive material, three as partially meeting the standard and three as not meeting the standard. The most common failing was not endorsing or considering a police manual of guidance form 6D (MG6D), which listed items of sensitive material.

8.60. Third-party material was generally handled adequately with nine of 15 files (60%) being assessed as fully meeting the standard, three (20%) as partially meeting the standard and three (20%) as not meeting the standard. One of the themes identified was that lawyers did not always seem to recognise that material was third-party material. In one case there appeared to be a lack of knowledge on both the part of the police and the prosecutor as to Family Court protocols and how to treat material obtained from Family Court proceedings.

Disclosure records

Disclosure management document

8.61. Disclosure management documents (DMDs) were not mandated in routine Crown Court cases until 1 January 2021, a change brought about by the release of the sixth edition of the Director's Guidance on Charging.

8.62. Almost all (90%) of cases had a DMD, but we found that the quality was more variable with inspectors rating seven of 18 cases (38.9%) as fully meeting the standard for accuracy and completeness. We rated a further seven (38.9%) as partially meeting the standard and the remaining four (22.2%) as not meeting the standard. This means that, although the defence and court are provided with DMDs, they are not always accurate and the opportunity to ensure clarity around any further reasonable lines of enquiry is diminished.

Disclosure record sheets

8.63. Completion of disclosure records was inconsistent, very few were completed fully so that decision-making around unused material was rarely clearly evidenced. We assessed 10.5% of cases as fully meeting the standard, so this is an aspect that requires improvement.

Does the Area address victim and witness issues appropriately?

8.64. Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for victim and witness issues in RASSO cases is 69%. This is only just below the 70% required for the Area to be rated as fully meeting the standard.

8.65. The duties owed by the CPS to victims and witnesses are set out in chapter 4, paragraphs 4.53 to 4.62. We assessed a range of aspects related to victims and witnesses, including measures to support them to give their best evidence, witness care at court, and communicating and consulting with victims.

Pre-charge

8.66. Failure to properly consider special measures at charge risks delaying any request to the police for additional information, or delaying the application itself and with it, the reassurance for victims and witnesses that comes from knowing they will have the benefit of appropriate measures at the trial.

8.67. The approach to consideration of relevant application and ancillary matters to support victims and witnesses pre-charge was inconsistent. We assessed five out of 14 cases (35.7%) as fully meeting the standard, four (28.6%) as partially meeting the standard and five (35.7%) as not meeting the standard. For example, in one case a victim had autism, an anxiety disorder, and emotionally unstable personality disorder, however there was no consideration of the potential benefit a registered intermediary would bring and no action for one to carry out an assessment. Consideration of such issues at the earliest stage pre-charge allows for clear and timely support for victims, providing reassurance that their needs can be met and helping to maintain their engagement with the prosecution.

After charge

Witness warning and communications with witness care units

8.68. In all cases, the correct witnesses were warned in a timely manner, which is a strength and again demonstrates the clear processes the Area has in place.

8.69. Witness care unit correspondence was dealt with appropriately in 14 of 16 cases (87.5%) with no cases rated as not meeting the standard.

Consulting victims and speaking to witnesses at court

8.70. Consultation with victims and witnesses should be improved. We rated three of 12 cases (25%) as fully meeting the standard, with five (41.7%) partially meeting the standard and the remaining four (33.3%) not meeting the standard. The most significant omission from the files was any recording to evidence that the 'speaking to witnesses at court' initiative had taken place. This applied to 66.7% of the cases.

Victim Personal Statements

8.71. Obligations around Victim Personal Statements (VPS) were found to be fully meeting the standard in five of 17 cases (29.4%) and partially meeting the standard in a further five cases (29.4%). The remaining seven cases (41.2%) were assessed as not meeting the standard. A number of the files contained no reference to a VPS and no evidence the police had ever been chased to provide one. We also identified some files in which there were VPSs but the hearing record sheets from the sentencing hearings were silent as to whether the victim's wishes had been complied with. As set out in relation to both magistrates' court and Crown Court casework, this is an obligation under the Victims' Code of Practice and something the Area needs to improve.

Orders at sentencing

8.72. In six of nine cases (66.7%) where it was required, the Area had sought the relevant orders to protect victims, witnesses, and the public. We assessed the remaining three cases as partially meeting the standard. Applying for appropriate orders upon the conclusion of a case is a vital means of ensuring that victims and the wider public are protected from a defendant. Such orders also serve to recognise the harm caused to a victim and validate their brave decision to come forward.

Case study

The defendant, a taxi driver, was charged with sexually assaulting three separate female passengers. He denied the offences and the case was listed for trial. On the morning of the trial, the defendant pleaded guilty to each of the offences. The prosecution applied for a sexual harm prevention order to prohibit him from working as a taxi driver in the future. This was granted and would protect any members of the public who in future may have unwittingly got into his taxi.

Furthermore, the defendant's mobile telephone contained the telephone numbers of the victims because they had each booked him as a taxi. The prosecution secured a forfeiture and destruction order of the defendant's mobile telephone for this reason. This ensured he had no access to their telephone numbers and would have served to lessen the victims' anxiety about the defendant attempting to contact them in the future.

Victim Communication and Liaison scheme letters

8.73. The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge.

8.74. There were four cases which required a victim communication letter in the RASSO sample we examined. In three of those cases, a letter was sent, one of which was of a high standard and was assessed as fully meeting the standard for timeliness. The other two were assessed as partially meeting the standard.

9. Public confidence

9.1. One of the five aims of the of the Crown Prosecution Service’s (CPS’s) 2025 strategy²⁵ is to improve public confidence by “[working] with partners to serve victims and witnesses and uphold the rights of defendants in a way that is fair and understood by all communities”.

9.2. In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area’s performance related to public confidence – with a specific focus on the impact on casework quality.

Correspondence with victims

Expectations

9.3. The CPS is obliged to write to a victim of crime whenever a charge related to them is either dropped or substantially altered. These are called Victim Communication and Liaison scheme (VCL) letters. Where the victim is deemed to be vulnerable or intimidated, is a victim of serious crime (which includes domestic abuse), or has been targeted repeatedly over a period of time, the letter should be sent within one working day. The timescale in all other cases is five working days.

9.4. A VCL letter should include a referral to the Victims’ Right to Review (VRR) scheme if applicable. This is a scheme where a victim can ask the prosecution to reconsider a decision to drop or substantially alter a case. In certain circumstances, the VCL letter should also offer a meeting.

9.5. The CPS may also communicate with someone who has made a complaint about the service they have received, or with bereaved families after an unlawful killing.

9.6. All communications in writing with victims, complainants and bereaved families should use plain English, be translated where necessary, be grammatically correct, and avoid the use of legal jargon. They should include a clear, understandable, and accurate explanation of the decision or action being discussed. Where appropriate, empathy should be expressed, and the recipient should be directed to sources of support and other help.

²⁵ CPS 2025 is the CPS’s strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

Sending Victim Communication and Liaison scheme letters

Compliance with the Victim Communication and Liaison scheme

9.7. In our examination of 90 cases, 11 letters were sent by CPS London South – three in magistrates’ court cases, five in Crown Court cases and three in rape and serious sexual offences (RASSO) cases. There were seven cases in which letters were not sent when they should have been (four of these were Crown Court cases, two magistrates’ court cases and one was a RASSO case).

Quality of Victim Communication and Liaison scheme letters

9.8. We assessed the quality of the 11 letters sent as set out in Table 18. Our findings show that the Area has much to do to improve the quality of letters it is sending to victims. While inspectors only rated two of the 11 letters sent by the Area as not meeting the standard, the quality of the letters assessed as partially meeting the standard included a number of issues which, when received by the victim, may appear unthinking and would not portray a level of service expected. It is also concerning that there were seven cases in our sample where letters should have been sent and were not. This is not the level of service that victims deserve or should expect.

Table 17: Quality of Victim Communication and Liaison scheme letters

Casework type	Magist-rates’ courts	Crown Court	RASSO	All cases
Number of letters sent	3	5	3	11
Fully meeting the standard	33.3%	20%	33.3%	27.3%
Partially meeting the standard	66.7%	40%	66.7%	54.5%
Not meeting the standard	-	40%	-	18.2%

9.9. A Victim Communication and Liaison scheme (VCL) monthly performance report is produced within the Area providing monitoring of volumes, timeliness and quality across the casework teams. The Area’s Victim and Witness Board oversees quarterly dip sampling of letters and the Area has held workshops and local panels to review VCL letters. In addition, the pan-London violence against women and girls (VAWG) local scrutiny panel scrutinises some of the Area’s VCL letters, providing feedback to help improve their quality. There is also a clearly defined internal escalation process – through the legal management chain to Deputy Chief Crown Prosecutor – for the Victim Liaison Unit to use where sufficient explanations are not provided by lawyers when required. We were told the Area has a strong relationship with the Victims’

Commissioner for London and she has reviewed some RASSO VCL letters and provided feedback on them.

9.10. It is clear that the Area is both aware of the need to improve the quality of letters and that measures are in place which should drive that improvement forward. Indeed, it is clear that the Area has already done a great deal, much of it pan-London, to equip their lawyers with tools to be able to communicate clearly with victims. We saw evidence of a pan-London training presentation which covered the giving of clear, empathetic explanations in plain English.

9.11. The Area has clearly been under pressure with rising caseloads due to the pandemic and the lack of experience in some teams, which may be reflected in our findings around the quality of the letters we saw. The Area may want to carry out some focussed assurance and evaluation work to ensure that the measures and training implemented result in improvements to timeliness and quality as our results show that the standard being produced in the Area is far from what it would like to achieve.

9.12. Our assessment also highlighted that timeliness of sending victim letters requires improvement with 11 of 18 relevant cases (61.1%) assessed as not meeting the standard. Six cases (33.3%) were assessed as fully meeting the standard for timeliness and one case as partially meeting the standard.

Complaint and Victims' Right to Review responses

9.13. We were told that the three Deputy Chief Crown Prosecutors in the Area oversee the sharing of complaint responses to develop learning across all teams. That learning is cascaded to operational managers through the team performance boards.

9.14. We were told that the Area Strategic Board, attended by all the senior leaders in the Area, is the key driver for improving the standard of Victims' Right to Review (VRRs) responses with a regular review of the Area's decisions. Similarly, VRR issues and actions are fed back to operation managers at the performance boards.

Victims' Code and Witness Charter

Expectations

9.15. The expectation is that the Area complies with its responsibilities defined in the Code of Practice for Victims of Crime ('the Victims' Code') and the Witness Charter in respect of Victim Personal Statements, Victim Communication and Liaison scheme letters, offering meetings, and the speaking to witnesses at court (STWAC) protocol.

9.16. Prosecutors at trials are tasked with speaking to witnesses at court to explain what will happen. The CPS STWAC guidance emphasises the need to make sure that witnesses are properly assisted and know more about what to expect before they give their evidence. The guidance also reminds prosecutors of their important role in reducing a witness's apprehension about going to court, familiarising them with the processes and procedures – which may seem alien and intimidating – and managing their expectations on what will happen while they are at court.

9.17. The advocate should make an entry on the hearing record sheet that they have had this discussion with witnesses and record anything of note.

9.18. Victims are entitled, if they wish, to provide a Victim Personal Statement (VPS). The VPS sets out the impact that the offence has had on them, and helps inform the court's decision on sentencing. The police should tell the CPS, and the CPS should give effect to the victim's preferences for how the VPS is presented to the court. For example, the victim may read the statement in court, the prosecution advocate may read it for them, or the Judge or magistrates may be given it to read.

