



HMCPSI

HM Crown Prosecution
Service Inspectorate

Area inspection programme

CPS South West

Baseline assessment

August 2022

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Who we are

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

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

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

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1. Summary

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

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

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

1.6. CPS South West covers a large geographical area and works with the three police force areas in the South West: Avon and Somerset, Devon and Cornwall, and Gloucestershire. It has three offices in Bristol, Exeter and Truro and covers 13 magistrates' courts and six Crown Court centres.

1.7. Prior to the Covid-19 pandemic, CPS South West's senior management team was relatively new. The Chief Crown Prosecutor (CCP) was appointed on temporary promotion in November 2018 and permanently in January 2020; and

the Deputy Chief Crown Prosecutor (DCCP) was appointed in September 2019. The Area had been operating without a DCCP for a period of time before that.

1.8. Before the pandemic, the Area was experiencing difficulties in meeting its charging responsibilities in a timely manner owing to a combination of staff shortages and police file quality issues. From August 2019, the South West received support from CPS Direct¹. This additional support continued throughout the pandemic until June 2021; CPS Direct covered 45% of the Area's charging responsibilities where it was expected to provide a pre-charge decision to the police within five days of receipt. That support was invaluable although it has, of itself, led to a certain amount of duplication of work as the Area later used its own prosecutors to review and progress the cases initially charged by CPS Direct.

The Area maintained its participation in working groups with external stakeholders and police scrutiny panels

1.9. Like all CPS Areas, the South West has experienced a challenging period since the pandemic struck. It has had to adapt the way it operates and interacts with its own staff as well as victims, witnesses, other criminal justice agencies and the public. Despite that, it has worked hard to meet those challenges as well as to find ways to maintain the wellbeing of staff.

1.10. By way of example, before the pandemic the Area had committed to moving its accommodation in Exeter because of the expiry of its lease at Longbrook House. This commitment was fulfilled when it moved into new premises in Exeter in 2020, but the logistics and resource requirements of completing this move during the pandemic were significant. In addition, wherever possible, the Area maintained its participation in working groups with external stakeholders and police scrutiny panels, recognising their importance in maintaining public confidence and influencing change with other agencies.

1.11. CPS South West experienced a significant increase in its caseload during the pandemic owing to court closures during the initial lockdown in March 2020, subsequent changes to operational procedures in the courts to ensure the safety of court users during the pandemic, and an increase in receipts of files for pre-charge decisions from the police. Throughout this period the Area has been

¹ CPS Direct is a service operated by CPS lawyers and headed by a Chief Crown Prosecutor, 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.

under significant pressure from increasing caseloads and significant changes to the Area workforce.

1.12. As well as support from CPS Direct, the Area has also received assistance for its rape and serious sexual offences (RASSO) and Crown Court work, mainly from CPS Wessex and specialist casework divisions in CPS Headquarters. This has now stopped but it did allow the Area to concentrate its resources on its more routine work during this period. This support was necessary given the resource challenges the Area faced and the difficulty it had with recruiting lawyers to maintain effective staffing levels. By focusing on case progression, the Area has been able to establish firm control over its caseload and thereby reduce its magistrates' court live caseload to pre-pandemic levels and its Crown Court live caseload to near pre-pandemic levels. This should set it in good stead for the future.

1.13. In addition, the Area has had a significant turnover of management staff during the pandemic. Since the Area went into the pandemic, the Area has recruited two thirds of management posts, two out of four Senior District Crown Prosecutors, eleven out of 16 District Crown Prosecutors, a Senior Operational Business Manager, one out of two Operational Business Managers, five out of seven Paralegal Business managers, and three out of five Casework Admin managers. When that high degree of recruitment and staff change is combined with other changes in the workforce (for example, the Area had 29 new members of staff on both the legal and operational sides of the business in the last financial year), it is clear why it has been such a challenging period.

The Area has been able to establish firm control over its caseload

appropriate levels of induction, training and support. This in turn had an impact on managers and other members of staff, who needed to devote time and energy to ensure that such support was completed and effective. This was a real burden to the Area at a time when resource challenges and remote working were also causing difficulties.

1.14. The impact of recruitment and change in personnel appeared in several ways, as not only was there a loss of experience when staff left, but also all new members of staff and those who gained internal promotion required

1.15. Challenges have been particularly acute in the RASSO unit, where the Area has had a real shortage of experience among its prosecutors. A number of experienced RASSO prosecutors within the Area have moved on to other internal departments. This has resulted in less experienced prosecutors, who are keen to develop, joining the team, which has led to challenges in offering the correct levels of training and support to enable them to gain the necessary skills

and confidence to work as RASSO prosecutors at a time when RASSO work is increasing significantly. Nine out of thirteen prosecutors currently on the RASSO unit are relatively new to the unit. With this in mind, the overall performance of the RASSO unit, as seen in our casework assessment, is encouraging, with the highest scores within the Area for added value and grip.

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

1.16. Since September 2021 the Area has also been a pathfinder site for Operation Soteria². The South West has been keen to lead on this, but being a pathfinder site has inevitably increased the pressure on resources within the RASSO unit, where experience is in short supply.

1.17. The Area has good relations with other stakeholders and has tried to use them to drive forward improvements in performance with the police and the courts. For example, file quality and disclosure of unused material have been topics of concern with the police forces for a while. The Area has worked diligently, often on a regional basis, to help the police improve in these aspects, although from discussions with the Area and our own findings it is clear there is still some way to go.

1.18. The loss of experience in the Area at a time of such pressure has unsurprisingly had an impact on casework quality. However, it is clear from the documents we have read, from what we saw and heard when we observed the Area's Casework Quality Committee (CQC), and from our meeting with the Area's senior management 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. It is also clear that, even during the height of the issues caused by the pandemic, the Area was focused on maintaining high quality casework outcomes. We saw clear messaging in minutes from meetings and communications to staff that, despite the quantity of casework in the system, the standard of decision-making had to have precedence.

1.19. The Area shows a keen desire to drive improvement in its processes and outcomes. Prior to our inspection, the Area proactively carried out a 'mini-

² Operation Soteria is a response to the government End-to-End Rape Review, and the Home Office pledge to increase the number of rape cases resulting in prosecution. It is a national operation to drive RASSO performance to transform the way that rape investigations are handled and the way that rape cases are prosecuted and progressed through the criminal justice system. Operation Soteria uses new ideas and approaches such as enhancing early advice on investigations with the police, enhancing case progression, improving victim communications, supporting victims better and raising the visibility of the CPS.

inspection' of its own cases against HMCPSP's file questionnaire and provided feedback to prosecutors. The Area then created an action plan showing the aspects of work to be improved following the file examination exercise. Several of the issues identified by the Area were replicated in our findings. Progress against each point identified by the Area is being monitored and an action plan is in place to address these. We understand this will be combined with the findings from this inspection, so that the Area can monitor improvements in performance in relation to both sets of findings.

1.20. As the pressures of the pandemic diminish, staff recruitment and movement stabilise, and experience develops within the lawyer and operational cadre, CPS South West will be in a good position to improve the quality of its casework across all aspects. The dedication and hard work shown by the casework teams, together with the enthusiasm of senior managers in extremely difficult times, is a good indicator that further improvement in casework quality is achievable.

Added value and grip

1.21. 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.

1.22. Table 1 shows our baseline assessment of CPS South West’s added value and grip.

Table 1: Baseline assessment of CPS South West

CPS South West	Added value	Grip
Magistrates’ court casework	63.0%	59.7%
Crown Court casework	68.2%	73.4%
Rape and serious sexual offences casework	71.0%	78.7%

1.23. Overall, our file examination found that the Area adds value by ensuring that the decision to charge is in accordance with the Code for Crown Prosecutors in most cases and that the charges selected adequately reflect the criminality involved.

1.24. The Area adds value with some good quality decision-making, particularly around the continuing disclosure of unused material in Crown Court and RASSO casework.

1.25. There was also strong evidence of the Area adding value at sentencing, with the prosecution – in most instances and in all casework types – seeking the right orders to protect victims, witnesses and the public.

1.26. However, there were some aspects where improvement is called for, most notably in relation to case analysis and trial strategy at all stages and across all casework types. In many cases there was a tendency to describe evidence rather than analyse its significance to the case, and a failure to develop a trial strategy demonstrating how each of the essential elements of the proposed offence was to be proved, identifying strengths in the evidence and how weaknesses in the case were to be overcome, and assessing how likely defences were to be countered. Overall, case analysis and strategy in Crown Court and RASSO casework was better post-charge than for magistrates’ court casework, but there was still significant room for improvement.

1.27. Compliance with initial disclosure obligations also needs improvement across all casework, as do the Area’s communications with victims.

1.28. Our file examination highlighted a significantly stronger level of grip in the Area's Crown Court and RASSO casework than in magistrates' court casework.

1.29. A common theme across all casework was that good grip was evident in the timely way in which decisions were taken to discontinue cases.

1.30. In the Crown Court and RASSO casework, correspondence from all criminal justice parties – including the police, defence, court and witness care unit (WCU) – was reviewed both appropriately and sufficiently promptly, with timely and effective actions undertaken in response. In addition, court directions or Judges' orders were complied with in a timely manner. This contrasted with the magistrates' court casework, where there was less grip evident in dealing with correspondence, particularly from the police and WCU, and court directions or Judges' orders were generally not complied with in such a timely manner.

1.31. In the RASSO casework, the Area excelled in ensuring that a conference with the trial advocate, officer in charge, and any expert witnesses took place on rape cases in a timely manner. This ensured the Area had a grip on these cases by identifying any additional enquiries, so they could be pursued in order to strengthen the prosecution case.

1.32. Across all casework, there was less grip evident in the timeliness of the CPS's decision to charge and when preparing cases to ensure progress at the first hearing or the Plea and Trial Preparation Hearing (PTPH) in the Crown Court. To build higher ratings for grip across casework, the Area needs to be more proactive in preparing cases for first hearings, including ensuring that appropriate instructions are given in relation to bail and acceptable pleas.

Casework themes

1.33. 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 grip³. 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.

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

Pre-charge decisions and reviews

1.35. 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.

³ See annex F for scoring methodology.

1.36. 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.

