



**HMCPSI**

HM Crown Prosecution  
Service Inspectorate

# **Area inspection programme**

**CPS East of England**

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 (HMCPPI) 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 East of England.

**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.** It was clear that the Area has been under significant pressure, with increasing caseloads at both the pre- and post-charge stages following the first lockdown in March 2020. Crown Court caseloads remain significantly higher than pre-pandemic levels. At the time of writing, Magistrates' court caseloads are within 1% of the pre-pandemic level, which is testament to the hard work of all in the Area and their joint working with other criminal justice agencies.

**1.7.** Along with increasing caseloads, the pressures of the pandemic coincided with a period of change in the Area's workforce. There has been



change in the Executive Team with a new Chief Crown Prosecutor (CCP) and Deputy Chief Crown Prosecutor (DCCP) taking up post in the past 12 months. A number of experienced first level legal line managers (LM1s) have left the Area on promotion or re-location during the past two years, so the Area has also had the challenge of inducting and supporting a number of new managers. The fact that 40% of the magistrates' court teams' prosecutors were in their first year of service, and that several of the managers in this unit were new into post, may to a certain extent explain some of the aspects of poorer performance that we saw in the unit during this inspection.

## **The Crown Court unit should have 34.67 full time equivalent SCPs, but it has 19.63**

**1.8.** A permanent remote team based in the North West was set up in 2020 to assist with the pressures on the magistrates' court casework teams. This remote team currently consists of 14 prosecutors. Whilst this has increased resource, the Area has had to address the

challenges that remote teams can bring. These include managing a smaller pool of lawyers to deploy to courts and making sure that the remote team is engaged and feels included within the Area, to ensure maximum benefit. This has been effective but was an additional challenge to manage during the height of the pressure on magistrates' court casework during the pandemic.

**1.9.** An increase in budget in 2020–21 has enabled the Area to recruit more prosecutors. It carried out an Area-specific campaign since the national recruitment campaign failed to deliver the required number of prosecutors. However, whilst recruitment addressed some of the challenges, it also brought with it additional work in the form of inducting and training new staff and supporting those that had changed roles and units. We are aware that much of the burden fell on the magistrates' court teams as they lost their more experienced prosecutors to the Crown Court team. Again, this may to some extent explain the standard of casework quality we found in the magistrates' court unit.

**1.10.** Despite both national and local recruitment, the Area remains under-resourced for Senior Crown Prosecutors (SCPs) in its Crown Court team. Figures from August 2021 show that, according to the CPS's national resource model, the Crown Court unit should have 34.67 full time equivalent SCPs, but it has 19.63.

**1.11.** To manage the shortfall, the Area has deployed a number of its crown advocates into the Crown Court team. At the time of writing there are 12.5 crown advocates embedded in the Crown Court team conducting charging and review work. This figure includes two Area SCPs who were promoted to crown advocate in August 2021. The Area recognises that until its SCP numbers

increase, these crown advocates will need to remain in the Crown Court team. Under-resourcing would be a strain for a busy Crown Court unit at normal times, but in a time of increasing caseloads, case backlogs and increased custody time limits, the impact on casework quality and prosecutor well-being cannot be underestimated.

**the Area has a good awareness of the aspects of casework which need to be improved and a sound understanding of the wider strategic issues it faces**

**1.12.** The Area has also had some very experienced Crown Court lawyers leave, citing the pressures in their exit interviews. At one stage, there was a lawyer leaving about every five or six weeks. The Area found six lawyers for the Crown Court team to replace six departures, but the loss of the more experienced staff has taken its toll.

**1.13.** The Area has kept its magistrates' court teams under review, making short-term changes to its structure between April and July

2021 with the aim of reducing pre-charge backlogs and improving the timeliness of reviews. Whilst this was successful in its stated aims, there was no concurrent improvement in casework quality. Following evaluation, the Area made further changes to the structure, putting in place specific casework and advocacy teams that accommodate the remote team of lawyers based in the North West. This should allow a focus on quality, both in terms of casework preparation and advocacy, as the Area returns to pre-pandemic caseloads. This latest structure is still embedding, but the Area is confident it provides the correct approach to drive up casework quality in the magistrates' court unit.

**1.14.** It is clear from the documents we have read, from what we saw and heard when we observed the casework quality committee (CQC) and from our meeting with the Area executive team, that the Area has a good awareness of the aspects of casework which need to be improved and a sound understanding of the wider strategic issues it faces. As the unique pressures of the pandemic diminish, Area recruitment increases staff numbers to the necessary level, and experience develops within the lawyer cadre, CPS East of England will be in a good position to improve the quality of its casework across all aspects. The Area will also be able to build on those aspects we note as meeting the standard. It has already shown, from its strengthening position in the CPS's national performance trends, that it is capable of building better delivery against those key measures, despite the challenges. The dedication and hard work shown by the casework teams, including the operational delivery staff, in extremely difficult times is a good indicator that further improvement in casework quality is achievable.

## Added value and grip

**1.15.** 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.

**1.16.** Table 1 shows our baseline assessment of CPS East of England’s added value and grip.

**Table 1: Baseline assessment of CPS East of England**

CPS East of England	Added value	Grip
Magistrates’ courts casework	61.8%	70.1%
Crown Court casework	67.5%	81.3%
Rape and serious sexual offences casework	63.2%	76.4%

**1.17.** Overall, our file examination found that the Area generally makes the right charging decisions and selects the correct charges, properly reflecting the criminality and providing the court with adequate sentencing powers.

**1.18.** The Area adds value with some good quality decision-making around disclosure of unused material, particularly in the Crown Court and rape and serious sexual offences (RASSO) casework. Added value was also demonstrated at sentencing with the prosecution in most instances and in all casework types, seeking the right orders to protect victims, witnesses and the public.

**1.19.** However, there are some aspects where improvement is called for, most notably in the quality of reviews at both the pre-charge and post-charge stages. The Area’s reviews often lacked a clear analysis and strategy in setting out how the prosecution would seek to put its case. Across all casework types, there also needs to be a better focus on the use of appropriate applications, such as bad character applications, to help support and strengthen the prosecution case.

**1.20.** Compliance with disclosure obligations in magistrates’ court cases is an aspect where the Area needs to improve. The pre-charge consideration of victim and witness issues is another aspect where there is scope for the Area to add more value to casework.

**1.21.** Our file examination highlighted a strong level of grip across all the Area’s units – magistrates’ court, Crown Court and RASSO. Processes clearly work well and the timeliness of dealing with cases was a real positive for the Area.

**1.22.** We found that the timeliness of charging decisions and, in Crown Court and RASSO cases, the timeliness of initial and continuing disclosure indicated a good grip of the Area's casework.

**1.23.** Correspondence from the witness care unit, police, court and defence was generally handled promptly, with effective action being taken in Crown Court and RASSO cases which enhanced the overall grip scores for both. This was less often the case in magistrates' court cases, contributing to the lower grip rating for those cases.

**1.24.** If the Area improved effective preparation for the first hearing in the magistrates' courts and the Crown Court, the overall grip score would see some degree of improvement. In all case types, we noticed a tendency for the acceptability of pleas not to be addressed. This can jeopardise prosecutors' ability to resolve a case at the earliest opportunity. The sharing of hard media was also inconsistent, particularly in magistrates' court cases, which can have an impact on the prosecution's ability to progress cases proactively.

**1.25.** The Area has effective stakeholder relationships, which have improved with closer working during the pandemic. Internally, senior leaders have a clear grasp of the challenges that need to be addressed to improve casework quality.

## Casework themes

**1.26.** 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 grip<sup>1</sup>. The themes were:

- pre-charge decisions and reviews
- post-charge reviews
- preparation for the Plea and Trial Preparation Hearing (Crown Court and rape and serious sexual offences cases only)
- disclosure
- victims and witnesses.

**1.27.** 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

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<sup>1</sup> See annex F for scoring methodology.

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

**1.28.** 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.

**1.29.** 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.

**1.30.** In our file sample, we found that 73 cases of the Area’s 78 charging decisions<sup>2</sup> (93.6%) complied with the Code for Crown Prosecutors at the pre-charge stage. Within the different teams, the Code compliance rates were:

- magistrates’ court cases: 92.6%
- Crown Court cases: 94.1%
- RASSO cases: 94.1%.

**1.31.** 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.

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<sup>2</sup> 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.

**1.32.** We found that the quality of pre-charge reviews was poor across all types of casework examined. In our file examination, we rated 22.8% of magistrates' court cases, 35.2% of Crown Court cases and 21% of RASSO cases as fully meeting the standard for a proper case analysis and strategy. The remaining cases were found to be either partially meeting or not meeting the standard. Reviews often failed to address key issues such as outstanding reasonable lines of enquiry, issues raised or likely to be raised by the defence, and unused material. Often there was a recitation of the evidence with no, or an inadequate, assessment of strengths and weaknesses and consequently a lack of strategy for how any weaknesses could be overcome.

**1.33.** A poor case analysis and strategy can result in duplication and unnecessary use of resources, as prosecutors return to cases several times to address issues as they are raised rather than addressing them clearly from the outset. A failure to address the key issues at this early stage can have an impact on the overall quality of the prosecution.

**1.34.** Another aspect of the pre-charge stage that requires improvement is the quality of instructions and guidance that the prosecutor making the charging decision gives to the court advocate (prosecutor) conducting the first hearing. We assessed few cases as meeting the standard, with key issues being that cases did not include instructions on the acceptability of pleas, or address custody and bail. In many cases we also found that there was insufficient consideration of applications and ancillary matters, such as special measures, to support victims and witnesses.

**1.35.** The CPS has developed and recently rolled out a national training programme around case review standards. It focuses on the importance of a good case analysis and formulating a prosecution strategy to promote the effective conduct of the case through to a just outcome. A proportion of the cases we considered in our file examination predated this training. We will be able to properly assess the impact of this training in our follow-up inspection.

**1.36.** The timeliness of pre-charge decisions was good across the Area, with 71.8% of the Area charged cases fully meeting the standard for timeliness.

## Post-charge decisions and reviews

**1.37.** 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 96.7% 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: 96.7%
- Crown Court cases: 95%
- RASSO cases: 100%.

**1.38.** 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. The same issues were often apparent as at the pre-charge stage.

**1.39.** Overall, we assessed 43.3% of magistrates' court cases as fully meeting the standard for the initial review, 36.7% as partially meeting the standard, and the remaining 20% as not meeting the standard. In the Crown Court, we assessed 52.5% of cases as fully meeting the standard for the post-sending review, 25% as partially meeting the standard and 22.5% as not meeting the standard. In RASSO casework, performance was the weakest, with 35% of cases assessed as fully meeting the standard for the post-sending review, 30% as partially meeting the standard and 35% as not meeting the standard.

**1.40.** 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.

**1.41.** We found an inconsistent approach to stage 1 reviews, which should be conducted when the case is being prepared for service. Very few of the Area's RASSO cases had such a review and those that did often failed to properly address new material or information. In Crown Court cases, we also noted that the review often failed to properly address new material or information. In a number of cases, prosecutors purported to serve the prosecution case at the post-sending review stage, before the Plea and Trial Preparation Hearing (PTPH), despite outstanding evidence being awaited and the unused material

not having been dealt with. We assessed 61.3% of Crown Court cases and 70.6% of RASSO cases as not meeting the standard for a high-quality review to coincide with service of the case.

**1.42.** 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.

**1.43.** An effective review at this stage can add real value.

**1.44.** Across all casework types, ongoing case reviews did not always take place or, where they did, they were not always adequate. This was most prevalent in Crown Court and RASSO cases, with inspectors rating 29.4% of Crown Court cases and 23.1% of RASSO cases as fully meeting the standard for the quality of ongoing review. There was a more positive picture in magistrates' court cases, with 50% of relevant cases assessed as fully meeting the standard.

**1.45.** The prosecution should consider what application to make to the court about a defendant's bail or custody status, when to seek bail conditions and what conditions are appropriate. Whilst ultimately a matter for the court, these considerations are an extremely important part of keeping victims, witnesses and the public safe. We found that timely and appropriate decisions about bail and custody were generally good, with very few cases assessed as not meeting the standard.

**1.46.** We examined 34 cases where bad character or hearsay applications were required to strengthen the prosecution case. Of these, we rated 20.6% as fully meeting the required standard, 14.7% as partially meeting the standard, and 64.7% as not meeting the standard. Most of the weaker cases were where bad character applications had not been made, usually in magistrates' court and Crown Court cases. Our file examination highlighted absences of appropriate applications that could have been made to strengthen cases.



**1.47.** We inspected eight cases where pleas were accepted – a relatively small number of cases. We found that prosecutors accepted appropriate pleas, including a clear basis of plea, in half of these (50%). Where cases were rated as partially meeting the standard or not meeting the required standard (each 25%), it was often because the rationale had not been properly set out and was difficult to understand.

### **Preparation of cases for the Plea and Trial Preparation Hearing in the Crown Court<sup>3</sup>**

**1.48.** 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.

**1.49.** The overall assessment for both the Crown Court and RASSO teams was that they were partially meeting the standard for preparation for the PTPH. The RASSO score of 69.3% was a little better than the Crown Court score of 63.8%. We found some good, proactive work done by both teams to make sure cases were ready for an effective PTPH. One aspect that we noted needed improvement was the need to address the acceptability of pleas: a key element of an instruction to the advocate at court. We also noted that, in some cases, outstanding items from the police had not been chased or escalated and applications such as bad character and special measures had not been drafted and served.

**1.50.** Instructions to advocates in Crown Court cases could be substantially improved; we assessed 6.1% of cases as fully meeting the standard. Performance was better in RASSO cases, with 47.4% of cases assessed as fully meeting the standard. The Area's local implementation team has recently amended and recirculated the instruction to advocate document, and the Area hopes this will reinvigorate its use by prosecutors and make sure counsel is properly and fully instructed on all relevant issues.

**1.51.** It is also important to instruct counsel in good time so that they can consider the case, prepare properly for the hearing and provide advice on the evidence. This should be done at least seven days before the PTPH. Performance on this aspect was good in RASSO cases, with 73.7% fully

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<sup>3</sup> This theme only relates to Crown Court cases and RASSO cases listed before the Crown Court.

meeting the standard, but less so in Crown Court cases, with 17.9% fully meeting the standard.

**1.52.** One of the principles of Better Case Management is the duty of direct engagement with the defence, which requires parties to engage with each other about issues in the case from the earliest opportunity. We assessed that the prosecution was fully complying with this duty in 56.4% of Crown Court cases and in 57.9% of RASSO cases examined. There was, however, little evidence of engagement by the defence. We are aware that many defence firms furloughed staff during the pandemic, which may explain the lack of response – and may also partly explain the number of cases we rated as not meeting the standard, as prosecutors, aware that many firms were furloughed, stopped trying to engage.

**1.53.** The quality of indictments was good, with 79.5% of Crown Court cases assessed as fully meeting the standard and 15.4% as partially meeting the standard, 68.4% of RASSO cases assessed as fully meeting the standard and 26.3% as partially meeting the standard. In addition, service of the draft indictment and key evidence on the defence and court in a timely manner for the PTPH was also strong, particularly in RASSO cases, with more than three quarters of cases fully meeting the standard.

**1.54.** The Area told us that availability of counsel has been a particular issue for them and that securing counsel to undertake cases has been difficult. Local listing issues, particularly in Cambridgeshire Crown Court, have also not helped. The Area is working to improve the situation, but the difficulty securing counsel and the late returns of briefs by counsel who have become unavailable have increased pressure on the Crown Court unit.

## **Disclosure of unused material**

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

**1.56.** 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'.

**1.57.** 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.

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

**Table 2: Compliance with disclosure duties**

Results	All cases	Magistrates' courts <sup>4</sup>	Crown Court	RASSO
<b>Initial disclosure</b>				
Fully meeting the expected standard	42.7%	40.0%	57.1%	17.6%
Partially meeting the expected standard	31.7%	33.3%	17.1%	58.8%
Not meeting the expected standard	25.6%	25.7%	25.7%	23.5%
<b>Continuing disclosure</b>				
Fully meeting the expected standard	66.7%	0.0%	67.7%	78.6%
Partially meeting the expected standard	20.8%	66.7%	19.4%	14.3%
Not meeting the expected standard	12.5%	33.3%	12.9%	7.1%

**1.59.** Our findings identify that the Area needs to improve compliance with its initial disclosure obligations. In the magistrates' courts, we found 40% of cases to be fully meeting the standard for initial disclosure, 33.3% partially meeting the standard and 26.7% not meeting the standard. Performance was more positive in the Crown Court, where we found 57.1% of cases to be fully meeting the standard for initial disclosure, 17.1% partially meeting the standard and 25.7% not meeting the standard. In RASSO cases, the position was weakest of all, with 17.6% of cases found to be fully meeting the standard, 58.8% partially meeting

<sup>4</sup> Very few cases involve continuing disclosure in the magistrates' courts, in this sample, it was relevant in three such cases. Percentages are less helpful with small numbers of relevant cases than with larger numbers.

the standard and 23.5% not meeting the standard. The most prevalent reason for RASSO cases not fully meeting the standard was the wrong decision being made about whether an item was disclosable or not.

**1.60.** Continuing disclosure was handled much better than initial disclosure. We assessed 67.7% of relevant Crown Court cases and 78.6% of relevant RASSO cases as fully meeting the standard.

**1.61.** The Area's performance was strong in terms of complying with its disclosure duties in a timely manner, with 89% of cases fully meeting the standard at initial disclosure stage and 83.3% of cases fully meeting the standard at continuing disclosure stage.

**1.62.** We found inconsistent performance in the handling of sensitive material. We assessed two of the seven Crown Court cases we examined (28.6%) as fully meeting the required standard for dealing appropriately with sensitive material, and the remaining five cases (71.4%) as not meeting the standard. Sensitive material existed in 11 of the RASSO cases we examined; we assessed five cases (45.5%) as fully meeting the standard and the remaining six cases (54.5%) as partially meeting the standard. There was one case in the magistrates' courts sample that had sensitive material and we assessed this case as not meeting the standard.

**1.63.** The Area has invested in improving disclosure performance internally and with the police, which may help explain the generally good results. The Area revitalised the disclosure champions group and introduced a disclosure strategic oversight group. The Area has also been tackling staff reluctance to feed back to the police. The police have become more engaged in discussions about disclosure, and more feedback has been supplied to them, since the introduction of the sixth edition of the Director's Guidance on Charging, which carries fresh obligations on both parties.

**1.64.** The overall handling of the disclosure of unused material was good in Crown Court and RASSO cases, where we assessed the Area as fully meeting the standard, but weaker in magistrates' court cases, where we assessed the Area as not meeting the standard.

## Victims and witnesses

**1.65.** 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.

**1.66.** 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.

**1.67.** There were aspects of strength in respect of the service the Area provided to victims and witnesses after charge. These included the timely and appropriate warning of witnesses across all casework examined. We assessed 86.8% of cases as fully meeting this standard.

**1.68.** Witness care unit correspondence was dealt with well in Crown Court cases, with 77.8% of cases rated as fully meeting the standard; the results were not as strong in the other teams. The Area sought appropriate orders on sentencing to protect victims, witnesses and the public in the majority of cases.

**1.69.** We found good compliance with consulting victims and witnesses in magistrates' court cases, including compliance with the speaking to witnesses at court initiative (STWAC). In 77.8% of the magistrates' court cases, we assessed the Area as fully meeting the standard – in contrast to Crown Court and RASSO cases, which we assessed as fully meeting the standard in 58.3% and 46.7% of cases respectively.

**1.70.** Adherence to victim personal statement obligations were particularly good in the Crown Court, with 86.4% of cases assessed as fully meeting the standard. Performance in magistrates' court cases was weaker, with 65% of cases rated as fully meeting the standard. However, in RASSO casework, performance on this aspect requires improvement; half of the cases were rated as fully meeting the standard and a third as not meeting the required standard. In the RASSO cases we assessed as not meeting the standard, this was because no victim personal statement had been taken and the victims' wishes about whether they wanted to provide one had not been chased by the CPS.

**1.71.** Whilst post-charge handling of victim and witnesses was generally well done in the Area, there is room for improvement in how victim and witness issues are considered and dealt with at the pre-charge stage. In almost half of all

cases we examined, the cases were rated as not meeting the standard for active consideration of pre-charge applications and ancillary matters to support victims. This included consideration of special measures.

**1.72.** Our findings also identify that improvement is needed in respect of the timeliness and quality of letters to victims. Overall, we assessed 41.2% of letters as fully meeting the standard for being sent on time, 11.8% as partially meeting the standard and 47.1% as not meeting the standard. In respect of quality, we assessed 38.5% of letters as fully meeting the standard, 38.5% as partially meeting the standard and 23.1% 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 charging<sup>5</sup>, serious youth crime<sup>6</sup> and disclosure<sup>7</sup> – 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 East of England, 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

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<sup>5</sup> *Charging inspection 2020*; HMCPsi; September 2020.

[www.justiceinspectorates.gov.uk/hmcp/inspections/charging-inspection-2020/](http://www.justiceinspectorates.gov.uk/hmcp/inspections/charging-inspection-2020/)

<sup>6</sup> *Serious youth crime*; HMCPsi; March 2020.

[www.justiceinspectorates.gov.uk/hmcp/inspections/serious-youth-crime/](http://www.justiceinspectorates.gov.uk/hmcp/inspections/serious-youth-crime/)

<sup>7</sup> *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/](http://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 lockdown<sup>8</sup>. 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.

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<sup>8</sup> *CPS response to COVID-19: 16 March to 8 May 2020*; HMCPsi; June 2020. [www.justiceinspectorates.gov.uk/hmcpai/inspections/cps-reponse-to-covid-19-16-march-to-8-may-2020/](http://www.justiceinspectorates.gov.uk/hmcpai/inspections/cps-reponse-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 courts<sup>9</sup> were also set up as one of the measures to address the growing backlogs of Crown Court cases.

**2.11.** In the East of England, one Nightingale court was opened in the Knight's Chamber at Peterborough Cathedral. However, this was originally opened to deal with Serious Fraud Office cases only, and not CPS work. Since Autumn 2021, one sensitive RASSO case and just a handful of East of England Crown Court cases have been dealt with at the Nightingale court.

**By September 2020, jury trials were being heard in 68 of the 81 Crown Court centres. Nightingale courts were also set up**

**2.12.** To further increase court resources, three Crown Court centres (Southend, Kings Lynn and Huntingdon) that were not in use before 2019–20 have re-opened – but the impact this has had on the Area's backlog of cases has again been minimal so far.

Huntingdon has predominantly been used for Luton Crown Court work, which deals with CPS

Thames and Chiltern casework. Again, only a handful of East of England cases have been heard at this Crown Court centre since its re-opening. At Southend there are two courtrooms, but no jury trials can be held here because of building constraints. At Kings Lynn, although there are two courtrooms and it is used for jury trials, it operated as a single courtroom for social distancing purposes.

**2.13.** In March 2021, we published a report looking at the CPS's response to the continuing pandemic<sup>10</sup>, 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%.

**2.14.** 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. Police file quality also remained an issue

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<sup>9</sup> 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.

<sup>10</sup> *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/](http://www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-response-to-covid-19-dealing-with-backlogs/)

during this time. In our sample, we rated 62.2% of files submitted by the police across all casework types as fully meeting the standard set out in the National File Standard. This meant that the Area had to address deficiencies in over a third of cases as part of its case preparation, at a time when resources were stretched by the impact of Covid-19.

## Impact on the Area

### Staffing levels and structures

**2.15.** Along with all CPS Areas, CPS East of England received an increase in its budget to recruit more staff but has not been able to keep all its posts filled. The Area has a history of struggling to recruit and retain staff, in part because of the proximity of some parts of the Area to London, which is made a more attractive workplace by its higher rates of pay. Area staff based in the Chelmsford office (which includes the Area headquarters) receive salaries in line with the London pay scales, but others do not, and this can make it harder to recruit staff covering the parts of the Area outside Chelmsford, particularly in Norfolk and Suffolk.