9.19. The hearing record sheet completed by the prosecutor should indicate whether the victim's wishes were met at the sentencing hearing.

Consulting victims and speaking to witnesses at court

9.20. Our findings from the file examination were relatively positive in respect of consultation with victims and witnesses. The recording of compliance with the 'speaking to witnesses at court' protocol was inconsistent. There was good compliance in the magistrates' court cases and Crown Court cases we examined, but we found poor recording in RASSO cases, most of which were listed in the Crown Court. The Area had already recognised the inconsistent recording of conversations with victims and witnesses in the Crown Court and has implemented a process of monitoring and dip sampling by the court managers based at each court centre in order to improve compliance.

9.21. The Area is aware of this issue, which has been exacerbated by both the pandemic and staff shortages. A chronic lack of paralegal assistants in court has meant that counsels' notes have needed to be relied on to show compliance and these are frequently inadequate. The staffing position is slowly improving, but inevitably the turnover of paralegal assistants has created a need for considerable training. The Area has now established a monthly dip sample of one paralegal assistant per month as well as monitoring their output.

9.22. The Area has carried out external individual quality assessment of some magistrates' court agents, one of the questions assessed the effectiveness of the engagement with victims and witnesses and this focus appears to have paid dividends.

Victim Personal Statements

9.23. In our file sample, we found varying degrees of compliance with Victim Personal Statement (VPS) obligations across the different casework types. We rated 50% of magistrates' court cases as either fully or partially meeting the standard, more than 80% of Crown Court cases as fully or partially meeting the standard and just under 60% of RASSO cases as fully or partially meeting the standard. There was a demonstrable lack of consideration of VPSs in reviews, particularly at the pre-charge stage. This meant that there was often no information available about a VPS at the first hearing so that, if a guilty plea was entered and the court moved to sentence, the opportunity was lost for a victim to have the crime's impact on them read out to the court.

9.24. The Area's Victim and Witness Board monitors compliance and performance against the rights and obligations within the Victim's Code and Witness Charter. The group meets monthly and has carried out assurance work. Dip sampling has been conducted of compliance around VPSs and actions have been set for improvement. We will be able to consider the impact of this work when we follow up this inspection in the next stage of our Area inspection programme.

Community engagement

9.25. We saw evidence of the focus on domestic abuse with documentation relating to a pan-London Independent Domestic Violence Advocate day to work with third-sector organisations on a variety of aspects of domestic abuse to improve the experience of victims and to improve the quality of the casework. The documentation also included evidence of work with the third sector around RASSO with an Independent Sexual Violence Advocate (ISVA) working group, ISVA forum, lunch and learn session and a session with the Victims' Commissioner.

9.26. There are pan-London local scrutiny panels; one which covers violence against women and girls (VAWG) and one which focuses on hate crime. Both these panels are chaired by the CPS and attended by third-sector organisations alongside CPS representatives. The panels consider performance data and specific cases from which are drawn out any lessons that can be learned to improve future performance. These lessons learned are cascaded via the Area's performance boards and the RASSO learning platform developed to support the Area's specialist RASSO lawyers.

9.27. In addition to the local scrutiny panels, the Area has established a Public Confidence Board chaired by the CCP, which includes the Mayor's Office for Policing and Crime (MOPAC) Head of Community Engagement. We were told the Board has been instrumental in identifying and driving forward key community engagements through its Area VAWG and Hate Crime co-ordinators to continue to build and maintain public confidence.

10. CPS people

10.1. One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy²⁶ is to support the success and well-being of its people, to enable everyone to thrive.

10.2. In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area's performance related to CPS people, with a specific focus on the impact on casework quality.

Recruitment and induction, staff moves and succession planning

Expectations

10.3. CPS Areas should have a clear strategy for recruitment, induction, succession planning, development, and retention. We looked at whether:

- the Area has effective bespoke induction plans for new prosecutors, for when prosecutors move between teams and for when new lawyer managers are appointed, to support their development
- the Area has effective bespoke induction plans for new paralegal and operational delivery staff, for when paralegal and operational delivery staff move between teams and for when operational delivery and paralegal managers are appointed, to support their development
- the Area has an awareness of the legal cadre, including their current strengths and weaknesses and future capability (particularly around specialisms and capacity to deal with complex or sensitive casework), and this awareness informs recruitment, succession planning and development
- staff allocation and movement between teams is based on clearly documented rationales for decisions which include the impact on the Area's casework quality in terms of capacity, capability, and succession planning.

²⁶ CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

Staff induction

10.4. Table 19 shows the increase in legal staff since March 2019 when the additional funding for prosecutors was announced:

Table 18: Legal staff in post (full-time equivalent)

	LM1	LM2	SCP	CP	Total
At 31 March 2019	23.95	9.00	108.14	23.06	197.88
At 31 December 2020	26.59	8.00	128.06	24.80	211.24

10.5. Despite the increase in numbers shown in Table 19, the Area remains under resourced against the national resource model figure for lawyers. The shortage particularly applies to Senior Crown Prosecutors with the shortfall the most acute in the RASSO team. This has impacted on the Area's ability to deliver quality casework.

10.6. Over the past year, there has been a constant change of staffing from senior leaders at Chief Crown Prosecutor, Deputy Chief Crown Prosecutor level through to Crown Prosecutors and Senior Crown Prosecutors. The level of staff movement has inevitably led to a requirement for the delivery of training as well as an additional commitment from experienced staff members to provide support to those new in post.

10.7. The Area has been part of the national rolling recruitment campaign for prosecutors, but this did not provide the numbers of new prosecutors the Area needed. In June/July 2021, the Area conducted their own recruitment campaign, which was successful and has so far led to the recruitment of 12 additional prosecutors. The Area is hopeful that this new local approach to recruitment, coupled with continued participation in the national campaign, will result in addressing the shortage of legal staff.

10.8. As a strand of their strategy to address the shortfall, during the initial period of lockdown in 2020, the Area offered secondments to 17 advocates from the Bar. The Area invested time to train these secondees on both the CPS digital systems and CPS policies. The Area considers this to have been a positive exercise. Now that most secondees have returned to the Bar, the Area is able to instruct them as advocates with confidence that they have the required legal skills as well as experience of CPS procedures and policies. Some secondees have chosen to stay working in the Area, accepting permanent Crown Advocate roles as RASSO specialists, strengthening the cadre of in-house Crown Court advocates. The Area plans to use their skills and expertise to mentor and develop prosecutors in the RASSO teams.

10.9. At the height of the pandemic, with far fewer Crown Court sessions taking place, many crown advocates were redeployed to carry out review work in both Crown Court and magistrates' court cases, undertaking pre-charge reviews and general casework. This was successful in addressing the increase in receipts, particularly in pre-charge work. However, the crown advocates needed support and training to be able to deliver this role, which impacted on existing prosecutors and legal managers in those teams.

10.10. Part-time staff were offered increased hours, which was a sensible option as part of the solution to dealing with backlogs and staff shortages. There was good uptake of this offer, including among paralegal assistants, some of whom increased their working weeks from three to five days. The Area recognises that all staff have been accommodating during the pandemic and worked flexible working patterns if needed.

Succession planning

10.11. The Area has a clear focus on the future. It has invested heavily in trainees in an attempt to develop its own cadre of the next generation of lawyers, with a Deputy Chief Crown Prosecutor having overarching responsibility for their training and ensuring they experience the work of each unit. The aim is to make sure that these trainees will be well equipped to conduct a wide range of legal work and be committed to the Area. This should ensure that, in future, the Area is able to populate their units with home-grown talent.

10.12. Career conversations are also conducted regularly with staff to ensure that managers are aware of the development needs of the individuals on their teams. The Area acknowledged that, in the past, they had perhaps relied too heavily on volunteers to make staff changes across teams rather than identifying the needs in terms of skills and experience required. The Area plans for more focussed career conversations which will help to make sure staff movement is planned and effective.

Staff engagement

10.13. Staff engagement in the Civil Service People Survey in 2020 was 71%.

10.14. This is above the CPS national average and is a real credit to the Area. It demonstrates that there has been a genuine focus on staff welfare at a time of unprecedented difficulty.

10.15. It is also very positive that the Area's average working days lost through staff absences has been below the average CPS national figure for this entire financial year despite the obvious pressures that remain

Learning and development

Expectations

10.16. The Area should have a continuous learning approach that is effective in improving casework outcomes. We looked at whether:

- the Area has a clear and effective training plan around improvement of casework
- coaching and mentoring take place in the Area to improve the casework skills and experience of lawyers and lawyer managers.

Training plans

10.17. The Area maintains good training records and these showed that the Area has delivered key training despite the pressures from the pandemic (for example, case review training, the new Director's Guidance on Charging and disclosure guidelines). We have seen evidence that domestic abuse refresher training has also been planned. A need for custody time limit training was identified by the custody time limit audit conducted in April 2021. This is a good example of quality assurance work highlighting a training need.

10.18. Documented induction plans show that tailored inductions are taking place for those joining and those moving units. The inductions include regular one-to-ones as well as training events. It has been a challenge for the Area to deliver training remotely and to induct so many new staff without face-to-face interaction and the camaraderie that inevitably engenders. Virtual forums have been created to encourage casework discussions as well as to provide support and an opportunity to get together with colleagues in a less formal way than in team meetings. The Area has a programme for new recruits to attend the office so that they can meet each other face to face.

10.19. The Chief Crown Prosecutor (CCP) is part of a national strategy group for training. An approach of 'think trial' which is intended to bring the courtroom into the office is planned. This will include case studies and a focus on an offender-centric approach to casework, which will form the backbone of the Area casework quality training for the forthcoming year.

Coaching and mentoring

10.20. Within the magistrates' court teams, a buddy system has been introduced to support the new District Crown Prosecutors, first-level legal managers. This provides them a specific experienced legal manager as a mentor and for advice in addition to their line manager. This is to not only help

build competence and confidence for the new manager but also develop the existing and experienced managers.

10.21. Throughout lockdown, it was mandated across all teams that each line manager calls their direct reports at least once a week. The focus of these calls was wellbeing as opposed to casework. The Area reported that this was a success in maintaining relationships and ensuring that staff were assured of their wellbeing during such a difficult period. It also provided a forum in which individuals were able to highlight any casework queries that they would ordinarily have raised in an informal discussion, usually with colleagues, in the normal office setting.

Quality assurance

Expectations

10.22. The CPS has quality assurance processes in place to identify aspects of casework that are working well and those that require improvement. These include:

- individual quality assessments (IQAs) and internal assurance to identify individual and wider good practice or performance, and weaknesses in casework quality, and to drive improvement
- analysis of IQAs to identify specific training and interventions and implement them to improve casework quality
- casework quality assurance boards (CQABs) to drive actions and improvements in casework quality, including wider assurance work, in accordance with the CPS's quality standards for charging, case progression, disclosure and advocacy.

10.23. We are not assessing advocacy in this inspection programme, but we will include how the Area develops advocates to improve casework quality.

Quality assurance activity

10.24. During the pandemic, the CPS nationally determined that Areas could reduce the number of IQAs or even stop them entirely if necessary. CPS London South decided to continue monthly assessments, but focused them solely on disclosure as it was felt this was where the highest risk lay. During this period, any performance management has had to be carefully balanced against the impact of the pandemic on individuals and the underlying contributory factors affecting performance, including the considerable pressures staff were under. The focus during national lockdowns was on the wellbeing of staff rather than

any formal performance management processes. This seems an appropriate approach given the circumstances of the pandemic.