1.37. Pre-charge decision-making is a strength for the Area. In our file sample, we found that 71 out of the Area’s 75 charging decisions⁴ (94.7%) complied with the Code for Crown Prosecutors at the pre-charge stage. Within the different teams, the Code compliance rates were:

- magistrates’ court cases: 100%
- Crown Court cases: 90.6%
- RASSO cases: 94.4%.

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

1.39. In our file examination, the overall ratings for the theme of pre-charge analysis were 48.5% in magistrates’ court casework, 48.6% in Crown Court casework, and 45.2% in RASSO casework. Those translated, according to our scoring mechanism, into assessments that all units were not meeting the required standard for pre-charge review.

1.40. The quality of pre-charge reviews requires improvement across all units. Reviews often failed to analyse the evidence in sufficient detail, identify strengths and weaknesses in the evidence, identify the essential elements to prove, consider key matters such as issues raised or likely to be raised by the defence, and consider any unused material. Often, the reviewer also did not provide adequate instructions to advocates for the first hearing to enable them to progress the case efficiently. In many cases, there was a failure to consider fully

⁴ 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.

the potential for applications, such as special measures, to support victims and witnesses at the pre-charge decision stage.

1.41. It is important to acknowledge that the CPS has developed and, in 2021, 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. In our file examination, particularly in relation to the Crown Court and RASSO casework, a proportion of the pre-charge decisions we considered will have predated this training being fully rolled out. We will be able to better assess the impact of this training in our follow-up inspection.

Post-charge decisions and reviews

1.42. 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. Post-charge decision-making is a strength for the Area. In our file sample, we found that 95.6% of the Area's 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: 95%.

1.43. Similar to the pre-charge stage, while getting the post-charge decision correct is essential, continued clear analysis of the evidence and thoughtful case strategy are also fundamental to the efficiency and effectiveness of the subsequent stages. Cases often develop post-charge and the evidence can change. This needs to be properly reflected in any post-charge reviews so that the case strategy is adapted to the circumstances.

1.44. In some circumstances, where cases are expected to be concluded in the magistrates' courts, a review should usually be carried out before the first hearing. We refer to this as the 'initial review'. The standard of initial review in the magistrates' courts unit was weak. The equivalent review in the Crown Court unit (which we refer to as the 'post-sending review') was slightly better but still weak. The RASSO unit's post-sending reviews were the best out of the three casework types. Overall, 36.7% of magistrates' court cases were assessed as fully meeting the standard for the initial review. In the Crown Court and RASSO units, the figures were 45.0 and 55.0% respectively, for the post-sending review.

1.45. In magistrates' court cases, there were frequently no initial reviews when they were required, leading to the weaker ratings. In all three units there were examples of the pre-charge review being copied into the post-charge review without the prosecutor considering issues or developments since charge, or rectifying any omissions or deficiencies in the pre-charge review.

1.46. 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 'stage 1 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.

1.47. We found an inconsistent approach to stage 1 reviews. They were not conducted routinely in the Crown Court and RASSO file sample we examined, with the result that inspectors assessed only 21.9% of Crown Court cases and 38.9% of RASSO cases as fully meeting the standard. A failure to meet the standard was usually because of either no review taking place at all at stage 1, or reviews being perfunctory, adding little value where there were outstanding issues to address. In addition, errors or omissions at the pre-charge stage were often not identified and dealt with; and as with the post-sending reviews, additional evidence received prior to service was not considered.

1.48. 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.

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

1.50. Across all casework types, these 'significant event reviews' often did not take place when they should. Performance was weakest in the magistrates' court team, with 30.8% of relevant cases being assessed as fully meeting the standard, compared to 44.4% in Crown Court cases, and a slightly more positive 50% in RASSO cases.

1.51. Timely and appropriate decisions about bail and custody were generally dealt with well in magistrates' court and Crown Court cases, with 63.3% and 65% of cases respectively assessed as fully meeting the required standard. The findings were not as good in the RASSO unit, with 50% of cases fully meeting the standard. The most common issue in the cases which did not fully meet the standard was a failure to record on the hearing record sheet either the bail and custody position in full or, where bail conditions would have been appropriate, what applications had been made in that regard.

1.52. We inspected 23 cases where pleas were accepted across all casework – a relatively small number of cases – and we found that this was a strength for the Area. Generally, the pleas accepted were appropriate with a clear basis. Of the 23 cases, we assessed 78.3% as fully meeting the standard. Performance was good across all casework, with 75% of magistrates' court cases, 90% of Crown court cases and 60% of RASSO casework fully meeting the standard. Where cases were rated as partially or not meeting the required standard, 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 Court⁵

1.53. 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.

1.54. Our overall assessment of the Crown Court unit's preparation for the PTPH was that it was partially meeting the required standard, scoring 64.1% for this casework theme. The RASSO unit was also assessed as partially meeting the standard with a score of 68%.

1.55. Within this, there were some real strengths for the Area where good, proactive work was done by both teams to make sure cases were ready for an effective PTPH. The drafting of indictments was a positive feature for both the Crown Court and RASSO units, with 82.1% and 66.7% of cases respectively assessed as fully meeting the standard. Timeliness of the service of key evidence and the indictment in advance of the PTPH were also positives for the

⁵ This theme only relates to Crown Court cases and RASSO cases listed before the Crown Court.

RASSO unit, with 83.3% of cases found to be fully meeting the standard. Timeliness was not as good for the Crown Court unit, with 48.7% of cases fully meeting the standard. Counsel was instructed at least seven days before the PTPH in 61.5% of Crown Court cases and 73.7% of RASSO cases.

1.56. However, there were also aspects where performance was not as strong. In assessing whether a prosecutor prepared the case effectively for the PTPH, we found 30.8% of Crown Court cases and 30% of RASSO cases fully meeting the standard.

1.57. At the point when a prosecutor authorises charges against a suspect, they often make a number of requests to the police for additional material or information that will be required as the case progresses. A common theme across both units was failing to check if the police had responded appropriately to these requests before the PTPH. Another regular omission was a failure by prosecutors to address the acceptability of pleas in appropriate cases at this stage. This is a key element of an instruction to the advocate at court so that effective progress can be made.

1.58. While advocates were generally being instructed at least seven days before the PTPH, the quality of those instructions was not adequate in the Crown Court and RASSO casework, with 21.9% of Crown Court cases and 21.1% of RASSO cases assessed as fully meeting the standard. Often advocates were given the briefest of instructions with which they were expected to advance the case at the PTPH stage.

1.59. 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 at the earliest opportunity. There was a lack of engagement with defence firms before the PTPH across both units. However, we recognise that the ability to contact the defence was affected by the pandemic, with many defence practitioners being furloughed or experiencing difficulties taking instructions from clients who were shielding, isolating or in custody.

Disclosure of unused material

1.60. 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’.

1.61. 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’.

1.62. 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.

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

Table 2: Compliance with disclosure duties

Ratings	Cases
Initial disclosure	
Fully meeting the expected standard	41.0%
Partially meeting the expected standard	31.3%
Not meeting the expected standard	27.7%
Continuing disclosure	
Fully meeting the expected standard	64.6%
Partially meeting the expected standard	14.6%
Not meeting the expected standard	20.8%

1.64. For magistrates’ court casework, the Area’s compliance with the disclosure of unused material was 51.4% which translates, according to our scoring mechanism, into an assessment of not meeting the standard. Compliance was 73.3% for Crown Court casework and 77.3% for RASSO casework, meaning that the Area is fully meeting the standard for these casework types.

1.65. As can be seen from Table 2, the Area needs to improve compliance, in particular in the performance of its duties in relation to the initial disclosure of unused material. Performance of initial disclosure duties was weakest in the magistrates’ court unit, where we assessed 35.7% of cases as fully meeting the expected standard, 25% as partially meeting the standard, and 39.3% as not

meeting the standard. Our assessment of Crown Court cases was that 47.2% were fully meeting the standard, 36.1% partially meeting the standard, and 16.7% not meeting the standard. In RASSO casework, 36.8% of cases were fully meeting the standard, 31.6% partially meeting the standard, and 31.6% not meeting the standard.

1.66. The main reasons for cases failing to be assessed as fully meeting the standard included failing to identify that the police unused material schedules, especially the non-sensitive schedule, were missing obvious items of unused material, failing to disclose material which met the disclosure test, and disclosing material which did not meet the disclosure test. The number of cases where disclosable material was not disclosed at the initial disclosure stage is of concern, although it was apparent that these items were later identified and disclosed at continuing disclosure.

1.67. Compliance with continuing disclosure obligations was more positive. Only two magistrates' court cases required continuing disclosure; one was assessed as fully meeting the standard and one as not meeting the standard. In the Crown Court, 61.3% of relevant cases were assessed as fully meeting the standard, and 22.6% as partially meeting the standard. In the RASSO unit, compliance had improved markedly from initial disclosure, with 73.3% of relevant cases being assessed as fully meeting the standard.

1.68. Where the police did not comply with their disclosure obligations, we assessed the Area's feedback to the police as fully meeting the expected standard in 6.7% of magistrates' court cases, 26.1% of Crown Court cases and 31.3% of RASSO cases. We recognise that prosecutors are under pressure, but for the service to the Area to improve, there needs to be accurate feedback and/or escalation of issues at the operational as well as the strategic level.

1.69. Areas of good practice included the quality of disclosure management documents prepared by prosecutors, the review by prosecutors of defence statements and the guidance provided to the police about pursuing reasonable lines of enquiry identified within them.

Victims and witnesses

1.70. The CPS 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.

A particularly positive aspect of casework was the timely and appropriate warning of witnesses in often difficult circumstances

1.71. 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.

1.72. There were strengths for the Area across all units in respect of the service provided to victims and witnesses post-charge. In 82.4% of magistrates’ court cases, 68.4% of Crown Court cases and 72.7% of RASSO cases, the Area was assessed as fully meeting the standard for seeking appropriate orders to protect victims, witnesses, and the public. A particularly positive aspect of casework was the timely and appropriate warning of witnesses in often difficult circumstances, with trials being moved owing to the impact of Covid-19 on courts; here we assessed 77.3% of relevant magistrates’ court cases, 78.8% of Crown Court cases and 88.9% of RASSO cases as fully meeting the required standard.

1.73. There was generally a positive picture of steps being taken to achieve best evidence by making appropriate applications for special measures post-charge, where we assessed 60% of Crown Court cases and 73.7% of RASSO cases as fully meeting the standard. However, there is some room for improvement in magistrates’ court cases, which we assessed as fully meeting the standard in 42.9% of cases, albeit with a much smaller number of cases.