**2.16.** To overcome geographical barriers, the Area has recruited 14 lawyers in the North West, and this helps with review and other work that can be carried out from a distance. However, these lawyers' availability for advocacy depends on judicial permission for each hearing to use the CVP to attend remotely. As the pandemic eases, it is likely that the impact of this disadvantage will grow.

**2.17.** Most new recruits start in the magistrates' court team. During the pandemic, some 40% of the prosecutors in this team were in their first year of service. In the business year to date, 11 Senior Crown Prosecutors (SCPs) have moved from the magistrates' court teams to the Crown Court team and there are plans for another 3.6 (full time equivalent) to move to the Crown Court team. These lawyers have been replaced with new lawyers who need to be trained and gain experience. This may help explain some of the weaker results we found in magistrates' court casework.

**2.18.** In addition, the Area recruited a number of apprentices to operational delivery teams so Crown Court courtrooms could be covered as they started to reopen.

**2.19.** New recruits being deployed first to the magistrates' court teams is part of why the Crown Court team is short of lawyers. Another reason is that six experienced lawyers from the Crown Court team have moved on to other jobs, with some citing work pressures as a contributing factor. Whilst lawyers have been moved into the Crown Court team, this was not enough to bring the team

back up to the level anticipated by the national resourcing model; in August 2021 there was a shortfall of about 43% in the full time equivalent numbers of SCPs. The deployment of 12.5 crown advocates into the Crown Court team has helped to mitigate some of this shortfall but it is not a long-term solution.

**2.20.** The shortfall in SCPs is further demonstrated by the caseload per Crown Court SCP, which has been above the national average by roughly a quarter for some time. The Area also has the highest rate of custody time limit cases per lawyer; we discuss the impact of custody cases further from paragraph 2.36.

**2.21.** Another big change for the Area during the timeframe of the cases we examined is the change in the legal management cadre. The Chief Crown Prosecutor (CCP) and Deputy Chief Crown Prosecutor (DCCP) took up their posts in the past 12 months, although the former has worked in the Area before. In addition, a number of experienced legal line managers have left the Area on promotion or relocation during the past two years.

**2.22.** The lack of experience in new staff across the Area adds to the work involved in mentoring, coaching and upskilling lawyers, new managers and other staff to meet the demands of their role, and to move onto more complex work.

**2.23.** At the start of the pandemic, when magistrates' court caseloads increased significantly, the Area restructured the magistrates' court unit temporarily to improve the time it was taking to deliver charging advice and review cases for the first hearing. Though successful in that aim, the restructure proved to be less helpful in terms of casework quality, and once timeliness had improved sufficiently, the Area restructured again. The magistrates' court unit now has two teams, one for advocacy and one for charging and post-charge review and preparation with a focus on casework quality. Some of that work post-dates the cases we examined, but we will be able to assess progress in the next round of inspection in 2023.

## **Caseloads and backlogs**

**2.24.** CPS East of England 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.

**2.25.** We heard from the Area that the volume of cases sent to it for pre-charge decisions from its four police forces (Essex, Norfolk, Suffolk and Cambridgeshire) significantly increased after the first lockdown. In April to June 2020, CPS East of England’s pre-charge receipts across the three casework types averaged 1,170 cases per month. This was against an average of 892 cases per month for the same period in 2021: a 31.2% increase over usual receipts.

**2.26.** From the charging data we have seen, it is apparent that the increased levels of pre-charge receipts for Crown Court and magistrates’ court cases continued until December 2020. However, since then, receipts have started to decline and in 2021 are mostly at below pre-pandemic levels. The magistrates’ courts in the Area held a series of trial ‘blitz’ courts to clear trial backlogs, bringing overall live caseloads down, although still not to the pre-pandemic level. The issues with throughput in the Crown Court, however, have led to the Area still carrying a much higher live caseload there.

**2.27.** Table 3 demonstrates this; it shows the changes between Quarter 4 of 2020–21 (January to March 2020) and Quarter 1 of 2021–22 (April to 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**

Court	Q4 2019–20 (Jan-Mar 2020)	Q1 2021–22 (Apr-May 2021)	Difference	Difference (%)
Magistrates’ courts	9,437	11,984	2,547	+27.0%
Crown Court	2,898	5,068	2,170	+74.9%
RASSO	41	69	28	+68.3%

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

### **Magistrates’ courts**

**2.29.** In the magistrates’ courts, the most significant impact was in 2020. Caseloads peaked at 15,653 in Q3 – October to December 2020. As a comparison, the pre-pandemic caseload was 9,437 (Q4 2019–20). The live caseload has decreased with magistrates’ courts in the Area re-opening and joint criminal justice system measures such as blitz courts. The Q1 2021–22 figure was 11,984 cases, a 27% increase on the pre-pandemic figure.

**2.30.** More recently, at the time of writing, the magistrates' court caseload has now come down to pre-pandemic levels.

### **Crown Court**

**2.31.** In the Crown Court, the impact was not as immediate. Even after the reopening of Crown Court centres, the caseload continued to increase. The Area's Crown Court centres were constrained in the numbers of cases they could list because of the requirement to maintain social distancing. Many more complex cases involving multiple defendants could not be accommodated within existing courtrooms because there was not enough room to accommodate the volume of people required whilst maintaining social distancing.

**2.32.** As a result, Area Crown Court caseloads increased. The live figure for Crown Court cases was 5,068 (Q1 2021–22) compared to the pre-pandemic figure of 2,898 (Q4 2019–20), which represents a 74.9% increase. At the time of writing, the figures show the increase has now started to plateau.

**2.33.** There have been some joint local initiatives carried out to try to address the increase in caseload. Together with Judges and the defence, the Area has tried resolution courts (discussed further in chapter 12) with some level of success. The Area also, very recently, used its crown advocates to conduct a peer review of its 250 oldest Crown Court bail cases. We were told at our meeting with the Area that this peer review has resulted in 17% of the cases being resolved and coming out of the system, which will play a small but not insignificant part in reducing the backlogs and caseloads.

### **Rape and serious sexual offences**

**2.34.** Many RASSO cases, including the most serious and complex ones, are heard in the Crown Court. It follows that the same difficulties as featured in the Crown Court also had an impact on RASSO case throughput, increasing the live caseload. There was a 68.3% increase in the RASSO caseload between pre-pandemic and current figures.

**2.35.** Such an increase in caseloads and backlogs has been particularly difficult for what is a relatively small RASSO team – which also suffered the loss of three of its lawyers to long-term sickness during the height of the pandemic. Two of these lawyers have since returned. Because of the Area's good relationship with the circuit, we heard that it was able to recruit a bar secondee into the RASSO team and it has also used RASSO-trained crown advocates to assist with charging advices, thus mitigating some of the pressures on the RASSO unit.

### **Custody cases**

**2.36.** As a result of the high caseload in the Crown Court, and the lower than required number of lawyers, especially in the Crown Court team, the Area has the highest rate of all 14 Areas for cases with a custody time limit (CTL) per lawyer.

**2.37.** CTLs were extended in September 2020 as a temporary measure, then returned to their pre-pandemic state in June 2021. Whilst the older cases with longer time limits remain unfinalised, and newer cases with shorter time limits are added, the number of CTL cases continues to rise. This causes additional work, not only in monitoring compliance with the CTLs but also in preparing applications to extend and reviewing whether the prosecution is still acting with due diligence, as an extension requires. The Area told us that it has about 600 custody cases at any one time.

**2.38.** The Area reviewed a proportion of its Crown Court CTL cases and all of its magistrates' court CTL cases to check whether the prosecution's objections to the defendant being granted bail by a court could still be maintained. The analysis showed that this was the case, and that it was appropriate to seek extensions. Whilst this analysis added to the workload for CTL cases, it was an important undertaking for assurance and fairness.

**2.39.** The Area has also overhauled its mechanisms for managerial reviews of CTLs, reducing the level of detail recorded to the essentials, and enabling managers to review them more efficiently. The Area's focus on risk has informed this approach and, as part of the review of CTL cases, the Area determined that its application of the national certificate of assurance process was effective in identifying the right risks in the cases.

**2.40.** The Area has also worked with the judiciary to agree longer dates for key stages in the prosecution and defence preparation for trial, so as to allow Area lawyers to focus on CTL cases. With the number of cases outstanding, however, finding trial dates, even for those cases with the urgency of a CTL, remains challenging.

## **Defence**

**2.41.** Engaging with the defence during the pandemic has been complicated by the fact that many defence firms furloughed staff early on in the first lockdown and faced their own Covid-19 pressures. The Area has, however, been able to use defence representatives on the Local Criminal Justice Boards and those that attend the Area quarterly disclosure forum to engage with the defence community.

**2.42.** More recently, the Area has also provided an updated list of lawyer contact details to defence practitioners to assist with contact.

## **Moving forward**

**2.43.** Whilst the approach to dealing with backlogs has been extremely challenging and the Area has worked with others to mitigate the impact, we recognise that a court backlog is not simply something that can be worked through and cleared by increasing resources. More resources, increases in court sittings, and initiatives such as trial blitzes and resolution courts do help, but they also bring additional pressures. We were told that there remain significant pressures for the Area, particularly with Crown Court listing and the lack of court and Judge availability.

**2.44.** Despite this, the Area has shown signs of recovery in terms of the measures used by the CPS to assess Area performance, which gives confidence that further improvements can be won. The Area had the highest overall score on high weighted measures in Q2 of 2020–21, and the best improvement from the previous quarter. Its performance trend is upward, contrary to the national average trend, which has yet to show signs of recovery. The Area's performance on the measures for charging and Crown Court casework is above average, and many of the measures show an improving picture. As we found in our file examination, it is in magistrates' court casework where the greatest opportunities for growth are to be found.

## **Police service to the Area**

**2.45.** 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.

**2.46.** 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.

**2.47.** We were told by the Area that some police forces have struggled with DG6 compliance, and that the Area has provided support to help. The Athena system (a police intelligence and case management system) makes the transfer of files at the pre-charge decision stage, in line with the revised agreement set out in DG6, difficult. The issue has been discussed between the forces' Chief Constables and the CCP, who has supported them with different solutions. Some of these were technical, requiring liaison with CPS Headquarters; and some operational, which required signposting the police to different models used by other forces.

**2.48.** Locally, this has resulted in two forces deciding to set up a quality assurance team to support officers by taking files from them to quality assure and transfer to CPS in the same way as one of the neighbouring forces in the Area. The Area has seen improved file quality in the neighbouring force and is hopeful that this will be replicated in the other forces.

**2.49.** The Area has a number of routes to assess police file quality. This is addressed on a case by case basis, using legal managers' reviews, the individual quality assessment process, local case management panels and 'Henriques' clinics (which review old RASSO cases). The initiative between CPS legal managers and Detective Chief Inspectors to review old RASSO cases has resulted in a significant decrease in the number of these cases remaining in the system.

**2.50.** The Area is also working with the police to provide feedback on issues within RASSO cases at a dedicated RASSO Governance Board and Operational Board. This provides an opportunity for CPS legal managers to feed back directly to individual police officers. The Area has also identified priority actions and provided support to the police specific to the handling of RASSO cases; and has worked with the police to deliver joint training on Achieving Best Evidence (ABE), early advice and disclosure. Data shows that this joint work has helped to decrease the number of Area action plans on RASSO pre-charge advice files.

## Performance data

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

**2.52.** While we have considered the performance data available, our assessment of the quality of CPS East of England's casework is predicated upon our file examination. This focused on the effectiveness of the Area's actions against the CPS's 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.

**2.53.** 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 strategy<sup>11</sup>. 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 East of England. 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 in a few instances we had to go forward to July 2021 (and in one RASSO case forward to August 2021) and back to the previous quarter in two Crown Court cases to find sufficient cases. Within the criteria, cases were chosen at random.

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<sup>11</sup> 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](http://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.** HMCSI 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 East of England 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 13 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 it 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 methodology<sup>12</sup>, we held consistency exercises for our inspectors on the question set and guidance, and we invited staff from a number of Areas including CPS East of England. 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 stages of internal review and between one and three stages of consultation with

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<sup>12</sup> *Inspection handbook*, HMCSI; January 2021.

[www.justiceinspectorates.gov.uk/hmcsi/corporate-documents/inspection-handbook/](http://www.justiceinspectorates.gov.uk/hmcsi/corporate-documents/inspection-handbook/)

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, HMCPSI 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 East of England met the standards against 60 questions<sup>13</sup> 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 theme<sup>14</sup>.

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<sup>13</sup> See annex D for the full question set.

<sup>14</sup> 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')<sup>15</sup>. 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.

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<sup>15</sup> *The Code for Crown Prosecutors*; CPS; October 2018.  
[www.cps.gov.uk/publication/code-crown-prosecutors](http://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' courts<sup>16</sup>.

## Post-charge decision-making and reviews

### Police file quality – the National File Standard

**4.19.** The National File Standard<sup>17</sup> 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.

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<sup>16</sup> 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 \(CPD\) 2015 Division 1, at Part 3A](#).

<sup>17</sup> 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 sixth 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.

## **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 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 management<sup>18</sup> 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.

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<sup>18</sup> Better Case Management; Courts and Tribunals Judiciary; September 2015.  
[www.judiciary.uk/publications/better-case-management/](http://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 deciding 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.

### **Communication 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) initiative<sup>19</sup> 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.

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<sup>19</sup> *Speaking to witnesses at court*, CPS; March 2018.  
[www.cps.gov.uk/legal-guidance/speaking-witnesses-court](http://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:<sup>20</sup>

- 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.<sup>21</sup>

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<sup>20</sup> See annex G for which questions contributed to each of the casework themes.

<sup>21</sup> 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:<sup>22</sup>

- 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.

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<sup>22</sup> 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 East of England as follows.

**Table 4: Added value and grip scoring**

CPS East of England	Added value	Grip
Magistrates’ court casework	61.8%	70.1%
Crown Court casework	67.5%	81.3%
Rape and serious sexual offences casework	63.2%	76.4%

**5.12.** These findings need to be seen in the context of:

- the substantial increase in caseload across all teams
- backlogs
- the shortfall in the numbers of legal staff, particularly in the Crown Court team
- the impact of newly recruited staff.

**5.13.** In addition, the Area has had challenges as a result of the high number of custody time limit cases.

## **Magistrates' court casework added value and grip**

**5.14.** Our assessment of the value added by the Area in its magistrates' court casework was 61.8%.

**5.15.** The Area applied the Code for Crown Prosecutors correctly for the majority of cases and defendants were prosecuted for the correct offences. Our file examination highlighted that the Area needs to improve the quality of review, particularly at the pre-charge stage, and its compliance with disclosure obligations.

**5.16.** We rated the Area as good for selecting the correct charges to reflect the suspect's culpability and to give the court sufficient sentencing powers should they be convicted. The Area was also effective at seeking appropriate orders at sentencing to protect victims, witnesses and the public.

**5.17.** Reviews at the pre-charge stage (and to a lesser extent the post-charge stage) need to adopt a greater 'thinking approach' so that a clear case analysis and trial strategy is set out. We were told that all prosecutors have undertaken the CPS Central Legal Training Team's case review standards training and that the Area has also used its own quality assurance processes to identify where more work is needed, and to monitor compliance with the Director's Guidance on Charging. We will assess the impact of the case review training and Directors' Guidance monitoring in our follow-up inspection in two years' time.

**5.18.** Our review identifies that the Area needs to improve the standard of action plans at the pre-charge review stage. Poor action plans do not assist the police to understand what else is needed and add delay and inefficiency into the system. Good quality action plans will enable the Area to help the police build stronger cases.

**5.19.** The Area's disclosure compliance, particularly at initial disclosure, also presents room for improvement.

**5.20.** Our assessment of the Area's grip in its magistrates' court casework was 70.1%.

**5.21.** We found that the timeliness of pre-charge decisions was good, with 74.1% of cases fully meeting the standard, 22.2% partially meeting the standard and 3.7% not meeting the standard. The timeliness of the initial review was also a particular strength, with 90% of cases assessed as fully meeting the standard; and we assessed 76.7% of cases as fully meeting the standard for the timeliness of compliance with initial disclosure. Another positive was a clear audit trail of key events, decisions and actions on the CPS case management system, with 80% of cases assessed as fully meeting the standard.

**5.22.** One aspect of case preparation that had a negative impact on the overall score for grip in the magistrates' courts was compliance with court directions. We assessed seven out of 11 applicable cases (63.6%) as not meeting the standard. There is also room for improvement both in the sharing of hard media before the first hearing and in dealing promptly and effectively with court and defence correspondence; we assessed 41.2% of applicable cases as fully meeting the standard for each of these aspects.

## **Crown Court casework added value and grip**

**5.23.** Our assessment of the value added by the Area in its Crown Court casework was 67.5%.

**5.24.** Despite the challenges of increased workloads and the Area being significantly under-resourced, we found that all but two of the Area charged cases in our Crown Court sample complied with the Code for Crown Prosecutors. Post-charge code compliance was also strong, with two cases allowed to proceed incorrectly. In most cases the choice of charge was appropriate, again reflecting the offending alleged and giving the court adequate sentencing powers; 73.5% of the cases we examined were rated as fully meeting this standard. Indictments in most cases were drafted accurately.

**5.25.** Victims and witnesses received a service which we rated as fully meeting the standard. In most cases there was good work after charge in considering applications to support victims and witnesses at trial.

**5.26.** We found similar issues with the standard of case analysis, case strategy and action plans at charge as we did in magistrates' court cases. After charge, post-sending reviews were better than what we found at pre-charge, but both before and after charge, improvement is needed.

**5.27.** We found room for improvement in the use of appropriate applications, such as hearsay or bad character, to strengthen the prosecution case. In several cases a bad character application was simply not considered when one would have been appropriate. In some instances where bad character applications had been drafted and sent, they were of poor quality. The Area's expectation is that paralegals draft the more straightforward applications but that these are reviewed by the prosecutor before being sent. The Area accepts that this may not have been happening because of caseload pressures.

**5.28.** Our assessment of the Area's grip in its Crown Court casework was 81.3%.

**5.29.** Generally, Crown Court casework was timely, contributing to the higher grip score. Charging decisions were timely in 26 of 34 cases (76.5%) and we

assessed 32 of 35 cases (91.4%) as fully meeting the standard for timely compliance with court directions or Judges' Orders. The sharing of hard media was much better dealt with in Crown Court cases than in the magistrates' courts, with 70.4% of cases assessed as fully meeting the standard.

**5.30.** The Area dealt with correspondence well. Timely and appropriate actions were taken in response to material received. The Area dealt with new material from the police effectively, with inspectors rating 77.8% of files as fully meeting the standard. The Area also made effective requests for additional material from the police and escalated where appropriate, with 97.2% of cases being rated as fully meeting the standard. We rated the Area's handling of correspondence from the court and defence as fully meeting the standard in 65.2% of cases and partially meeting the standard in 26.1% of cases.

### **Rape and serious sexual offences casework added value and grip**

**5.31.** Our assessment of the value added by the Area in its RASSO casework was 63.2%.

**5.32.** All but one Area charged case in our RASSO sample complied with the Code for Crown Prosecutors, and after charge compliance was 100%. The choice of charge was also a strength, with 82.4% of cases assessed as fully meeting the standard, and none assessed as not meeting the standard. This is a particular positive given the challenge of selecting the correct charges in such cases, especially in non-recent allegations or those involving children. Indictments in most cases were drafted accurately.

**5.33.** Disclosure was rated overall as fully meeting the expected standard – but compliance with initial disclosure let down what was otherwise strong performance.

**5.34.** Again, we found that the quality of reviews, particularly in respect of case analysis and case strategy, needed to be improved. We assessed 12 of 17 cases (70.6%) as not meeting the standard.

**5.35.** We rated the Area as partially meeting the standard expected for the service it provides to victims and witnesses in RASSO cases. Consideration of relevant applications and ancillary matters to support victims and witnesses at the pre-charge stage needs to improve; we assessed 11 of 17 cases (64.7%) as not meeting the standard.

**5.36.** We assessed the Area's grip on its RASSO casework as 76.4%.

**5.37.** The progression of RASSO cases within the Area is generally good with post-sending reviews, service of the draft indictment and key evidence and new material from the police all being dealt with in a timely way. Correspondence from the court and defence was also dealt with well, with timely and effective actions being taken in 81.3% of cases. Requests for editing, additional material and escalation were also dealt with proactively and in a timely fashion in 72.2% of the cases we examined.



## **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, staffing challenges and structural changes to the team.

**6.3.** We have scored CPS East of England for its magistrates' court casework as follows.

**Table 5: Scoring for magistrates' court casework**

Question	Rating	%
<b>Pre-charge decision-making and review</b>		
The Area complies with the Code for Crown Prosecutors <sup>23</sup> at pre-charge decision stage	Fully meeting the standard	92.6%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	79.6%
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%
<b>Quality of post-charge reviews and decision-making</b>		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	96.7%
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	Partially meeting the standard	60.3%
<b>Disclosure</b>		
The Area fully complies with its duty of disclosure throughout its magistrates' court casework	Not meeting the standard	55.7%
<b>Victims and witnesses</b>		
The Area addresses victim and witness issues appropriately throughout its magistrates' court casework	Fully meeting the standard	70%

**6.4.** Our assessment of magistrates' court casework was that there were aspects of casework that were done well, including compliance with the Code for Crown Prosecutors before and after charge, selection of the right charges, the timeliness of the pre-charge decision, 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.

**6.5.** There were other aspects that required more focus, specifically the quality of review, particularly pre-charge, and in respect of case analysis and case strategy.

<sup>23</sup> Code for Crown Prosecutors, 8th edition; CPS; October 2018.  
[www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors)

## Pre-charge decision-making and review

**6.6.** 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

**6.7.** 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).

**6.8.** We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with 25 of the Area’s pre-charge 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	25	92.6%
Not meeting the required standard	2	7.4%

**6.9.** Inspectors found two wholly unreasonable decisions within the 27 Area charged magistrates’ court cases. These represent 7.4% of cases.

### Selecting the most appropriate charges

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

**6.11.** We rated the Area as **fully meeting the standard** for selecting the most appropriate charges at the pre-charge stage, with a score of 79.6%.

**6.12.** The score is based on the examination of the 27 Area pre-charge cases, of which we assessed 17 (63%) as fully meeting the standard, nine (33.3%) as partially meeting the standard and the remaining one (3.7%) as not meeting the standard.

**6.13.** In the one case we rated as not meeting the standard, a legal element for the authorised charge of affray was not made out (the defendants later offered a guilty plea to an alternate offence). The nine cases we rated as partially meeting the standard ought to have had additional knife-related charges to properly reflect the offences and provide appropriate sentencing powers.

**6.14.** We found an example of a good selection of charge in a case involving a suspect whose ex-employer made a payment into their bank account by mistake. The suspect had failed to repay the money and the police had suggested a charge of retaining a wrongful credit. The prosecutor rejected this in favour of a theft charge, correctly identifying why the proposed charge of retaining a wrongful credit was not made out in law and why the elements of theft could be proved. The charge ensured that the offending behaviour was properly reflected, giving the court adequate sentencing powers.

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

**6.15.** 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 42.6%.

**6.16.** 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).

**6.17.** We found that the Area's pre-charge decision-making was excellent in terms of timeliness, but this contrasted with the quality of the reviews, reflecting a process driven approach to progressing cases but without the necessary focus on quality. This is perhaps understandable, given the significant pressures brought about during and as a result of the pandemic. It is something the Area is focusing on as those pressures ease, to make sure prosecutors consistently add value through their reviews.