10.25. We were provided with a number of IQA assurance reports. These were on disclosure and mirrored our file examination findings in identifying the aspects in need of improvement.

10.26. The Chief Crown Prosecutor has been heavily involved in the development of the new IQA regime that was launched in October 2021. He has set a very clear standard for his managers on how this should be applied. There is a plan for peer review of IQAs to take place in 2022. This will be led by the Deputy Chief Crown Prosecutors and will provide benchmarking and indications of good practice.

10.27. The number of new managers in place has presented an additional challenge for the Area in terms of the completion of quality IQAs. This was particularly the case in the magistrates' court teams, where they lost four experienced legal managers and four new, relatively inexperienced managers were appointed. The Area took the decision that the priority for the new legal managers was to make sure that they could manage the work and their team members remotely, as opposed to focusing on ensuring a rigorous approach to IQAs followed up with conversation with staff about their performance in casework quality. This was a necessary and understandable decision in the circumstances.

10.28. The Area casework quality committee (CQC) meets monthly. The permanent members of this board are the Area's senior management team as well as the Area legal lead. It is apparent that a number of legal managers attend each meeting as guests, while some are invited to present casework initiatives they have been involved in or led. The Area plans for all District Crown Prosecutors to ultimately attend a CQC meeting so that they can hear directly from the Chief Crown Prosecutor and gain a full understanding of the expectations the Area has for casework quality. This is good practice and ensures clarity of approach.

10.29. We had the benefit of observing a CQC meeting on 4 October 2021 and were also provided with minutes of the April, May and June 2021 meetings. We were impressed by the committee's collaborative atmosphere and its clear grasp of wider strategic issues. It was also positive to note that managers across the Area and from all teams clearly have a voice in this forum. At the CQC, we saw a demonstrable focus on domestic abuse prosecutions and the challenges they bring, and actions were identified which should drive improvement.

10.30. The papers provided for the meeting show there is clear responsibility for casework quality within each section, through first line legal managers (LM1s) to second line legal managers (LM2s) and then to the Deputy Chief Crown Prosecutors, with each team providing an overview of casework issues. We identified similar themes to those we found in our file examination, including a lack of consistent identification of reasonable lines of enquiry and issues around the completion of initial disclosure.

10.31. We were provided with minutes of local case management panels (LCMPs) for all three types of casework we examined. All were clearly documented and demonstrated the clarity of approach on casework quality.

10.32. We saw minutes of three LCMPs held on magistrates' court cases in August 2021. These were attended by an LM1, an LM2 and the reviewing lawyer. These all included a detailed evidential and legal examination and clear expression of trial strategy, along with the attribution of necessary further actions. Certain types of case will ordinarily have a case management panel; these include high-media-interest cases, disability and LGBTQ+ hate crimes and Extinction Rebellion prosecutions.

10.33. We were provided with minutes of two LCMPs held on Crown Court cases. Both were attended by a Deputy Chief Crown Prosecutor, an LM2, an LM1 as well as the allocated case prosecutor and paralegal officer. These panels concentrated on the detail of the cases and trial strategy and ensured that outstanding work was identified and that the right person was tasked with the work. We were also provided with minutes of case management panels 'light', which are attended only by an LM1 District Crown Prosecutor and the case prosecutor. These are less comprehensive and strategic than the local case management panels. They are more of a supervisory activity that provides an opportunity for mentoring and developing prosecutors in respect of casework quality.

10.34. We were also provided with the minutes of two LCMPs held on RASSO cases. Attendees were the Deputy Chief Crown Prosecutor, Senior District Crown Prosecutor and District Crown Prosecutor as well as the lawyer and paralegal officer with conduct of the case. As in the Crown Court and magistrates' court case management panels, there was a clear focus on the issues in the cases. Each resulted in a very clear list of attributed actions, which was positive. There are set rules for which RASSO cases require a case management panel. These include rape cases where both the victim and defendant are aged under 13 and any cases that date back two years or more. The Area clearly adheres to these rules and ensures there is overview of these sensitive cases at legal manager level.

11. Digital capability

11.1. One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy²⁷ is to make sure that "our investment in digital capability helps us adapt to the rapidly changing nature of crime and improve the way justice is done".

11.2. In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area's performance related to digital capability, with a specific focus on the impact on casework quality..

Data analysis

Expectations

11.3. The Area collects and analyses data to deliver improvements in casework quality. Performance in key aspects – including CPS high-weighted measures, National File Standard compliance rates and the charging dashboard – is analysed effectively, shared with staff, and used by managers to drive improvements within the CPS and externally with stakeholders.

Our findings

11.4. We saw evidence of the detailed performance reports produced on an Area basis and then separate reports for magistrates' court casework, Crown Court casework and RASSO casework. There is considerable analysis on a monthly basis of the Area's performance against the high-weighted performance measures and the charging dashboard, but also of adverse outcomes and other aspects of casework, for example domestic abuse, on an individual case basis. The reports identify issues and set out actions to address. An example we saw was discussion at unit-management level around the low guilty plea at first hearing rate in the southern Crown Court team Area. An action was set to push local performance through the crown advocate liaison and crown advocates at court. The data is considered monthly which provides an overview of the direction of travel and allows the Area to identify actions to improve.

11.5. The reports are to be kept under review. Most of the reports we saw had similar formats across the casework teams, although the more recent Crown Court report for July 2021 was produced in a PowerPoint format with more visuals. The Area told us that these reports are shared with operational staff in regular team meetings where performance is discussed along with issues identified from IQAs, complaints and victim right to reviews. The visual approach

²⁷ CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.
www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

was successful in engaging staff in discussions around performance. This will in turn allow legal managers to provide context when engaging individually with their prosecutors around casework quality issues.

Digital tools and skills

Expectations

11.6. The Area makes sure that its people have the tools and skills they need to operate effectively in an increasingly digital environment. The Area includes digital skills audits within the training plan and delivers general and bespoke training to staff to enable them to effectively use the CPS case management system (CMS), Egress, digital case lines, the court store and the cloud video platform (CVP)²⁸.

Our findings

11.7. The criminal justice system has had to adapt rapidly to new digital technology to continue working throughout the pandemic, including using Microsoft Teams to hold meetings, one-to-ones and conferences, and the CVP to conduct virtual or remote hearings.

11.8. It was evident from our meeting with the Area, attendance at the CQC meeting and review of documents that the Area was able to utilise CPS IT systems effectively to maintain work throughout the pandemic and to enable staff to work remotely both on office-based casework and the prosecution of courts, and that staff had been supported to work in this way.

11.9. Pan-London remote hearing guidance has been published to provide step-by-step support to lawyers and paralegals accessing remote hearings via the cloud video platform.

11.10. We saw examples of comprehensive guidance to support operational delivery staff with their functions. For example, the 178-page administrative task guidance around bundling, witness care unit correspondence handling, checking new tasks and post-hearing actions on the case management system. There were other examples around initial details of the prosecution case (IDPC) guidance and court list guidance. This guidance is impressive although may present an issue for the Area in ensuring it remains current.

²⁸ Egress, digital case lines, the court store and the cloud video platform are digital tools to store case material or host remote hearings. They are explained further in the glossary in annex C.

11.11. The Area has courts going live with implementation of the common platform. We saw that the Area had set up an intranet page dedicated to the changes for the common platform with information about what it is and the anticipated benefits. It was clear from the communications we saw that individual teams were being contacted by the business improvement and compliance team in the Area as the common platform was rolled out to them to ensure that training and support was timely. This approach appears to inspectors to be effective and supportive in managing change.

11.12. IT training is included in induction packages to ensure that new starters have access to all the applications that they will use. For those moving teams or roles, there is an action for line managers to identify prosecution college or civil service learning courses that may need to be undertaken, including identifying any IT support required.

12. Strategic partnerships

12.1. One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy²⁹ is to make sure that "the CPS is a leading voice in cross-government strategies and international cooperation to transform the criminal justice system".

12.2. In this inspection, we used our file examination, supplemented by the documents requested from the Area and our assessment visit to the Area, to consider aspects of the Area's performance related to strategic partnerships, with a specific focus on the impact on casework quality.

Strategic partnerships with the police

Expectations

12.3. The Area influences change through trusted partnerships with the police at all levels to improve casework quality. The Area has trusted and mature relationships with the police at all levels and influences change through negotiation, persuasion and compromise to improve casework quality, particularly in relation to compliance with:

- the National File Standard (NFS)
- the Director's Guidance on Charging
- the Disclosure Manual, Criminal Procedure and Investigations Act 1996 (CPIA) and relevant codes of practice.

Our findings

12.4. The Area has trusted and mature relationships at senior level with the police. The Chief Crown Prosecutor (CCP) has pan-London meetings (including the CCP for neighbouring CPS London North) with the Assistant Commissioner of the Metropolitan Police and with the Mayor for London's lead for policing and crime. It is clear these meetings are held regularly, and we could see that key aspects of casework were discussed, such as hate crime and domestic abuse. The CCP was promoting the use of service level agreements with the police and the review of deep dive material on domestic abuse to drive improvement in the prosecution team approach.

12.5. The CCP attends the pan-London Gold Group with senior police, including the Assistant Commissioner, which has a clear strategic overview of key areas including evidence-led domestic abuse cases, case progression, file

²⁹ CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

quality and police compliance with the Director's guidance on charging 6th edition.

12.6. At a more operational level, Prosecution Team Performance Meetings take place between the police and the CPS on magistrates' court and Crown Court teams. The equivalent meetings for the RASSO teams are safeguarding meetings.

12.7. Metropolitan Police file quality is one of the biggest challenges, as highlighted within our file examination, and it has been the subject of a specific meeting between the CCP and the Commissioner. The police have made a commitment to improve file quality. This includes expanding the remit of their case management team beyond pre-charge files at the beginning of 2021, as well as allocating funds to create action teams to process and progress action plans in RASSO cases. It is hoped that this will drive improvement in compliance with the national file standards post-charge and compliance with the police obligations on disclosure. (The majority of files in our sample were supplied to the Area by the police in advance of this and so would not have benefitted from this change.)

Strategic partnerships with the criminal justice system

Expectations

12.8. The Area has trusted and mature relationships with the criminal justice system at all levels and influences change through negotiation, persuasion and compromise to improve casework quality.

Our findings

Criminal justice partners

12.9. The Area attends joint performance meetings, which take place with the courts, probation and witness care. These meetings were initially paused during the pandemic, but have been recommenced as joint-recovery meetings to provide a multi-agency approach to addressing the backlogs brought about by the pandemic. This is a key aspect of joint working now and in the coming months to ensure that measures implemented are ones that are deliverable with the Area's resources.

12.10. The Mayor's Office for Policing and Crime (MOPAC) convenes the London Criminal Reduction Board, chaired by the Mayor. This deals with high-level issues including the pandemic recovery and key themes unique to London. The London Criminal Justice Board sits beneath this and is chaired by the

Deputy Mayor for Policing and then the Criminal Justice Effectiveness Board chaired by the Deputy Commissioner sits below that. The latter is at a more operational level and is able to drive changes in casework quality. These strategic boards filter down through management and to individuals. Conversely, issues identified at an operational level may flow up through the structure from individuals, which leads to strategic awareness of such issues.

12.11. The Area also actively participates in Criminal Justice Board sub-groups, notably the victim and witness group, and has participated in a review of the delivery of obligations by criminal justice agencies under the Code of Practice for victims of crime. This correlates with the Area's internal assurance work on compliance around the Victim Personal Statement scheme explored in chapter eight.