1.74. There were mixed results in respect of prosecutors consulting with victims and witnesses, including compliance with the speaking to witnesses at court (STWAC) initiative. We rated 38.9% of RASSO cases as fully meeting the standard, whereas in the Crown Court it was 60% and in magistrates’ court cases, 56.3%. Similarly, compliance with prosecutors’ obligations towards Victim Personal Statements was mixed. These were assessed as fully meeting the standard in 56.3% of magistrates’ court cases and partially meeting the standard in 25%; as fully meeting the standard in 40% of Crown Court cases and partially

meeting the standard in 50%; and as fully meeting the standard in 44.4% of RASSO cases and partially meeting the standard in 38.9%.

1.75. Improvements are needed in Victim Communication and Liaison scheme letters, in terms of both timeliness and quality. Overall, we assessed 52.4% of the Area's letters as fully meeting the standard and another 19% as partially meeting the standard for being sent on time. We assessed the quality of the letters as fully meeting the standard in 60% of cases and partially meeting the standard in 33.3%. In six cases letters were not sent: one in a magistrates' court case, two in Crown Court cases and three in RASSO cases.

1.76. When broken down, this shows inconsistent performance between the units. We assessed 33.3% of Crown Court letters as fully meeting the standard for being timely, and 57.1% as fully meeting the standard for quality. We assessed 80% of magistrates' court letters as fully meeting the standard for being timely, but these performed less well on quality, with 50% fully meeting the standard. And we assessed 57.1% of RASSO letters as fully meeting the standard for being timely, and 75% as fully meeting the standard for quality. This is an aspect the Area will want to improve upon.

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 charging⁶, serious youth crime⁷ and disclosure⁸ – 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 South West, 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

⁶ *Charging inspection 2020*; HMCPsi; September 2020.

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

⁷ *Serious youth crime*; HMCPsi; March 2020.

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

⁸ *Disclosure of unused material in the Crown Court – a follow-up*; HMCPsi; December 2020.

www.justiceinspectors.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 must 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 lockdown⁹. 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.

⁹ *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/

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 courts¹⁰ were also set up as one of the measures to address the growing backlogs of Crown Court cases. In the South West, Bristol magistrates' court was made available for Crown Court work from September 2020 in response to the pandemic. The court listed one or two trials per week from that time, through to August 2021. It continues to sit in order to hear a small number of Crown Court appeals, to support the progression of cases that cannot be accommodated at Bristol Crown Court. In addition, in January 2021 a Nightingale court was set up in the former Cirencester magistrates' court building to assist with criminal cases from Gloucester Crown Court. The court continues to be available for Crown Court work.

2.11. In March 2021, we published a report looking at the CPS's response to the continuing pandemic¹¹, with a focus on how it was coping with increased caseloads and backlogs. All Areas saw an increase in their caseloads, although not all were equally affected; for charging, for example, one Area's caseload increased by 13.6% between April and June 2020, while another Area saw an increase of 30.3%.

2.12. Our findings need to be read in the context of the Covid-19 pandemic and the backlogs created by it, but also bearing in mind the other pressures on the Area, such as the impact of staffing issues – including recruitment and staff movements, together with the necessary training and induction. Police file quality also remained an issue during this time. In our sample of Area cases, across all casework types, we rated 57.8% of files submitted by the police as fully meeting the standard set out in the National File Standard and 40.2% of cases submitted as fully complying with the police's disclosure obligations. This meant that the Area had to address deficiencies in a significant number of cases as part of its case preparation, resulting in additional work, at a time when resources were stretched by the impact of Covid-19.

¹⁰ 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.

¹¹ *CPS response to COVID-19: dealing with backlogs*; HMCPSI; March 2021.

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

Impact on the Area

Caseloads and backlogs

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

2.14. Table 3 shows the changes between Quarter 1 of 2020–21 (April to June 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 2020–22

Month	Q1 2020 (Apr-June 2020)	Q1 2021 (Apr-June 2021)	Q1 2022 (Apr- June 2022)	Difference	Difference (%)
Magistrates' courts					
April	6,300	7,647	7,287	+987	+15.7%
May	7,581	7,717	7,260	-321	-4.4%
June	8,962	7,405	7,341	-1,621	-22.1%
Crown Court					
April	2,114	2,454	2,441	+327	+15.5%
May	2,049	2,333	2,389	+340	+16.6%
June	2,032	2,293	2,426	+394	+19.4%

Charging

2.15. From the charging data we have seen, it is apparent that while pre-charge receipts for first submissions on magistrates' court cases decreased, there were increased levels of pre-charge receipts for first submissions on Crown Court cases: from 710 cases in 2019–20 to 902 cases in 2020–21. This has since dropped back down to 634 cases in 2021–22. The most significant increase, however, has been in rape and serious sexual offences (RASSO) cases, with the number of first submissions on pre-charge cases rising from 112 cases in 2019–20 to 221 cases in 2020–21 and then 302 cases in 2021–22. This is a 170% rise over two years. The Area also reports a rise in requests for early investigative advice and for second and subsequent submissions on pre-charge cases.

2.16. The Area has been carrying backlogs in cases awaiting a pre-charge decision for some time. This is one of the reasons it received assistance from CPS Direct before the pandemic. As a result, towards the end of 2021 a working group was established, consisting of senior managers and a representative of the national Compliance and Assurance Team. The aim was to consider the Area's position, recommend and implement improvements to charging. Goals included reducing the Area's reliance on overtime and crown advocates, achieving compliance with national standard operating procedures and increasing productivity. This work is ongoing, although in Quarter 4 of 2021–22 (January to March 2022) the percentage of consultations completed within 21 days remained worse than the national average (57.9%) at 48.8% and the average days taken to complete a consultation was worse than the national average (23.0) at 31.9 days.

Magistrates' courts

2.17. When the pandemic struck there was a significant increase in the magistrates' court live caseload. This peaked in Quarters 2 and 3 of 2020–21 (July to December 2020) but since that time the Area has been able to reduce the magistrates' courts live caseload. This reduction has been maintained and the figures for Quarter 1 of 2022–23 (April to June 2022) show that the live caseload has decreased slightly further from the same period in 2021 and is now closer to pre-pandemic levels.

Crown Court

2.18. The Area made a strategic decision early in the pandemic to attempt to manage the backlog of cases, which was growing, particularly in the Crown Court. It instructed a team of crown advocates to concentrate on case progression and to manage the backlog of cases by further reviewing all their ongoing cases with a view to identifying cases where defendants would be likely to plead guilty to either the indictment or alternative offences owing to the strength of the evidence. In addition, crown advocates and Senior Crown Prosecutors were tasked with identifying weaker cases and working with the police to build the evidence further with a view to obtaining guilty pleas.

2.19. This was largely successful, with a significant increase in guilty pleas in Crown Court cases over this time. As a result, in contrast to several other CPS Areas, and despite an initial increase in its Crown Court backlog, as Table 3 shows, the Area has been able to maintain firm control over its Crown Court caseload and return it to near pre-pandemic levels. This is during a period when the national figures for live Crown Court cases show an increase of more than 50%. This should set the Area in good stead for the future.

Rape and serious sexual offences

2.20. There has been a significant increase in pre-charge receipts in RASSO casework since 2019–20: a 170% increase over a two-year period. This has come at a time when a number of experienced prosecutors from the RASSO unit have moved on and the Area has been unable to encourage other experienced prosecutors in the Area to join the unit. However, other prosecutors who are less experienced but keen to develop have shown a real desire to engage in RASSO work and this has resulted in those prosecutors joining the team. This has led to challenges in offering the correct levels of training and support to enable them to gain the necessary skills and confidence to work as a RASSO prosecutor at a time when RASSO work is increasing significantly. Nine out of thirteen prosecutors currently on the RASSO team are relatively new to the unit.

2.21. In addition, we recognise that since September 2021 the Area has become a pathfinder site for Operation Soteria and, as a result, there have been increased burdens on prosecutors in the RASSO unit. While the Area is keen to lead on this initiative and is encouraged by the early progress, inevitably it has increased pressure on the Area's RASSO resources as more work is required of prosecutors and operational delivery staff.

Defence

2.22. 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 pandemic-related pressures. Additionally, the defence has had difficulty taking instructions from clients because of difficulties arranging conferences at prisons, the pressures of social distancing requirements and clients having to isolate. Often defence solicitors were only able to take instructions from their clients on the day of, or even during, a hearing. This has had an impact on how effective any early engagement between the prosecution and defence has been.

2.23. Since the easing of restrictions, the Area has continued to try and engage with the defence. It acknowledges that there have been mixed results, but the work continues. The Area has set up some drop-in clinics at court centres where defence representatives can discuss cases with prosecutors; this is a sensible approach. Indeed, in Devon and Cornwall, a senior legal manager attends an advertised clinic on a regular basis and is available to discuss specific casework with defence representatives.

Custody time limits

2.24. Where a defendant is refused bail while awaiting trial, they are subject to custody time limits (CTLs). This means the defendant can only be held in custody before the start of a trial for a stipulated number of days. The imposition of this time limit creates pressure on the prosecution to undertake all necessary work within the time frame, and this has been exacerbated by the other pressures of the pandemic we discuss in this chapter.

2.25. As a temporary measure, in September 2020, custody time limits (CTLs) were extended, then reverted to normal in June 2021. CPS South West, in common with all CPS Areas, had to deal with an increase in the number of cases that required an application to extend the custody time limits.

2.26. The temporary extension has now ended, so all new cases carry the pre-existing time limits. The result is more work for the Area managing time limits and making applications to extend CTLs where appropriate. Many cases have required multiple CTL extension applications, which further increases the work pressures Crown Court prosecutors are under.

2.27. The Area has seen an increase in cases which attract a CTL, particularly in RASSO cases, where between February 2021 and June 2022, cases with CTLs attached increased by 100% (from 19 to 38 cases). However, because the Area concentrated its crown advocates in case progression work during the pandemic, and as a result does not have such a significant backlog in its Crown Court cases, it has been able to manage the risks that CTL cases represent to victims, witnesses and the public. Between February 2021 and June 2022, the number of Crown Court cases with CTLs attached increased by 15.3% (from 203 to 234 cases). The Area has continued to monitor and audit CTL cases to ensure they are progressed expeditiously, and extensions sought in relevant cases.