**6.18.** The Area has faced increased caseloads as a result of the pandemic, combined with the recruitment of many new and inexperienced prosecutors and the movement of experienced Senior Crown Prosecutors (SCPs) from the magistrates' court teams to the Crown Court team. There have also been several restructures of the magistrates' court unit over the past year. Given these pressures, maintaining quality was always going to be a challenge.

**6.19.** The aim of one of the recent restructures was to reduce backlogs and improve timeliness. It was recognised that these improvements would likely come at the expense of quality. The Area is clearly aware of the issues and the

recent restructure of the magistrates' court unit is intended to help improve quality.

**6.20.** The casework quality committee chaired by the Chief Crown Prosecutor is focused on driving up the quality of reviews as the pressures of the pandemic ease, new prosecutors become more experienced and the new model beds in. The Area acknowledges, however, that as work continues to increase the capacity of SCPs in the Crown Court team to the national resource model level, the movement of more experienced prosecutors from the magistrates' court unit to the Crown Court team is likely to continue for some time yet.

### **Case analysis and strategy**

**6.21.** When considering case analysis and strategy, we assessed six of the 27 Area charged cases (22.2%) as fully meeting the required standard, ten cases (37%) as partially meeting the standard and 11 cases (40.7%) as not meeting the standard. We identified a number of themes in the cases assessed as partially or not meeting the standard:

- Lack of a proper analysis. Elements essential to proving an offence were often not considered. Potential defences and how they could be addressed were often overlooked. In one of the wholly unreasonable decisions, the notional bystander test was not satisfied for an offence of affray. Another example was where an adult defendant was jointly charged with a youth with two assaults. The adult defendant raised defence of another (their youth co-defendant) in interview; there was no consideration of whether and how this defence could be overcome or whether it correlated with the co-defendant's account.
- Failure to consider the case as a whole. We saw examples of reviews that focused on the prosecution evidence as it was presented by the police at the pre-charge stage, without thinking about the whole case. This led to a failure to consider obvious reasonable lines of enquiry, either to strengthen the prosecution case or that may have pointed away from a prosecution. This was the case even where a defence had been raised in interview. In one case involving a theft from a motor vehicle, the defendant had provided an account for how their blood was found in the vehicles. No consideration was given to this, and no follow-up actions were set (such as obtaining an additional forensic report to ascertain whether there was any support for the defendant's account).
- Lack of a clear trial strategy. We saw examples of cases where the strategy simply amounted to a recitation of which witnesses to call, serve section 9 or tender. Other forms of material, such as CCTV, body worn video or 999 recordings, were overlooked on occasion. On other occasions, whilst

weaknesses in the evidence or the unused material were identified, there was no consideration of how these would be overcome.

**Case study**

Overnight, several of the suspect's neighbours' cars were damaged by paint being thrown over them. A scorch mark had also been caused to one of the vehicles. No-one witnessed the damage being caused, although one neighbour had observed the suspect in her garden in the early hours of the morning setting light to some papers by candle and pushing the flames towards a neighbour's house.

A paint tin was recovered from the top of one of the damaged cars. On arrest, the suspect was observed trying to hide a lighter that had paint on it. Forensic examination revealed the suspect's fingerprint on the recovered paint tin.

In interview, the suspect denied causing damage to her neighbours' property and gave an account for the presence of her fingerprint on the paint tin and the paint on her lighter. She also gave an account as to what she had been doing when a neighbour saw her out in the garden in the early hours of that morning.

At the time of the pre-charge review, the suspect had been arrested for further allegations involving her neighbours. The prosecutor reviewed both cases on the same day and authorised that the suspect be charged with offences arising from both sets of incidents. There was no consideration or instruction that an application to join the two cases should be made.

The prosecutor's analysis in respect of the criminal damage was that it was too much of a coincidence for someone else to have caused the damage when the suspect clearly had an issue with her neighbours. The review did not go on to set out the evidence or how the case could be proved. No actions were set around clear reasonable lines of enquiry following from the account given by the suspect.

The hearing record sheet and preparation for effective trial form both indicated that the defence believed someone else had been arrested in the area that night for arson and that it was likely that person was responsible. No enquiries were made following receipt of this information.

The case proceeded to trial and was dismissed at the end of the prosecution case. There was a failure at the pre-charge review to properly analyse the evidence, pursue reasonable lines of enquiry and devise a cogent trial strategy, including consideration of joinder. Had these issues been identified and actions, set the case could have either been strengthened or stopped at an earlier stage.

**6.22.** By contrast, we did see examples of cases where the reviews added value and which we rated as fully meeting the required standard, such as:

- an assault on an emergency worker, where the prosecutor properly addressed and analysed the various pieces of body worn video, providing a clear indication of which were to be served as evidence and which were to form part of the unused material. The prosecutor also properly addressed the acceptability of a plea on a reckless basis
- a good review tackling the defence of good reason in a possession of bladed article case, identifying the witness evidence that could be relied on to secure a successful outcome.

### **Instructions to the court prosecutor**

**6.23.** In the majority of cases, we found room for improvement in the instructions provided to the court prosecutor. We assessed three out of 27 cases (11.1%) as fully meeting the standard, 15 cases (55.6%) as partially meeting the standard and nine cases (33.3%) as not meeting the standard.

**6.24.** For those cases we rated as partially or not meeting the required standard, the common theme was that acceptability of pleas and the defendant's bail status were not addressed. Also, instructions on venue often did not contain a rationale for the conclusion reached, with no reference to relevant sentencing guidelines. For example, simply stating that the magistrates' sentencing powers are sufficient to deal with an either-way matter is of little use to the court prosecutor, who must persuade a court by reasoned argument rather than simple assertion.

**6.25.** The lack of clear instructions means court prosecutors have to re-review cases to be able to make appropriate representations to the court, often with little time available in a busy court list. This can lead to errors, omissions and lost opportunities to properly progress cases.

### **Reasonable lines of enquiry and action plans**

**6.26.** 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 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.

**6.27.** We found a variance in the quality of the Area action plans. In six out of 26 cases (23.1%), action plans were rated as fully meeting the standard. They



were assessed as partially meeting the standard in 11 cases (42.3%) and as not meeting the standard in nine cases (34.6%).

**6.28.** The main reason for cases not meeting the standard was that no action plan was set in cases where there were outstanding and obvious lines of enquiry. We found that this often linked back to the lack of case analysis and strategy. Those cases we assessed as partially meeting the standard tended to identify some reasonable lines of enquiry to be pursued but missed others. In several cases, there was also a failure to set realistic target dates, as the date that the charging advice was being provided had also been entered as the action completion date.

**6.29.** What was encouraging to see was that, in the vast majority of cases, the actions were included in the specific section of the MG3 rather than in the body of the review. This enables the police to easily identify outstanding enquiries and the Area to effectively triage on re-submission.

### **Applications and ancillary matters**

**6.30.** 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.

**6.31.** We found an inconsistent approach to the consideration of relevant applications and ancillary matters to support victims and witnesses at the pre-charge stage, with over half of the cases not meeting the required standard. We assessed six out of 21 applicable cases (28.6%) as fully meeting the standard, three (14.3%) as partially meeting the standard and 12 (57.1%) as not meeting the standard.

**6.32.** We identified a number of common themes in those cases we assessed as partially or not meeting the required standard, including:

- failing to identify that a victim or witness was likely to require special measures and consequently not setting actions for the police to provide information to support an application
- not asking the police to obtain a victim personal statement
- failing to consider compensation or a restraining order at charge.

## Post-charge decision-making and reviews

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

**6.33.** 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 96.7%. 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	29	96.7%
Not meeting the required standard	1	3.3%

**6.34.** 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.

**6.35.** As Table 7 shows, all but one of the review decisions were Code compliant. The one case identified as a wholly unreasonable decision proceeded to the day of trial without the issues being recognised by Area prosecutors. The trial advocate recognised the evidential difficulty in proving one of the elements of the offence and accepted pleas from the defendants to an alternate offence.

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

**6.36.** Our assessment is that the Area is **partially meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in magistrates' court cases was 60.3%.

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

### Comparison of pre- and post-charge case strategy and analysis

**6.38.** Table 8 highlights that almost twice as many post-charge reviews as pre-charge reviews achieved a rating of fully meeting the required standard when it came to providing a proper case analysis and case strategy.

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

Question	Magistrates' court cases
<b>Pre-charge case analysis and strategy</b>	
Fully meeting the required standard	22.2%
Partially meeting the required standard	37.0%
Not meeting the required standard	40.7%
<b>Post-charge analysis and strategy</b>	
Fully meeting the required standard	43.3%
Partially meeting the required standard	36.7%
Not meeting the required standard	20.0%

**Case analysis and strategy**

**6.39.** There was clearly improvement in the quality of post-charge reviews from the pre-charge stage (60.3% compared to 42.6%) but there still remains room for further improvement.

**6.40.** We saw examples of good post-charge reviews where prosecutors added value by progressing the case effectively. One example involved a burglary of a dwelling house, where the prosecutor considered witness credibility and enhancement of CCTV footage, asked the advocate to invite the court to draw adverse inferences, and requested more evidence from the police and information about ancillary applications to assist the victim. This proactive approach was effective in securing an early guilty plea.

**6.41.** There was also value added in one of the two cases that had not been charged in compliance with the Code, with the post-charge review identifying the evidential difficulties and the prosecutor promptly sending a proposed notice of discontinuance to the police, ensuring that the case was then stopped, avoiding unnecessary further work.

### Case study

The defendant was a contractor for a company that the victim worked at. The victim apologised to the defendant about a discrepancy on the defendant's payment sheet. In response, the defendant took hold of the victim's head and pushed it down towards his groin area whilst making the comment "suck on this, that will pay for it". The incident was witnessed by two other contractors. The victim reported the incident to her manager and then the police.

In interview, the defendant denied any physical contact with the victim. He did accept he made a comment along the lines of "whilst you're down there" but said it was a joke and was not meant to be sexual in nature. The defendant was charged with sexual assault.

The pre-charge review was completed by CPS Direct. It was cursory, with no consideration of the elements to be proved or strategy about how the prosecution would present its case. No ancillary applications to support the victim were addressed.

By contrast, the Area's post-charge review set out a clear analysis and strategy covering the points to be proved for a charge of sexual assault and what evidence could be relied upon. It referred to the two contractors who witnessed the incident and how their accounts supported the victim's complaint. It also set out the defendant's account in interview, pinpointing why some comments he made actually strengthened the prosecution case that he had known she was not consenting. Strengths and weaknesses were outlined, which included the fact that there was undermining material in the form of the victim having previous convictions for dishonesty, which the prosecutor properly disclosed to the defence. The post-charge review also identified ancillary applications to be sought, including a restraining order and compensation.

Finally, the lawyer identified that special measures had not been addressed with the victim and sent a case action plan to the police for them to check the position.

The defendant entered a not guilty plea. On the day of trial, he offered a plea to either a public order act offence or a common assault. The trial advocate discussed the offer of pleas with the victim, who was present at court ready to give evidence, and who was not willing to accept the offer. The prosecution rejected the offer of plea and the trial went ahead. The defendant was convicted of the sexual assault.

**6.42.** Those cases we assessed as partially or not meeting the standard had similar issues to those identified at the pre-charge stage, with case analysis not always being clearly addressed and trial strategy lacking in detail.

**6.43.** There were also several instances where the pre-charge advice had been copied and pasted with no evidence that any further consideration had taken place. Whilst this would be proportionate where nothing had changed, that should clearly be stated where it is the case. However, we saw examples where this was occurring when the pre-charge review had not addressed all relevant issues and when additional material had been received in the intervening period, including the streamlined disclosure certificate and items of unused material that had not been addressed.

### **Significant events**

**6.44.** 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 paragraphs 4.23 to 4.25.

**6.45.** Of the magistrates' court cases we examined, 14 required a significant event review. Seven of these reviews (50%) were of a good quality, properly addressing the development(s) in the case. We assessed two of the cases (14.3%) as partially meeting the standard because, whilst there had been a review, it did not sufficiently explain the decision made or consider possible alternative actions. The remaining five cases (35.7%) were assessed by inspectors as not meeting the standard, because there was no review setting out what action to take, whether there was still a realistic prospect of conviction, or whether a prosecution remained in the public interest.

### **Feedback on police file quality**

**6.46.** 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 (CMS).

**6.47.** 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.

**6.48.** Within our file examination, 12 (40%) of the files submitted by the police to the CPS did not meet the requirements set out in the National File Standard. We found that the Area used the NFQ tool within CMS to feed back the deficiencies either fully or partially in three of the 12 cases.

## Does the Area fully comply with its duty of disclosure?

**6.49.** Our assessment is that the Area is **not meeting the standard** for this casework theme. Overall, the score for disclosure in magistrates' court cases is 55.7%.

**6.50.** 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

**6.51.** In our sample of magistrates' court cases, the police service to the Area on disclosure was found to be variable. We assessed 13 out of 30 cases (43.3%) as fully meeting the required standard, 15 cases (50%) as partially meeting the standard and the remaining two cases (6.7%) as not meeting the standard.

**6.52.** The most common issues were the police missing items of unused material off schedules, failing to disclose items such as victim and witness previous convictions at the pre-charge stage but going on to provide these after charge, and in several instances, providing unused schedules late.

**6.53.** 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 affects how many times a prosecutor has to consider the case.

**6.54.** 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 better service in future. In three of 17 cases (17.6%), the CPS fed back to the police effectively; inspectors rated the cases as fully meeting the standard. There were two cases (11.8%) assessed as partially meeting the standard, where some issues had been fed back to the police. We rated 12 cases (70.6%) as not meeting the standard; in these there had been no feedback or challenge to the police at all.

**6.55.** In some cases we examined there was no evidence to show that the prosecutor had identified items were missing from the schedules and that they

needed to raise this. This reiterates the need for there to be a thinking approach by all prosecutors to their casework.

**6.56.** We noted that the lack of feedback to the police in magistrates' court cases was raised at a Disclosure Operational Group meeting last year. The Area had already identified this as an issue and was clear that it needed to build magistrates' court prosecutors' confidence around when to reject schedules and feed back to the police on their disclosure obligations. We heard that the Area is confident that prosecutors are clearer about their role to feed back where there are failings, and that the disclosure forum with the police forces in the Area has helped with this.

### **Initial disclosure**

**6.57.** We assessed initial disclosure in the magistrates' courts as fully meeting the required standard in 12 of the 30 applicable cases (40%). Another ten cases (33.3%) were assessed as partially meeting the standard and eight cases (26.7%) as not meeting the standard.

**6.58.** The most prevalent theme of the 18 cases we rated as either partially meeting the standard or not meeting the standard was that the prosecutor had failed to identify that obvious items of unused material had not been scheduled. We also saw cases where disclosable unused material had been wrongly assessed as not disclosable, and two cases where initial disclosure was not carried out at all. Each of these issues can result in material not being disclosed to the defence when it should have been, because it met the test in section 3 of the Criminal Procedure and Investigations Act 1996.

**6.59.** One example was a prosecution for a theft from a motor vehicle offence. The defendant had put forward an account for him being forensically linked to an axe recovered at the scene: that he had been sleeping and working in insecure premises and the axe must have been stolen from there and used by the offender in the commission of the offence. The police had made enquiries and confirmed that the said premises had indeed been insecure, but neither the fact of this enquiry nor the outcome were ever scheduled. We found no cases where any failure had an impact that would lead to a miscarriage of justice.

**6.60.** We found that the Area performed better when it came to the timeliness of compliance with initial disclosure. The Area was fully meeting the standard in 23 cases (76.7%) and not meeting the standard in seven cases (23.3%).

## Sensitive material

**6.61.** There was one case featuring sensitive material in our magistrates' court sample, the handling of which we assessed as not meeting the required standard.

**6.62.** The suspect was charged with drug-related matters and an offensive weapon. The police's pre-charge request submission had indicated that there was intelligence material relating to the defendant and his involvement with known organised crime group members. A sensitive schedule was never requested and so there is no record of this intelligence having been considered by the prosecutor.

## Other disclosure matters

**6.63.** There were three cases in the magistrates' court sample where the duty of continuous disclosure arose. Two were assessed as partially meeting the standard and one was assessed as not meeting the standard.

**6.64.** In the case we assessed as not meeting the standard, continuous disclosure was not undertaken following receipt of a defence statement. The defendant had been charged with possession of a false identity document (a driving licence) without reasonable excuse. The defence statement was served well in advance of the trial date but was not addressed by the prosecution until the day before trial, when it was emailed to the police, by which time little could be done. The prosecution offered no evidence at trial as they were unable to satisfy their disclosure duties.

**6.65.** In one case assessed as partially meeting the standard, the prosecutor had sought to comply with continuing disclosure but had not yet provided the defence statement to the police for comment or review. In the second case assessed as partially meeting the standard, the prosecutor disclosed newly revealed items but failed to endorse any decisions in respect of these newly revealed items.

**6.66.** In one case, third party material was relevant. We assessed this case as partially meeting the required standard, because medical notes had not been properly dealt with at the pre-charge stage.



## Disclosure records

**6.67.** Completion of the disclosure record was assessed as fully meeting the standard in 12 out of 29 cases (41.4%), with the record being fully completed throughout the life of the case and decisions on the handling of unused material clearly documented. Another eight cases (27.6%) were assessed as partially meeting the standard and nine cases (31%) were rated as not meeting the standard.

## Area training

**6.68.** The Area has delivered the CPS's national training on disclosure. The Area also has disclosure champions across all teams, who assist in raising awareness of disclosure issues. Last year the Area set up two new disclosure groups, one operational and the other more strategic. These groups oversee and monitor disclosure governance.

**6.69.** An Area manager delivered bite-sized training sessions in September/October 2021 about streamlined disclosure certificates and police manual of guidance form 6 disclosure schedules. This focused on the adequacy of unused material schedules and how prosecutors should assess and record their decisions. As mentioned in paragraph 6.56, the training was in part to increase prosecutors' confidence to challenge the police on inadequate schedules and to enhance their knowledge of how to complete disclosure schedules.

**6.70.** A disclosure audit was completed in October 2021, where it was noted that schedules were generally improving.

**6.71.** In addition, the Area continues to conduct individual quality assessments on disclosure (although these were suspended for a time during the height of the pandemic). This means prosecutors are given regular feedback on disclosure. We also noted that disclosure is regularly raised at team meetings.

## Does the Area address victim and witness issues appropriately?

**6.72.** Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for victim and witness issues in magistrates' court cases is 70%.

**6.73.** 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

**6.74.** At charge, the prosecutor should actively consider relevant applications and ancillary matters to support victims and witnesses. We assessed six out of 21 cases (28.6%) as fully meeting the standard, three cases (14.3%) as partially meeting standard and 12 cases (57.1%) as not meeting the standard.

**6.75.** We identified a number of common themes in those cases we assessed as partially or not meeting the required standard. These included:

- not identifying that a victim or witness was likely to require special measures, and consequently not setting actions for the police to provide information to support an application
- not asking the police to obtain a victim personal statement
- failing to consider compensation or a restraining order at charge.

**6.76.** In one case where a vulnerable victim was burgled by a near neighbour, there was no consideration of special measures, no request for a police manual of guidance form 2, no request for a victim personal statement and no request to establish whether a restraining order and compensation would be appropriate.

### After charge

#### Witness warning

**6.77.** After charge, witnesses were warned correctly and in a timely manner in most cases. We assessed 20 out of 23 cases (87%) cases as fully meeting the standard, two cases (8.7%) as partially meeting the standard and one case (4.3%) as not meeting the standard. The Area clearly has effective processes for the correct and timely warning of victims and witnesses; this was a strength for the Area.

### **Communications with witness care units**

**6.78.** The Area's handling of correspondence from the witness care units was found to be mixed. We rated ten out of 20 cases (50%) as fully meeting the standard for timely and effective actions, five cases (25%) as partially meeting the standard and five cases (25%) as not meeting the standard. There were no challenging features relating to witnesses in those cases we rated as fully meeting the standard, but nevertheless they were handled efficiently and effectively.

### **Consulting victims and speaking to witnesses at court**

**6.79.** The Area's approach to consulting victims and witnesses (both at and out of court) was good. We assessed 14 out of 18 applicable cases (77.8%) as fully meeting the standard, two cases (11.1%) as partially meeting the standard and another two cases (11.1%) as not meeting the standard.

**6.80.** We found that generally, hearing record sheets did note that victims and witnesses had been spoken to and the note was sufficient to confirm that the speaking to witnesses at court guidance had been followed. In several cases, victims were also consulted about a basis of plea or alternative proposed resolutions such as a non-conviction restraining order. Views were also canvassed and properly considered when information had been received that a victim or witness may no longer be supportive of a prosecution.

### **Victim Personal Statements**

**6.81.** 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. In most cases in our magistrates' court sample, we found that the Area had either fully (65%) or partially (15%) complied with the victim's wishes regarding their VPS. This left four cases (20%) which we assessed as not meeting the standard.

**6.82.** There were two main reasons we assessed cases as partially or not meeting the standard. The first was that a VPS was not available and there was no evidence on the casefile that the prosecutor had enquired whether the victim wanted to provide one. The second was that the recording of the hearing was silent as to what had happened with the VPS at sentencing.

### **Orders at sentencing**

**6.83.** This is a strength, with the Area seeking appropriate orders on sentence to protect the victim, witnesses, and the public in nine out of 12 applicable cases (75%) covering a range of offences and orders. We assessed the remaining three cases (25%) as partially meeting the standard.

**6.84.** We saw good examples of the Area being robust, such as by applying for a non-conviction restraining order in a domestic abuse case or, in another domestic abuse case, carefully articulating – following defence objections – why certain prohibitions were required for a restraining order that differed to what the bail conditions had been. In a drugs case, a criminal behaviour order was properly sought and granted. In a dangerous dog case where the dog had caused injury to an innocent member of the public, a contingent destruction order was sought and imposed.

#### **Victim Communication and Liaison scheme letters**

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

**6.86.** There were four cases in the magistrates' court sample in which letters were required under the Victim Communication and Liaison scheme (VCL). Two of these were sent within the set timescales. We assessed the other two letters as partially meeting the standard for timeliness because, although they were sent late, they were no more than 48 hours over the target. We assessed no cases where a letter had not been sent when one was required.

**6.87.** Of the four letters sent, we assessed one as fully meeting the standard for quality, two as partially meeting the standard and one as not meeting the standard. The latter was a case where the explanation for stopping the case was factually inaccurate and it demonstrated an insufficient level of empathy for what would undoubtedly have been a disappointing outcome for a victim who had sustained nasty injuries during an assault.

**6.88.** The Area has systems and reports to ensure that letters are sent in appropriate cases. The Victim Liaison Unit provides reports (for both the magistrates' court and Crown Court teams) of any cases which did not result in a conviction and where they have not been notified by a prosecutor of the need for a VCL letter. The Area also has an escalation protocol that was renewed in June last year – although the Area told us that it had been concentrating on the numbers of letters being sent, which it recognised then had an impact on the timeliness of the letters. There is work ongoing in the Area to drive up quality, in terms of making sure 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, staffing challenges and the increase in receipts.

7.3. We have scored CPS East of England for its Crown Court casework as follows.

**Table 9: Scoring for Crown Court casework**

Question	Rating	%
<b>Pre-charge decision-making and review</b>		
The Area complies with the Code for Crown Prosecutors <sup>24</sup> at pre-charge decision stage	Fully meeting the standard	94.1%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	82.4%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	51.9%
<b>Quality of post-charge reviews and decision-making</b>		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	95%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	56%
<b>Preparation for the Plea and Trial Preparation Hearing</b>		
The Area prepares its cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to make sure progress is made	Partially meeting the standard	63.8%
<b>Disclosure</b>		
The Area fully complies with its duty of disclosure throughout its Crown Court casework	Fully meeting the standard	74.7%
<b>Victims and witnesses</b>		
The Area addresses victim and witness issues appropriately throughout its Crown Court casework	Fully meeting the standard	78%

7.4. Our assessment of Crown Court casework was that there were aspects that were done well, including compliance with the Code for Crown Prosecutors at and after charge, selection of the most appropriate charges, timeliness of disclosure, continuous disclosure, compliance with several aspects of disclosure, timely compliance with court directions, the request and handling of additional material received from the police, the correct and timely warning of witnesses for trial and dealing effectively with witness issues after charge.