12.12. The Chief Crown Prosecutor (CCP) has regular meetings with Resident Judges and we saw detailed briefing documents for the CCP setting out issues and cases for each Crown Court centre. The reports we saw referred to the effective joint working with the Crown Court centres, particularly around listing of cases where custody time limits apply. CPS London South has a crown advocate liaison role in each Crown Court centre. Their role appears pivotal to addressing issues in real time to mitigate the impact of issues around listing, court process and cases. This has strengthened the Area's relationship with the courts, both with the judiciary and administration, through collaborative working.

12.13. The Area's court centre managers also have effective relationships that have enabled the Area to proactively engage with most Crown Court centres around listing issues, especially in respect of identifying priority trials. Barristers are instructed through the pan-London clerking team based in CPS North. The London South Crown Court Deputy Chief Crown Prosecutor chairs a meeting with the senior clerks from chambers to provide updates and identify issues, and which the Area business managers from both CPS London North and CPS London South attend.

Annex A

Inspection framework

Area Inspection Programme Framework 2021-22

Section A casework quality will be scored. The remaining sections B–E will be assessed and inspected but will not be formally scored. A report will be prepared covering all sections of the framework.

A. Quality casework

Does the Area deliver excellence in prosecution by making sure the right person is prosecuted for the right offence, cases are progressed in a timely manner and cases are dealt with effectively?

Magistrates' court casework

- The Area exercises sound judgement and adds value in its pre-charge decision-making in magistrates' court cases.
- The Area's reviews and other magistrates' court casework decisions are timely and of good quality.
- The Area fully complies with its duty of disclosure throughout its magistrates' court casework.
- The Area addresses victim and witness issues appropriately throughout its magistrates' court casework.
- The Area progresses its magistrates' court casework effectively and efficiently.
- The Area exercises sound judgement and adds value in its magistrates' court casework.
- The Area has a clear grip of its magistrates' court casework.

Crown Court casework

- The Area exercises sound judgement and adds value in its pre-charge decision-making in Crown Court cases.
- The Area's reviews and other Crown Court casework decisions are timely and of good quality.
- The Area fully complies with its duty of disclosure throughout its Crown Court casework.

- The Area addresses victim and witness issues appropriately throughout its Crown Court casework.
- The Area prepares its Crown Court cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to make sure progress is made.
- The Area progresses its Crown Court casework effectively and efficiently.
- The Area exercises sound judgement and adds value in its Crown Court casework.
- The Area has a clear grip of its Crown Court casework.

Rape and serious sexual offences (RASSO) casework

- The Area exercises sound judgement and adds value in its pre-charge decision-making in RASSO cases.
- The Area's reviews and other RASSO casework decisions are timely and of good quality.
- The Area fully complies with its duty of disclosure throughout its RASSO casework.
- The Area addresses victim and witness issues appropriately throughout its RASSO casework.
- The Area prepares its RASSO cases effectively for the Plea and Trial Preparation Hearing in the Crown Court, or first hearing in the youth court, to make sure progress is made.
- The Area progresses its RASSO casework effectively and efficiently.
- The Area exercises sound judgement and adds value in its RASSO casework.
- The Area has a clear grip of its RASSO casework.

Evidence will be drawn from:

- baseline file examination
- charging dashboard (timeliness)
- adverse outcome reports

- Disclosure Board minutes
- Local Case Management Panel minutes (volume casework)
- self-assessment meeting with CPS Area.

B. Public confidence

Does the CPS provide a fair experience for victims and witnesses?

All correspondence with victims is accurate, timely and empathetic.

- Communications in writing with victims use plain English (translated where necessary), are grammatically correct, have clear explanations and avoid the use of legal jargon.
- The Area complies with the timescales for Victim Communication and Liaison scheme (VCL) letters.
- The Area complies with the timescales for complaints and Victims' Right to Review (VRR) scheme requests.
- The Area conducts internal quality assurance of all victim communication (VCL, bereaved family service (BFS) complaints and VRR requests).

The Area complies with its responsibilities defined in the Code of Practice for Victims of Crime and the Witness Charter in respect of Victim Personal Statements, VCL letters, meetings and compliance with the speaking to witnesses at court protocol.

- Victim Personal Statements (VPSs) are chased, and the victim's wishes sought around the reading of any VPS in court. Those wishes are adhered to at sentence, whether at first hearing or following trial.
- The Area conducts assurance internally to ensure that VCL letters are sent on all appropriate cases pre- and post-charge.
- Meetings are offered to victims in all appropriate cases.
- The Area complies with the speaking to witnesses at court (STWAC) protocol.

Evidence will be drawn from:

- baseline file examination – specific questions include STWAC and VCL
- Victim and Witness Criminal Justice Board sub-group minutes
- third sector meeting minutes (where they encompass casework quality learning and actions)

- internal quality assurance reports – monthly or one-off – related to the Code of Practice for Victims of Crime/Witness Charter, VCL letters, VPSs, BFS complaints and VRR requests
- VCL performance data
- advocacy individual quality assessment (IQA) data for STWAC compliance
- complaints and VRR performance data
- witness care unit meeting minutes
- Scrutiny Panel minutes, actions and any associated learning
- complaints log
- VRR log, including volume and detail of any overturned decisions
- self-assessment meeting with CPS Area.

C. CPS people

Does the Area support its people with the skills and tools they need to succeed and develop?

The Area has a clear strategy for recruitment, induction, succession planning, development and retention.

- The Area has effective bespoke induction plans for new prosecutors, for when prosecutors move between teams and for when new lawyer managers are appointed, to support their development.
- The Area has effective bespoke induction plans for new paralegal and operational delivery staff, for when paralegal and operational delivery staff move between teams and for when operational delivery and paralegal managers are appointed, to support their development.
- The Area has an awareness of the legal cadre, including their current strengths and weaknesses and future capability (particularly around specialisms and capacity to deal with complex or sensitive casework) and this awareness informs recruitment, succession planning and development.
- Staff allocation and movement between teams is based on clearly documented rationales for decisions, which include the impact on the Area's casework quality in terms of capacity, capability and succession planning.

The Area has a continuous learning approach that is effective in improving casework outcomes.

- The Area has a clear and effective training plan around improving casework.
- Coaching and mentoring take place in the Area to improve casework skills and experience of lawyers and lawyer managers.

The Area uses internal assurance to improve casework quality.

- The Area uses internal assurance (including IQAs where applicable) effectively to identify individual and wider good practice/performance and weaknesses in casework quality, to drive improvement.
- The Area uses its analysis of IQAs (where applicable) or other internal findings effectively to identify specific training and interventions, and implements them to improve casework quality.
- The Area's casework quality assurance board (CQAB) drives actions and improvements in casework quality, including wider assurance work, in accordance with CPS quality standards around:
 - charging
 - case progression
 - disclosure
 - advocacy (we are not assessing advocacy in this inspection programme, but we will include how the Area develops advocates to improve casework quality).

Evidence will be drawn from:

- Area business plan
- workforce planning models
- staff in post figures, current and at 1 April 2019
- people strategy/Area succession planning documents
- minutes of meetings to discuss team composition and resources
- CQAB minutes
- training plan

- induction plans – new starters, movement between teams and new managers
- minutes or other notes of coaching and/or development conversations
- Civil Service People Survey results at Area and team level
- CQAB observation
- IQA assurance records including numbers, timeliness, dip checks and any resulting management reports
- internal assurance reports on charging, case progression or disclosure
- recent examples of “Simply Thanks” or other acknowledgements of good work in the field of casework or victim and witness care by individuals or teams (suitably anonymised)
- any commendations or other recognition by stakeholders of excellent casework or victim and witness care
- minutes of Area meetings of magistrates’ courts, Crown Court or RASSO boards, or any other business board addressing casework quality issues (joint board minutes are requested under section E)
- self-assessment meeting with CPS Area.

D. Digital capability

Does the CPS use data to drive change to improve casework quality?

The Area collects and analyses data to deliver improvement in casework quality.

- Performance in key aspects including CPS high-weighted measures, National File Standard compliance rates and the charging dashboard are analysed effectively, shared with staff and used by managers to drive improvements within the CPS and externally with stakeholders.

The Area ensures that its people have the tools and skills they need to operate effectively in an increasingly digital environment.

- The Area includes a digital skills audit in the training plan and delivers general and bespoke training to staff to enable them to effectively use CMS, Egress, digital case lines, the court store and the cloud video platform.

Evidence will be drawn from:

- Area performance reports and analysis
- baseline file examination
- training plan – digital tools and skills
- performance meeting minutes – team and Area level
- communications to staff about performance
- Prosecution Team Performance Meeting (PTPM) minutes
- Transforming Summary Justice (TSJ)/Better Case Management (BCM) meetings
- Local Criminal Justice Board and sub-group meeting minutes
- self-assessment meeting with CPS Area.

E. Strategic partnerships

Does the CPS influence change through trusted partnerships to improve casework quality across the criminal justice system?

The Area influences change through trusted partnerships with the police at all levels to improve casework quality.

- The Area has trusted and mature relationships with the police at all levels and influences change through negotiation, persuasion and compromise to improve casework quality, particularly in relation to compliance with:
 - the National File Standard (NFS)
 - the Director’s Guidance on Charging
 - the Disclosure Manual, Criminal Procedure and Investigations Act and relevant Codes of Practice.

The Area influences change through trusted partnerships within the criminal justice system at all levels to improve casework quality.

- The Area has trusted and mature relationships with the criminal justice system at all levels, and influences change through negotiation, persuasion and compromise to improve casework quality.

Evidence will be drawn from:

- NFS data
- PTPM minutes (operational and strategic)
- regional disclosure working group minutes
- National Disclosure Improvement Plan reports
- Criminal Justice Board minutes
- PTPM performance reports
- Joint TSJ/BCM board meeting minutes
- TSJ/BCM performance reports
- minutes of meetings with Chief Constables, Police and Crime Commissioners, Resident Judges, presiders, HM Courts and Tribunals Service, and Chambers
- letters/emails demonstrating escalation at strategic level – to presider, Chief Constable or Police and Crime Commissioner, for example
- joint performance plans or strategy documents
- self-assessment meeting with CPS Area.

Annex B

File examination findings

The tables in this annex exclude 'not applicable' results.