Moving forward

2.28. The Area has taken a positive approach to dealing with the pandemic and is continuing to work with partners on recovery plans through Covid-19 recovery groups for the magistrates' courts, Crown Court and charging, but significant pressures remain. In short, this means more work for a finite number of staff.

Police service to the Area

2.29. Police file quality is a long-standing issue nationally, and one that we have reflected on frequently in previous reports. In December 2019, a Criminal Justice Task Force was set up to address file quality, to which the three police forces in the Area were committed. However, owing to the impact of Covid-19, progress has been limited.

2.30. 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 assurance 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.

2.31. There are issues with police file quality across all three police forces serving the Area which are not new. These were exacerbated by the changes made following the implementation of DG6. In addition to the new national file quality monitoring requirement on the case management system, the Area is also using individual quality assessments and local case management panels to identify police file quality issues. These are then fed back at a senior level through a Criminal Justice Task Force originally set up in December 2019, before the pandemic, and more locally through the prosecution team's performance meetings with the police.

2.32. The Area has also taken a regional approach by delivering training on DG6 to all police forces together. This training was recorded and made available to all police officers through focused training sessions and casework improvement plans. In addition, police forces have been invited to attend the Area's Casework Quality Committee (CQC) and the Deputy Chief Crown Prosecutor attends the police force's Investigative Standards Boards, at which the importance of police file quality is always high on the agenda. The Area expects that this approach will lead to improvements in police file quality and in compliance with DG6. However, our assessments showed that in the majority of cases where the police did not comply with the National File Standard, the CPS was not providing feedback on those cases. This undermines the work taking place at a senior level and the ability of the Area to drive improvement with police forces.

Performance data

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

2.34. While we have considered the performance data available, our assessment of the quality of CPS South West'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.

2.35. 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 strategy¹². 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 South West. 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. All of the remaining 90% were finalised between October and December 2021. Within the criteria, cases were chosen at random.

¹² CPS 2025 is the CPS's strategy and vision for where it wants to be in 2025.
www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

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

3.6. 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 South West 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 meeting on 3 March 2022 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 Committee. 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 methodology¹³, we held consistency exercises for our inspectors on the question set and guidance, and we invited staff from a number of Areas including CPS South West. 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

¹³ *Inspection handbook*, HMCSI; January 2021.

www.justiceinspectorates.gov.uk/hmcsi/wp-content/uploads/sites/3/2021/02/HMCSI-Inspection-handbook.docx

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

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

Scoring

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

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

3.16. We assessed how well CPS South West met the standards against 60 questions¹⁴ 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 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 theme¹⁵.

¹⁴ See annex D for the full question set.

¹⁵ 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) which 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')¹⁶. 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 stage 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.

¹⁶ *The Code for Crown Prosecutors*; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

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

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

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

Selecting the most appropriate charges

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

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

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

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

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

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

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

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

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

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

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

- It sets out a clear trial strategy demonstrating how each of the essential legal elements of the offence are to be proved (or cannot be proved). In particular, where there are 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 also identifies those lines of enquiry that may point away from a prosecution. There is 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 has taken place, it has been properly assessed.
- It follows relevant CPS policies: 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 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' courts¹⁷.

Post-charge decision-making and reviews

Police file quality – the National File Standard

4.19. The National File Standard¹⁸ 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, with the aim 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 the Director's Guidance Charging Assessment.

¹⁷ 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](#).

¹⁸ 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. This is called a stage 1 review.

Preparation for the Plea and Trial Preparation Hearing

4.27. In contested Crown Court 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 the case from the magistrates' court to the Crown Court. 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 might reasonably be considered 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, information on any 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 management¹⁹ 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 which should be completed by the prosecutor and then uploaded to the Crown Court 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 beneficial for resources and provides certainty for victims, witnesses, and defendants.

¹⁹ Better Case Management; Courts and Tribunals Judiciary; September 2015. www.judiciary.uk/publications/better-case-management/

Disclosure of unused material

4.37. It is a crucial element of the prosecution's role to ensure 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 relevant 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 an 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. Despite the pressures on CPS Areas, feedback to the police about disclosure failings remains central to the effectiveness of joint working and joint national disclosure improvement 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, and no inference may be drawn from deciding not to do so.

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 reserved so that the defence is aware of the existence 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 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 records

4.51. In all cases, prosecutors must complete a disclosure record 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 to, or withholding unused material from, the defence. Disclosure documents added to CMS and actions taken through Modern CMS (the newer version of CMS) are logged automatically on the disclosure record, so the main input expected from the prosecutor is to note any actions, or reasons 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) initiative²⁰ 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 prefer to read the statement in court, the prosecution advocate may be asked to read it for them, or the Judge or magistrates may be given it to read.

²⁰ *Speaking to witnesses at court*, CPS; March 2018.
www.cps.gov.uk/legal-guidance/speaking-witnesses-court

Victim Communication and Liaison scheme letters

4.61. Victim Communication and Liaison scheme (VCL) letters should be sent to victims whenever a charge relating 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 offence (RASSO) allegations 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 offences being relevant depending on the date of the incident(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 contained 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, including:²¹

- the decision to charge and with what offence
- decisions about admissibility and credibility of evidence
- choosing, and clearly and correctly drafting, the right counts to be faced by defendants on indictment in cases to be heard at the Crown Court
- good quality reviews containing, 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
 - set out 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.²²

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

²² 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:²³

- 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 (WCU) correspondence
- clear audit trails of all aspects of casework on the CPS case management system.

²³ 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 annex G) 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 South West as follows.

Table 4: Added value and grip scoring

CPS South West	Added value	Grip
Magistrates’ court casework	63.0%	59.7%
Crown Court casework	68.2%	73.4%
Rape and serious sexual offences casework	71.0%	78.7%

5.12. These findings cannot be considered in isolation but must be seen in the context of the added pressures caused by the pandemic. Over this period the Area has seen significant increases in live caseloads, with fewer cases being finalised in the courts and more pre-charge receipts being submitted by the police. The Area has worked hard to successfully reduce the backlogs, particularly in the Crown Court, but the increase in work for all staff as a consequence has been significant. The recruitment, move, and change in legal and operational staff have all had an impact and while new staff have been recruited, some experienced staff have retired.

5.13. The additional burden of training new and inexperienced staff while trying to manage the other pressures brought about by the pandemic should not be underestimated. This has all required careful management at a time when staff have been required to work from home with all the associated challenges that has brought.

5.14. In addition, the increase in work occasioned by the temporary changes to the custody time limit regulations and the additional extension applications required has also added to those pressures.

Magistrates' court casework added value and grip

5.15. Our assessment of the value added by the Area in its magistrates' court casework was 63.0%.

5.16. In magistrates' court cases, the Area excelled at applying the Code for Crown Prosecutors when making decisions to charge, selecting the most appropriate charges and making review decisions after charge. It is apparent from our case file examination that good prosecutorial decisions are being made, thereby clearly adding significant value to casework.

5.17. However, our file examination highlighted that in magistrates' court cases the Area needs to significantly improve the quality of its reviews, at both the pre-charge and post-charge review stages, and its compliance with disclosure obligations.

5.18. Many review decisions at the pre-charge and post-charge stages lacked a clear case analysis and strategy that adequately demonstrated that the prosecutor had properly considered the available evidence, had understood the strengths and weaknesses of the case and addressed them where possible, and had a clear theory as to how the case was to be prosecuted. This detracts from the Area adding value to its casework.

5.19. The added value when handling and making decisions around the disclosure of unused material throughout the case was variable in magistrates' court cases. In most cases the Area did not fully comply with its duty of initial disclosure of unused material and, in the more limited number of cases where sensitive material or third-party material applied, there were similar issues.

5.20. There was evidence of the Area adding value in magistrates' court cases when seeking orders on sentence to protect victims, witnesses and the public. There is, however, still room for improvement in its communication with victims.

5.21. Our assessment of the Area's grip on its magistrates' court casework was 59.7%.

5.22. We found that the timeliness of any decisions to discontinue was reasonable, with six out of ten cases (60%) fully meeting the standard and two cases (20%) partially meeting the standard. There was also a good audit trail of key events and decisions on the CPS case management system (CMS) in 21 out of 30 cases (70%); these cases were fully meeting the standard, and we found another five cases (16.7%) to be partially meeting the standard.

5.23. Unfortunately, we found several aspects of casework where there should be a better grip of magistrates' court cases. In terms of the timeliness of the pre-

charge review, preparation for the first hearing, compliance with court orders, and prompt reviews of correspondence from the WCU and the police, the Area failed to fully meet the standard in more than 50% of the cases we examined. In particular, the Area fully met the standard for compliance with court orders in only five out of 17 cases (29.4%), and for preparation for the first hearing in only eleven out of 29 cases (37.9%). If the Area is to improve its grip on magistrates' court cases, these are aspects which need to be addressed.

Crown Court casework added value and grip

5.24. Our assessment of the value added by the Area in its Crown Court casework was 68.2%.

5.25. In Crown Court cases, the Area was good at applying the Code for Crown Prosecutors when making decisions to charge, selecting the most appropriate charges, and making review decisions after charge.

5.26. The Area was also good at accepting appropriate pleas when offered, achieving best evidence by making applications for special measures post-charge, making decisions about custody and bail, and drafting indictments.

5.27. When it came to the disclosure of unused material, there was clear evidence of value being added when complying with the duty of continuous disclosure, providing the police with direction upon the receipt of defence statements, and dealing with third party unused material.

5.28. As with the magistrates' court cases, there was evidence of the Area adding value in Crown Court cases when seeking orders on sentence to protect victims, witnesses and the public. There is, however, still room for improvement in its communication with victims.

5.29. Our file examination highlighted that, in Crown Court cases, the Area will add more value by improving the quality of its reviews at the pre-charge and, to a lesser extent, the post-charge review stages, and when complying with the duty of initial disclosure.

5.30. Like in the magistrates' courts, many review decisions at the pre-charge and post-charge stages lacked a clear case analysis and strategy that adequately demonstrated that the prosecutor had properly considered the available evidence, had understood the strengths and weaknesses of the case and addressed them where possible, and had a clear case theory as to how the case was to be prosecuted. This detracts from the Area adding value to its Crown Court casework.