<sup>24</sup> Code for Crown Prosecutors, 8th edition; CPS; October 2018.  
[www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors)

7.5. There were other aspects that required more focus, specifically the quality of the case analysis and strategy in reviews at all stages, the completion of stage 1 reviews, the consideration of applications and ancillary matters to help support victims and witnesses at the pre-charge stage, the use of appropriate applications to strengthen the prosecution case, the timeliness and quality of Victim Communication and Liaison scheme letters and the 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 of the Code test in 32 of the 34 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	32	94.1%
Not meeting the required standard	2	5.9%



## Selecting the most appropriate charges

**7.9.** 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).

**7.10.** We found that prosecutors were selecting the most appropriate charges in most cases. In the cases we rated as partially meeting the standard, prosecutors had correctly identified the substantive charge but other charges to reflect the extent of the offending behaviour were not correctly identified.

**7.11.** Attention to detail at the pre-charge stage will eradicate basic errors seen by inspectors in a small minority of cases, around obtaining the consent of the Director of Public Prosecutions in certain cases and making sure cases are not time barred.

## 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 51.9%.

**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.** We found that many of the pre-charge reviews were recitations of the facts, with either an inadequate assessment or no assessment of the strength of the evidence in the light of the points to prove for the specific offence(s), and consequently no clear strategy as to how any weaknesses would be overcome. We saw cases where key eyewitness accounts differed from the CCTV but the strategy set out in the review was to call the witnesses and play the CCTV without consideration as to how the differences could be reconciled.

**7.15.** Another theme we identified was that there was little consideration of how to address likely defences. In a case of assault occasioning actual bodily harm, the suspect was alleged to have assaulted the victim in a nightclub, causing the victim to be knocked unconscious and lose a tooth. In interview, the suspect made no comment to all questions and so did not accept presence or guilt. The prosecutor in the pre-charge review authorised charge but did not properly analyse the case or identify clear possible defences that were likely to be raised of identification or self-defence. The identification evidence was not strong, as there was a weakness in continuity, but there was no strategy to address it and no consideration of how the differences between the eyewitness

evidence, which said that the victim had not been aggressive, and the CCTV could be reconciled. The defendant did raise self-defence, arguing he had used a pre-emptive strike. He was subsequently acquitted at trial.

**7.16.** Case analyses often did not adequately assess the legal points to prove or consider the defence(s) raised and set out how they may be overcome within the trial strategy. This meant that reasonable lines of enquiry were not identified, whether to strengthen the prosecution case or arising from the suspect's account or from likely defences that could be anticipated at this early stage. Examples we saw included how dishonesty could be proved in a case where a carer was alleged to have obtained funds from the victim's bank account or how the "immediate risk of serious physical harm" could be proved in a case charged as threatening with a bladed article.

**7.17.** In a domestic abuse case where the defendant was alleged to have forcibly trapped his partner's arm in a door during an argument, he raised self-defence, stating that she had lunged at him and he had pushed her back to defend himself, her arms becoming trapped as he tried to close the door. The pre-charge decision completely ignored the defence raised and consequently no strategy was developed as to how it could or would be rebutted.

**7.18.** In one case where the defendant was charged with threatening a neighbour through her open bedroom window with a bladed article, there was no consideration in the pre-charge review of asking the police to conduct house to house enquiries, or to check CCTV in the vicinity of the block of flats; or of showing the victim a knife that had been recovered from the defendant's flat to see if she could identify it as the one used.

**7.19.** Whilst we found that unused material was handled appropriately at the pre-charge stage in just over a third of cases (35.3% or 13 out of 34 cases), we also found a number of cases in which the prosecutor did not recognise that there was undermining material that would need to be disclosed.

**7.20.** One example was a case of possession with intent to supply drugs, in which neither a house search of the suspect's property nor an interrogation of his mobile phone had found evidence of drug supply. The prosecutor did not identify that these were pieces of information that should be disclosed at this early stage.

**7.21.** Another example was an assault case, where the suspect's partner provided a statement that supported his account of self-defence. This was not identified as disclosable unused material, as it should have been.

### **Instructions to the court prosecutor**

**7.22.** Few of the Crown Court cases we examined had sufficient instructions to the court prosecutor. A lack of instructions to court prosecutors means that opportunities to progress or clarify matters at an earlier stage may be lost. Making sure the first hearing is effective by including appropriate instructions to court prosecutors is an important way in which pre-charge decisions should add value to the case.

**7.23.** We saw infrequent references to bail or custody and acceptability of pleas. Allocation guidance often amounted to no more than naming the appropriate venue, with little reference to the sentencing guidelines to support the venue determination. On occasion, this led to the court prosecutor having to review the case themselves to be able to make appropriate representations to the court on venue.

### **Reasonable lines of enquiry and action plans**

**7.24.** 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.

**7.25.** We assessed 14 out of 33 cases (42.2%) with actions plans as fully meeting the standard. However, we found that action plans were not being routinely set in cases where they were required to progress reasonable lines of enquiry or to obtain relevant outstanding information, leading to inefficiency and delay.

**7.26.** Another noticeable theme was that requests were made in the narrative of the MG3 rather than clearly set out in the specific action plan section of the pre-charge review. This meant that no action dates were set for these requests, raising the possibility that actions could be overlooked and completed either not in a timely manner or not at all without chasing by the prosecutor. It also has an impact on the ability of operational delivery staff to triage the case on re-submission, leading to cases being referred back to prosecutors without all the necessary information and having an impact on already stretched resources.

### **Applications and ancillary matters**

**7.27.** 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.

**7.28.** We assessed the Area's consideration of relevant applications and ancillary matters to support victims and witnesses as fully meeting the standard in ten of 23 relevant cases (43.5%), partially meeting the standard in six cases (26.1%) and not meeting the standard in seven cases (30.4%).

**7.29.** At the pre-charge stage, the Area needs to give more consideration to any applications or orders that should be made to support victims and witnesses, in particular restraining orders and special measures. An example from our case sample was in a domestic abuse case where the victim was assaulted by his ex-partner and sister-in-law, following which they damaged his mother's car. Information provided by the police at the pre-charge stage (including a domestic abuse checklist) indicated that the victims supported a restraining order being imposed. A police manual of guidance form 2 had been completed by the police officer indicating that the mother required special measures, but it was ambiguous as it had all the available special measures ticked. The pre-charge review was silent on the issue of compensation, stated that no restraining order was required, and that live link or screens were to be requested without having sought clarification from the police as to which measures were actually required.

**7.30.** The Area told us that, during the height of the pandemic and the significant increase in caseloads, the approach was to keep the work progressing. This did not always allow prosecutors to properly analyse cases and set clear case strategies at the pre-charge review stage. We were told that the focus has now shifted firmly to providing a quality pre-charge review that will allow cases to progress more effectively and efficiently, and that this is a cultural change that is slowly embedding as pressures have eased.

## Post-charge decision-making and reviews

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

**7.31.** 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 95%. These cases included those that were originally charged by either the police or CPS Direct. The rating includes post-sending reviews, reviews conducted when the prosecution case was served, and any significant event reviews.

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

Rating	Number of cases	Percentage
Fully meeting the required standard	38	95.0%
Not meeting the required standard	2	5.0%

**7.32.** 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.

**7.33.** As Table 11 shows, there were two cases that were identified as wholly unreasonable decisions. These are the same two cases identified at the pre-charge stage; both progressed beyond the post-sending review stage, when that review would have been an opportunity to identify the issue and stop the case.

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

**7.34.** 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 56%.

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

### Comparison of pre and post charge case strategy and analysis

**7.36.** As with magistrates' court cases, the standard of case analysis and strategy in the Area's Crown Court casework is better in post-charge reviews than at the charging stage – but there remains some room for improvement.

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

Question	Crown Court cases
<b>Pre-charge case analysis and strategy</b>	
Fully meeting the required standard	38.2%
Partially meeting the required standard	29.4%
Not meeting the required standard	32.4%
<b>Post-charge review analysis and strategy</b>	
Fully meeting the required standard	52.5%
Partially meeting the required standard	25%
Not meeting the required standard	22.5%

**Case analysis and strategy**

**7.37.** Some of the issues we identified with the quality of case analysis and strategy at the pre-charge stage were also evident at the post-charge stage.

**7.38.** We rated just over half of all post-sending reviews as fully meeting the standard required of a proportionate review (21 out of the 40 cases or 52.5%). We rated another ten cases (25%) as partially meeting the standard and the remaining nine cases (22.5%) as not meeting the standard.

**7.39.** We found examples of cases where prosecutors had carefully considered the case afresh, whether or not it was the same prosecutor who had provided the charging advice, and addressed relevant issues within the review, clearly adding value. One example was where the defendant, a care home employee, had been using the elderly and profoundly deaf victim's bank card to obtain cash for herself. The prosecutor (who was different to the charging prosecutor) re-considered the charges, correctly identified that this had been under-charged, and changed the charges to fraud by abuse of her position of employment. They also set out clear guidance on acceptable pleas.

**7.40.** We also saw examples of proactive and effective reviews progressing cases charged on the threshold test by the out of hours CPS Direct service. In one example, the post-sending review set out a clear and cogent review and strategy and progressed the case effectively by setting out a clear action plan to the police to build the case.

**7.41.** In those cases we assessed as partially or not meeting the standard, we identified a number of clear issues. These included:

- failure to address either missing evidence or the impact that new material had on the case, such as negative forensics in a burglary case
- prosecutors simply replicating the charging advice, adding little to it, such that no value was added where key aspects of the case had not previously been addressed
  - In an assault case where the issue was self-defence, the pre-charge review had not addressed how self-defence could be rebutted. This was compounded by the post-sending review failing to do so either.
- little evidence of prosecutors proactively managing cases through the post-sending reviews
  - In many cases, the police had not complied with action plans set at the charging stage, but the review did not reflect that and nor did any actions flow to chase or escalate the outstanding material.
- failure to update or provide a case analysis and strategy (to include the acceptability of pleas) or identify where the pre-charge prosecutor may have missed something important.

**7.42.** Whilst the quality issues we identified are not surprising given the significant pressures caused by the pandemic, the Area has acknowledged that this is not the sole factor and had already identified many of the issues through its own internal assurance. The Area's casework quality committee has identified the need for more "tradcrafft" when prosecuting cases.

**7.43.** The Area also recognises that, whilst there had been a national "front-loading" strategy to enable a lighter touch post-charge, this is predicated on the pre-charge review being of good quality. The Area accepts that the quality of its Crown Court pre-charge reviews needs to improve before it can embed this strategy.

### **Significant events**

**7.44.** 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 paragraphs 4.23 to 4.25.

**7.45.** We found little or no evidence of reviews taking place in accordance with the Code to evidence the strategy or approach at these specific points in Crown Court cases. There were 17 cases in our sample that required a significant event

review. We rated five of these cases (29.4%) as fully meeting the standard and two cases (11.8%) as partially meeting the standard. We rated the remaining ten cases (58.8%) as not meeting the standard because we found little or no evidence to support any decision-making as a result of the significant event.

**7.46.** For example, in one case involving an allegation of racially aggravated assault, there was no review carried out when it became apparent that a key independent witness had disengaged. In a victimless domestic abuse case, there was no review when the victim later made a statement exculpating the defendant.

### **Case study**

The defendant was arrested for being drunk and disorderly. Whilst being put in the police vehicle, he was alleged to have deliberately grabbed the male police officer's hair. He was arrested again for assaulting an emergency worker. The incident was captured on officers' body worn video (BWV) cameras.

An Area prosecutor reviewed the case, including the BWV footage, and authorised charges of drunk and disorderly and assault on an emergency worker. At the first hearing in the magistrates' courts, the drunk and disorderly charge was withdrawn and the defendant elected trial at the Crown Court. The defendant's case was that he denied assault and that any contact was accidental as he put his hand out to stop himself falling.

A different prosecutor conducted a post-sending review at this stage, before the Plea and Trial Preparation Hearing (PTPH). The prosecutor did not view the BWV, which was the key evidence, and relied on the detail set out in the pre-charge review. The prosecutor commented that if the conduct looked different on the BWV from that described, the case would have to be further reviewed. The prosecutor clearly understood that the BWV was the key evidence in the case and added little value through their review, since they identified the possibility that the initial description of it might be flawed but did not then go on to view it and resolve that point.

At the PTPH the Judge indicated that, given the defendant's age and his good character, a bind over would be a suitable resolution. An adjournment was granted for three weeks for counsel to take instructions and consult with the police. Prosecution counsel provided a detailed advice on the hearing record sheet, showing they had clearly viewed and carefully considered the BWV, and why they felt the Judge's proposal was appropriate.

By the date of the next hearing, the prosecution had had no response back from the police. It had not been chased or escalated. The prosecutor had not viewed



the BWV in the intervening period and the case was adjourned for another two weeks.

The police responded to say they did not agree that a bind over was a suitable disposal. The prosecutor then viewed the footage and discussed it with a legal manager. The fact of the conversation with the manager was recorded in the case management system but there was no review setting out the rationale for the decision and what, if any, further action was required; counsel was simply instructed to proceed.

A month later, prosecution counsel provided a lengthy and comprehensive advice. Two weeks after that, the decision was made to offer no evidence. Again, there was no review to coincide with this decision. The letter to the victim stated that the case was stopped because the BWV was not clear.

This was a poor decision at the pre-charge stage. There was no review to coincide with the decision to proceed with the case following the objection by the police or subsequently when the decision was then made to stop the case. There were a number of missed opportunities for the case to be stopped, which led to delay, unnecessary hearings and additional work for the police, counsel and the Area, demonstrating an overall lack of added value and a failure to grip the case. The letter to the victim was also inaccurate and did not reflect the situation.

**7.47.** In contrast, we did see some examples of good reviews being carried out in response to a significant development. One such example was a custody case where the defendant had been charged with possession with intent to supply drugs and possession of a taser. A review was conducted on receipt of new forensic evidence which clearly set out the rationale for ending the case based upon that evidence.

### **Stage 1 reviews**

**7.48.** 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.

**7.49.** In our sample, six out of 30 cases (20%) had a review at stage 1 that we rated as fully meeting the required standard. We assessed another six cases (20%) as partially meeting the standard, leaving 18 cases (60%) that we assessed as not meeting the standard.

**7.50.** In several cases, there was no review at all to coincide with service of the case where one was required (because additional material had been supplied or there had been a change affecting the case). One example was a case where the defendant was charged with being concerned in the supply of drugs. The police had submitted several statements and documents following the PTPH, including a drugs expert report, statements and exhibits relating to the telecommunications data and statements to support an application for a criminal behaviour order. The stage 1 review was a copy of the post-sending review and so did not address any of the new material or its impact on the case, adding no value.

**7.51.** In a number of cases, we found that prosecutors were purporting to serve the case at the post-sending review stage (before the PTPH) even though there remained outstanding evidence and the unused material schedules had not been provided by the police.

**7.52.** One example was a case where the prosecutor had served a Crown Court evidence bundle in advance of the PTPH, yet a significant amount of additional material was received from the police after the PTPH, initially as a result of ongoing enquiries and then in response to an advice from counsel. This led to several additional notices of evidence being served before the stage 1 service date, but there was no review to coincide with service of all this new material and its impact on the case analysis and strategy.

**7.53.** Whilst it may be appropriate to serve the prosecution case earlier than the stage 1 service date, this should only happen where no further evidence is awaited or anticipated, and where the prosecutor can be confident that they have the full evidential file and can deal with the unused material at the same time.

**7.54.** The Area accepted that because of the backlog of cases, in particular because of the pandemic, there had been a drive to encourage prosecutors that where they could prove their case, they should serve it, even if they knew there was additional material outstanding. This was to address concerns that directions would be missed and cases listed in non-compliance courts for lack of service of the prosecution case. The Area acknowledged in our meeting that its message to prosecutors serving Crown Court cases needs to change as pressures and backlogs recede.

#### **Threshold test cases**

**7.55.** There may be circumstances where the police do not have all the evidence needed to pass the full Code test, although they anticipate getting more, but the seriousness of the case demands an immediate charging decision. If the police intend to hold the suspect in custody, they can ask the CPS to make

a threshold test charging decision. There are five conditions which must be met before the threshold test can be applied, and a review applying the full Code test must be carried out as soon as the anticipated extra evidence or material is received.

**7.56.** By their nature, these are usually the most serious offences and are destined for the Crown Court; and if the suspect remains in custody for trial, the proceedings will be subject to custody time limits (CTLs).

**7.57.** There were two cases where, after a threshold test decision at charge, the full Code test was not subsequently applied at any stage after charge. Both these threshold test decision cases had post-sending reviews where the full Code test was not applied because of outstanding evidential issues. There were no further reviews on either case following the post-sending review. CTL extensions had been sought and granted in both cases, both proceeded to trial, and both defendants were convicted after trial in respect of some of the offences they had originally been charged with.

**7.58.** The Area told us that the volume of CTL cases is significant in CPS East of England. Prosecutors, particularly in the Crown Court team, carry a high proportion of CTL cases which has increased because of:

- cases not being listed for trial because of closures
- the need for courts to ensure compliance with public health regulations around social distancing
- the impact of sickness or self-isolation of key parties within the case or criminal justice system, for example the prisoner escort service.

**7.59.** These delays in listing trials in CTL cases necessitate applications to extend CTLs, often numerous times per case. Given the risks around CTL cases, the Area has conducted a CTL audit and has actions to address this issue as the pressures brought about by the pandemic ease.

### **Applications**

**7.60.** We assessed five out of 19 cases (26.3%) as fully meeting the standard for the use of applications to strengthen the case, with another five (26.3%) partially meeting the standard and the remaining nine (47.4%) not meeting the standard.

**7.61.** In some of the cases we assessed as not meeting the standard, bad character applications were not made where they would have been relevant and applicable to strengthen the prosecution case. In several other cases, although

bad character applications had been drafted and served, they lacked detailed and persuasive arguments as to why the evidence should be admitted.

**7.62.** It was of note that paralegal officers had drafted several of these applications with little or no input from the reviewing lawyer. The Area told us that this was not the expectation; although paralegal officers are encouraged to draft such applications, they should only be drafting the more straightforward ones and even then with lawyer supervision and sign-off. The Area contended that this may have been a result of the pressures of progressing cases during the pandemic. It will make sure clear expectations and standards are set.

### **Feedback on police file quality**

**7.63.** 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.

**7.64.** Some of the cases 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.

**7.65.** Of the 40 police files in the Crown Court sample, we assessed 29 of them (72.5%) as meeting the NFS. The Area fed back a lack of compliance either fully or partially in five cases (55.5%). It did not feed back in four cases (44.4%).

**7.66.** The Area told us that each of its police forces had taken action to strengthen their file supervision arrangements, particularly with the introduction of the sixth edition of the Director's Guidance on Charging and the revised Attorney General's Guidelines 2020. This good rate of compliance is expected to improve further with the more recent tightening of the Area's file supervision arrangements.

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

**7.67.** Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for preparation for the PTPH in Crown Court cases is 63.8%.

**7.68.** 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 on these tasks in chapter 4 (paragraphs 4.27 to 4.36).

**7.69.** We assessed 21 out of 39 cases (53.8%) as fully meeting the standard for preparation for the PTPH, including completion of the PTPH form. We assessed the remaining 18 cases (46.2%) as partially meeting the standard. No cases were assessed as not meeting the standard.

**7.70.** Key themes identified in the cases that partially met the standard included not addressing acceptability of pleas and failing to draft and serve necessary applications, such as bad character and special measures applications, when the information was available on the file.

**7.71.** The police upload hard media (such as CCTV footage or body worn video) to secure online locations and send the links to the CPS. We found that in 19 of 27 cases (70.4%), the Area shared hard media with all parties before the PTPH. We rated one case (3.7%) as partially meeting the standard and seven cases (25.9%) as not meeting the standard.

**7.72.** In the cases we rated as not meeting the standard, either some links in a case were not shared, or links were not shared with all parties.

## Direct engagement with the defence

**7.73.** 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.

**7.74.** 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.

**7.75.** The Area also explained that defence practitioners were experiencing difficulties in arranging prison visits and telephone conferences with defendants during the pandemic, which also hindered engagement efforts.

**7.76.** Despite these issues, we assessed the Area as fully or partially meeting the standard for defence engagement in over half of applicable cases (59%). Engagement in these cases was mainly by letter inviting the defence to contact the Area, rather than by a telephone call, which was a sensible approach given the obstacles created by the pandemic. There was, however, a failure to upload the DDE log in 16 cases (69.6%) where a log was created.

**7.77.** We assessed two cases as partially meeting the standard because, whilst no DDE log had been generated, a defence engagement letter had been sent and a copy had been uploaded to the Crown Court DCS.

## The indictment

**7.78.** We found the indictment was properly drafted in 31 of 39 cases (79.5%), which is good. We rated another six cases (15.4%) as partially meeting the standard and the remaining two cases (5.1%) as not meeting the standard.

**7.79.** The timeliness of service of the draft indictment and key evidence was good, with 27 cases (69.2%) assessed as fully meeting the standard. The evidence was served on time but the indictment was late in another six cases (15.4%), and neither were served on time in the remaining six cases (we defined 'on time' as 'uploaded to the Crown Court DCS seven days before the PTPH'). All the indictments that were served late were drafted by the prosecutor.

## Instructing the advocate

**7.80.** We set out the expectations for what should be contained in instructions to the court advocate in paragraph 4.31.

**7.81.** We found that most cases lacked detailed instructions to the advocate, particularly around acceptability of pleas and applications such as special measures and bad character. This has an impact on the ability of the advocate to effectively progress the case at court.

**7.82.** The Area has recently updated and reissued the instruction to advocate document. It hopes that by setting the standard in this way, the quality of instructions to counsel will improve, which in turn will have a positive impact on the quality of service from counsel and the effectiveness of hearings.

**7.83.** In addition, we found that advocates were not always being instructed at least seven days before the PTPH. We assessed seven cases (17.9%) as fully meeting this standard, 19 cases (48.7%) as partially meeting the standard and 13 cases (33.3%) as not meeting the standard.

**7.84.** In many of the cases, we noted that counsel was being instructed the evening before the PTPH. The Area told us that the availability of counsel has had a significant impact, particularly as a result of local listing issues during the pandemic.

**7.85.** The Area has a high late return rate, with chambers finding it difficult to find available counsel to cover hearings. The Area recognises that there may have to be a change to the advocacy strategy if the pool of counsel continues to shrink.

## Does the Area fully comply with its duty of disclosure?

**7.86.** Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for disclosure in Crown Court cases is 74.7%.

**7.87.** 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.

**7.88.** It was evident from the file examination that the Area has had a focus on disclosure in Crown Court casework, which has resulted in improvements. We saw some good examples of prosecutors addressing their minds to the whole case and identifying reasonable lines of enquiry. We found that the timeliness of disclosure was good and that the standard of continuing disclosure appeared better in the files we examined than initial disclosure, where there remains room for improvement.

### Police service on disclosure

**7.89.** The Area told us that the police's compliance with their disclosure obligations is improving as a result of the joint focus on the standard and quality of disclosure.

**7.90.** We assessed 20 out of 37 cases (54.1%) as fully meeting the standard, another 13 cases (35.1%) as partially meeting the standard and the remaining four cases (10.8%) as not meeting the standard. Police compliance is better in Crown Court cases than in magistrates' court cases.