Magistrates' courts

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	92.3% 7.7%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	76.9% 7.7% 15.4%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	83.3% 16.7%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	23.1% 26.9% 50.0%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	23.1% 38.5% 38.5%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	21.1% 26.3% 52.6%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	3.8% 38.5% 57.7%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	16.7% 12.5% 70.8%
Police initial file submission post-charge			
9	The police file submission complied with National File Standard for the type of case.	Fully met Not met	46.7% 53.3%
10	The police file submission was timely.	Fully met Not met	86.7% 13.3%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	37.5% 18.8% 43.8%

No.	Question	Answers	Result
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	93.3% 6.7%
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met	16.7% 16.7% 66.7%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	70.6% 29.4%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	60.0% 40.0%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	75.0% 25.0%
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Fully met Partially met Not met	30.8% 38.5% 30.8%
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met	23.5% 35.3% 41.2%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	30.0% 53.3% 16.7%
Post-charge case progression			
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	20.0% 13.3% 66.7%

No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	54.5% 45.5%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	23.5% 76.5%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	37.5% 62.5%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	92.0% 8.0%
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	50.0% 35.7% 14.3%
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	45.0% 25.0% 30.0%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	52.4% 23.8% 23.8%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	42.1% 26.3% 31.6%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	46.7% 43.3% 20.0%
Disclosure of unused material			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	20.0% 53.3% 26.7%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	56.7% 10.0% 33.3%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not carry out initial disclosure at all	30.8%
		Failed to identify that other obvious items of unused material were not scheduled	38.5%
		Said NDUM was disclosable	7.7%
		Used the wrong endorsements	23.1%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	26.9% 11.5% 61.5%
45	The prosecutor complied with the duty of continuous disclosure (but not including timeliness of disclosure).	Fully met Partially met Not met	50.0% 50.0%
46	If Q45 is PM or NM, the most significant failing was:	Did not carry out continuous disclosure at all	100.0%
48	Sensitive unused material was dealt with appropriately.	Fully met	50.0%
		Partially met	
		Not met	50.0%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	100.0%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met	69.2%
		Partially met	15.4%
		Not met	15.4%
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met	61.5%
		Partially met	15.4%
		Not met	23.1%
56	The victim's wishes regarding VPS were complied with.	Fully met	35.0%
		Partially met	15.0%
		Not met	50.0%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met	100.0%
		Partially met	
		Not met	

Area inspection programme CPS London South

No.	Question	Answers	Result
58	There was a timely VCL letter when required.	Fully met Partially met Not met	40.0% 60.0%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	33.3% 66.7%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	31.6% 31.6% 36.8%

Crown Court

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	81.8% 18.2%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	63.6% 21.2% 15.2%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	77.8% 22.2%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	18.2% 36.4% 45.5%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	42.4% 24.2% 33.3%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	39.3% 25.0% 35.7%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	60.6% 39.4%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	30.0% 43.3% 26.7%
Police initial file submission post-charge			
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met	40.0% 60.0%
10	The police file submission was timely.	Fully met Not met	87.5% 12.5%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	16.7% 29.2% 54.2%
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	85.0% 15.0%

No.	Question	Answers	Result
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met	35.0% 32.5% 32.5%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	63.2% 28.9% 7.9%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	61.5% 23.1% 15.4%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	30.0% 40.0% 30.0%
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Fully met Partially met Not met	45.0% 35.0% 20.0%
18	In CC cases (including RASSO cases before the CC), there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Fully met Partially met Not met	6.3% 12.5% 81.3%
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met	21.1% 31.6% 47.4%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	57.5% 37.5% 5.0%
Post-charge case progression			
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	31.6% 36.8% 31.6%

No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	64.5% 35.5%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	59.5% 27.0% 13.5%
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence were served in a timely manner for the PTPH.	Fully met Partially met Not met	78.4% 13.5% 8.1%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	16.7% 29.2% 54.2%
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Fully met Partially met Not met	28.6% 42.9% 28.6%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	26.3% 23.7% 50.0%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	100.0%
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	Fully met Partially met Not met	30.0% 70.0%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	68.6% 25.7% 5.7%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	30.0% 50.0% 20.0%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	93.9% 3.0% 3.0%
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	84.6% 7.7% 7.7%

No.	Question	Answers	Result
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	88.9% 8.3% 2.8%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	75.8% 21.2% 3.0%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	71.4% 14.3% 14.3%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	52.5% 37.5% 10.0%
Disclosure of unused material			
39	In relevant cases a DMD was completed.	Fully met Partially met Not met	62.5% 37.5%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	80.0% 20.0%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	29.4% 29.4% 41.2%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	21.2% 45.5% 33.3%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not carry out initial disclosure at all	3.8%
		Did not endorse any decisions on a non-blank MG6D	3.8%
		Did not endorse any decisions on the MG6C	3.8%
		Did not identify reasonable lines of enquiry	11.5%
		Failed to endorse or sign a blank MG6D	3.8%
		Failed to identify that other obvious items of unused material were not scheduled	26.9%
		Said DUM was not disclosable	23.1%
		Said NDUM was disclosable	7.7%
		Set out the wrong test for disclosure (eg courtesy disclosure)	3.8%
		Used the wrong endorsements	11.5%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	87.9%
		Partially met	3.0%
		Not met	9.1%
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met	51.9%
		Partially met	37.0%
		Not met	11.1%

No.	Question	Answers	Result
46	If Q44 is PM or NM, the most significant failing was:	Did not endorse any decisions on newly revealed items	23.1%
		Failed to identify that other obvious items of unused material were not scheduled	7.7%
		Other	7.7%
		Said DUM was not disclosable	23.1%
		Said NDUM was disclosable	15.4%
		Set out the wrong test for disclosure (eg courtesy disclosure)	23.1%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met	88.9%
		Partially met	7.4%
		Not met	3.7%
48	Sensitive unused material was dealt with appropriately.	Fully met	50.0%
		Partially met	
		Not met	50.0%
49	Third-party material was dealt with appropriately.	Fully met	62.5%
		Partially met	12.5%
		Not met	25.0%
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met	68.4%
		Partially met	15.8%
		Not met	15.8%
51	Inadequate defence statements were challenged.	Fully met	100.0%
		Partially met	
		Not met	
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Fully met	40.7%
		Partially met	29.6%
		Not met	29.6%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met	20.0%
		Partially met	65.7%
		Not met	14.3%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met	16.7%
		Partially met	20.8%
		Not met	62.5%

No.	Question	Answers	Result
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	60.0% 20.0% 20.0%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	37.0% 44.4% 18.5%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	43.8% 12.5% 43.8%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	33.3% 66.7%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	20.0% 40.0% 40.0%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	33.3% 25.9% 40.7%

RASSO

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	88.2% 11.8%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	29.4% 47.1% 23.5%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	93.3% 6.7%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	29.4% 35.3% 35.3%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	11.8% 52.9% 35.3%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	38.5% 15.4% 46.2%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	5.9% 29.4% 64.7%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	29.4% 52.9% 17.6%
Police initial file submission post-charge			
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met	30.0% 70.0%
10	The police file submission was timely.	Fully met Not met	85.0% 15.0%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	14.3% 28.6% 57.1%
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	90.0% 10.0%

No.	Question	Answers	Result
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met	40.0% 30.0% 30.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	44.4% 55.6%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	25.0% 50.0% 25.0%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	50.0% 25.0% 25.0%
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Fully met Partially met Not met	56.3% 31.3% 12.5%
18	In CC cases (including RASSO cases before the CC), there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Fully met Partially met Not met	5.9% 5.9% 88.2%
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met	66.7% 33.3%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	45.0% 50.0% 5.0%

Post-charge case progression

21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	30.0% 25.0% 45.0%
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No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	61.1% 11.1% 27.8%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	50.0% 25.0% 25.0%
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence was served in a timely manner for the PTPH.	Fully met Partially met Not met	55.0% 25.0% 20.0%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	10.5% 63.2% 26.3%
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Fully met Partially met Not met	55.0% 5.0% 40.0%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	5.0% 10.0% 85.0%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	100.0%
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	Fully met Partially met Not met	100.0%
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met	87.5% 12.5%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	47.4% 31.6% 21.1%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	25.0% 37.5% 37.5%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	100.0%

No.	Question	Answers	Result
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	87.5% 12.5%
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	80.0% 10.0% 10.0%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	78.9% 21.1%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	95.0% 5.0%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	50.0% 45.0% 5.0%
Disclosure of unused material			
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met	90.0% 10.0%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	38.9% 38.9% 22.2%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	20.0% 30.0% 50.0%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	10.5% 52.6% 36.8%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Failed to endorse or sign a blank MG6D Failed to identify that other obvious items of unused material were not scheduled Other Said DUM was not disclosable Said NDUM was disclosable	17.6% 52.9% 5.9% 11.8% 11.8%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	84.2% 15.8%
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met Partially met Not met	31.3% 43.8% 25.0%
46	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on newly revealed items Failed to identify that other obvious items of unused material were not scheduled Other Said DUM was not disclosable	36.4% 27.3% 27.3% 9.1%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	87.5% 12.5%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	14.3% 42.9% 42.9%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	60.0% 20.0% 20.0%

No.	Question	Answers	Result
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met	60.0% 40.0% 100.0%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	100.0%
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Fully met Partially met Not met	29.4% 47.1% 23.5%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	10.5% 57.9% 31.6%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	25.0% 25.0% 50.0%

Victims and witnesses

55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	25.0% 41.7% 33.3%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	29.4% 29.4% 41.2%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	66.7% 33.3%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	25.0% 25.0% 50.0%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	33.3% 66.7%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	35.7% 28.6% 35.7%

Annex C

Glossary

Achieving Best Evidence (ABE)

Guidance from the Ministry of Justice on interviewing victims and witnesses and using special measures. When the police video-record the account of the victim or a witness rather than taking a written statement from them, the recording can be played at trial instead of the victim or witness giving evidence if permission is granted by the court; this is one of a range of special measures. These recordings are known as “Achieving Best Evidence recordings”, or “ABEs”, after the guidance.

Agent

A lawyer from outside the CPS who is employed when required to prosecute cases at court on behalf of the CPS. They cannot make decisions about cases under the Code for Crown Prosecutors and must take instructions from the CPS.

Ancillary order

Orders that the Judge or magistrates may impose on a defendant as well as imposing a sentence, such as a compensation order requiring a defendant to pay a sum of money to the victim.

Area Business Manager (ABM)

The most senior non-legal manager at CPS Area level. They are responsible for the business aspects in an Area, such as managing the budget, and work with the Chief Crown Prosecutor to run the Area effectively and efficiently.

Area Champion

A CPS lawyer with specialist knowledge or expertise in a legal area, such as disclosure. They act as a source of information and support for colleagues and deliver training.

Associate Prosecutor (AP)

A non-lawyer employed by the CPS who conducts uncontested (guilty plea) cases at the magistrates’ courts on behalf of the prosecution. With additional training, APs can also conduct contested (not guilty) hearings.

Attorney General (AG)

The main legal advisor to the Government. Also superintends the CPS.

Bad character

Evidence of previous bad behaviour, including convictions for earlier criminal offences. Normally, bad character cannot be included as part of the evidence in a criminal trial. To be allowed, either the prosecution and defence must agree it

can be used, or an application must be made to the court, based on specific reasons set out by law.

Barrister/Counsel

A lawyer with the necessary qualifications to appear in the Crown Court and other criminal courts, who is paid by the CPS to prosecute cases at court, or by the representative of someone accused of a crime to defend them.

Basis of plea

Sets out the basis upon which a defendant pleads guilty to an offence.

Better Case Management (BCM)

The national process for case management in the Crown Court to improve the way cases are processed through the system, for the benefit of all concerned in the criminal justice system.

Case management system (CMS)

The IT system used by the CPS for case management.

Casework Quality Standards (CQS)

Issued by the Director of Public Prosecutions, these standards set out the benchmarks of quality that the CPS strives to deliver when prosecuting crime on behalf of the public. They include the CPS's responsibilities to victims, witnesses and communities, legal decision-making and the preparation and presentation of cases.

Charging decision

A decision by the CPS (or the police in certain circumstances) whether there is sufficient evidence, and whether it is in the public interest, to charge a suspect with a particular offence. The process is governed by the Director's Guidance on Charging.

Chief Crown Prosecutor (CCP)

Each of the 14 CPS Areas has a CCP who runs the Area with the Area Business Manager. The CCP is responsible for the legal aspects in the Area, such as the quality of legal decision-making, case progression, and working with stakeholders, communities, and the public to deliver quality casework.

Cloud video platform (CVP)

A video communication system that enables court hearings to be carried out remotely and securely.