5.31. Our assessment of the Area's grip on its Crown Court casework was 73.4%.

5.32. The Area showed a good grip on its casework when handling correspondence from all parties. Timely and appropriate actions were taken in response to material received. The Area dealt with new material from the police effectively, with inspectors rating 29 out of 34 cases (85.3%) as fully meeting the standard. The Area also made effective requests for additional material from the police and escalated where appropriate, with 25 out of 30 cases (83.3%) rated as fully meeting the standard. We assessed the Area's handling of correspondence from the court and defence as fully meeting the standard in 29 out of 34 cases (85.3%) and the handling of correspondence from the WCU as fully meeting the standard in 20 out of 28 cases (71.4%).

5.33. The Area also had a good grip on Crown Court cases when making timely decisions to discontinue, with seven out of ten cases (70%) fully meeting the standard and three cases (30%) partially meeting the standard. In terms of timely compliance with court orders, the Area was assessed as fully meeting the standard in 21 out of 33 cases (63.6%) and partially meeting the standard in nine cases (27.3%).

5.34. The timeliness of the Area's pre-charge reviews could be improved on as a way to show more grip on its casework. Inspectors rated 14 out of 32 cases (43.8%) as fully meeting the standard in this regard. Another aspect of Crown Court case grip that needs improvement is the preparation of cases for the PTPH, where we rated 12 out of 39 cases (30.8%) as fully meeting the standard.

Rape and serious sexual offences casework added value and grip

5.35. Our assessment of the value added by the Area in its RASSO casework was 71.0%.

5.36. As with the magistrates' courts and Crown Court, in RASSO cases the Area was good at applying the Code for Crown Prosecutors when making decisions to charge and making review decisions after charge. It was also good at selecting the most appropriate charges and drafting indictments correctly, which is particularly positive given the challenges of selecting the correct charges in such cases, especially in non-recent allegations or those involving children.

5.37. The Area was also good at achieving best evidence post-charge by making applications for special measures and applications to adduce bad character to strengthen the prosecution case.

5.38. When it came to the disclosure of unused material, there was clear evidence of value being added when preparing Disclosure Management Documents, complying with the duty of continuous disclosure, providing the police with direction upon the receipt of defence statements, and dealing with sensitive and third-party unused material. However, compliance with the duty of initial disclosure requires improvement, with seven out of 19 cases (36.8%) assessed as fully meeting the standard.

5.39. Like the magistrates' courts and Crown Court, there was evidence of the Area adding value in RASSO cases when seeking orders on sentence to protect victims, witnesses and the public.

5.40. Our file examination highlighted that in RASSO cases, the Area will add more value by improving the quality of its reviews at the pre-charge stage. Although there was evidence that the post-charge reviews were better, there is still scope for adding extra value at this stage.

5.41. Many review decisions at the pre-charge stage, in particular, lacked a clear case analysis and strategy that adequately demonstrated that the prosecutor had properly considered the available evidence, had understood the strengths and weaknesses of the case and addressed them where possible, and had a clear case theory as to how the case was to be prosecuted. This detracts from the Area adding value to its casework.

5.42. Our assessment of the Area's grip in its RASSO casework was 78.7%.

5.43. Like the Crown Court cases, the Area's RASSO cases showed it had a good grip on its casework when handling correspondence from all parties. Timely and appropriate actions were taken in response to material received. The Area dealt with new material from the police effectively, with inspectors rating 18 out of 20 cases (90%) as fully meeting the standard. The Area also made effective requests for additional material from the police and escalated where appropriate, with 14 out of 18 cases (77.8%) rated as fully meeting the standard. We assessed the Area's handling of correspondence from the court and defence as fully meeting the standard in 15 out of 19 cases (78.9%) and the handling of correspondence from the WCU as fully meeting the standard in 14 out of 15 cases (93.3%).

5.44. In addition, the Area showed it had a good grip on its RASSO cases by carrying out initial and post-sending reviews promptly, with 14 out of 19 cases (73.7%) assessed as fully meeting the standard for timeliness and three cases (15.8%) as partially meeting the standard. The Area also complied with court orders in a timely manner; it was rated as fully meeting this standard in 13 out of 18 cases (72.2%) and partially meeting the standard in four cases (22.2%).

5.45. In cases involving allegations of rape, the Area excelled at ensuring a conference took place with counsel, the officer in the case, and any expert witness. We assessed all 10 relevant cases (100%) as fully meeting the standard.

5.46. The timeliness of pre-charge reviews could be improved upon to show more grip on the Area's casework, with inspectors rating four out of 18 cases (22.2%) as fully meeting the standard. In addition, the preparation of cases for the PTPH was rated as fully meeting the standard in six out of 20 cases (30%), and this is an aspect the Area will want to improve upon.

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 and staffing challenges.

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

Table 5: Scoring for magistrates' court casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²⁴ at pre-charge decision stage	Fully meeting the standard	100%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	86%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	48.5%
Quality of post-charge reviews and decision-making		
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	Not meeting the standard	56.9%
Disclosure		
The Area fully complies with its duty of disclosure throughout its magistrates' court casework	Not meeting the standard	51.4%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its magistrates' court casework	Fully meeting the standard	70.4%

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, selecting appropriate charges that reflect the nature and extent of the offending, warning victims and witnesses to attend court, and seeking appropriate orders on sentence to protect victims, witnesses and the public.

6.5. There were other aspects that required more focus, specifically pre- and post-charge case analysis and strategy, compliance with disclosure obligations, and considering appropriate orders for victims and witnesses at the pre-charge stage.

²⁴ Code for Crown Prosecutors, 8th edition; CPS; October 2018.
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 100% of the Area’s pre-charge magistrates’ court cases being compliant with the Code for Crown Prosecutors and none being wholly unreasonable decisions.

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

Rating	Number of cases	Percentage
Fully meeting the required standard	25	100%
Not meeting the required standard	0	0%

6.9. While we examined 30 cases in total, we were assessing the Area’s performance, and so five pre-charge cases were marked as not applicable as they were charged by CPS Direct or the police.

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 86%.

6.12. We found that prosecutors were selecting the most appropriate charges in most cases, with 20 cases (80%) fully meeting the standard, three cases

(12%) partially meeting the standard, and two cases (8%) not meeting the standard.

6.13. In the cases fully meeting the standard, the Area selected charges that reflected the gravity of the alleged offending and gave the court sufficient powers to sentence appropriately on conviction, including to make orders for the protection of the victim and the public.

6.14. In one of the cases assessed as not meeting the required standard, the prosecutor had not applied the assault charging standards correctly, authorising a charge of actual bodily harm when the medical evidence did not support it. In the other case, the prosecutor did not authorise an additional charge of handling stolen goods when the evidence supported it and it would have strengthened the case overall.

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 48.5%.

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. Pre-charge decisions were timely in 10 out of the 25 cases (40%), there was minimal delay with no impact on progressing the case in nine cases (36%), and in the remaining six cases (24%) there was significant delay.

Case analysis and strategy

6.18. The main theme we identified was that many pre-charge reviews lacked a clear case analysis and strategy. Eight out of 25 cases (32%) had reviews that were assessed by inspectors to be fully meeting the standard, another eight (32%) were assessed as partially meeting the standard, and the remaining nine cases (36%) were assessed as not meeting the standard. We identified several themes in the cases assessed as partially or not meeting the standard, including the following.

- Cases were not analysed in sufficient detail. Too often, there was a tendency to describe evidence rather than analyse it and weigh it in a structured way. A common theme running through those cases rated as not fully meeting the standard was a failure to develop a case strategy demonstrating how each of the essential elements of the proposed offence was to be proved and how weaknesses in the evidence, or likely lines of defence, were to be countered.

For example, in a sexual assault case, the pre-charge review was simply a recitation of the facts of the case without any analysis of the evidence or consideration of trial strategy apart from a brief comment about the CCTV evidence rebutting the defendant's explanation during interview. In this case there was no consideration of the credibility/reliability of the victim, who was of good character and provided an account of the incident which was supported by the CCTV footage. The defendant, by contrast, was heavily convicted and had changed his account during interview – initially stating that he had not touched the victim at all, but upon being shown the CCTV footage, claiming that he had touched her while stretching his arms. There was no analysis of how the touching could be proved to be 'sexual' by reference to the significant comments the defendant had made to the victim earlier that day, which suggested that he liked her in a sexual way, or that the victim's account was that he had deliberately touched a sensitive part of her body.

- Cases lacked a detailed strategy. We saw examples of cases where there was no strategy, or where it was confined to which witnesses to call without addressing how the case would be proved or weaknesses overcome. For example, in a case that was charged as possession with intent to supply class B drugs on a commercial basis, there was no proper consideration of the issues in the case or a strategy for dealing with them. The defendant had accepted social supply to friends, no drug paraphernalia had been found on him and no messages indicative of him dealing drugs had been recovered from his phones. There was no consideration of how the prosecution would put its case to prove the commercial element of supply, nor was there consideration of whether, in the event of a Newton hearing²⁵ being ordered to address this aspect, the prosecution intended to call evidence in support of its case.
- There was a failure to actively consider the question of relevant unused material. Our file sample comprised cases charged in accordance with both the Director's Guidance on Charging, fifth edition (DG5), which applied to all cases charged on or before 31 December 2020, and also the Director's Guidance on Charging, sixth edition (DG6), which applies to all cases charged on or after 1 January 2021. In all cases, we looked for evidence that the prosecutor had actively turned their mind to potential issues, such as the impact of any undermining material on the prospects of conviction, further lines of enquiry that needed to be explored, or material that required

²⁵ A Newton hearing occurs when the defendant has pleaded guilty to the offence, but on the basis of a different version of facts from that of the prosecution, and the court has concluded that the factual differences would make a material difference to the sentence imposed.

disclosure under common law. In our file examination, we rated four out of 25 cases (16%) as fully meeting the standard, 12 cases (48%) as partially meeting the standard and nine cases (36%) as not meeting the standard. We found that there were a variety of reasons for cases not meeting the required standard, including a failure to consider unused material at all at the pre-charge stage, a failure to request and/or consider rebuttable presumption material and a failure to properly consider disclosable unused material. In one example, in a case involving an allegation of assault by a prison officer on a prisoner, the prison adjudication records were clearly relevant and disclosable but had not been considered in the pre-charge review.