**7.91.** The most common issues were that obvious items of unused material were missed off schedules and many items listed were inadequately described, such that the prosecutor would not have been able to apply the disclosure test without sight of the item or obtaining a better description. This causes delay and duplication, with both officers and prosecutors having to revisit the case.

**7.92.** When we observed the Area casework quality committee (CQC), we heard that the quality of disclosure schedules provided by the police in Crown Court cases was improving, which is positive.



**7.93.** 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 six out of 16 cases (37.5%) where the police were assessed as partially or not meeting the standard. We assessed three cases (18.8%) as partially meeting the standard and another seven cases (43.8%) as not meeting the standard.

**7.94.** Given that the police failed to fully comply with their disclosure obligations in almost a half of cases, it is vital that the CPS both recognises and draws attention to these disclosure failings. We saw an excellent example of the prosecutor identifying defective police manual of guidance form 6C (MG6C) and MG6E schedules and providing clear feedback to the police with an explanation why they were deficient, identifying the unused material that was missing and providing guidance on how to complete the schedules correctly.

**7.95.** We also heard at the CQC that the Area had seen some good evidence of challenge to the police where the schedules provided in Crown Court cases were inadequate, and of prosecutors adopting a thinking approach.

## **Initial disclosure**

**7.96.** We assessed initial disclosure in the Crown Court as fully meeting the required standard in 20 of the 35 applicable cases (57.1%). Another six cases (17.1%) were assessed as partially meeting the standard and nine cases (25.7%) as not meeting the standard.

**7.97.** Our analysis of the issues that led to cases partially or not meeting the standard identified the most common issues as:

- prosecutors failing to sign or endorse a blank MG6D (six cases)
- prosecutors not identifying obvious items of unused material that had not been included by police on a schedule (three cases)
- prosecutors assessing disclosable unused material as not disclosable (three cases).

**7.98.** Whilst these were the most common issues, on several of the files we rated as partially or not meeting the standard we identified a combination of these (and other) issues.

- In a case of threatening with a bladed article, the victim's relevant previous convictions were not included on the schedule.
- In a serious assault case, a statement from a neutral witness, who was not being called as part of the prosecution case, did not appear on the schedule.
- The prosecutor failed to reveal to the defence that no drugs-related communications had been found on two phones seized from the defendant in a possession with intent to supply case.

**7.99.** By contrast, we found some cases where initial disclosure had been dealt with well, where the prosecutor had carefully considered the impact of unused material on the prosecution case and given clear rationales for what was and was not disclosable.

**7.100.** For example, in one instance, there was a correct decision to disclose two officers' use of force forms because they were relevant to an issue in the case. In a case of assault there was a sound decision, with a rationale recorded, to disclose the record of the victim's telephone call to the police and the crime report, as both the victim himself and the call handler referred to him being aggressive and unpleasant on the call. The Area will want to focus assurance work around ensuring a consistently good standard of initial disclosure handling.

## **Continuing disclosure**

**7.101.** The Area discharged its obligations around continuing disclosure in the majority of cases, with 21 out of 31 relevant cases (67.7%) rated as fully meeting the required standard. We rated six cases (19.4%) as partially meeting the standard and four cases (12.9%) as not meeting the standard.

**7.102.** One example of continuing disclosure being handled well was in an assault case, where the defence had made three disclosure requests in their defence statement. The prosecutor quite properly disclosed one item but did not disclose the second item requested, correctly assessing that the telephone call from the victim's brother reporting the assault did not fall to be disclosed. The third item related to the contact details of an eyewitness who had provided a verbal account to the police but had refused to provide a statement. The prosecutor correctly obtained the witness's consent before providing his contact telephone number to the defence.

**7.103.** The most common issue identified in those cases that either partially or did not meet the standard was that failings at initial disclosure stage were not gripped. This resulted in disclosure being made piecemeal to the defence via email, rather than via properly completed and endorsed schedules with all items clearly itemised and described.

**7.104.** In one example, the police submitted several confidential continuation file information forms (MG6 forms) in response to the defence statement but failed to supply a continuation non-sensitive unused material schedule with newly revealed material itemised. This material was instead disclosed in several separate emails to the defence.

**7.105.** There were three inadequate defence statements within the files we examined. In two of these cases, the quality was challenged by the prosecutor. We also saw a consistent approach to defence statements being reviewed and guidance being given to the police.

**7.106.** All but one of the defence statements in our Crown Court file sample had been reviewed, with some level of guidance provided to the police on the further reasonable lines of enquiry indicated. This is a strength.

**7.107.** We assessed 11 out of 32 cases as partially meeting the standard, as the guidance given required greater detail, in terms either of consideration of the issues or of guidance to the police. The Area can therefore consolidate on this positive aspect of disclosure and improve even further.

## **Timeliness**

**7.108.** The timeliness of the Area's handling of its disclosure of unused material in the Crown Court was also a strength. Initial disclosure was timely in all Crown Court cases we examined and we rated 80.6% of cases as fully meeting the standard for timeliness of continuing disclosure. This demonstrates that the Area has clear and consistent processes in place to manage disclosure.

**7.109.** We also saw a proactive approach by the Area to seeking extensions to the date for service in accordance with the Criminal Procedure Rules, where it was unable to comply with the dates ordered for continuing disclosure (normally because of late service of the defence statement).

## Sensitive and third-party material

**7.110.** There were seven cases featuring sensitive material in our Crown Court sample.

**7.111.** The handling of sensitive material was not as positive or consistent, with five out of the seven cases involving sensitive unused material rated as not meeting the standard. We found the remaining two cases to be fully meeting the standard.

**7.112.** The Area told us that, historically, the police had sent sensitive unused material schedules to the prosecutor either in hard copy or direct to the prosecutor's personal email address, rather than into the CPS case management system (CMS) as should be the case. The Area addressed this with the police at the strategic disclosure group and reached an agreement with all forces in the Area for the schedules to be uploaded to CMS along with all other case file material. The Area indicated that there had been some early problems with the new process, but it is working through these with police colleagues and the system is embedding.

**7.113.** The cases we reviewed that had sensitive unused material all fell into the old system. This hampered our ability to properly assess the cases, as schedules were not available to us to view on CMS. This not only created a problem for our inspection, but also highlighted the issues the Area faced with an aspect of disclosure being dealt with separately from the case.

**7.114.** In one case, a sensitive material schedule was available in CMS but there was no decision recorded against the listed item of sensitive material. In the other four cases, there was no sensitive material schedule in CMS.

**7.115.** For three of those four, we were provided, upon request, with a copy of the sensitive material schedule – but no decisions had been recorded against any of the items listed. In one, a possession with intent to supply drugs case, we saw that a legal manager had emailed counsel's chambers to request his availability to attend a sensitive material meeting with the CPS and the police, but there was no further record to indicate whether such a meeting had taken place and, if so, the outcome.

**7.116.** In the one case where the Area was unable to provide us with a copy of the sensitive material schedule, the information from the police on file indicated that there was such a schedule in existence. Given it was a drugs case involving county lines, it was highly likely that there was sensitive material that should have been reviewed. We were unable to ascertain whether the material had been reviewed and there was simply no audit trail, or whether the material had not been viewed at all.

**7.117.** Third party material was correctly dealt with in one out of four relevant cases, with the other three cases partially meeting the standard.

**7.118.** We found no cases where any of the issues described had an impact that would lead to a miscarriage of justice.

## **Disclosure records**

### **Disclosure management document**

**7.119.** 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 majority of the Crown Court cases in our sample were charged before this change, so DMDs were not obligatory in volume cases. These cases were marked as 'not applicable' for questions relating to DMDs.

**7.120.** Five of the cases we examined required a DMD. We assessed three as fully meeting the standard. In these cases, the DMD had been fully and accurately completed, with the correct issues identified and addressed. In the two cases we assessed as not meeting the standard, no DMD was created when there should have been.

### **Disclosure record sheets**

**7.121.** The completion of the disclosure record on Modern CMS was assessed as fully meeting the standard in 16 out of 35 cases (45.7%), partially meeting the standard in 16 cases (45.7%) and not meeting the standard in the remaining three cases (8.3%).

**7.122.** In the cases we assessed as partially or not meeting the standard, we found that the prosecutor had not recorded their decisions about disclosure. In some cases, the disclosure record was little more than a record of material being received and sent; in others, the recording of decision-making was incomplete.

## Does the Area address victim and witness issues appropriately?

**7.123.** Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for victim and witness issues in Crown Court cases is 78%.

**7.124.** We found that the quality of service after charge was good, but more focus needs to be given to making sure issues are identified and progressed as early as possible before charge.

**7.125.** 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

**7.126.** 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.

**7.127.** In Crown Court cases, the consideration of relevant applications and ancillary matters to support victims and witnesses was better than in the magistrates' court cases – but there remains significant room for improvement. We assessed ten out of 23 cases (43.5%) as fully meeting the standard, six cases (26.1%) as partially meeting the standard and seven cases (30.4%) as not meeting the standard.

**7.128.** In one case, the requirement for an intermediary for an elderly, profoundly deaf victim was not grasped at this early stage. The police were not asked to start the process of an intermediary assessment, which meant that the application was delayed after charge.

**7.129.** In a case of causing grievous bodily harm, a prison officer was punched by an inmate, necessitating dental surgery. The pre-charge advice did not address compensation and, although a VPS was available, it was old, having been taken near the time of the offence. By the time the charging advice was provided, the victim had required further ongoing dental treatment. A more up-to-date VPS should have been requested.

## After charge

### Witness warning and communications with witness care units

**7.130.** Warning witnesses and communicating with witness care units were strengths for the Area. This is particularly commendable, as we saw cases where trials had been vacated and re-listed on several occasions because of the pandemic, creating significant extra work.

**7.131.** We rated the correct and timely warning of witnesses as fully meeting the standard in all but one of the 35 applicable cases (97.1%). Witness care unit correspondence was handled well and in a timely manner in 21 of the 27 applicable cases (77.8%); we rated the remaining six cases (22.2%) as partially meeting the standard.

**7.132.** In most of the cases, last minute witness issues were handled well and there was evidence of a commitment to find solutions to specific witness issues, or issues arising as a direct result of the pandemic. The Area has effective and efficient processes for this aspect of case management.

### Consulting victims and speaking to witnesses at court

**7.133.** Consultation with victims and witnesses was inconsistent. We found the Area to be fully meeting the standard in 14 out of 24 cases (58.3%), partially meeting the standard in three cases (12.5%) and not meeting the standard in seven cases (29.2%).

**7.134.** In those cases we assessed as partially or not meeting the standard, the common theme was there being no record at all, or an inadequate record of the consultation with victims and witnesses. A note of the conversation is required according to CPS guidance, and can be of significant importance to disclosure, should a witness say anything contrary to their statement during the conversation.

**7.135.** There were some notable exceptions where the speaking to witnesses at court guidance had been complied with well. One example was in a domestic abuse case, where the defendant was charged with attempted wounding with intent and a threat to kill. The victim refused to support a prosecution but attended the trial on a witness summons. The separate notes from both a paralegal officer and counsel that accompanied the hearing record sheet were extremely comprehensive and helpful in detailing what the witness had said and his views about giving evidence. It was clear that the offer of a plea to a lesser offence was discussed with him before it was accepted, and it was recorded that he did not want a Victim Communication and Liaison scheme letter sent to him.

### **Victim Personal Statements and orders at sentencing**

**7.136.** We assessed the Area's compliance with obligations regarding the Victim Personal Statement (VPS) as another strength. We rated all but three of the 22 applicable cases as fully meeting the required standard. We assessed the remaining three cases as partially meeting the standard and no cases as not meeting the standard. The reason for cases partially meeting the standard was that there was a VPS but we could not ascertain what had happened with it, as the record was silent.

**7.137.** Appropriate orders were sought on sentence and rated as fully meeting the standard in eight out of 13 cases (61.5%), with one case (7.7%) partially meeting the standard. The remaining four cases (30.8%) were assessed as not meeting the standard.

#### **Case study**

The victim in an assault and threats to kill case was vulnerable by virtue of neurological problems affecting his ability to communicate. He had mental health issues and also a long-standing drug addiction. His account of the offence was taken via an Achieving Best Evidence recording because of his vulnerability.

The defendant had befriended the victim and supplied him with drugs. To re-pay the debt, the defendant forced the victim to hire cars in his own name but for the defendant's use. The victim incurred more debt because of the poor state of repair in which the cars were returned. When he refused to continue hiring cars for the defendant's use, the defendant assaulted him with a golf club and doused him in lighter fluid, threatening to set light to him.

The defendant was arrested and answered no comment to all questions in interview. He was charged with inflicting grievous bodily harm, threats to kill and supplying both heroin and crack cocaine. He was remanded in custody throughout the proceedings.

The prosecution was proactive in seeking the services of an intermediary for the victim, who assisted him during cross-examination at trial.

The defendant was acquitted of the assault and threats to kill after trial, but convicted of the two counts of supplying Class A drugs.

At an early stage, the prosecutor had uploaded an application for a restraining order to the Crown Court DCS. Despite his acquittal on the assault and threats to kill offences, and receiving a three years and eight months custodial sentence for the drugs offences, the prosecution applied for and was granted a restraining order preventing the defendant from contacting the victim either directly or indirectly for an indefinite period.



### **Victim Communication and Liaison scheme letters**

**7.138.** 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.

**7.139.** There were seven cases in our Crown Court sample where a letter was required. A letter was sent as required in all but one of these seven cases, with four sent on time and two sent late (more than 48 hours after the deadline in the Victims' Code). Of the six cases where letters were sent, we rated two as fully meeting the standard, two as partially meeting the standard and two as not meeting the standard.

**7.140.** In one of the cases we rated as partially meeting the standard, whilst the letter contained an accurate explanation and demonstrated an appropriate degree of empathy, the Victims' Right to Review scheme (VRR) had been wrongly offered. We assessed one of the letters as not meeting the standard because the victim was named in the letter as the person charged rather than the defendant.

**7.141.** The Area has an escalation protocol and other processes in place to monitor where letters are not sent and also to assess quality. These remain ongoing and 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, staffing challenges and the increase in receipts.

**8.3.** We have scored CPS East of England for its RASSO casework as follows.

**Table 13: Scoring for RASSO casework**

Question	Rating	%
<b>Pre-charge decision-making and review</b>		
The Area complies with the Code for Crown Prosecutors <sup>25</sup> at pre-charge decision stage	Fully meeting the standard	94.1%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	91.2%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	41.5%
<b>Quality of post-charge reviews and decision-making</b>		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	100%
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%
<b>Preparation for the Plea and Trial Preparation Hearing</b>		
The Area prepares its cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to make sure progress is made	Partially meeting the standard	69.3%
<b>Disclosure</b>		
The Area fully complies with its duty of disclosure throughout its RASSO casework	Fully meeting the standard	70.1%
<b>Victims and witnesses</b>		
The Area addresses victim and witness issues appropriately throughout its RASSO casework	Partially meeting the standard	60%

**8.4.** Our assessment of RASSO casework was that there were aspects that were done well, including compliance with the Code for Crown Prosecutors, selection of charges, the handling of correspondence from all parties, requesting and reviewing additional material from the police, compliance with continuous disclosure and dealing with third party material.

**8.5.** There were other aspects that required more focus, specifically the quality of reviews before and after charge in respect of case analysis and case

<sup>25</sup> Code for Crown Prosecutors, 8th edition; CPS; October 2018.  
[www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors)

strategy, the lack of stage 1 reviews and the consideration of applications and ancillary matters to support victims and witnesses at the pre-charge stage.

**8.6.** There are factors relating specifically to RASSO casework, which we cover in paragraphs 4.53 to 4.66.

## Pre-charge decision-making and reviews

**8.7.** 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

**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 16 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	16	94.1%
Not meeting the required standard	1	5.9%

### 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).

**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 for this sub-theme of pre-charge casework of 91.2%.

### **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 41.5%.

**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.** The quality of case analysis and strategy in RASSO cases needs to improve. We assessed four out of 17 cases (23.5%) as fully meeting the standard, ten (58.8%) as partially meeting the standard and three (17.6%) as not meeting the standard.

**8.15.** Although in the main, 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, or what the strategy would be to address those weaknesses at trial.

**8.16.** We noted cases where the strategy was unclear as to what evidence the prosecution was seeking to rely upon. This included one case where there were several witnesses in the house at the time of an alleged rape, all of whom had varying recollections and were split in their allegiances to the victim or defendant. The strategy was not clear as to which were to be relied upon, the potential impact of any discrepancies between their accounts on the case, or how they could be overcome.

**8.17.** In another case, where there was some telecommunication evidence between the victim and defendant which could have been interpreted as him apologising for his behaviour, it was not clear from the review whether the prosecutor intended to rely upon this as part of the prosecution case, and there was no analysis as to its impact on the case strategy.

**8.18.** In some cases, there was insufficient analysis around being able to prove certain offences, such as in a case with a young victim, where there was little consideration of whether the digital penetration could actually be proved in circumstances where it was difficult to be sure.

**8.19.** We did see cases where the quality of the analysis and strategy was good and fully meeting the expected standard in our assessment. In these cases, the analysis and strategy was clear, with evidential material clearly assessed with an understanding of strengths and weaknesses. There was evidence seen of robust and sound decision-making, such as in one case where the police were seeking a charge for attempted rape. The content of the review demonstrated that the prosecutor had carefully weighed up the evidential material and rightly rejected such a charge, but had gone on to charge sexual assault by digital penetration. It was right for the prosecutor to conclude that the decision was “finely balanced” but they clearly explained why they considered there to be a realistic prospect of conviction for the charge authorised. There had been an initial early investigative advice, which set a comprehensive and proportionate action plan, and the outcome of those actions was properly addressed and considered when the charge was then authorised on re-submission. The case was properly brought and proceeded to trial, at which the defendant was acquitted. This shows that the Area does not adopt a risk averse approach to prosecuting these difficult cases.

#### **Instructions to the court prosecutor**

**8.20.** We assessed none of the 17 applicable cases as fully meeting the standard for providing appropriate instructions and guidance to the court prosecutor. We assessed eight cases (47.1%) as partially meeting the standard and the remaining nine cases (52.9%) as not meeting the standard.

**8.21.** This is an aspect that the Area will want to focus on, as the lack of instructions creates pressure on court advocates who have to read the case again to be able to properly present the case. They are not afforded time to fully re-review cases, so there is real scope for errors to be made and opportunities to address issues to be missed.

**8.22.** In several cases, we found no instructions at all had been provided. The acceptability of pleas was rarely addressed, even where there was a real possibility that alternative pleas or pleas to some offences might be offered. Many cases also omitted any guidance in respect of bail. These findings mirror similar findings in both Crown Court and magistrates’ court casework.

**8.23.** These weaknesses can mean that appropriate bail restrictions are not sought to protect victims, witnesses and the public, and that opportunities to resolve cases efficiently are missed, which wastes resources and delays the conclusion of the case for the victim and defendant.

### **Reasonable lines of enquiry and action plans**

**8.24.** 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.

**8.25.** Reasonable lines of enquiry to build cases were being identified in most cases, although they were not always as clear and proportionate as required. We assessed action plans as fully meeting the standard in six out of 17 cases (35.3%), partially meeting the standard in another eight cases (47.1%) and not meeting the standard in three cases (17.6%).

**8.26.** In some cases, we noted that specific requests were not realistic, such as in an historic sexual abuse case where the prosecutor was concerned that the defence may suggest collusion between the victim and witness, so requested that the police conduct digital downloads of both their phones for communications between them and others connected in the investigation. No parameters were set, and the target date of one month was unrealistic for this and other enquiries in the case.

**8.27.** In other cases we assessed as not meeting the standard, it was because there was no action plan when there should have been, because there were reasonable lines of enquiry outstanding.

**8.28.** We also noted that, in some reviews, the actions were set out as part of the review rather than in the specific action plan section of the MG3. This can lead to actions being missed by the police, and means that the actions were not prioritised or given deadlines for completion. This also has an impact when operational delivery staff triage cases on re-submission, as they will check whether the actions set out in the action plan have been completed. Where the actions have not been clearly set out as required, cases can be referred back to prosecutors when the actions are not complete, leading to delay and unnecessary work that has an impact on resources.

### **Applications and ancillary matters**

**8.29.** 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.

**8.30.** In sensitive and difficult RASSO cases, support of victims and witnesses from the outset is crucial. It should be a consideration at the pre-charge stage, in



order to reassure the victim or witness that support is in place as early as possible. We found that this was not the case routinely with the cases we examined and it is something the Area will want to improve upon.

**8.31.** Three out of the 17 cases (17.6%) were rated as fully meeting the standard, another three cases (17.6%) as partially meeting the standard and 11 cases (64.7%) as not meeting the standard.

**8.32.** We found that, although in most RASSO cases victims are automatically eligible for special measures, prosecutors did not always ask the police for manual of guidance form 2s (MG2s – the form that sets out the measures that the police have discussed with the victim) so that the most appropriate measures could be secured and the views of the victim obtained. In some cases where the police provided an MG2, the prosecutor did not include it in the review or set out actions to progress special measures.

**8.33.** One example was a rape case where the victim had quite significant mental health issues. The MG2 indicated that section 28 special measures would assist (these allow vulnerable victims and witnesses to have their cross-examination video-recorded before the trial). Whilst this special measure was not available at the time the charging advice was being provided, it would have been soon after, and well in advance of any trial date.

**8.34.** We also found that prosecutors often failed to consider restraining orders that would clearly be appropriate at this early stage.

**8.35.** Early consideration of relevant applications and orders was also inconsistent. In relation to consideration of applications and ancillary matters such as bad character, hearsay and applications that relate to wider public protection such as Sexual Harm Prevention Orders (SHPO), we again found that there was room for improvement at the pre-charge review stage.

**8.36.** We rated one out of 15 applicable cases (6.7%) as fully meeting the standard, four cases (26.7%) as partially meeting the standard and ten cases (66.7%) as not meeting the standard.

**8.37.** In several cases, we found a failure to consider and progress a SHPO where such an application was potentially relevant. Whilst these orders would be relevant at the conclusion of the case, the cases were such that their relevance was clearly discernible at this early stage. Failure to consider these orders at the pre-charge stage can lead to them being overlooked throughout the life of the case and, in the case of an early guilty plea, not being prepared at the point of sentence.

**8.38.** In other cases, we noted a lack of consideration around the potential to make a bad character application. Whilst in many cases the applications would not have been straightforward, there was clearly material that required further consideration in accordance with the legislation to assess whether an application was appropriate.

## Post-charge decision-making and reviews

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

**8.39.** Our assessment is that the Area is **fully meeting the standard** for this sub-theme of pre-charge decision-making. All 20 of the Area’s post-charge decisions were compliant with the Code for Crown Prosecutors. These cases included those that were originally charged by either the police or CPS Direct.

**8.40.** For cases in the Crown Court, the rating includes post-sending reviews, reviews conducted when the prosecution case was served, and any significant event reviews. For cases not heard in the Crown Court (such as those involving youth defendants), we assessed the initial review post-charge.

**8.41.** 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.

**8.42.** The one pre-charge case that had been identified as a wholly unreasonable decision was promptly identified at the post-sending review stage and the charge in question was stopped.

**Table 15: Post-charge Code compliance in RASSO cases**

Rating	Number of cases	Percentage
Fully meeting the required standard	20	100%
Not meeting the required standard	0	0%

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

**8.43.** 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 48%.

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

## Comparison of pre- and post charge case strategy and analysis

**8.45.** There was little difference between the standard of case analysis and strategy in pre- and post-charge reviews. Whilst more cases were assessed as fully meeting the standard for analysis and strategy in post-charge reviews, a higher number of cases did not meet the standard in post-charge reviews compared to pre-charge reviews.