Code for Crown Prosecutors (the Code)

A public document, issued by the Director of Public Prosecutions, that sets out the general principles CPS lawyers should follow when they make charging decisions. Cases should proceed to charge only if there is sufficient evidence against a defendant to provide a realistic prospect of conviction and it is in the public interest to prosecute.

Common platform

A digital case management system which allows all parties involved in criminal cases to access case information.

Complex Casework Unit (CCU)

Units responsible for some of the most serious and complicated casework the CPS prosecutes, such as large-scale international cases.

Contested case

Where a defendant pleads not guilty or declines to enter any plea at all, and the case proceeds to trial.

Court order/direction

An instruction from the court requiring the prosecution or defence to carry out an action (such as sending a particular document or some information to the other party or the court) in preparation for trial.

CPS Direct (CPSD)

A service operated by CPS lawyers which provides charging decisions. It deals with many priority cases and much of its work is out of hours, enabling the CPS to provide charging decisions 24 hours a day, 365 days a year.

Cracked trial

A case which ends on the day of trial either because of a guilty plea by the defendant or because the prosecution decides to stop the case.

Criminal Procedure Rules (CPR)

Rules which give criminal courts powers to manage criminal cases waiting to be heard effectively. The main aim of the CPR is to progress cases fairly and quickly.

Crown advocate (CA)

A lawyer employed by the CPS who is qualified to appear in the Crown Court.

Crown Court

The court which deals with graver allegations of criminal offences, such as murder, rape, and serious assaults. Some allegations can be heard at either the Crown Court or the magistrates' courts (see Either-way offence).

Crown prosecutor (CP)

A lawyer employed by the CPS whose role includes reviewing and preparing cases for court and prosecuting cases at the magistrates' courts. CPs can progress to become senior crown prosecutors.

Custody time limit (CTL)

The length of time that a defendant can be kept in custody awaiting trial. It can be extended by the court in certain circumstances.

Custody time limit failure

When the court refuses to extend a CTL on the grounds that the prosecution has not acted with the necessary due diligence and expedition, or when no valid application is made to extend the CTL before its expiry date.

Defendant

Someone accused of and charged with a criminal offence.

Defence statement

A written statement setting out the nature of the defendant's defence. Service of the defence statement is part of the process of preparing for trial, and is meant to help the prosecution understand the defence case better so they can decide if there is any more unused material than ought to be disclosed (see Disclosure).

Deputy Chief Crown Prosecutor (DCCP)

Second-in-command in a CPS Area, after the Chief Crown Prosecutor, for legal aspects of managing the Area.

Digital Case System (DCS)

A computer system for storing and managing cases in the Crown Court, to which the defence, prosecution, court staff and the Judge all have access.

Direct defence engagement log (DDE)

A written record of discussions with the defence about a case. The prosecution and defence are obliged by the Criminal Procedure Rules to engage and identify the issues for trial so that court time is not wasted hearing live evidence about matters that can be agreed.

Director's Guidance on Charging

Guidance issued by the Director of Public Prosecutions in relation to charging decisions. It sets out guidance for the police and CPS about how to prepare a file so that it is ready for charging, who can make the charging decision, and what factors should influence the decision. It also sets out the requirements for a suspect whom the police will ask the court to keep in custody to be charged before all the evidence is available, which is called the threshold test. The latest edition (the sixth, also called "DG6") came into effect on 31 December 2020.

Director of Public Prosecutions (DPP)

The head of the CPS, with responsibility for its staff and the prosecutions it undertakes every year. In certain cases, the personal consent of the DPP is required for prosecutions to proceed.

Disclosure/unused material

The police have a duty to record, retain and review material collected during an investigation which is relevant but is not being used as prosecution evidence, and to reveal it to the prosecutor. The prosecutor has a duty to provide the defence with copies of, or access to, all material that is capable of undermining the prosecution case and/or assisting the defendant's case.

Disclosure management document (DMD)

Used for rape and other Crown Court cases, the DMD sets out the approach of the police and CPS to the disclosure of unused material in a case. It may, for example, explain the parameters used by the police to search data held on a mobile phone or other digital device (such as the dates used, or key words) or what actions the police are and are not taking in relation to possible avenues of investigation. The DMD is shared with the defence and court so that everyone is aware of the approach being taken. This enables the defence to make representations if they do not agree with that approach (for example, if they think different search terms should be used). It also helps ensure that disclosure is undertaken efficiently and fairly.

Disclosure record sheet (DRS)

Sets out the chronology of all disclosure actions and decisions, and the reasons for those decisions. It is an internal CPS document that is not shared with the defence or court.

Discontinuance

Where the prosecution stops the case because there is insufficient evidence to carry on, or it is not in the public interest to do so.

District Crown Prosecutor (DCP)

A lawyer who leads and manages the day to day activities of prosecutors and advocates.

Domestic abuse

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members, regardless of gender or sexuality.

Effective trial

Where a case proceeds to a full trial on the date that it is meant to.

Either-way offence

An offence that can be prosecuted in the magistrates' courts or the Crown Court. The prosecution makes representations to the court on where the case should be heard. The magistrates or a District Judge (who sits alone in the magistrates' courts) can decide if the allegation is serious enough that it must go to the Crown Court. If they decide it can be heard in the magistrates' courts, the defendant can choose to have the case sent to the Crown Court, where it will be heard by a jury. If the defendant agrees, the trial will be heard in the magistrates' courts.

Full Code test

A method by which a prosecutor decides whether or not to bring a prosecution, based on the Code for Crown Prosecutors. A prosecution must only start or continue when the case has passed both stages of the full Code test: the evidential stage, followed by the public interest stage. The full Code test should be applied when all outstanding reasonable lines of inquiry have been pursued – or before the investigation being completed, if the prosecutor is satisfied that any further evidence or material is unlikely to affect the application of the full Code test, whether in favour of or against a prosecution.

Graduated fee scheme (GFS)

The scheme by which lawyers are paid for Crown Court cases. For Counsel appearing on behalf of defendants who qualify for assistance (or legal aid), the GFS is set and managed by the Legal Aid Agency. For Counsel appearing for the prosecution, the rates are determined by the CPS GFS, and the CPS pays Counsel.

Guilty anticipated plea (GAP)

Where the defendant is expected to admit the offence at court, based on an assessment of the available evidence and any admissions made during interview.

Hate crime

Any offence where the defendant has been motivated by or demonstrated hostility towards the victim based on what the defendant thinks is their race, disability, gender identity or sexual orientation. Targeting older people is not (at the time of writing) recognised in law as a hate crime, but the CPS monitors crimes against older people in a similar way.

Hearing record sheet (HRS)

A CPS electronic record of what has happened in the case during the course of a court hearing, and any actions that need to be carried out afterwards.

Her Majesty's Courts and Tribunals Service (HMCTS)

An organisation responsible for the administration of criminal, civil and family courts and tribunals in England and Wales.

Honour based violence (HBV)

A collection of practices which are used to control behaviour within families or other social groups to protect perceived cultural and religious beliefs and/or honour. It can take the form of domestic abuse and/or sexual violence.

Inclusion and community engagement strategy

Sets out the CPS's commitment to promoting fairness, equality, diversity and inclusion across the criminal justice system by engaging with community groups and those at risk of exclusion.

Indictable-only offence

An offence triable only in the Crown Court.

Indictment

The document that contains the charge or charges faced by the defendant at trial in the Crown Court.

Individual Learning Account (ILA)

An allowance of £350 per person, per year, which CPS employees can access for professional development.

Individual quality assessment (IQA)

An assessment of a piece of work done by a CPS member of staff – usually a prosecutor, but some Areas also carry out IQAs for some operational delivery staff. The assessment is carried out by a manager, and feedback on the assessment given to the member of staff. Areas also use IQAs to identify areas for improvement and training needs across a team or the whole Area.

Ineffective trial

A case that does not proceed to trial on the date that it is meant to. This can be owing to a variety of possible reasons, including non-attendance of witnesses, non-compliance with a court order by the prosecution or defence, or lack of court time.

Initial details of the prosecution case (IDPC)

The material to be provided before the first hearing at the magistrates' courts to enable the defendant and the court to take an informed view on plea, where the case should be heard, case management and sentencing. The IDPC must include a summary of the circumstances of the offence and the defendant's charge sheet. Where the defendant is expected to plead not guilty, key statements and exhibits (such as CCTV evidence) must be included.

Intermediary

A professional who facilitates communication between, on the one hand, a victim or witness, and on the other hand, the police, prosecution, defence, and/or court. Their role is to make sure the witness understands what they are being asked, can give an answer, and can have that answer understood. To do this, they will assess what is needed, provide a detailed report on how to achieve that, and aid the witness in court. An intermediary may be available at trial, subject to the court agreeing it is appropriate, for defence or prosecution witnesses who are eligible for special measures on the grounds of age or incapacity, or for vulnerable defendants.

Local Criminal Justice Boards (LCJBs)

Groups made up of representatives of the CPS, police, HMCTS and others, whose purpose is to work in partnership to improve the efficiency and effectiveness of the criminal justice system and to improve the experience of the victims and witnesses. LCJBs were originally set up in all 43 police force areas by central government and received central funding. They now operate as voluntary partnerships in most counties in England.

Local Scrutiny Involvement Panels (LSIPs)

Groups made up of representatives of the local community and voluntary sector, especially those representing minority, marginalised or at-risk groups. They meet regularly with their local CPS Area to discuss issues of local concern and provide feedback on the service the Area provides, with a view to improving the delivery of justice at a local level and to better supporting victims and witnesses.

Manual of Guidance Form 3 (MG3)

One of a number of template forms contained in a manual of guidance for the police and CPS on putting together prosecution files. The MG3 is where the

police summarise the evidence and other information when asking the CPS to decide whether a suspect should be charged with a criminal offence, and the CPS then records its decision.

National File Standard (NFS)

A national system that sets out how the police should prepare criminal case files. It allows investigators to build only as much of the file as is needed at any given stage – whether that is for advice from the CPS, the first appearance at court or the trial. The latest version was published in December 2020.

Newton hearing

A hearing in criminal proceedings required when a defendant pleads guilty to an offence but there is disagreement with the prosecution as to the facts of the offence.

Not guilty anticipated plea (NGAP)

Where the defendant is expected to plead not guilty at court, based on an assessment of the available evidence and any defence(s) put forward during interview.

Offer no evidence (ONE)

Where the prosecution stops the case, after the defendant has pleaded not guilty, by offering no evidence. A finding of not guilty is then recorded by the court.

Pan-London

An inclusive term to refer to both CPS London North and CPS London South.

Paralegal officer

A CPS employee who provides support and casework assistance to CPS lawyers and attends court to take notes of hearings and assist advocates.

Personal Development Review (PDR)

A twice yearly review of a CPS employee's performance against a set of objectives specific to their role.

Plea and Trial Preparation Hearing (PTPH)

The first hearing at the Crown Court after the case has been sent from the magistrates' courts. The defendant is expected to enter a plea to the offence(s) with which they have been charged. If the defendant pleads guilty, the court may be able to sentence them immediately, but if not, or if the defendant has pleaded not guilty, the court will set the next hearing date and, for trials, will also set out a timetable for management of the case.

Postal requisition

A legal document notifying a person that they are to be prosecuted for a criminal offence, and are required to attend the magistrates' courts to answer the allegation.

Rape and serious sexual offences (RASSO)

Allegations of rape and other serious sexual offences perpetrated against men, women or children. In the CPS, the prosecution of RASSO cases is undertaken separately from other cases, in RASSO units or teams.