Case study

The case involved an allegation of assault by beating.

The victim and the defendant were housemates in a multi-occupancy house. There was animosity between them over a small sum of money owed by the defendant to the victim in respect of a utility bill. On the day of the incident, the victim sent all the occupants of the house a message in which he made derogatory remarks about the defendant. The defendant took exception to this and when the victim arrived home, there was an altercation between them which resulted in the defendant punching the victim several times to his face, causing a cut.

The victim provided a statement in which he said that he had gone upstairs and found the defendant banging on the door to his room, whereupon he was attacked. In interview, the defendant stated that he had been in his room when the victim knocked on his door, was aggressive, then pushed him, and in self-defence he punched the victim.

The pre-charge review contained a limited assessment of why the victim's account was preferable to the defendant's; however, there were important issues that were not properly explored. In his statement, the victim referred to other housemates making comments that appeared to support the defendant's account that the victim was the aggressor. There were also messages suggesting that other housemates believed the victim was acting provocatively by sending the original message.

There was no strategy to deal with these issues, which potentially undermined the victim's account, and how they were to be overcome. There was no consideration of a reasonable line of enquiry to obtain statements from the housemates who could, potentially, have given important evidence about the sequence of events, the background, and the aftermath. An assumption was made that they had nothing further to say that would either assist the defendant's case or undermine the prosecution case. There was no reference to the legal burden of proof in relation to self-defence and how the prosecution intended to disprove it in this case.

The case proceeded in the magistrates' court but was dismissed after a full trial, the court preferring the defendant's evidence and finding him to be a credible and reliable witness. If a more detailed analysis had been undertaken at the pre-charge stage, the weaknesses in the evidence could have been identified, resulting in a clearer case strategy as to what was required to overcome them and strengthen the prosecution case.

6.19. By contrast, we did see examples, in cases we rated as fully meeting the standard, where the reviews added value. One example involved an allegation of assault in a domestic context. The prosecutor correctly referred to the CPS domestic abuse policy and considered the checklist provided by the police. There was a rational assessment of the strengths and weaknesses of the case, with particular reference to the victim's credibility and the inconsistent accounts provided by her, together with a strategy for dealing with them. There was consideration of whether a summons would be appropriate if the victim withdrew her support for the prosecution. The relevance of hard media, including CCTV footage of the incidents and police videos of the victim's first accounts, was also explored with a clear assessment of its significance to the case.

Instructions to the court prosecutor

6.20. In the majority of cases, we found room for improvement in the instructions provided to the court prosecutor. We found three out of 25 cases (12%) to be fully meeting the required standard, 21 cases (84%) partially meeting the standard, and one case (4%) not meeting the standard.

6.21. The most common reasons for instructions being marked as insufficient were a lack of reference to acceptable pleas or a lack of guidance on bail. One case, which was assessed as partially meeting the standard, involved an allegation of harassment and there should have been consideration of appropriate bail conditions to protect the complainant from any further incidents. The complainant in this case alleged that the defendant had continued to contact her after he had been charged.

6.22. A 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

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

6.24. We assessed whether prosecutors had drafted action plans for the police which were proportionate to the case and met a satisfactory standard. Six out of the 20 cases (30%) where an action plan was appropriate were assessed as fully meeting the required standard, four cases (20%) as partially meeting the standard, and ten cases (50%) as not meeting the standard.

6.25. In all the cases we assessed as not meeting the required standard, there was no action plan when one was clearly required.

Applications and ancillary matters

6.26. 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.

6.27. We found a varying approach to the consideration of relevant applications and ancillary matters to support victims and witnesses at the pre-charge stage, with a third of cases not meeting the required standard. We assessed eight out of 21 cases (38.1%) where applications were relevant as fully meeting the required standard, six cases (28.6%) as partially meeting the standard, and seven cases (33.3%) as not meeting the standard.

6.28. The main reason for cases being assessed as not meeting the required standard, was a failure to request details of special measures from the police where it was clear that they would be required.

6.29. We also assessed whether prosecutors had considered bad character and hearsay applications and had taken appropriate action to progress them. Six out of 16 relevant cases (37.5%) were rated as fully meeting required standard, seven cases (43.8%) as partially meeting the standard, and three cases (18.8%) as not meeting the standard.

6.30. For example, in one case involving allegations of fraud by the victim against her ex-partner, the defendant had denied the offences during interview and had sought to blame the victim, claiming that she had contacted him repeatedly, threatened to have him arrested, and knew his personal details. The case was assessed as partially meeting the required standard because whereas the prosecutor had considered one of the legal grounds on which the defendant’s bad character could be adduced (as he had attacked the victim’s character), they had not considered further legal grounds that the defendant had convictions for dishonesty offences which were relevant to whether or not he had a propensity to commit offences of the kind charged.

Post-charge decision-making and reviews

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

6.31. 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 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%

6.32. 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.

6.33. As Table 7 shows, all but one of the review decisions were Code compliant. The one case identified as a wholly unreasonable decision was originally correctly charged by the Area as an offence of assault occasioning actual bodily harm. Post-charge, a decision was made to accept a guilty plea to the offence of common assault (by beating). However, common assault is an offence subject to a six-month statutory time limit and, as the original offence of assault occasioning actual bodily harm had been charged outside of the six-month period, the amendment was wrong in law and should not have been allowed by the court.

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

6.34. 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 magistrates' court cases was 56.9%.

6.35. 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

6.36. As Table 8 shows, the percentage of cases where the quality of legal analysis and trial strategy was assessed as fully meeting the standard was slightly higher at the initial post-sending review than at the pre-charge stage. However, as the table highlights, the percentage of cases rated by inspectors as not meeting the standard at the post-charge review stage is also higher, by over 10%. At the post-sending review, nearly half the cases were assessed as not meeting the required standard for analysis and strategy. Both the pre-charge and post-charge case strategy and analysis are aspects the Area needs to improve.

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

Question	Magistrates' court cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	32.0%
Partially meeting the required standard	32.0%
Not meeting the required standard	36.0%
Post-charge analysis and strategy	
Fully meeting the required standard	36.7%
Partially meeting the required standard	16.7%
Not meeting the required standard	46.7%

Case analysis and strategy

6.37. When considering the overall theme of case analysis and strategy by the Area in magistrates' court casework, there was a slight improvement in the quality of post-charge reviews compared to the pre-charge stage (56.9% compared to 48.5%). These are the overall rating figures generated by the scoring model set out in annex F. There remains room for more improvement.

6.38. We found that almost half the cases assessed, 14 out of 30 (46.7%), did not meet the required standard for the initial post-charge review.

6.39. Common themes included there being no review at all when one was required, unused material not being dealt with or new material not being considered, and the adoption by the prosecutor of the pre-charge review as the post-charge review without further analysis. While it would be proportionate to adopt the pre-charge review if that review was of high quality, and there had been no developments in the case, we found that over half the pre-charge reviews were not meeting the required standard and therefore the case called

for a high-quality post-charge review which would have added value and progressed the case.

6.40. We did see examples of good post-charge reviews. One case which was assessed as fully meeting the standard involved allegations of attempted burglary, aggravated taking without consent, and making off without payment. The prosecutor thoroughly reviewed the case in light of the defence of duress which was put forward at the first hearing. They identified a clear trial strategy setting out how the prosecution would show that the defendant was not acting under duress at the time of commission of the offences, by reference to CCTV footage which demonstrated that the defendant was the main perpetrator and did not appear to be under threat from the co-suspects. The prosecutor clearly set out the applicable law, the legal burden and how it was to be discharged, and referred to relevant CPS guidance. They also highlighted that the defendant had not raised duress during interview, having accepted that he had attended the scene voluntarily. The review added value, progressed the case and demonstrated that the prosecutor had applied their mind to the relevant issues.

Case study

The victim in this case contacted police and stated her husband, the defendant, had grabbed her and pushed her during an argument causing her bruising. Photographs of the injuries and her 999 call to the police were consistent with her account.

Ten days later, the victim called the police again and stated that a second incident had taken place during which the defendant had assaulted her by slapping her and spitting in her face. She had no visible injuries on this occasion, but the 999 call was again consistent with her account. There were no witnesses to either incident and there was no medical evidence.

Police attended the victim's address following the second incident and noted that she was behaving erratically but the defendant was calm and compliant, and the young children became upset when he left the family home.

In the defendant's account of the first incident, he admitted to holding the victim to move her out of the way to prevent her from picking up money he had thrown on the floor. In his account of the second incident, he stated that he had been trying to install an oven at the family home, but following an argument he grabbed a bottle of water the victim was holding, causing it to spill. He denied slapping her or spitting at her.

The defendant subsequently alleged that he had been assaulted by the victim during another argument between them, which the victim denied.

The defendant was charged with assault but prior to the first hearing, the victim made a statement in which she said that she was no longer supportive of the prosecution and sought a reconciliation with the defendant.

At that point the prosecutor assessed all the available evidence and unused material to decide whether the case could proceed without the victim's support. They clearly set out in their review the independent evidence in support of a prosecution and the evidence that weakened it. They concluded that, owing to the lack of supporting evidence and the undermining material, there was no longer a realistic prospect of a conviction and that the case should be stopped.

The prosecutor demonstrated a good grip of the issues in the case, set out their reasoning in a clear manner and stopped the case promptly to avoid any court hearings.

Significant events

6.41. 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.

6.42. We found significant event reviews were completed in eight out of the 13 cases where one was required. Four of those cases (30.8%) were assessed as fully meeting the required standard and four (30.8%) as partially meeting the standard. Five cases (38.5%) were assessed as not meeting the standard.

6.43. The main reason for these reviews being assessed as not meeting the standard was a failure by the prosecutor to act upon changes in the case and review the case further. For example, in one case involving an allegation of handling stolen goods, no additional review took place following the determination of an admissibility issue in relation to other stolen items found in the defendant's possession and which the prosecution had served as evidence. Instead, the court directed the prosecution to serve a bad character application if they still sought to rely on this material. In another case involving an allegation of assault, the defence solicitors provided to the prosecutor an email sent by the victim which was in part inconsistent with his evidential statement. This should have triggered a review as it was clear that this had the potential to undermine the victim's credibility and reliability and was something the defence would exploit in cross-examination.