**8.46.** It is clear from our examination of RASSO cases that prosecutors clearly applied the Code correctly, had a good grasp of the legislation and were able to apply it properly to the casework, such that the selection of charges and appropriate drafting of the indictment in these sometimes complex cases was a strength. Similarly, the preparation of the cases for the Plea and Trial Preparation Hearing (PTPH) signifies a grip of the casework and aspects of disclosure were dealt with well.

**8.47.** Overall, this reflects that the Area has a good foundation on which to build in terms of improving the quality of analysis and strategy that will add real value to its RASSO casework.

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

Question	RASSO cases
<b>Pre-charge case analysis and strategy</b>	
Fully meeting the required standard	23.5%
Partially meeting the required standard	58.8%
Not meeting the required standard	17.6%
<b>Post-charge analysis and strategy</b>	
Fully meeting the required standard	35%
Partially meeting the required standard	30%
Not meeting the required standard	35%

### **Case analysis and strategy**

**8.48.** Inspectors rated seven out of 20 cases (35%) as fully meeting the standard, six cases (30%) as partially meeting the standard and the remaining seven cases (35%) as not meeting the standard.

**8.49.** We saw examples of cases where the prosecutor had carefully considered the case at the post-sending review and addressed relevant issues, clearly adding value. One example was a case where CPS Direct had advised on the threshold test. A local case management panel was held after the case had been sent to the Crown Court and before the PTPH. There were two post-sending reviews, which showed a good consideration of the evidence received to date and clearly addressed decisions that had been taken after charge, such as a decision not to seek evidence from the victim's young daughter, who had been a witness to some of the alleged behaviour. It also added value by identifying more material that was required, with the reviewing lawyer sending a detailed action plan to the police.

**8.50.** By contrast, however, in other cases, inspectors found that the post-sending review was not used to proactively manage the case, consider or chase responses to action plans, or update the case analysis and strategy – such as in one case where a defence of automatism had been raised at the first hearing.

**8.51.** In most cases, the post-sending review was timely, with 70% being assessed as fully meeting the standard.

### **Significant events**

**8.52.** 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 paragraphs 4.23 to 4.25.

**8.53.** There were 13 cases in our RASSO file sample with significant events that merited a review. We assessed three (23.1%) as fully meeting the standard, five (38.5%) as partially meeting the standard and five (38.5%) as not meeting the standard.

**8.54.** There were cases with clear and cogent reviews of significant events, such as the decision not to seek a re-trial in a case where there was a hung jury at trial and, following a victim withdrawal in another case, a review setting out the rationale for the decision not to apply for a witness summons and to end the case.

**8.55.** The reason for cases being rated as not meeting the standard was that no review at all was carried out despite a significant development occurring that materially affected the case. In a rape case, undermining telecommunication

evidence was identified following service of the case. A review should have taken place to address the impact of the messages on the case in accordance with the Code, including whether they had an impact on the victim's credibility such that the case could no longer proceed and what, if any actions, should follow.

### **Stage 1 reviews**

**8.56.** 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.

**8.57.** Stage 1 reviews were not conducted routinely in the RASSO file sample we examined. This contributed to the low overall score for this theme and the overall score for added value.

**8.58.** We rated two of the 17 relevant cases (11.8%) as fully meeting the standard, three cases (17.6%) as partially meeting the standard and 12 cases (70.6%) as not meeting the standard.

**8.59.** In ten of the 12 cases we rated as not meeting the standard, no stage 1 review had been conducted at all. In other cases we rated as partially or not meeting the standard, disclosure had been addressed but not additional evidence that had been received in the period following the PTPH.

**8.60.** Given the lack of resources in the unit and the increase in caseload, exacerbated by three lawyers from this small team being on long-term sick leave for a period during the pandemic, their focus understandably appears to have been on prioritising the completion of disclosure obligations and making sure that case material is served over the completion of a stage 1 review. This does accord with the good performance in respect of timeliness of compliance with disclosure obligations.

### **Threshold test cases**

**8.61.** There may be circumstances where the police do not have all the evidence needed to pass the full Code test, although they anticipate getting more, but the seriousness of the case demands an immediate charging decision. If the police intend to hold the suspect in custody, they can ask the CPS to make a threshold test charging decision. There are five conditions which must be met before the threshold test can be applied, and a review applying the full Code test must be carried out as soon as the anticipated extra evidence or material is received.

**8.62.** By their nature, these are usually the most serious offences and are destined for the Crown Court; and if the suspect remains in custody for trial, the proceedings will be subject to custody time limits (CTLs).

**8.63.** There were four cases which had been charged by the CPS on the threshold test: two by CPS Direct lawyers and two by local lawyers. In the two cases advised on by local lawyers, the defendant was granted bail with conditions at the first hearing. In one of these two cases, there was a post-sending review that stated the prosecutor was not yet ready to apply the full Code test. There were no further reviews on the file. The case went to trial and the defendant was acquitted of all offences.

**8.64.** In the second of these cases, the stage 1 review confirmed that the full Code test could now be applied. The defendant was convicted following a trial.

**8.65.** In the two threshold test cases charged by CPS Direct, the defendants remained in custody throughout proceedings. Whilst there were subsequent reviews on both of these files, none ever confirmed that the full Code test could be applied. In one, the defendant pleaded guilty to all offences before the trial date. In the second, acceptable guilty pleas were entered on the day of trial.

**8.66.** It is clear that the pandemic has had an impact on resources, but the Area will want to make sure that it has clear processes in place to keep threshold test cases under review and that the full Code test is applied as soon as possible.

### **Feedback on police file quality**

**8.67.** 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.

**8.68.** None of the files we examined were reviewed during the period of suspension of the NFQ requirement.

**8.69.** We assessed police file quality as fully meeting the standard in nine of 20 cases (45%) and not meeting the standard in the remaining 11 cases (55%).

**8.70.** We assessed feedback to the police as partially meeting the standard in seven of the 11 cases and not meeting the standard in the remaining four cases.

**8.71.** In paragraph 2.48, we discuss the joint quality assurance team in two police forces that is working on improving the quality of file that the police are

sending through to the CPS. To make sure the quality improves across all forces, however, the Area needs to make sure that, as the pressures of the pandemic ease, prosecutors take a more consistent approach to feeding back deficiencies in police file quality.

### **Conferences with counsel**

**8.72.** 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.

**8.73.** 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.

**8.74.** We found evidence of conferences with the trial advocate taking place in five of the eight cases (62.5%) where this was required. There were three cases (37.5%) where a conference had not been held when one was required.

**8.75.** The effective engagement of counsel in the preparation of the case for trial can make a significant difference to the ultimate success of a case. The Area will want to remind prosecutors to arrange a conference with counsel in required cases.

**8.76.** An example of the value of a conference in these difficult cases is in one case where the defendant had violently assaulted his partner and digitally penetrated her. There were two timely conferences with counsel, who had also prepared a detailed advice before the second conference. The victim had been wavering in her ongoing support of a prosecution and defence counsel had raised numerous issues. Counsel played a key role in advising on bad character and hearsay applications and progressing the case by addressing each of the defence issues, which helped to make sure that the victim attended the trial, resulting in the defendant entering acceptable guilty pleas.

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

**8.77.** Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for preparation for the PTPH in RASSO cases is 69.3% – so just below the 70% required for the Area to score as fully meeting the standard for this theme.

**8.78.** 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).

**8.79.** We found preparation for the first hearing, including completion of the plea and trial preparation form, was similar in the RASSO files we examined to the Crown Court cases. We assessed twelve of the 20 applicable cases (60%) as fully meeting the standard and eight cases (40%) as partially meeting the standard.

**8.80.** In most cases we assessed as partially meeting the standard, this was because acceptability of pleas was not addressed. We also found some instances where outstanding items awaited from the police had not been chased or escalated.

**8.81.** The police upload hard media (such as CCTV footage or body worn video) to secure online locations and send the links to the CPS. The Area shared hard media with all parties before the PTPH in 11 of the 20 cases (55%); we assessed these as fully meeting the standard. We rated five cases (25%) as partially meeting the standard and four cases (20%) as not meeting the standard.

**8.82.** 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 before the first hearing so that the case can be effectively progressed, with appropriate orders made for actions to take place to make sure the trial is effective.

**8.83.** We did note that the Area is proactive in requesting the unedited transcript of the victim's video-recorded evidence after charge, which is good practice. There were 18 RASSO cases involving at least one video-recorded



interview and where a transcript was required. In six cases, the transcript(s) were obtained and served on the defence before the first hearing, and in seven, they were served before the PTPH, leaving five cases (under a third) where the transcript was either requested too late for or not requested until after the PTPH.

## **Direct engagement with the defence**

**8.84.** 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.

**8.85.** 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 the Area's efforts to engage with defence practitioners and explains why direct defence engagement was not routinely conducted in the RASSO cases we examined.

**8.86.** The Area's engagement was marginally better than what we found in the Crown Court file sample, in that 11 out of 19 applicable cases (57.9%) were rated as fully meeting the standard, two cases (10.5%) as partially meeting the standard and six cases (31.6%) as not meeting the standard. The DDE log, however, was not uploaded to the DCS in any of the 13 cases.

## **The indictment**

**8.87.** RASSO cases present specific challenges when drafting indictments, particularly where the victim is a child, or the allegations are not recent. It is therefore a strength of the Area that indictments were found to be generally well drafted, with 68.4% rated as fully meeting the standard and 26.3% as partially meeting the standard.

**8.88.** Those that we assessed as partially meeting the standard were legally sound, but the drafting could have been improved to eradicate errors including typos, the number of counts or the ordering of defendants. There was one case which we assessed as not meeting the standard because an attempted rape had been incorrectly drafted as rape. This was soon identified and amended by counsel before the PTPH.

**8.89.** Timeliness was again a strength for the Area, with 15 out of 19 cases (78.9%) having indictments and key evidence uploaded in a timely fashion. We assessed three cases (15.8%) as partially meeting the standard, as the evidence was served on time but the indictment was late. In one case (5.3%) neither were served on time.

## **Instructing the advocate**

**8.90.** We set out the expectations for what should be contained in instructions to the court advocate in paragraph 4.31.

**8.91.** We found that instructions to advocates were better than in the Crown Court file sample, with nine out of 19 cases (47.4%) fully meeting the standard. In another six cases (31.6%) we rated the instructions as partially meeting the standard. We rated them as not meeting the standard in four cases (21.1%).

**8.92.** In a number of RASSO cases, we saw prosecutors using a good instruction template that prompted them to set out the bail position and then listed standard instructions to counsel around:

- provision of advice
- reminding the judge at the PTPH to make directions regarding service and agreement of proposed video interview edits
- making oral special measures applications at the PTPH for all witnesses that were video-interviewed and for which there was an MG2.

**8.93.** We saw that the papers accompanying the instructions in the brief to counsel then contained a copy of the MG2, enabling counsel to make a timely oral application at the PTPH. The Area has updated the template to include the obvious omission around confirming acceptable pleas.

**8.94.** Advocates were instructed seven days before the PTPH in 73.7% of cases. We saw examples where the prosecutor was proactive in making sure counsel was briefed well in advance of the PTPH.

## Does the Area fully comply with its duty of disclosure?

**8.95.** Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for disclosure in RASSO cases is 70.1%.

**8.96.** 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.

**8.97.** RASSO cases show strength in many aspects of disclosure work. As with Crown Court cases, initial disclosure is the main aspect where improvement is needed.

### Police service on disclosure

**8.98.** We assessed the police's compliance with their disclosure obligations as fully meeting the required standard in six out of 19 cases (31.6%), partially meeting the standard in eight cases (42.1%) and not meeting the standard in the remaining five cases (26.3%).

**8.99.** 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.

**8.100.** Prosecutors did not feed back issues in 61.5% of the cases where the police had not complied with their disclosure obligations. As with the Crown Court cases, the Area needs to focus on making sure that prosecutors identify issues with the police's performance against their disclosure obligations and feeding these issues back, particularly given the level of the police's performance.

**8.101.** A regime to feed back more consistently is already in place as a result of the requirements for the police to provide unused material schedules, and material subject to the rebuttable presumption for disclosure before charge, for all full Code test cases where a not guilty plea is anticipated and which are submitted for a charging decision on or after 31 December 2020 in accordance with the Directors' Guidance on Charging.

## Initial disclosure

**8.102.** We assessed initial disclosure in RASSO cases as fully meeting the standard in three of the 17 applicable cases (17.6%). Another ten cases (58.8%) were assessed as partially meeting the standard and four cases (23.5%) as not meeting the standard.

**8.103.** In those cases we rated as partially or not meeting the standard, the main reasons were not disclosing unused material that was disclosable and not endorsing decisions on a non-blank police manual of guidance form 6D (MG6D). We also noted two cases where non-disclosable material had been disclosed.

**8.104.** There were no cases in our sample where we considered there to be a risk of a miscarriage of justice as a result of failure to disclose unused material.

**8.105.** We did see some cases where the handling of disclosure was dealt with well and competently (see case study).

### **Case study**

The victim had been at a friend's flat with several other people, including the defendant. It was the first time that the victim and defendant had met. They were all drinking alcohol and the victim started to feel very drunk. After going to the toilet, she ended up lying in the hallway, outside the bathroom, in an intoxicated but conscious state. The defendant picked her up and dragged her into a spare bedroom, put her on the bed, pulled the bottom part of her clothing down including her underwear and anally raped her. He then left the victim in a half-undressed state where she was seen by her friends.

She told her friends at the address what had just happened and made an immediate report to the police.

Following his arrest, the defendant provided a pre-prepared statement in which he denied rape and claimed that they had engaged in consensual sex.

Because of the victim's background, there were various pieces of third-party material including medical records, social services records, school records and counselling records, some of which contained potentially undermining material. There was also unused material in relation to previous complaints involving the victim.

The police manual of guidance form 3 charging request contained a detailed note of the third-party material based on a comprehensive review by the officer in the case of this material before seeking charging advice. The existence of, and possible need to disclose, various parts of this unused material was addressed well by the reviewing lawyer as part of the pre-charge review. Having carefully considered all the material, the prosecutor concluded that there was a realistic prospect of conviction and a charge of rape was authorised.

The police provided good unused material schedules with detailed descriptions of the items. Together with the fact that much of the material had been collated and considered before charge by the reviewing lawyer, this enabled the lawyer to properly and fully comply with their initial disclosure duties. Full compliance also included the reviewing lawyer having invited the local authority, correctly and properly via the Area's protocol annex E form, to grant consent for the disclosure of some of the social services records that had been deemed to meet the test for disclosure.

This proactive and strong approach to the initial disclosure stage resulted in the defence statement seeking very little further in terms of unused material and made continuing disclosure a much simpler and straightforward process.

The trial is due to take place later this year.

## Continuing disclosure

**8.106.** The quality of continuing disclosure was strong and better than for initial disclosure compliance. We assessed continuing disclosure as fully meeting the standard in 11 of 14 cases (78.6%), partially meeting the standard in two cases (14.3%) and not meeting the standard in one case (7.1%).

**8.107.** The reasons for cases partially meeting and not meeting the standard were varied. They included not endorsing decisions on newly revealed items, failing to identify that other obvious items of unused material were not scheduled and, in the final case, not disclosing disclosable material.

**8.108.** We did not find any cases where disclosure failures at either initial or continuing disclosure had an impact that would lead to a miscarriage of justice.

**8.109.** Inspectors found that defence statements which were more than minimally late were chased in four of seven cases (57.1%). In one case, the standard was assessed as partially meeting the standard because, although it was late and not chased, it was not significantly delayed and the court had listed it for a non-compliance hearing in any event. The remaining two cases were assessed as not meeting the standard.

**8.110.** The review of defence statements and provision of directions to the police on further reasonable lines of enquiry was varied, with scope for improvement. We rated seven out of 14 cases (50%) as fully meeting the standard, six cases (42.9%) as partially meeting the standard and one case (7.1%) as not meeting the standard.

**8.111.** In cases we rated as partially meeting the standard, either the defence statement had been reviewed and sent to the police with no guidance, or it had not been reviewed but the police had been asked to carry out further enquiries.

**8.112.** In three cases, we noted that the defence statement had been sent to the police by the paralegal officer with no prosecutor input. The lack of lawyer review or input results in a lost opportunity to add value to the case, by providing guidance to the police to make sure that all reasonable lines of enquiry and material falling to be disclosed are properly handled before trial.

## Timeliness

**8.113.** The timeliness of service of both initial and continuing disclosure was excellent, with 15 out of 17 cases (88.2%) fully meeting the standard at initial disclosure and 13 out of 14 (92.9%) fully meeting the standard at continuing disclosure.

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

**8.114.** There were 11 cases featuring sensitive material in our RASSO file sample. Of these, we assessed five (45.5%) as fully meeting the standard for the handling of sensitive material and the remaining six cases (54.5%) as partially meeting the standard.

**8.115.** In some cases we assessed as partially meeting the standard, there was no sensitive unused material schedule in the CPS case management system (CMS) or subsequently provided to us by the Area; yet, it was clear that such schedules must have been viewed and considered by the prosecutor, as we saw examples of them requesting specific numbered items and subsequent disclosure of such material. This mirrors the issues in the Crown Court, with the historic approach of the police sending schedules of sensitive material either in hard copy or direct to prosecutors' email addresses, rather than uploading them to CMS. This had an impact on our ability to properly inspect this aspect of disclosure.

**8.116.** This approach has already been addressed and the Area now receives the schedules directly into CMS. This will significantly improve the audit trail and ability to make sure that sensitive material is properly handled.

**8.117.** Third party material was handled well, with ten of 15 files (66.7%) being assessed as fully meeting the standard, three (20%) as partially meeting the standard and two (13.3%) as not meeting the standard.

**8.118.** We found that requests for third party material were generally proportionate and such material was reviewed, assessed and items disclosed if the disclosure test was met.

## **Disclosure records**

### **Disclosure management document**

**8.119.** 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 Crown Court cases in our sample were governed by the guidance which preceded the change, so DMDs were not obligatory in volume cases.

**8.120.** We found that DMDs had been created in all of the cases, with 17 out of 19 being assessed as fully meeting the standard. We assessed two cases as partially meeting the standard because, although a DMD had been created, it did not have contributions from both the CPS and police.

**8.121.** The quality of the DMDs was variable, with inspectors rating seven of 19 cases (36.8%) as fully meeting the standard for accuracy and completeness, another ten cases (52.6%) as partially meeting the standard and the remaining two (10.5%) as not meeting the standard.

**8.122.** In those cases we rated as partially or not meeting the standard, the key themes were that aspects had been omitted from the DMD or that initially good quality DMDs were not updated as cases progressed. In 11 of those cases, the DMD had not been served on the defence and court.

**8.123.** We did see examples of well drafted DMDs. In one particular case, where the DMD had been updated throughout the life of the case, it greatly assisted when dealing with continuing disclosure.

#### **Disclosure record sheets**

**8.124.** Completion of disclosure records was inconsistent. A small number of cases fully evidenced actions taken and decision-making around unused material. We assessed two of the 17 cases (11.8%) as fully meeting the standard, 13 cases (76.5%) as partially meeting the standard and two cases (11.8%) as not meeting the standard.

**8.125.** The Area told us that there had been some reluctance from prosecutors to engage with the newer version of CMS (Modern CMS). This could account for the performance in completing disclosure records.

**8.126.** The Central Legal Training Team has assisted in training some of the Crown Court and RASSO prosecutors, some of whom have then trained others in their teams. The Area has not carried out any specific assurance work to determine whether there has been an improvement as a result of the training. The Area may want to focus some individual quality assessments on disclosure to provide that assurance.



## Does the Area address victim and witness issues appropriately?

**8.127.** 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 60%.

**8.128.** 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

**8.129.** 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.

**8.130.** As explored from paragraph 8.29, the Area will want to improve its approach to ancillary measures and applications to support victims and witnesses pre-charge in these often sensitive and difficult cases.

**8.131.** We assessed three out of 17 cases (17.6%) as fully meeting the standard, another three cases (17.6%) as partially meeting the standard and 11 cases (64.7%) as not meeting the standard.

**8.132.** Despite most RASSO case victims being automatically eligible for special measures, prosecutors did not always ask the police for MG2s – or, in some instances where an MG2 was available but equivocal as to what measures were sought, did not always seek clarification so that the most appropriate measures could be secured.

**8.133.** Other issues we noted were inadequate consideration of restraining orders alongside other preventative orders such as sexual harm prevention orders.

## After charge

**8.134.** The inconsistent approach to special measures continued after charge, with seven out of 17 cases (41.2%) assessed as fully meeting the standard for making appropriate special measures applications. Six cases (35.3%) were assessed as partially meeting the standard and four cases (23.5%) as not meeting the standard.

**8.135.** We noted cases where applications were not made in a timely manner, leading to delays for victims and/or witnesses. In other cases, MG2s were ambiguous as to whether screens or live links were required for cross-examination, and had not been challenged or clarified – so it could not be certain that the measure then applied for and granted was indeed the one that the victim wanted.

**8.136.** In one case of rape where the MG2 had specified screens and live link for cross-examination, counsel had made an oral application at the PTPH for live link, which was granted. Given that it was not clear whether the victim in fact wanted screens or a live link (or both), counsel then told the prosecutor that he would have to speak to the victim at court on the day of trial to clarify what special measure was in fact her preference.

### Case study

The victim and defendant did not know each other before the night of the alleged rape. They had both been drinking in the same pub and had a mutual female friend. Later in the evening, they ended up inside the victim's flat together with their mutual female friend. The defendant and the female friend started kissing so the victim went into her bedroom. Some time later the female friend fell asleep. The defendant then appeared, uninvited, in the victim's bedroom, pushed her on to the bed and raped her. Afterwards he passed out and the victim called her boyfriend who then contacted the police.

The defendant was arrested at the victim's address. In interview he stated that they had consensual sex at the victim's instigation.

A charge of rape was authorised. The police file included an MG2 that requested an application be made for the victim to have her cross-examination video-recorded before the trial because of her significant mental health issues (section 28 Youth Justice and Criminal Evidence Act 1999). Whilst this particular special measure was not available in the Area at the date the pre-charge review took place, it was due to be implemented shortly after and well in advance of any trial date. The MG2 went on to request a live link if pre-recorded cross-examination was not possible. The pre-charge prosecutor did not address their mind to the request or give any instructions at all in respect of special measures to be applied for.

An updated MG2 was available before the PTPH, which again requested pre-recorded cross-examination (which by this time was available) because of the victim's significant mental health problems, or a live link to her local sexual advice referral clinic (SARC) as she had now moved out of the area and did not want to return. This was not acted upon and the PTPH form had been completed to say that screens/live link were requested for cross-examination of the victim. At the PTPH, an oral application was made and screens or a live link were granted "in principle" for the victim to be cross-examined. It was not until five months after the PTPH that an application was then made for a live link to the victim's local SARC, which was granted.

The unnecessary delay in seeking this application, particularly for a victim with mental health issues, would have undoubtedly caused her unnecessary anguish and distress.

### **Warning witnesses**

**8.137.** Witnesses were warned correctly and in good time in 12 of the 18 cases (66.7%). Five cases (27.8%) were assessed as partially meeting the standard and one case (5.6%) as not meeting the standard.

### **Communications with witness care units**

**8.138.** The Area responded effectively and in a timely manner to witness care unit correspondence in nine out of 16 cases (56.3%). Six cases (37.5%) were assessed as partially meeting the standard; some responses were not as timely as they could have been (although the cases were not ultimately adversely affected). One case was assessed as not meeting the standard, as no action was taken on a request from the witness care unit for screens for the victim.

### **Consulting victims and speaking to witnesses at court**

**8.139.** Consultation with victims and witnesses, which includes the speaking to witnesses at court (STWAC) initiative, also requires improvement. We found an inconsistent approach, rating the duty as fully meeting the standard in seven of the 15 applicable cases (46.7%), partially meeting the standard in five cases (33.3%) and not meeting the standard in three (20%).