Restraining order

A type of court order made as part of the sentencing procedure to protect the person(s) named in it from harassment or conduct that will put them in fear of violence. They are often made in cases involving domestic abuse, harassment, stalking or sexual assault. The order is intended to be preventative and protective, and usually includes restrictions on contact by the defendant towards the victim; it may also include an exclusion zone around the victim's home or workplace. A restraining order can also be made after a defendant has been acquitted if the court thinks it is necessary to protect the person from harassment.

Review

The process whereby a CPS prosecutor determines that a case received from the police satisfies, or continues to satisfy, the legal test for prosecution in the Code for Crown Prosecutors. This is one of the most important functions of the CPS.

Section 28 Youth Justice and Criminal Evidence Act 1999

Legislation that provides the option to pre-record the cross-examination evidence in advance of a trial for vulnerable victims and witnesses.

Senior Crown Prosecutor (SCP)

A lawyer employed by the CPS with the necessary skills and experience to progress to a more senior legal role, which includes the functions of a crown prosecutor but also includes advising the police on charge. It is not a role that includes managing staff.

Sensitive material

Any unused material (see Disclosure/unused material) which it would not be in the public interest to disclose during the criminal proceedings. If it meets the test for disclosure, the prosecution must either stop the case or apply to the court for an order allowing them to withhold the sensitive material.

Speaking to witnesses at court (STWAC)

An initiative stating that prosecutors should speak to witnesses at or before court to make sure they are properly assisted and know what to expect before they give their evidence.

Special measures

The Youth Justice and Criminal Evidence Act 1999 provides for a range of special measures to enable vulnerable or intimidated witnesses in a criminal trial to give their most accurate and complete account of what happened. Measures include giving evidence via a live TV link to the court, giving evidence from behind screens in the courtroom and using intermediaries. A special measures application is made to the court within set time limits and can be made by the prosecution or defence.

Standard Operating Practice (SOP)

Instructions setting out how to complete a particular task or action and cover legal and business aspects of the running of the CPS. The CPS has a range of SOPs which are standard across the organisation and seek to apply consistency to business practices and key steps needed in all prosecutions. Examples include: how to register a new charging request from the police on the case management system; how to record charging advice; how to prepare for the first hearing; and how to deal with incoming communications.

Summary offence

An offence that is normally dealt with in the magistrates' courts. In certain circumstances, and when there is a connected case that will be heard by the Crown Court, the Crown Court may deal with a summary offence as well.

Third party material

Material held by someone other than the investigator and/or prosecutor, such as medical or school records, or documents held by social services departments.

Threshold test

See Director's Guidance on Charging.

Transforming Summary Justice (TSJ)

An initiative led by HMCTS and involving the CPS and the police, designed to deliver justice in summary cases in the most efficient way by reducing the number of court hearings and the volume of case papers. The process involves designating bail cases coming into the magistrates' courts for their first hearing as guilty-anticipated plea (GAP) cases or not guilty-anticipated plea (NGAP) cases. GAP and NGAP cases are listed in separate courtrooms, so that each can be dealt with more efficiently.

Uncontested case

Where a defendant pleads guilty and the case proceeds to sentence.

Unsuccessful outcome

A prosecution which does not result in a conviction is recorded in CPS data as an unsuccessful outcome. If the outcome is unsuccessful because the prosecution has been dropped (discontinued, withdrawn or no evidence offered) or the court has ordered that it cannot proceed, it is also known as an adverse outcome. Acquittals are not adverse outcomes.

Victim Communication and Liaison scheme (VCL)

A CPS scheme to inform victims of crime of a decision to stop, or alter substantially, any of the charges in a case. Vulnerable or intimidated victims must be notified within one working day and all other victims within five working days. In certain cases, victims will be offered a meeting to explain the decision and/or the right to ask for the decision to be reviewed.

Victim Liaison Unit (VLU)

The team of CPS staff in an Area responsible for communicating with victims under the Victim Communication and Liaison scheme and the Victims' Right to Review, and for responding to complaints and overseeing the service to bereaved families.

Victim Personal Statement (VPS)

When a victim explains to the court how a crime has affected them. If a defendant is found guilty, the court will take the VPS into account, along with all the other evidence, when deciding on an appropriate sentence.

Victims' Code

Sets out a victim's rights and the minimum standards of service that organisations must provide to victims of crime. Its aim is to improve victims' experience of the criminal justice system by providing them with the support and information they need. It was published in October 2013 and last updated on 21 April 2021.

Victims' Right to Review scheme (VRR)

This scheme provides victims of crime with a specifically designed process to exercise their right to review certain CPS decisions not to start a prosecution, or to stop a prosecution. If a new decision is required, it may be appropriate to institute or reinstitute criminal proceedings. The right to request a review of a decision not to prosecute under the VRR scheme applies to decisions that have the effect of being final made by any crown prosecutor, regardless of their grade or position in the organisation. It is important to note that the "right" referred to in

the context of the VRR scheme is the right to request a review of a final decision. It is not a guarantee that proceedings will be instituted or reinstated.

Violence against women and girls (VAWG)

A category of offending that covers a wide range of criminal conduct, including domestic abuse, controlling and coercive behaviour, sexual offences, harassment, forced marriage, so-called honour-based violence, and slavery and trafficking. VAWG includes boys and men as victims but reflects the gendered nature of the majority of VAWG offending.

Violence against women and girls strategy (VAWGS)

A government strategy that aims to increase support for victims and survivors of VAWG, increase the number of perpetrators brought to justice, and reduce the prevalence of violence against women and girls in the long term.

Vulnerable and/or intimidated witnesses

Those witnesses who require particular help to give evidence in court, such as children, victims of sexual offences and the most serious crimes, persistently targeted victims, and those with communication difficulties.

Witness care unit (WCU)

A unit responsible for managing the care of victims and prosecution witnesses from when a case is charged to the conclusion of the case. It is staffed by witness care officers and other support workers whose role is to keep witnesses informed about the progress of their case. Almost all WCUs are staffed and managed by the police.

Witness summons

A legal document compelling a reluctant or unwilling witness to attend court.

Annex D
File examination question
set

No.	Question	Possible answers
Pre-charge decision		
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met Not applicable (NA)
2	The CPS decision to charge was timely.	Fully met Partially met Not met NA
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met NA
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met NA
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met NA
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met NA
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met NA
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met NA
Police initial file submission post-charge		
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met
10	The police file submission was timely.	Fully met Not met
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met NA

No.	Question	Possible answers
Post-charge reviews and decisions		
12	All review decisions post-charge applied the Code correctly.	Fully met Not met
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met NA
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met NA
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met NA
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Fully met Partially met Not met NA
18	In CC cases (including RASSO cases before the CC), there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Fully met Partially met Not met NA
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met NA
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met

No.	Question	Possible answers
Post-charge case progression		
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met NA
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met NA
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met NA
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence was served in a timely manner for the PTPH.	Fully met Partially met Not met NA
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met NA
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Fully met Partially met Not met NA
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met NA
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met NA
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	Fully met Partially met Not met NA

No.	Question	Possible answers
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met NA
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met NA
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met NA
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met NA
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met NA
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met NA
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met NA
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met NA
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met
Disclosure of unused material		
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met NA

No.	Question	Possible answers
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met NA
41	The police complied with their disclosure obligations.	Fully met Partially met Not met NA
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met NA
43	If Q42 is PM or NM, the most significant failing was:	
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met NA
45	The prosecutor complied with the duty of continuing disclosure, (but not including timeliness of disclosure).	Fully met Partially met Not met NA
46	If Q44 is PM or NM, the most significant failing was:	
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met NA
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met NA
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met NA
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met NA

No.	Question	Possible answers
51	Inadequate defence statements were challenged.	Fully met Partially met Not met NA
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Fully met Partially met Not met NA
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met NA
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met NA
Victims and witnesses		
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met NA
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met NA
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met NA
58	There was a timely VCL letter when required.	Fully met Partially met Not met NA
59	The VCL letter was of a high standard.	Fully met Partially met Not met NA
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met NA

Annex E

File sample composition

Breakdown of the standard file sample

The number of files to examine from each Crown Prosecution Service (CPS) Area was determined, in consultation with the CPS, as 90: 30 magistrates' court cases, 40 Crown Court cases and 20 rape and serious sexual offences (RASSO) cases.

The files were randomly selected within certain parameters (set out below) from cases finalised in the quarter before the on-site phase for that Area, and from live cases. This allowed the Covid-19 context from the on-site Area visits to be aligned with the current casework.

Finalised cases included those concluded at either the not-guilty anticipated plea (NGAP) hearing in the magistrates' courts or the Plea and Trial Preparation Hearing (PTPH) in the Crown Court in order to be able to properly assess decision-making and case progression. The sample also included cracked trials, and a mix of successful and unsuccessful cases.

All magistrates' court files were drawn from NGAP cases to capture the review and preparation required before the NGAP hearing. The magistrates' court sample included three youth cases; the remainder were adult cases. Minor motoring cases were excluded from the magistrates' court file sample.

The sample also included cracked trials, and a mix of successful and unsuccessful cases

All Crown Court files were chosen from those set down for trial or that had had a PTPH, to capture the post-sending review and pre-PTPH preparation (save for discontinuances, where the decision to discontinue may have been made before the PTPH). Homicide cases were excluded for two reasons: first, because they

are frequently investigated by specialist police teams so are not representative of an Area's volume work; second, because they are harder for HMCPSI to assess, as some of the information in the case is often stored off the case management system and not accessible to inspectors. Fatal road traffic collision cases were not excluded.

RASSO files included offences involving child victims, but all domestic abuse RASSO cases had adult victims. No more than two cases were possession of indecent images, and no more than two cases were ones involving a non-police decoy or child sex abuse vigilante in child-grooming or meeting cases.

The Attorney General issued new Guidelines on Disclosure (AGGD) in December 2020. They came into effect on 31 December 2020, and were followed by a new edition (the sixth) of the Director's Guidance on Charging (DG6) to reflect the changes in the AGGD. Both were issued after we began the Area inspection programme. This means that some cases we examined may be subject to the earlier guidelines and the fifth edition of the Director's Guidance (DG5), and some to the later editions of both. DG5 applied to all cases submitted to the CPS by the police for a charging decision before 31 December 2020 and DG6 to those cases submitted to the CPS by the police for a charging decision on or after 31 December 2020.

The changes between DG5 and DG6 are reflected in how inspectors assess the inspection questions relating to charging. These are question four (the CPS MG3 included a proper case analysis and case strategy), question five (the CPS MG3 dealt appropriately with unused material) and question eight (the action plan was proportionate and met a satisfactory standard). Additionally, inspectors will consider the police's approach to discharging their differing obligations under DG5 and DG6 when assessing question 41 (the police complied with their disclosure obligations) and question 54 (the CPS fed back to the police where there were failings in the police service regarding disclosure).

The AGGD encourages the service of initial disclosure before the plea and trial preparation hearing (PTPH) in the Crown Court. However, it also states that nothing in the guidelines should undermine the established principles of better case management (BCM). The BCM framework sets out a timetable for service of the prosecution case, including service of initial disclosure, by the stage 1 date set at the PTPH. Our guidance therefore continues to say that cases will be rated as fully meeting the required standard if the CPS complied with its duty of initial disclosure by stage 1, even if it could have been served earlier. If a guilty plea is entered before the service date in a DG6 case where initial disclosure had not been completed (even where it could have been), question 41 (the prosecution complied with its duty of initial disclosure in a timely manner) will be marked as 'not applicable'.