6.44. The proper acceptance of pleas was a strength for the Area, with six out of eight relevant cases (75%) assessed as fully meeting the required standard, one case (12.5%) assessed as partially meeting the standard, and the remaining case (12.5%) as not meeting the standard. An example of a case which was assessed as fully meeting the required standard involved several allegations of assault in a domestic context where the victim made a statement indicating that she was no longer willing to attend court and give evidence. The prosecutor considered the risk assessment provided by the police and correctly concluded that the victim should be compelled to attend court. On the day of trial, the victim attended court but refused to give evidence. The prosecutor decided to proceed to trial on one of the assault charges as there was evidence available from an independent witness. After the prosecutor informed the defence of this intention, the defendant pleaded guilty to the offence and no evidence was offered on the remaining assault charge. This was appropriate based upon the significant changes to the evidential strength of the case.

Feedback on police file quality

6.45. 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).

6.46. 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.

6.47. Within our file examination eight (26.7%) of the cases 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 partially in two cases (25%) with six cases (75%) not meeting the standard.

Does the Area fully comply with its duty of disclosure?

6.48. 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 51.4%.

6.49. 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

6.50. The police's compliance with their disclosure obligations was assessed as fully meeting the standard in 14 out of 29 cases (48.3%), partially meeting the standard in 12 cases (41.4%), and not meeting the standard in three cases (10.3%). In the cases falling below the standard, the most common deficiencies included relevant items missing from the schedules, inadequate descriptions, and rebuttable presumption material not being provided.

6.51. Feeding back to the police to identify deficiencies creates additional work for CPS prosecutors at a time when they already face significant pressures. It

can cause delays in the disclosure of unused material and additional work when further schedules are provided and then reconsidered. It is, however, an important part of driving improvement so that the Area receives a better service in the future. CPS feedback to the police was found to be fully meeting the standard in one out of 15 cases (6.7%), partially meeting the standard in seven cases (46.7%), and not meeting the standard in a further seven cases (46.7%).

6.52. We heard from the Area that disclosure issues persist, particularly in relation to rebuttable presumption material not being routinely provided, and that the Area is working with all three police forces to deliver disclosure training. Ongoing feedback by the Area to the police is an important aspect of this. In our file sample there was only one case where police failings were identified and fed back, which is disappointing and unlikely to result in an improvement in police performance. The Area has mandated the Director's Guidance Charging Assessment training for all prosecutors, which was due for completion at the end of June 2022.

Initial disclosure

6.53. We assessed initial disclosure in the magistrates' courts as fully meeting the required standard in ten of the 28 applicable cases (35.7%). Another seven cases (25%) were assessed as partially meeting the standard and 11 cases (39.3%) as not meeting the standard.

6.54. The most common theme of the 18 cases we rated as either partially or not meeting the standard was that initial disclosure did not take place. We also saw cases where disclosable material was not disclosed, where prosecutors requested unused material from the police but did not subsequently review the material when it was submitted, where prosecutors did not update the streamlined disclosure certificate upon receipt of material, and where non-disclosable unused material was marked as disclosable.

6.55. In one case involving an allegation of assault where the trial issue was self-defence, the prosecutor failed to disclose the defendant's custody record and handover form, which revealed that he had an injury, or 999 calls which revealed the identities of other potential witnesses to the incident. In another case involving an allegation of assault, the prosecutor failed to identify that two witness accounts which the police had obtained had been omitted from the streamlined disclosure certificate and, in addition, failed to disclose a pocket notebook containing an account from a witness who was present at the time of the incident, and who referred to swearing from both the victim and the defendant which was reasonably capable of assisting the defence.

6.56. We have considered the cases where disclosable unused material was not disclosed at this stage. We are satisfied that none of these require a referral to the Area in accordance with our policy for handling cases involving a potential miscarriage of justice.

6.57. We found that the timeliness of compliance with initial disclosure was also an issue with 13 out of 26 cases (50%), which we assessed as not meeting the required standard. In a significant number of cases, we found that initial disclosure could have been complied with before the first hearing (as the streamlined disclosure certificate was on file) but was not. We found that, unusually in magistrates' court cases, applications for an extension of time to comply with disclosure obligations were common.

Sensitive material

6.58. There were four cases featuring sensitive material in our magistrates' courts sample. The handling of the material was found to be fully meeting the standard in one case (25%), partially meeting the standard in one case (25%) and not meeting the standard in two cases (50%).

6.59. In one of the cases assessed as not meeting the standard, the police completed a sensitive material schedule (MG6D) with details of a risk assessment deemed to be sensitive material, as they were safeguarding tools to protect victims of domestic abuse and contained personal information. The first prosecutor incorrectly endorsed the material as not disclosable, but a subsequent prosecutor realised on the day of trial that the assessments contained material that potentially undermined the victim's credibility, and therefore required disclosure after being edited to exclude personal information. This was completed before the trial began.

Other disclosure matters

6.60. There were two cases in the magistrates' courts sample where the duty of continuous disclosure arose. One was assessed as fully meeting the standard and one as not meeting the standard.

Disclosure records

6.61. Completion of disclosure records was assessed as fully meeting the standard in 19 out of 29 cases (65.5%). In these cases, the record was fully completed throughout the life of the case and decisions on the handling of unused material were clearly documented. Eight cases were assessed as partially meeting the standard (27.6%) and two cases (6.9%) as not meeting the standard. The main reasons for cases being assessed as partially meeting the standard were omissions on the disclosure record in relation to items of unused material being recorded, and a failure to record the rationale for disclosure decisions.

Area training

6.62. Staff in the Area have undergone mandatory disclosure training on the Attorney General's Guidelines on Disclosure and the Director's Guidance on Charging. Records are kept to make sure all staff have undergone this training.

6.63. There was a national suspension on individual quality assessments (IQAs) because of the pressures of the pandemic. However, the Area continued conducting IQAs solely relating to disclosure. Legal line managers feed back to the prosecutors any findings, and comprehensive reports are prepared for senior managers to identify themes.

Does the Area address victim and witness issues appropriately?

6.64. 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 70.4%.

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

Pre-charge

6.66. At charge, the prosecutor should actively consider relevant applications and ancillary matters to support victims and witnesses. We assessed eight cases (38.1%) as fully meeting the standard, six cases (28.6%) as partially meeting the standard and seven cases (33.3%) as not meeting the standard.

6.67. The main reason for cases being assessed as not meeting the required standard was a failure to request details of special measures from the police where it was clear that special measures would be required.

After charge

Witness warning

6.68. After charge, warnings to victims and witnesses to attend court were timely and good in most cases. Seventeen out of 22 relevant cases (77.3%) were assessed as fully meeting the standard, four cases (18.2%) as partially meeting the standard, and one case (4.5%) as not meeting the standard. This was a strength, and it is clear the Area has effective processes in place to undertake this.

Communications with witness care units

6.69. The handling of witness care unit correspondence was inconsistent in its appropriateness and promptness. We assessed seven out of the 17 relevant cases (41.2%) as fully meeting the standard, six (35.3%) as partially meeting the standard, and four (23.5%) as not meeting the standard.

6.70. One case which did not meet the required standard was a domestic abuse case in which the prosecutor did not take effective action in response to correspondence from the witness care unit following a victim's request to give evidence via video-link. An email was sent to the court and defence solicitors almost a month after the request had been received, asking if there were any

objections to the application, but no written application was made in readiness for the pre-trial hearing. This led to the court refusing the application and the victim having to attend the trial in person.

Consulting victims and speaking to witnesses at court

6.71. Victims were fully consulted at key stages throughout the prosecution, as required, in nine out of the 16 relevant cases (56.3%). This includes consultation out of court as well as at court. We rated five cases (31.3%) as partially meeting the standard and two cases (12.5%) as not meeting the standard.

6.72. We found that most trial hearing record sheets noted that victims or witnesses had been spoken to and the note was sufficient to confirm that the speaking to witnesses at court (STWAC) guidance had been followed.

6.73. One example of good witness care and consultation was in a case involving an allegation of harassment. Before the trial, a successful application was made for the victim to provide her evidence through a live link as she was anxious about attending court. The prosecutor wrote to the court and defence beforehand explaining that time would also be required before the hearing to comply with the STWAC guidance and to allow the victim to read her statements with the assistance of an interpreter. At the trial, the court provided that time. There were good notes on the hearing record sheet confirming the discussions with the victim when she attended court. The prosecutor spent time reassuring the victim and explaining the legal procedure. The prosecutor also discussed a defence offer of a non-conviction restraining order with the victim and took her reluctance to accept such a proposal into account in the decision to proceed to trial.

Victim Personal Statements

6.74. Victims are entitled, if they wish, to provide a Victim Personal Statement (VPS) and to express a preference as to 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. VPS obligations were rated as fully meeting the standard in nine out of 16 relevant cases (56.3%), partially meeting the standard in four cases (25%) and not meeting the standard in three cases (18.8%).

6.75. One case assessed as not meeting the standard involved assaults upon emergency workers. Both victims were police officers, and they were each entitled to make a VPS. Correspondence from the police on the file made it clear that neither had been given the opportunity to do so. The prosecutor should have challenged this and requested that they be given the opportunity to provide a VPS but failed to do so.

Orders at sentencing

6.76. In 14 out of 17 relevant cases (82.4%), the Area sought appropriate orders on sentencing to protect the victim, witnesses and the public, which is a strength for the Area.

6.77. In one good example involving an allegation of harassment, the prosecutor correctly identified at the pre-charge stage that a restraining order should be sought and set out appropriate conditions to be applied for. They also properly identified a special measures application for the victim. While the defendant was acquitted at trial, the court prosecutor still sought a non-conviction restraining order, carefully articulating why this was required to protect the complainant from any future contact from the defendant.

Victim Communication and Liaison scheme letters

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

6.79. There were five cases where Victim Communication and Liaison scheme (VCL) letters were required, and in four cases (80%) they were sent within the set timescales. In the one case which did not meet the standard, no letter was sent when it was required.

6.80. Of the four cases where letters were sent, we assessed two (50%) as fully meeting the standard and two (50%) as partially meeting the standard. In one case assessed as partially meeting the standard, a letter contained legal jargon such as “retraction statement” and “realistic prospect of conviction” together with a factual inaccuracy.