**8.140.** We did note examples of victims being consulted on offers of pleas and, in one case, on the issue of a re-trial. In one case of inciting a child to engage in sexual activity and engaging in sexual communications with a child, however, there had been no consultation regarding pleas that were offered and accepted on the morning of the trial, with the young victim expected to be in attendance to give evidence in the afternoon.

**8.141.** Where there was reference to STWAC, it tended to be in a very brief note on the hearing record sheet. We saw two exceptions: one with extremely detailed STWAC notes on the hearing record sheet and one case where good, detailed separate notes were kept on CMS.

**8.142.** The Area has an independent sexual violence adviser (ISVA) forum that has been running for approximately 12 months across all four of its police forces. The leads from all the victim services attend the forum. There has previously been an issue between Cambridgeshire police and ISVAs, but the Area is confident that this forum will promote engagement between the prosecution and RASSO victims' ISVAs in order to help better support victims. The Area uses the feedback to improve communications with victims, including Victims' Right to Review scheme responses and complaints.

**8.143.** The Area also plans to introduce a meeting with ISVAs, victims, counsel and the police before trial, separate from the victim's court visit, to address concerns expressed by ISVAs that the CPS staff involved were invisible to the victim.

### **Victim Personal Statements**

**8.144.** Obligations around Victim Personal Statements (VPSs) were dealt with significantly less well than in the Crown Court cases we examined, and also less well than in the magistrates' court cases we examined. This is an aspect that the Area will want to focus on to ensure compliance with its obligations under the Victims' Code of Practice.

**8.145.** We assessed nine out of 18 cases (50%) as fully meeting the standard, three cases (16.7%) as partially meeting the standard and six (33.3%) as not meeting the standard.

**8.146.** In the six cases we assessed as not meeting the standard, the file contained no reference to a VPS at all and no evidence that the police had ever been chased to obtain one. In the three cases we assessed as partially meeting the standard, there was a VPS available on file but the hearing record sheet was silent as to whether it had been read or the victim's wishes complied with.

### **Orders at sentencing**

**8.147.** The Area's performance was strong when it came to applying for appropriate orders to protect the victim, witnesses and public. There were ten cases in which orders should have been sought and seven of these (70%) were assessed as fully meeting the standard.

**8.148.** Where cases were assessed as not meeting the standard, sexual harm prevention orders (SHPO) were not sought when necessary. In one of these cases, the defendant was a youth convicted of making and possessing indecent images and inciting a child to engage in sexual activity. The prosecutor had wrongly interpreted the legislation and believed that a SHPO could not be imposed because of the defendant's age and the sentence imposed, but this was relevant for notification requirements rather than a SHPO.

### **Victim Communication and Liaison scheme letters**

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

**8.150.** There were six cases that required a Victim Communication and Liaison scheme letter. In three of those cases a letter was sent, one of which we assessed as fully meeting the standard for timeliness. The other two were rated

as not meeting the standard, as they were both sent four days late. This left three cases in which letters had not been sent when they should have been.

**8.151.** We were told that the Victim Liaison Unit reports on cases which have not resulted in a conviction and where they have not been notified of the need for a letter, but while the magistrates' court teams and Crown Court team receive these reports, it would seem this is not replicated for the RASSO team. Given the volume of letters missed in our small file sample, the Area will want to consider running the reports for RASSO cases as well.

**8.152.** Of the three letters that were sent, one was assessed as of a high standard. 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 strategy<sup>26</sup> 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.

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<sup>26</sup> 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](http://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, 13 VCL letters were sent by the Area – four in magistrates’ court cases, six in Crown Court cases and three in RASSO cases. There were four cases in which letters were not sent when they should have been; one was a Crown Court case and three were RASSO cases.

**9.8.** Of the 13 letters sent, nine were sent in accordance with the timescales prescribed. The late letters were two Crown Court letters and two RASSO letters.

### Quality of Victim Communication and Liaison scheme letters

**9.9.** We assessed the quality of the 13 letters sent as set out in Table 17. The Area still has work to do to improve the quality of the letters it is sending to victims. Whilst inspectors assessed three of the 13 letters sent by the Area as not meeting the standard, five letters were assessed as partially meeting the standard.

**9.10.** In the eight letters assessed as partially or not meeting the standard, inspectors identified a number of themes and issues. The VRR scheme was wrongly offered in one case. Some letters did not demonstrate sufficient empathy.

**9.11.** There were four cases in our sample where letters should have been sent and they were not. Three of these were in RASSO cases.

**Table 17: Quality of Victim Communication and Liaison scheme letters**

Casework type	Magistrates’ courts	Crown Court	RASSO	All cases
Number of letters sent	4	6	3	13
Fully meeting the standard	25%	33.3%	66.7%	38.5%
Partially meeting the standard	50%	33.3%	33.3%	38.5%
Not meeting the standard	25%	33.3%	-	23.1%

**9.12.** The Area uses VCL panels to examine letters, with the aim of identifying where it can improve the letters. The panel consists of a range of legal staff and Victim Liaison Unit (VLU) staff. We were told that issues identified by the panel are fed back to the relevant legal managers, who use the feedback to inform

discussions at local team meetings and the Area casework quality committee (CQC). The panels had been suspended during the pandemic, to reduce the burden and pressure, but the Area has now reconvened them.

**9.13.** We saw evidence that a VLU manager had analysed five of the VCL letters sent by HMCPSI to the Area following the VCL inspection in the summer of 2020<sup>27</sup>. The learning points highlighted by inspectors had been summarised and these were disseminated to VLU staff and prosecutors in order to improve performance.

**9.14.** The Area confirmed that it follows the national policy of peer reviewing VCL letters, whereby members of the VLU will peer review their colleagues' letters before they are sent out. We found that most of the letters in our sample had been peer reviewed. The Area acknowledged, however, that this is more of a proof-read to identify obvious errors than a quality assurance exercise.

**9.15.** We saw some evidence that external assurance around the quality of letters is carried out during discussions at local scrutiny and involvement panels (LSIPs). Members of local support groups are invited to comment on the wording of letters and suggest improvements. In one example, a member of the violence against women and girls LSIP identified an issue with the wording of a sentence used in letters sent in stalking and harassment cases. The panel member raised that the sentence was lacking in empathy and could make a victim feel devalued. Such discussions amount to good practice, demonstrating interaction with the community to improve confidence, and are useful in potentially improving the quality of letters to victims.

**9.16.** The Area has clearly been under pressure, with rising caseloads because of the pandemic and the lack of experience in some teams. This may be reflected in our findings around the quality of the letters we saw. In line with reconvening the VCL panel, the Area may also consider carrying out more focused assurance work. This may drive forward momentum again on this aspect and ensure the quality of letters is consistently to the standard that the Area would want to achieve.

**9.17.** In relation to the timeliness of letters to victims, a VLU staff member is assigned daily to send chasing emails to prosecutors where information has been requested for a letter and not yet received. There is an escalation protocol in place to involve line managers and senior managers if the prosecutor has not

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<sup>27</sup> *Victim Communication and Liaison scheme: letters to victims*; HMCPSI; October 2020 [www.justiceinspectorates.gov.uk/hmcpsi/inspections/victim-communication-and-liaison-scheme-letters-to-victims/](http://www.justiceinspectorates.gov.uk/hmcpsi/inspections/victim-communication-and-liaison-scheme-letters-to-victims/)

supplied the required information in time. Although the escalation policy has been in circulation for some time, it was refreshed in June 2021.

**9.18.** The VLU provides reports for the magistrates' court teams and Crown Court team on all cases which have not resulted in a conviction and for which no VCL letter has yet been prepared. This process has been put in place in an attempt to capture any missed letters. We heard that no similar report is run for RASSO cases, which could explain why there was a higher proportion of RASSO cases in our sample with missing letters.

**9.19.** The Area told us that it has been concentrating on increasing compliance with the number of letters it needs to send and accepts that this may have had an impact on timeliness.

## **Complaint and Victims' Right to Review responses**

**9.20.** The Area has systems and processes in place to manage the timeliness of responses to complaints and VRR requests. The complaints coordinator produces reports detailing the timeliness and handling of complaints and VRR requests, which are sent to senior legal managers and regularly discussed in the CQC. The reports detail what action has been taken, those complaints that remain unresolved and those where a decision has been upheld.

**9.21.** We were told that the CQC is the key driver for improving the standard of VRR responses, with a regular review of the Area's decisions and of lessons to be learned. The Chief Crown Prosecutor (CCP) leads the discussions and managers take feedback from this discussion to their teams.

## **Victims' Code and Witness Charter**

### **Expectations**

**9.22.** 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.

**9.23.** 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.

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

**9.25.** 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.

**9.26.** 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**

**9.27.** We assessed the consultation with victims and STWAC as fully meeting the standard in 61.4% of applicable cases, partially meeting the standard in 17.5% and not meeting the standard in 21.2%.

**9.28.** Our findings were relatively positive in respect of consultation with victims and witnesses in magistrates' court cases, but not as strong in Crown Court and RASSO cases. The magistrates' courts hearing record sheet has a prompt box related to compliance with STWAC; it may be that this is serving as a useful reminder to advocates to complete notes on the hearing record sheet in relation to STWAC.

**9.29.** The documents we were provided with indicated that STWAC is now considered standard procedure and therefore the Area does not consider any compliance monitoring to be necessary. We were provided with several examples of Crown Court hearing record sheets which showed compliance with STWAC. We were also provided with a copy of the paralegal officer's objectives for 2021–22, in which it is clearly set out that they are to record discussions in accordance with the STWAC protocol.

**9.30.** Nevertheless, the assessment of several cases in our Crown Court and RASSO file sample suggest that there was room for improvement in the recording of compliance with the STWAC protocol. We accept that the failure to record information on the hearing record sheets does not necessarily mean that discussions complying with the guidance are not taking place, but given the inadequate recording, it is difficult to see how the Area can satisfy itself that the guidance is widely understood and being complied with.

**9.31.** We were told in the meeting with the Area that it is refreshing the hearing record sheet in January 2022, with a focus on STWAC compliance. We were told that the pandemic has had an impact on this work, as the Area has had fewer paralegal officers deployed to cover the Crown Court.

**9.32.** We noted that the Area had received feedback from intermediaries about how it could better interact with witnesses and victims at court. The Area told us that it has not yet conducted any follow-up work on this, as its Inclusion and Community Engagement Manager (ICEM) has left and the new ICEM is yet to take up the post. Once they are in post, it is envisaged that they will look at this and take it forward, which appears will be a very worthwhile and useful exercise.

### **Victim Personal Statements**

**9.33.** We found varying degrees of compliance with VPS obligations across the different casework types in our file sample. Crown Court cases showed the strongest rate of compliance, followed by the magistrates' court cases and then RASSO. We assessed 80% of magistrates' court cases, 100% of Crown Court cases and 66.7% of RASSO cases as either fully or partially meeting the standard.

**9.34.** At the pre-charge review stage, there was a demonstrable lack of consideration of VPSs in reviews, but as cases progressed through the system, there was much better compliance with the obligations under the Victims' Code regarding the VPS scheme.

**9.35.** It was noted, in those cases where the VPS was available and the victim's views about reading it were known, the hearing record sheet was not always endorsed with whether the VPS was read out and by whom. In other cases where a VPS was not available, this was not always requested or chased and resulted in the sentencing going ahead without any reference to a VPS. The Area may want to consider carrying out some assurance work to assess awareness and compliance.

## Community engagement

**9.36.** There are local scrutiny panels in the Area, one which covers violence against women and girls (VAWG) and one which focuses on hate crime. Both panels are chaired by the CCP and attended by third sector organisations alongside other CPS representatives. The panels consider performance data and provide an opportunity for updates on key issues. Specific cases are also discussed, with lessons learned drawn out to assist in driving up improvement in the management of casework and future performance.

**9.37.** We saw evidence of lessons learned being communicated across the Area, and more specifically to legal managers. In the CQC meeting we observed, clear feedback and direction was given that issues and learning points were to be raised in unit team meetings with all legal staff.

**9.38.** As well as local scrutiny panels, the Area also engages in community conversations. These are an opportunity for not only the CPS, but also the wider criminal justice system to raise awareness about what it does. These community conversations also provide the opportunity for the CPS to listen to community groups and the concerns they may have.

**9.39.** Two community conversations that the Area recently attended were with Suffolk Guide Dogs for the Blind and Opening Doors (a charity for adults with learning difficulties). A learning point that was noted from the Opening Doors session was that it would be useful for prosecutors to have training on how to improve and adapt communications with adult victims and witnesses who have learning difficulties.

**9.40.** In the minutes from the Essex victim and witness action team meeting in August 2021, we noted that the Area's hate crime lead was looking into options for delivering training to CPS staff to improve services to these victims.

## 10. CPS people

**10.1.** One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy<sup>28</sup> 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.

### Staff induction

**10.4.** Table 18 shows the increase in legal staff since March 2019, when the additional funding for prosecutors was announced.

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<sup>28</sup> 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](http://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)



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

	LM1	LM2	SCP	CP	Total
At 31 March 2019	9.00	2.00	56.72	4.00	104.69
At 31 December 2020	12.59	3.00	70.37	13.40	125.26

**10.5.** Despite the increase in numbers shown in Table 18, the Area remains under-resourced against the national resource model figure for lawyers. The shortage particularly applies to Senior Crown Prosecutors (SCPs), with the shortfall the most acute in the Crown Court team. The Area’s ability to deliver quality casework has undoubtedly been affected by the lack of resource.

**10.6.** The Area has experienced a constant change of staffing over the past year, from senior leaders at Chief Crown Prosecutor (CCP), Deputy Chief Crown Prosecutor (DCCP) and Senior District Crown Prosecutor (SDCP) level through to District Crown Prosecutors (first level legal managers), SCPs and Crown Prosecutors. This constant level of staff movement and necessary recruitment has resulted in additional pressure on the Area as there has been a further demand to deliver training. As well as training, there is also the additional burden on experienced staff members to provide support and mentoring to those new in post.

**10.7.** The national rolling recruitment campaign did not successfully deliver the numbers of new prosecutors the Area needed. The Area therefore conducted its own bespoke recruitment campaign in August 2021 which was, to a certain extent, successful. Six additional prosecutors have been appointed through this campaign. With prosecutor recruitment still being a challenge in the Area, there is a concern that until prosecutor figures are increased to the national resource model figure, the Area’s ability to focus on substantially improving the quality of casework will be delayed.

**10.8.** The Area has had historic difficulties in recruiting, particularly in the Norfolk and Suffolk area. To alleviate the difficulties, the Area has moved to create a remote team, using the option of virtual working, in the North West. Ten North West lawyers, who had been on a temporary secondment to the Area, have recently joined the Area on a permanent basis and another four North West lawyers remain seconded to the Area.

**10.9.** We heard that, historically, it has also been difficult for the Area to attract secondees – but during the initial period of lockdown in 2020, the Area worked with external stakeholders to encourage a bar secondee to join the RASSO team. In addition, four other bar secondees joined the Area for periods of three

to six months. The Area has also used some of its RASSO trained crown advocates to assist with RASSO charging advices.

**10.10.** The Area has made sure that effective inductions take place for those joining and moving units – both operational delivery and legal staff. The induction plans we saw for a range of staff have review dates and were regularly re-visited. The induction plans for prosecutors have clear expectations and key activities for the first 12 weeks.

**10.11.** The Area has developed a Crown Court desktop guide to support lawyers moving into the Crown Court team. Bite-sized training modules have also been delivered by the more experienced members of the Crown Court team to make sure lawyers are supported and understand how to manage the system correctly and consistently. The desktop guide is a very comprehensive and detailed document which the Area hopes will encourage movement and assist lawyers in the management of their casework. The document is a sensible approach and should ensure that the Area lawyers who move between units are well supported.

**10.12.** The Area has been proactive in assessing the risk posed by having to move less experienced prosecutors from the magistrates' court unit to the Crown Court team. The Area Strategy action plan outlined clear objectives and plans to focus support and intervention on casework quality to reduce the risk of staff movements.

**10.13.** This plan has been informed by a gap analysis against quality benchmarks. We were told that the Area has completed a gap analysis across the whole Crown Court team and the outcomes have been discussed at the Crown Court board. We saw evidence that the gap analysis has been used to develop actions, and that these actions have been put into the Crown Court team plan, which is discussed, and actions reviewed, at every Crown Court board. Additionally, each District Crown Prosecutor assessed the gap analysis within their team and identified issues to be explored and mitigated.

## **Succession planning**

**10.14.** The Area has a clear career development strategy aimed at supporting staff to develop their careers whilst building a talent-led, sustainable and future-proof workforce.

**10.15.** The strategy has been developed following discussions at the Area's People Committee and feedback from various staff-led groups. It has included looking at existing opportunities, such as deputising, mentoring and shadowing. Six people had signed up to the job shadowing scheme and feedback had been positive.

**10.16.** The Area is keen to encourage voluntary moves and has set up a series of taster days and information sessions. These sessions and short stints in other units have been used to encourage staff to consider a move to a different team. Because of this, the Area has seen an increase in interest for voluntary moves.

**10.17.** We heard that the Area had been working hard to encourage magistrates' court lawyers to make a move to the Crown Court team, as well as balancing the Area's casework team needs with staff welfare. Career conversations are also conducted regularly with staff (the career conversation toolkit being re-issued to all legal managers in April 2021 as part of the end of year review process), to make sure managers are aware of the development needs of individuals on their teams.

## Staff engagement

**10.18.** Staff engagement score in the most recent Civil Service People Survey in 2021 was 69%. The Area's score was 69% in the 2020 survey and is in line with the CPS national average. Maintaining this level of engagement amid the pressure of the pandemic is an impressive achievement and something that the Area senior team told us they were pleased to see.

**10.19.** Looking at the scores in more detail, we are aware that the work the Area has done to focus on staff well-being at a time of unprecedented difficulty has allowed the Area to maintain its overall engagement scores.

**10.20.** The Area's average working days lost through staff absences has remained below the average CPS national figure for the financial year 2020–21 despite the obvious pressures that existed.

**10.21.** We have reported elsewhere<sup>29</sup> that staff absence rates were impressive given the pandemic pressures, and how the 'blitz spirit' galvanised staff. More recently, we are concerned that this level of engagement may diminish as staff become exhausted by additional pressures.

**10.22.** We note that the average working days lost in the Area has steadily been increasing since December 2020, reaching 7.4 in Q2 2021–22 (July–September), above the national average of 6.5. Even a steady rise generates more pressure on resources and has an impact on an already pressurised workforce.

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<sup>29</sup> *CPS response to COVID-19: dealing with backlogs*; HMCPSI; March 2021. [www.justiceinspectors.gov.uk/hmcpsi/inspections/cps-response-to-covid-19-dealing-with-backlogs/](http://www.justiceinspectors.gov.uk/hmcpsi/inspections/cps-response-to-covid-19-dealing-with-backlogs/)

**10.23.** The Area is effective at recognising good work. We saw many examples that showed managers at all levels providing positive feedback in various ways and recognising good work. The contribution of operational delivery staff, particularly during the pandemic, has made a significant impact and the Area is also keen to recognise the level of hard work and dedication.

**10.24.** In 2021, the Area made 81 local nominations for excellence. Winners of the local awards are put forward for national excellence awards. An operational delivery manager was runner-up in the national awards in 2021 for her support of staff and training on well-being matters.

**10.25.** Feedback is not only given to individual members of staff from senior managers, but also comes from external sources. We saw a commendation for one member of staff from the Norfolk High Sheriff in one case. The Area also uses the CPS “simply thanks” scheme to good effect. We saw a list of awards pertaining to casework skills, recognising specialisms in county line drug dealing and domestic abuse as well as skills around advocacy and disclosure handling. A nomination for a Director of Public Prosecutions (DPP) commendation was put forward for exemplary work carried out by a lawyer on a difficult murder case.

**10.26.** Such commendations allow for the Area to identify particular strengths and also help recognise good performance and engender a culture of reward and recognition.

## Learning and development

### Expectations

**10.27.** 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

**10.28.** The documents provided showed that the Area maintains records of individuals and groups who have received training.

**10.29.** The Area has delivered key training on case review, the new Director’s Guidance on Charging and disclosure guidelines, all of which have been delivered despite the pressure of the pandemic. As well these key courses, the

Area has also prioritised and conducted various other training sessions such as youth specialist training, criminal law updates, custody time limit training and training on modern slavery.

**10.30.** We were also pleased to note that the Area has analysed individual quality assessments (IQAs) to identify training needs. This has resulted in the development of bite-sized disclosure training packages, which have been delivered to magistrates' court lawyers to increase their confidence to challenge the adequacy of disclosure schedules provided by the police, and to enhance their knowledge of how to complete disclosure schedules.

**10.31.** Training is evaluated with staff members and line managers in personal development review discussions. The casework quality committee (CQC) also looks overall at the trends in quality and whether the training interventions have been successful.

## Quality assurance

### Expectations

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

- 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.

**10.33.** 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

**10.34.** During the pandemic, the CPS determined that Areas could reduce the number of IQAs or even stop them entirely if necessary. CPS East of England made the decision to reduce the level of IQAs in its Crown Court team but continued to carry out targeted disclosure IQAs to support the roll out of the sixth edition of the Director's Guidance on Charging.

**10.35.** The CQC made the decision to reduce the levels of IQAs to reduce the pressure on first level legal managers, but has now decided to reinstate IQAs in full.

**10.36.** While IQAs were suspended in the Crown Court team, legal managers continued to conduct local case management panels (LCMPs) and had regular one-to-ones with their lawyers. We are aware that managers also continued to dip sample the work of some lawyers. These internal assurance processes gave the Area a good understanding of issues with casework quality, even in the absence of mandatory IQAs.

**10.37.** The Area's magistrates' court unit were part of the national pilot to trial a new IQA process. The Area expressed the view that the new IQA process worked well alongside its model of having regular one-to-ones. The new questions were also felt to be more beneficial in terms of improving file quality and identifying training issues. There is room for greater robustness, and this may well follow as managers become more experienced in their roles and in using the revised IQA process.

**10.38.** We were provided with a number of IQA assurance reports completed for RASSO and Crown Court cases. These were on disclosure. The findings of the Area's own quality assurance identified similar issues to our file examination findings. Following the disclosure IQAs, the Area analysed the themes at the disclosure strategy group, which then fed into improvements within the Area and with the police, including identifying and delivering training, and giving feedback to the police.

**10.39.** We were also provided with a number of the new IQA assessments for the magistrates' court teams. Again, these generally accorded with the findings of our file examination.

**10.40.** It is helpful that the Area's own processes are clearly identifying the issues that affect the quality of its casework. Along with our findings, this should enable the Area to make improvements in casework quality. We will assess progress in our next inspection in 2023.

**10.41.** To add another level of assurance, Senior District Crown Prosecutors – second-tier legal managers – dip sample IQAs. This appeared to us to provide an appropriate level of challenge.

**10.42.** Overall, we are assured that there is good evidence of the Area seeking to improve casework quality using IQA and the feedback it provides to individuals and teams generally.

**10.43.** Our observation of the Area CQC assured us further that the Area has a good understanding of issues with casework quality, but it could be more robust in its analysis of adverse case outcomes.

**10.44.** The CQC meeting is held every six weeks. The permanent members of this committee are the Area's senior management team and its learning and development manager. A number of legal managers also attend each meeting so that they can hear directly from the CCP and gain a full understanding of the expectations the Area has for casework quality. This is good practice and ensures clarity of approach.

**10.45.** The minutes we have seen and the meeting we attended in October 2021 demonstrate the collaborative approach and that the committee has a good grasp of wider strategic issues. It is clear from what we saw and heard that the Area is committed to evaluating a wide range of issues which have an impact on the quality of casework.