The AGGD also introduced the requirement that a disclosure management document (DMD) should be prepared in all Crown Court proceedings. In Crown Court cases submitted by the police for a charging decision on or after 31 December 2020, inspectors will assess questions 39 (in relevant cases a DMD was completed) and 40 (the DMD was completed accurately and fully in accordance with the guidance) in line with the AGGD and DG6.

Table 19: File sample structure

Outcome	Magistrates' courts	Crown Court	RASSO	Total
Late guilty plea	6 (20%)	10 (25%)	5 (25%)	21
Guilty plea at NGAP hearing	3 (10%)	4 (10%)	2 (10%)	9
Conviction after trial	7 (23%)	8 (20%)	4 (20%)	19
Discontinued/JOA	6 (20%)	7 (17%)	3 (15%)	16
No case to answer/Judge directed acquittal	1 (3%)	2 (5%)	1 (5%)	4
Acquittal after trial	4 (13%)	5 (12%)	3 (15%)	12
Live cases	3 (10%)	4 (10%)	2 (10%)	9
Total	30	40	20	90
<i>Police charged</i>	2 (max)	0	0	
<i>CPS Direct charged</i>	4 (max)	6 (max)	2 (max)	
<i>Youth cases</i>	3			

The categories in italics in Table 20 were not additional files but contributed to the total volume of cases. Where there were no Judge directed acquittal or no case to answer outcomes finalised during the quarter preceding the file examination, acquittals after trial were substituted in order to maintain the balance between successful and unsuccessful cases.

Occasionally, it may have been necessary to exceed the maximum numbers of CPS Direct charged cases to avoid selecting older cases, but this was at the discretion of the lead inspector.

Sensitive/non-sensitive split

Of the standard magistrates' court and Crown Court file samples, 20% were sensitive cases and half of these were domestic abuse allegations.

Table 21 sets out the mandatory minimum number of sensitive case types included in our magistrates' court and Crown Court samples. As far as possible, they were evenly split between successful and unsuccessful outcomes.

Occasionally, it may have been necessary to exceed the minimum numbers in certain categories of sensitive casework to avoid selecting older cases, but this was at the discretion of the lead inspector.

Table 20: Minimum sensitive case types in sample

Case type	Magistrates' courts (30)	Crown Court (40)	RASSO (20)	Total (90)
Domestic abuse	3	4	2	9
Racially or religiously aggravated (RARA)	1	1	0	2
Homophobic/elder/disability	1	1	0	2
Sexual offence (non-RASSO)	1	2	0	3
Total	6 (20%)	8 (20%)	2 (10%)	16 (17%)

If there was no RARA case available, another hate crime category file was substituted.

Annex F

Scoring methodology

The scores in this inspection are derived solely from our examination of the casework quality of 90 Area files: 30 magistrates' court cases, 40 Crown Court cases and 20 rape and serious sexual offences (RASSO) cases.

We based our evaluation of casework quality on two key measures: added value and grip. We define added value as the Crown Prosecution Service (CPS) making good, proactive prosecution decisions by applying its legal expertise to each case, and grip as the CPS proactively progressing its cases efficiently and effectively.

We used our file examination data to give scores for added value and grip, which are set out as percentages. They were obtained by taking the questions that feed into each aspect³⁰ and allocating:

- two points for each case that was assessed as fully meeting the expected standard
- one point for each case assessed as partially meeting the expected standard
- no points for cases assessed as not meeting the expected standard.

We then expressed the total points awarded as a percentage of the maximum possible points. Not applicable answers were excluded.

To help evaluate added value and grip, we also scored the five casework themes and sub-themes in each of the three casework types (magistrates' court cases, Crown Court cases, and RASSO cases):

- pre-charge decisions and reviews
 - compliance with the Code at pre-charge
 - selection of charge(s)
 - case analysis and strategy
- post-charge decisions and reviews
 - compliance with the Code post-charge
 - case analysis and strategy
- preparation for the Plea and Trial Preparation Hearing in the Crown Court

³⁰ See annex G for which questions contributed to each of the casework themes.

- disclosure
- victims and witnesses.

The scores for these themes were obtained by taking the answers for the questions that feed into the theme. We allocated:

- two points for each case that was assessed as fully meeting the expected standard
- one point for each case assessed as partially meeting the standard
- no points for cases assessed as not meeting the standard.

We then expressed the total points awarded as a percentage of the maximum possible points. Not applicable answers were excluded.

For the casework themes and sub-themes, we have reported the percentages, but have also used a range of percentages (see Table 22) to convert the percentage into a finding of fully, partially, or not meeting the expected standard for the theme or sub-theme overall.

Table 21: Conversion of percentages into ratings

Rating	Range
Fully meeting the standard	70% or more
Partially meeting the standard	60% to 69.99%
Not meeting the standard	59.99% or less

A worked example

Relevant questions

For the victims and witnesses aspect of casework in the magistrates' courts, we took the answers from the following nine questions:

- Q17: Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application is required).
- Q33: Steps were taken to secure best evidence by correct and timely warning of witnesses.
- Q34: Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.
- Q55: The prosecutor consulted victims and witnesses where appropriate (includes STWAC).
- Q56: The victim's wishes regarding VPS were complied with.
- Q57: The prosecution sought appropriate orders to protect the victim, witnesses and the public.
- Q58: There was a timely VCL letter when required.
- Q59: The VCL letter was of a high standard.
- Q60: The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses.

File examination results

This data is fictitious and used only to demonstrate the scoring mechanism. For the 30 magistrates' court files, we scored the relevant questions as set out in Table 23.

Table 22: Worked example scores

Question	Answer	All cases
Q17: Steps were taken to achieve best evidence by making appropriate applications for special measures.	Fully meeting	13
	Partially meeting	7
	Not meeting	5
	Not applicable	5
Q33: Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully meeting	23
	Partially meeting	5
	Not meeting	1
	Not applicable	1
Q34: Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully meeting	8
	Partially meeting	10
	Not meeting	9
	Not applicable	3
Q55: The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully meeting	3
	Partially meeting	4
	Not meeting	3
	Not applicable	20
Q56: The victim's wishes regarding VPS were complied with.	Fully meeting	17
	Partially meeting	3
	Not meeting	4
	Not applicable	6
Q57: The prosecution sought appropriate orders to protect the victim, witnesses, and the public.	Fully meeting	16
	Partially meeting	5
	Not meeting	4
	Not applicable	5
Q58: There was a timely VCL letter when required.	Fully meeting	5
	Partially meeting	4
	Not meeting	4
	Not applicable	17
Q59: The VCL letter was of a high standard.	Fully meeting	3
	Partially meeting	3
	Not meeting	3
	Not applicable	21
Q60: The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses.	Fully meeting	11
	Partially meeting	7
	Not meeting	5
	Not applicable	7
Total for all above questions	Fully meeting	99
	Partially meeting	48
	Not meeting	38
	Not applicable	85

Excluding the not applicable answers leaves 185 answers. The maximum score possible would therefore be 370 points (185 answers × 2 points per answer) if all answers were “fully meeting the standard”.

The score for this fictitious Area is calculated as follows:

- Two points for each case assessed as fully meeting the expected standard = 198 points
- One point for each case assessed as partially meeting the standard = 48 points
- Total (198 + 48) = 246 points
- Expressed as a percentage of 370 available points, this gives the score as 66.5%. When the ranges are applied, 66.5% (60% to 69.99%) gives an overall rating of partially meeting the required standard for this casework theme.

Annex G

Casework themes

Table 23: Casework themes

No.	Question	Casework theme	Included in added value or grip?
1	The CPS decision to charge was compliant with the Code test.	Pre-charge: Code compliance	Added value
2	The CPS decision to charge was timely.	Not applicable (NA)	Grip
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Pre-charge: Selection of appropriate charges	Added value
4	The CPS MG3 included proper case analysis and case strategy.	Pre-charge	Added value
5	The CPS MG3 dealt appropriately with unused material.	Pre-charge	Added value
6	The CPS MG3 referred to relevant applications and ancillary matters.	Pre-charge	Added value
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Pre-charge	NA
8	The action plan was proportionate and met a satisfactory standard.	Pre-charge	Added value
9	The police file submission complied with the National File Standard for the type of case.	NA	NA
10	The police file submission was timely.	NA	NA
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	NA	NA
12	All review decisions post-charge applied the Code correctly.	Post-charge: Code compliance	Added value
13	The case received a proportionate initial or post- sending review including a proper case analysis and case strategy.	Post-charge: Case strategy	Added value

No.	Question	Casework theme	Included in added value or grip?
14	The initial or post-sending review was carried out in a timely manner.	NA	Grip
15	Any decision to discontinue was made and put into effect in a timely manner.	NA	Grip
16	Any pleas accepted were appropriate, with a clear basis of plea.	Post-charge: Case strategy	Added value
17	Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application was required).	Victims and witnesses	Added value
18	In CC cases (including RASSO cases before the CC), there was a high-quality review to coincide with the service of the prosecution case and initial disclosure (at stage 1 set at PTPH).	Post-charge: Case strategy (CC and RASSO only)	Added value
19	In all cases (MC, CC and RASSO), any reviews addressing significant developments that represented a major change in case strategy (and additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Post-charge: Case strategy	Added value
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Post-charge: Case strategy	Added value
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include as a minimum any acceptable pleas or no acceptable pleas, and completed the PET/PTPH forms.	Preparation for PTPH	Grip
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	NA	Grip

No.	Question	Casework theme	Included in added value or grip?
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Preparation for PTPH	Added value
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence was served in a timely manner for the PTPH.	Preparation for PTPH	Grip
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	NA ³¹	No
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Preparation for PTPH	No
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Preparation for PTPH	No
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Preparation for PTPH	No
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	NA	Grip
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	NA	Grip
31	There was timely compliance with court directions or Judges' Orders.	NA	Grip
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Post-charge: Case strategy	Added value
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Victims and witnesses	No

³¹ We are not able to differentiate between crown advocates and Counsel in many casefiles.

No.	Question	Casework theme	Included in added value or grip?
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Victims and witnesses	Grip
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	NA	Grip
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	NA	Grip
37	Requests to the police for additional material or editing of material were timely, and were escalated where appropriate.	NA	Grip
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	NA	Grip
39	In relevant cases, a DMD was completed.	Disclosure	No
40	The DMD was completed accurately and fully in accordance with the guidance.	Disclosure	Added value (RASSO only)
41	The police complied with their disclosure obligations.	NA	NA
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Disclosure	Added value
43	If Q42 is PM or NM, the most significant failing was:	NA	No
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Disclosure	No
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Disclosure	Added value
46	If Q44 is PM or NM, the most significant failing was:	NA	No

No.	Question	Casework theme	Included in added value or grip?
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Disclosure	No
48	Sensitive unused material was dealt with appropriately.	Disclosure	Added value
49	Third-party material was dealt with appropriately.	Disclosure	Added value
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Disclosure	No
51	Inadequate defence statements were challenged.	Disclosure	Added value
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Disclosure	Added value
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Disclosure	No
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Disclosure	No
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Victims and witnesses	No
56	The victim's wishes regarding VPS were complied with.	Victims and witnesses	No
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Victims and witnesses	Added value
58	There was a timely VCL letter when required.	Victims and witnesses	No
59	The VCL letter was of a high standard.	Victims and witnesses	Added value
60	The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses.	Pre-charge Victims and witnesses	Added value

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