**10.46.** We did note, however, that the adverse case reports for the Crown Court lacked robustness in places and failed to identify actions or feedback required. We noted references to some cases where the Area's charging decision-making was poor, yet the reports did not challenge it. The only references we noted to poor charging decisions were where the police or CPS Direct had made the decision but there was no obvious feedback to either on those.

**10.47.** The CQC would benefit from making sure the reports are more analytical of the Area's decisions where appropriate, so that lessons can be learned.

**10.48.** The Area has also taken a proactive approach to using the findings of adverse outcome reports it examines at the CQC to drive casework quality improvement. Adverse outcome reports are followed up in DCCP meetings with their teams and by the CCP in the all-staff calls that he conducts.

**10.49.** The Area has also recently started to publish a newsletter called "casework matters" to reinforce the messages coming out of the CQC. At the time of writing, the first edition of the newsletter had recently been circulated.

**10.50.** From seeing minutes from regular team meetings and communications to staff, we can be assured that the Area is working hard to get the key messages from casework quality assurance processes to legal and operational staff on a regular basis.

**10.51.** The Area also uses LCMPs across all units. We were provided with notes from LCMPs for all three types of casework we examined. Panels are normally held between the reviewing lawyer and senior managers.

**10.52.** A new template for completion of LCMPs has been implemented after being approved by the CQC in June 2021. The structure of the new template appears much more directed to key matters. As well as important questions dealing with trial strategy issues and risk, disclosure management and custody/bail issues, there is a section for panel discussion notes and actions, with the date to complete these by and who the owners of the actions are. The LCMP forms we saw were completed in reasonable detail (more detailed in Crown Court and RASSO panels, which is to be expected).

**10.53.** Actions agreed at the LCMPs are followed up in one-to-one meetings between the first level legal manager and lawyers. We heard from the Area that these meetings do take place and actions are updated.

**10.54.** To understand key casework risks, the Area has a high-risk case log. During the regular one-to-ones between first level legal managers and lawyers, high-risk cases are discussed and strategies to manage the risk are agreed. Managers are also finding this a useful way to discuss with lawyers any other cases that are not on the high-risk case log, but may be concerning them; and to drive up casework quality.

**10.55.** Each month the CCP chairs a meeting, attended by the DCCPs and SDCPs, where the high-risk case log from each casework team is discussed. This meeting identifies those cases where an LCMP should be held (if one has not already been held) and enables discussions around how certain risks can be managed and the escalation of particular progression issues.

**10.56.** The Area intends to move to a position where lawyers also have their own high-risk case log, and case owners (reviewing lawyers in magistrates' court casework, or the reviewing lawyer and the paralegal officer in Crown Court and RASSO casework) are expected to identify cases of particular risk within their caseloads. The expectation is that lawyers will develop and maintain their own top ten lists of cases which require particular attention and oversight. Factors to consider will include complexity, sensitivity, profile and progression issues.



**10.57.** The Area also conducts subject matter casework deep dives. Recent deep dives have been conducted on defence statements and on charging. Emerging themes are shared within case teams.

**10.58.** An emerging theme that came out of the charging deep dive was poor communication between police and prosecutors. In response to this, sessions were set up between prosecutors and police to improve awareness and communication, with a follow-up meeting scheduled.

**10.59.** Deep dives show that the Area is addressing aspects for improvement in casework and taking action where necessary.

# 11. Digital capability

**11.1.** One of the five aims of the of the Crown Prosecution Service’s (CPS’s) 2025 strategy<sup>30</sup> 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.** The Area produces and considers a range of performance data related to casework quality. The Area performance dashboard sets out aspects similar to those in the national CPS databank but breaks down the data at an Area unit level. A separate RASSO assurance report sets out the Area’s current position on charging and pre-charge advice cases. The Area also produces a local violence against women and girls dashboard that shows key data on domestic abuse and rape and serious sexual offences (RASSO) cases.

**11.5.** The Area uses performance data to validate and monitor whether its focus on casework quality and grip is in the right place, and as a benchmark to track and assess progress. Key aspects covered regularly include charging timeliness, guilty plea rates, hearings per case, compliance with directions and cases dropped at third hearing.

**11.6.** Performance data is shared locally by the Area with its criminal justice partners. The charging dashboard and weekly performance management unit workload reports are shared with the police, courts and local criminal justice boards (LCJBs). The data is discussed at joint strategic prosecution team performance meetings, joint charging local implementation team meetings, LCJBs and multi-agency Covid-19 recovery meetings. The Area’s analysis of

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<sup>30</sup> 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](http://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)

data has resulted in it working with partners to improve casework quality in areas such as compliance with the Director's Guidance on Charging and reducing charging backlogs.

**11.7.** Evidence shared with inspectors also showed that the Area shares data with partners at RASSO operational boards to drive up performance in key case progression areas. We could see that RASSO file quality data had been used to improve the quality of police file submissions. Early investigative advice (EIA) submission data was also shared to improve the rate of submissions from the four Area police forces and 'Henriques' data (data regarding delay from police on older case investigations) is also shared and considered to try to reduce delays in long running cases. We were told at the Area assessment meeting that in 2021, it had almost doubled the number of EIA charging referrals to 20%.

**11.8.** We saw evidence of performance reports being discussed in magistrates' court and Crown Court team performance meetings. The minutes of these meetings indicate that their main focus is the five high weighted performance measures, although the Area told us that other aspects of performance are also discussed. Most recently, the focus has been on charging volumes and triage, with actions being agreed at these meetings.

**11.9.** The Area performance manager maintains an action log of each meeting. The meetings are an effective way to engage with the teams around the culture change that the Area is driving around casework quality, grip and management of casework risk.

**11.10.** Other ways in which the Area raises staff awareness and understanding of current performance data include Performance Insight Monthly (PIM). Each month, PIM summarises the Area's performance data for the magistrates' court and Crown Court units. It gives three examples of performance measures in which the unit is doing well and three in which improvement is needed. No actual data is included on these measures in PIM. PIM does, however, include some data such as finalisations, task volumes, direct communication with victim timeliness and records hearing outcome volumes.

**11.11.** We were told that managers use PIM as a discussion document when reviewing the cumulative dashboard with team members, discussing individual experiences in the different geographical locations and reasons for dips in performance.

**11.12.** The Area's monthly team talk document also provides a very brief overview of performance in the units, with different aspects being discussed and used in team meetings. We saw an example of sharing and discussing performance data in the teams assisting in driving up improvements; there was evidence that the Norfolk team hate crime uplift performance figures had improved from 50% in January 2021 to 75% in March 2021.

## Digital tools and skills

### Expectations

**11.13.** 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)<sup>31</sup>.

### Our findings

**11.14.** 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.

**11.15.** It was evident from our meeting with the Area, and our attendance at the casework quality committee (CQC) meeting, that the Area was able to utilise CPS IT systems effectively to maintain work throughout the pandemic, such as to enable staff to work remotely both on office-based casework and at court, and that staff had been well supported to work in this way.

**11.16.** IT training is included in induction packages to make sure that new starters have access to the applications they will use in their role.

**11.17.** The Area carries out regular learning needs analyses. These have revealed a number of instances in which staff needed training and support to use digital applications. We are aware of training being given in MS Teams, Egress and evidence.com. The Area has produced some quick tip guides on its intranet hub page, dealing with some of the emerging digital skills gaps identified

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<sup>31</sup> 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.

following this needs analysis. These are effective and are a good resource for Area staff.

**11.18.** As part of the learning needs analysis, more digital and case management system training has been identified for some Area lawyers. The Area has developed a package to support prosecutors to improve their skills on using Modern CMS (the CPS's updated case management system), to improve use generally, and specifically to target how the system should be operated to deal with disclosure tasks. We noted that the Area has produced a training brief on how to use CMS, which is helpful, although it is not clear from what we have seen if this had been delivered to any staff to date.

## **12. Strategic partnerships**

**12.1.** One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy<sup>32</sup> 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 Chief Crown Prosecutor (CCP) meets with the four Chief Constables in the Area, has one-to-ones with some of the Police and Crime Commissioners and liaises with others at criminal justice boards. This engagement provides regular opportunities to discuss casework quality and encourage improvements on issues specific to each police force and in criminal justice system joint initiatives. From these meetings, the formation of the rape and serious sexual offences (RASSO) governance board was agreed, as a means to improving joint performance for RASSO casework.

**12.5.** As well as other strategic joint meetings, the Area leads quarterly disclosure forum meetings between the Deputy Chief Crown Prosecutor (DCCP) and Assistant Chief Constables. These are also attended by others from across the criminal justice system, including the judiciary, HM Courts and Tribunals

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<sup>32</sup> 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](http://www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf)



Service (HMCTS), defence practitioners and the local Bar. The aim of this forum is to adopt a collaborative approach to disclosure, debate local issues and performance and agree joint solutions (see paragraph 12.13).

**12.6.** The focus on disclosure is further maintained with senior police partners at Disclosure Improvement Boards (DIBs). These are held in each of the Area's regions and involve Assistant Chief Constables or Detective Superintendent level officers and senior legal and first line legal managers.

**12.7.** The DIB minutes we saw show actions being set and progress being reviewed. We noted that discussions and areas of focus were around disclosure management documents (DMDs) in Crown Court casework and the ongoing training of officers on the Attorney General's guidance and the sixth edition of the Director's Guidance. Issues identified through the Area's individual quality assessments, such as the handling of defence statements in Crown Court cases, were also discussed.

**12.8.** As well as meeting to discuss issues, DIBs also have a governance and assurance role. They carry out quarterly audits on a joint basis, which allow issues to be identified and actions set. This is a good and effective way to improve quality jointly. Action plans are kept by each police force and the disclosure assurance report is completed quarterly by the Area CPS disclosure lead.

**12.9.** The Area has offered a series of disclosure workshops for the police and the disclosure champions cover key disclosure themes. We were told that these workshops are to be repeated in 2022.

**12.10.** Strategic prosecution team performance meetings are also held with all four police forces. The focus of these meetings is at a more local and operational level. They enable legal managers and their operational police counterparts to forge positive working relationships.

**12.11.** Performance data and key aspects with an impact on casework quality – such as file quality, compliance with the Director's Guidance, charging, allocation of guilty and not guilty anticipated cases and issues with the digital exchange of material – are all discussed. Actions are set and we saw that action logs are regularly updated to reflect progress and track action.

## Strategic partnerships with the criminal justice system

### Expectations

**12.12.** 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

**12.13.** There is evidence of regular meetings between the CCP and the Resident Judges where aspects around casework quality and managing recovery from the pandemic are discussed. In addition, the Crown Court DCCP liaises with Resident Judges outside of these meetings as appropriate, and Resident Judges have attended some of the section 28 Youth Justice and Criminal Evidence Act implementation meetings, which are led by the RASSO Senior District Crown Prosecutor.

**12.14.** As noted in paragraph 12.4, the quarterly disclosure forum is attended by representatives from across the criminal justice system. The judiciary's engagement with and support of the forum affords the Area the opportunity to engage with it on aspects of disclosure such as the use of DMDs. A recent review by the Area of the use of DMDs by parties at the Plea and Trial Preparation Hearing is due to be repeated in January–March 2022, the results of which will be assessed to measure any improvement.

**12.15.** The Area attends Crown Court user group meetings at a senior level, as well as the South East Circuit Taskforce (formerly the magistrates' court working group). This is chaired by the Circuit Presider and attended by some District Judges, defence and Bar representatives and senior HMCTS staff.

**12.16.** The CCP engages with senior judiciary and officials from HMCTS through scheduled calls. The CCP is also a guest at the Judicial Business Group and attends a slot at the start of each meeting to raise and address issues of concern. We were told that at the most recent meeting, the CCP raised the issue of the inconsistent approach to CVP and why CVP forms an important part of the Area's recovery plans. The Area Business Manager engages regularly with HMCTS's Head of Crime.

**12.17.** One example of the trusted and mature relationships between the CPS and judiciary has been the setting of longer stage dates for bail cases. By liaising at a senior level with Judges in Essex, the Area has been able to secure

local agreement that stage dates would be extended in bail cases at Chelmsford and Basildon Crown Courts. This has enabled the Area to concentrate on getting its charging backlogs down.

**12.18.** Another example has been the use of resolution courts. The Area worked with the Resident Judge in Ipswich to have bail cases listed in a resolution court. It was agreed that the identified cases would be listed two months in advance and a crown advocate would review the cases. The Area also secured the assistance of Chief Constables, with police carrying out all of the background enquiries in advance. We have seen data that shows this approach resulted in the Area being able to resolve 30 out of 49 listed cases (61%). We heard that this approach was also extended to Cambridge Crown Court centre and thereafter Norwich Crown Court centre, although the Area told us that the absence of court recorders meant that the resolution courts were not as effective.

**12.19.** The Area also worked with HMCTS to undertake a series of trial blitzes. We have also seen a useful report on trial blitzes in Essex magistrates' court with three trial blitzes conducted in November 2020, January 2021 and March 2021. The Area told us in the Area assessment meeting that it has since had a trial blitz in Norfolk and Suffolk magistrates' courts. For these trial blitzes to be effective necessitated the active support of HMCTS and Assistant Chief Constables, which again demonstrates the good joint work of criminal justice partners in the Area.

**12.20.** The Area also actively participates in the three criminal justice boards within the Area: Essex, Cambridgeshire and the Norfolk and Suffolk joint board. Senior leaders in the Area attend the criminal justice boards and other managers attend subgroups dealing with more operational issues. The pandemic has clearly had an impact and the minutes we have seen were dominated, as expected, by discussions around recovering from the pandemic, especially addressing court backlogs. The minutes of meetings, however, provide strong evidence of trusted partnerships at all levels to improve casework quality.

#### **Self-employed barristers (counsel)**

**12.21.** The Area held chambers advocacy forums in November 2019 and June 2020, with representatives from eight chambers attending each of these forums. The notes we have been provided with indicate that the matters discussed were wide-ranging, with the Area setting out information about future plans, new initiatives and, in the June 2020 meeting, the current and forecast position around dealing with Covid-19. The advocacy forum is also an opportunity for the Area to address the need for timely advice from counsel with chambers.

**12.22.** The forum appears to be a good way of sharing information and getting feedback from chambers. The Area has told us that it had planned another in-person chambers forum event for December 2021. This has had to be postponed until spring because of the new Covid-19 variant and rising infection rates.

# **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.

## Area inspection programme CPS East of England

- 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
<b>Pre-charge decision</b>			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	92.6% 7.4%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	74.1% 22.2% 3.7%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	63.0% 33.3% 3.7%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	22.2% 37.0% 40.7%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	25.9% 40.7% 33.3%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	28.6% 42.9% 28.6%
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	11.1% 55.6% 33.3%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	23.1% 42.3% 34.6%
<b>Police initial file submission post-charge</b>			
9	The police file submission complied with National File Standard for the type of case.	Fully met Not met	60.0% 40.0%
10	The police file submission was timely.	Fully met Not met	76.7% 23.3%
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	8.3% 16.7% 75.0%

No.	Question	Answers	Result
<b>Post-charge reviews and decisions</b>			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	96.7% 3.3%
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	43.3% 36.7% 20.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	90.0% 6.7% 3.3%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	57.1% 42.9%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	50.0% 50.0%
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	46.2% 38.5% 15.4%
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	50.0% 14.3% 35.7%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	63.3% 33.3% 3.3%
<b>Post-charge case progression</b>			
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	43.3% 43.3% 13.3%



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	41.2% 29.4% 29.4%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	27.3% 9.1% 63.6%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	9.1%  90.9%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	87.0% 8.7% 4.3%
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% 25.0% 25.0%
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	60.0% 25.0% 15.0%
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	42.1% 15.8% 42.1%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	39.1% 39.1% 21.7%
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	80.0% 16.7% 3.3%
<b>Disclosure of unused material</b>			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	43.3% 50.0% 6.7%
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	40.0% 33.3% 26.7%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not carry out initial disclosure at all Did not identify reasonable lines of enquiry Failed to identify that other obvious items of unused material were not scheduled Other Said DUM was not disclosable Said NDUM was disclosable	11.1% 11.1% 33.3% 5.6% 16.7% 11.1%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	76.7% 23.3%
45	The prosecutor complied with the duty of continuous disclosure (but not including timeliness of disclosure).	Fully met Partially met Not met	66.7% 33.3%
46	If Q45 is PM or NM, the most significant failing was:	Did not carry out continuous disclosure at all Did not endorse any decisions on newly revealed items Other	33.3% 33.3% 33.3%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	66.7% 33.3%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	100.0%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	100.0%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	41.4% 27.6% 31.0%

No.	Question	Answers	Result
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	17.6% 11.8% 70.6%
<b>Victims and witnesses</b>			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	77.8% 11.1% 11.1%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	65.0% 15.0% 20.0%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	75.0% 25.0%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	50.0% 50%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	25.0% 50.0% 25.0%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	28.6% 14.3% 57.1%

## Crown Court

No.	Question	Answers	Result
<b>Pre-charge decision</b>			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	94.1% 5.9%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	76.5% 11.8% 11.8%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	73.5% 17.6% 8.8%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	38.2% 29.4% 32.4%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	35.3% 26.5% 38.2%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	41.7% 33.3% 25.0%
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	14.7% 55.9% 29.4%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	42.4% 27.3% 30.3%
<b>Police initial file submission post-charge</b>			
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met	72.5% 27.5%
10	The police file submission was timely.	Fully met Not met	90.0% 10.0%
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	44.4% 11.1% 44.4%
<b>Post-charge reviews and decisions</b>			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	95.0% 5.0%

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	52.5% 25.0% 22.5%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	70.0% 22.5% 7.5%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	63.6% 9.1% 27.3%
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	65.0% 20.0% 15.0%
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	20.0% 20.0% 60.0%
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	29.4% 11.8% 58.8%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	70.0% 25.0% 5.0%
<b>Post-charge case progression</b>			
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	53.8% 46.2% 0.0%

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	70.4% 3.7% 25.9%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	79.5% 15.4% 5.1%
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	69.2% 15.4% 15.4%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	6.1% 24.2% 69.7%
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	19.9% 48.7% 33.3%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	56.4% 2.6% 41.0%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	21.7% 8.7% 69.6%
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	33.3% 6.7% 60.0%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	91.4% 5.7% 2.9%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	26.3% 26.3% 47.4%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	97.1% 2.9% 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	77.8% 22.2% 0%

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	77.8% 13.9% 8.3%
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	65.2% 26.1% 8.7%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	97.2% 2.8%
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	67.5% 30.0% 2.5%
<b>Disclosure of unused material</b>			
39	In relevant cases a DMD was completed.	Fully met Partially met Not met	60.0% 40.0%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	100.0%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	54.1% 35.1% 10.8%
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	57.1% 17.1% 25.7%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on a non-blank MG6D Did not identify reasonable lines of enquiry Failed to endorse or sign a blank MG6D Failed to identify that other obvious items of unused material were not scheduled Said DUM was not disclosable Used the wrong endorsements	6.7% 6.7% 40.0% 20.0% 20.0% 6.7%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	100.0%
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met Partially met Not met	67.7% 19.4% 12.9%
46	If Q44 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 Said NDUM was disclosable	10.0% 50.0% 20.0% 10.0% 10.0%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	80.6% 9.7% 9.7%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	28.6% 71.4%



No.	Question	Answers	Result
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	25.0% 72.0%
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met	59.1% 22.7% 18.2%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	66.7% 33.3%
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	62.5% 34.4% 3.1%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	45.7% 45.7% 8.6%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	37.5% 18.8% 43.8%

#### Victims and witnesses

55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	58.3% 12.5% 29.2%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	86.4% 13.6%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	61.5% 7.7% 30.8%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	57.1% 42.9%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	33.3% 33.3% 33.3%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	43.3% 26.1% 30.4%

**RASSO**

No.	Question	Answers	Result
<b>Pre-charge decision</b>			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	94.1% 5.9%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	58.8% 23.5% 17.6%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	82.4% 17.6%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	23.5% 58.8% 17.6%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	41.2% 47.1% 11.8%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	6.7% 26.7% 66.7%
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	47.1% 52.9%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	35.3% 47.1% 17.6%
<b>Police initial file submission post-charge</b>			
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met	45.0% 55.0%
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	63.6% 36.4%
<b>Post-charge reviews and decisions</b>			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	100.0%

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% 30.0% 35.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	70.0% 25.0% 5.0%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	100.0%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	50.0% 50.0%
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	41.2% 35.3% 23.5%
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	11.8% 17.6% 70.6%
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	23.1% 38.5% 38.5%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	55.0% 40.0% 5.0%
<b>Post-charge case progression</b>			
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	60.0% 40.0%

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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	55.0% 25.0% 20.0%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	68.4% 26.3% 5.3%
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	78.9% 15.8% 5.3%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	47.4% 31.6% 21.1%
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	73.7% 15.8% 10.5%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	57.9% 10.5% 31.6%
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	62.5% 37.5%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	52.6% 42.1% 5.3%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	25.0% 75.0%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	66.7% 27.8% 5.6%

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	56.3% 37.5% 6.3%
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	68.4% 21.1% 10.5%
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	81.3% 12.5% 6.3%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	72.2% 22.2% 5.6%
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	50.0% 45.0% 5.0%
<b>Disclosure of unused material</b>			
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met	89.5% 10.5%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	36.8% 52.6% 10.5%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	31.6% 42.1% 26.3%
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	17.6% 58.8% 23.5%

No.	Question	Answers	Result		
43	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on a non-blank MG6D	21.4%		
		Did not endorse any decisions on the MG6C	7.1%		
		Failed to endorse or sign a blank MG6D	7.1%		
		Failed to identify that other obvious items of unused material were not scheduled	7.1%		
		Said DUM was not disclosable	28.6%		
		Said NDUM was disclosable	14.3%		
		Set out the wrong test for disclosure (e.g. courtesy disclosure)	7.1%		
		Used the wrong endorsements (D, CND etc.)	7.1%		
		44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	88.2%
				Partially met	5.9%
Not met	5.9%				
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met	78.6%		
		Partially met	14.3%		
		Not met	7.1%		
46	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on newly revealed items	33.3%		
		Failed to identify that other obvious items of unused material were not scheduled	33.3%		
		Said DUM was not disclosable	33.3%		
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met	92.9%		
		Partially met			
		Not met	7.1%		

No.	Question	Answers	Result
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	45.5% 54.5%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	66.7% 20.0% 13.3%
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met	57.1% 14.3% 28.6%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	50.0% 42.9% 7.1%
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	11.8% 76.5% 11.8%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	7.7% 30.8% 61.5%

#### Victims and witnesses

55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	46.7% 33.3% 20.0%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	50.0% 16.7% 33.3%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	70.0% 10.0% 20.0%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	16.7% 83.3%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	66.7% 33.3%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	17.6% 17.6% 64.7%

# **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.

### **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
<b>Pre-charge decision</b>		
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
<b>Police initial file submission post-charge</b>		
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
<b>Post-charge reviews and decisions</b>		
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
<b>Post-charge case progression</b>		
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
<b>Disclosure of unused material</b>		
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
<b>Victims and witnesses</b>		
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.

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.

**Table 19: File sample structure**

<b>Outcome</b>	<b>Magistrates' courts</b>	<b>Crown Court</b>	<b>RASSO</b>	<b>Total</b>
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/Judge ordered acquittal	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
<b>Total</b>	<b>30</b>	<b>40</b>	<b>20</b>	<b>90</b>
<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 19 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 20 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 4: 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
<b>Total</b>	<b>6 (20%)</b>	<b>8 (20%)</b>	<b>2 (10%)</b>	<b>16 (17%)</b>

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 aspect<sup>33</sup> 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

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<sup>33</sup> 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 5: 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 6: 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
<b>Total for all above questions</b>	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 7: 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 <sup>34</sup>	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

<sup>34</sup> 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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