6.81. From the information the Area provided, we are aware that compliance with the VCL scheme is a priority for the Area, with VCL performance a standing agenda item at the Casework Quality Committee monthly meetings and in all-staff calls. The Area now has a monitoring system in place to assess the quality of magistrates’ court VCL letters, involving the Senior District Crown Prosecutor dip-sampling a proportion each month.

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 and staffing challenges.

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

Table 9: Scoring for Crown Court casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²⁶ at pre-charge decision stage	Fully meeting the standard	90.6%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	91.4%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	48.6%
Quality of post-charge reviews and decision-making		
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	Partially meeting the standard	61.4%
Preparation for the Plea and Trial Preparation Hearing		
The Area prepares its cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to make sure progress is made	Partially meeting the standard	64.1%
Disclosure		
The Area fully complies with its duty of disclosure throughout its Crown Court casework	Fully meeting the standard	73.3%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its Crown Court casework	Fully meeting the standard	72.4%

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 before and after charge, selecting appropriate charges that reflected the nature and extent of the offending, drafting indictments properly to reflect those charges, and compliance with the duty of continuing disclosure.

7.5. In addition, the Area was good at warning victims and witnesses to attend court, making appropriate applications for special measures to help them

²⁶ Code for Crown Prosecutors, 8th edition; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

give evidence, and seeking appropriate orders on sentence to protect victims, witnesses and the public.

7.6. There were other aspects that required more focus, specifically pre- and post-charge case analysis and strategy, compliance with the duty of initial disclosure, preparing cases effectively to ensure progress at court is made at the Plea and Trial Preparation Hearing (PTPH) and providing clear instructions to the advocate to conduct that hearing.

Pre-charge decision-making and reviews

7.7. 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

7.8. 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).

7.9. 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 29 of the 32 Area-charged Crown Court cases (90.6%).

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

Rating	Number of cases	Percentage
Fully meeting the required standard	29	90.6%
Not meeting the required standard	3	9.4%

7.10. The Code for Crown Prosecutors was correctly applied in all but three of the cases we examined. Two of those cases involved cases being charged when there was insufficient evidence for a realistic prospect of a conviction. In each of those cases the Area subsequently discontinued the proceedings. The third case involved a decision not to charge a racially aggravated public order

offence in addition to an offence of attempted robbery which was correctly charged. Subsequently a racially aggravated public order offence was added, and the defendant pleaded guilty to that offence.

Selecting the most appropriate charges

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

7.12. We rated the Area as **fully meeting the standard** for selecting the most appropriate charges at the pre-charge stage, with a score of 91.4%.

7.13. We found that prosecutors were selecting the most appropriate charges in most cases, with 25 cases (86.2%) fully meeting the standard, three cases (10.3%) partially meeting the standard, and one case (3.4%) not meeting the standard.

7.14. In the cases fully meeting the standard, the Area selected charges that reflected the gravity of the alleged offending and gave the court sufficient powers to sentence appropriately on conviction, including making orders for the protection of the victim and the public.

7.15. In the one case that did not meet the required standard, the prosecutor incorrectly charged four offences of assault by beating rather than the specific offence of assault of an emergency worker. The error was noticed following charge and the issue was quickly rectified before the first hearing in the magistrates' court.

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

7.16. 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 48.6%.

7.17. 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).

7.18. Pre-charge decisions were timely in 14 out of the 32 cases (43.8%), there was minimal delay with no impact on progressing the case in 15 cases (46.9%), and in the remaining three cases (9.4%) there was significant delay. All Crown Court cases were assessed against either a 5-day or 28-day timescale depending upon the Area's triage system.

Case analysis and strategy

7.19. We found that a significant number of the Crown Court pre-charge decisions did not clearly analyse the evidence and set out on what basis the case would be prosecuted by way of a cogent case strategy. Twelve out of 32 cases (37.5%) were assessed as not meeting the standard for case analysis and strategy. Eight cases (25%) were assessed as fully meeting the standard and 12 cases (37.5%) as partially meeting the standard.

7.20. We found several common issues in the cases we assessed as partially or not meeting the standard, including the following.

- The case analysis did not adequately assess the legal points to prove, the strengths and weaknesses of the evidence or the credibility of prosecution witnesses, or consider the defence(s) raised. In one example the defendant was accused of committing a fraud. The Area provided six pre-charge reviews culminating in a decision to charge. None of those reviews considered the defendant's dishonesty or how it could be proved.
- The case strategy was limited to which witnesses to call and did not adequately address how any undermining aspects of the case might be overcome. For example, in one case the defendant was accused of being in possession of drugs with intent to supply. The drugs were recovered in a house by a member of his family. One witness clearly indicated she would not attend court in her police statement and, while the other witness did not indicate any similar unwillingness, it was apparent that owing to her relationship with the defendant, it was also unlikely she would willingly attend court. In addition, neither of the witnesses saw the defendant in possession of the drugs recovered and there was no other evidence to support the contention that the defendant was in possession of the drugs. None of these points were addressed by the prosecutor as part of a strategy to enable the prosecution to prove the case at trial.
- There was a failure to consider aggravated elements to offences. By way of example, in one case the defendant was charged with an attempted robbery but, as part of the same circumstances, there was an allegation that the defendant had used threatening language followed by a racist comment. CPS legal guidance on Racist and Religious Crime and on Public Order offences was not referred to in the analysis of the racial aspect of the case and the defendant was not charged with racially aggravated threatening behaviour. In another example, the defendant was charged with an offence of controlling or coercive behaviour towards a victim who was disabled. As part of the allegations there were elements of degrading treatment, including the removal of the victim's crutches, the use of those crutches to threaten

violence and the victim having to crawl on the floor owing to her arthritis. This was all potential evidence that could have been used to demonstrate hostility by the defendant towards the victim based on her disability. However, the prosecutor failed to flag or consider whether this was a disability hate crime and whether an application for an uplift on sentence was appropriate.

- Unused material was not handled appropriately. This was the case in 13 out of 32 cases (40.6%), which were assessed as not meeting the standard. In some cases, standard phrases such as “no apparent issue” were used by prosecutors in relation to unused material when that was not factually correct. In one case, the police disclosed undermining material that a witness who had refused to provide a statement, but who had been with the victim at the time of the incident, had provided an account that differed from that of the victim. In addition, there was dash cam footage that showed the victim visiting various addresses and potentially being involved in drug dealing. However, the prosecutor concluded that there was no material which undermined the prosecution case.
- In cases where the Director’s Guidance on Charging (sixth edition) applied, there were instances where either the disclosure schedules were not supplied and the prosecutor did not request them before authorising charges, or there was no evidence that the rebuttable presumption material supplied under the Attorney General’s Guidelines on Disclosure 2020 had been considered.

Case study

The case involved allegations of threatening another with a bladed article and criminal damage.

The victim said that she picked up her friend, BT, in her car and he told her to drive out of the area. They drove to a car park and some time later the defendant appeared. The victim alleged that the defendant approached her car and started hitting BT through the passenger window and then slashed two of the tyres. BT got out of the car and ran away and the defendant then held a flick-knife to the victim’s throat and threatened her.

The police attended and arrested the defendant who stated that all he had done was hit his brother who was also in the car, as he had stolen money. No knife was recovered, and the defendant made no comment in formal interviews. The victim subsequently attended an identification procedure and identified the defendant. BT refused to provide a statement, as did independent witnesses who had seen the aftermath of the incident.

Information was provided to the effect that the incident related to the supply of drugs and that another person was in the car at the time.

The pre-charge advice contained no meaningful case analysis or trial strategy and was confined to the admissibility of the identification evidence only. There was no assessment of the strengths and weaknesses of the case; no consideration of the elements of the offences to be proved; no strategy for dealing with the accounts of witnesses who had refused to provide statements; and no consideration of CPS knife-crime policy. In particular, there was no consideration of the victim's credibility, which was a potentially significant issue in the case in light of the information provided, and the review did not address how any undermining aspects of the case might be overcome.

An action plan was required in this case to make sure that all relevant evidence and disclosure was obtained and reviewed promptly. However, the prosecutor failed to send one to the police, which resulted in the piecemeal submission and consideration of material as the case progressed, resulting in a lack of grip from the outset.

Post-charge, the victim provided another statement in which she sought to correct some of her earlier evidence. She admitted that another male (the defendant's brother) had got into her car with BT and that BT had driven the car. She explained that she hadn't said this initially as she feared repercussions from those involved and feared losing her driving licence if she had admitted that BT was driving. There was a significant event review reflecting this change in the evidence. The prosecutor considered the victim's credibility and concluded that there remained a realistic prospect of conviction as the victim's evidence concerning the threat with the knife and the criminal damage was consistent with her first account.

The case proceeded to trial in the Crown Court and the defendant was acquitted of both offences. The prosecution advocate noted that had the prosecution been able to obtain statements from the other witnesses who referred to seeing a knife, the case would have been stronger. This had not been addressed in the pre-charge decision.

Instructions to the court prosecutor

7.21. Few of the Crown Court cases we examined had sufficient instructions to the court prosecutor, meaning that opportunities to add value by progressing or clarifying matters at an early stage may have been lost.

7.22. The instructions in seven out of 32 cases (21.9%) were found to be fully meeting the standard, with 15 cases (46.9%) partially meeting the standard and ten cases (31.3%) not meeting the standard. There was often little reference to bail or custody and acceptability of pleas. In addition, in some cases, allocation guidance amounted to no more than naming the appropriate venue without explanation or reference to the sentencing guidelines or any rationale to support the conclusion, meaning the court prosecutor would have had to consider this afresh to make appropriate representations to the court.

Reasonable lines of enquiry and action plans

7.23. Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan, which is a specific section of the police manual of guidance form 3. This allows for actions to 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.

7.24. We assessed seven action plans out of 29 cases (24.1%) as fully meeting the required standard, with another 15 cases (51.7%) partially meeting the standard. Seven cases (24.1%) were rated as not meeting the standard.

7.25. Common issues included a failure to request relevant material, particularly in relation to potential bad character applications, special measures applications and Victim Personal Statements. In one case assessed as not meeting the standard, there was a failure to create an action plan to request outstanding reasonable lines of enquiry.

Applications and ancillary matters

7.26. 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.

7.27. We found an inconsistent approach to the consideration of relevant applications and ancillary matters to support victims and witnesses at the pre-charge stage. We assessed 12 out of 27 cases (44.4%) as fully meeting the standard, five cases (18.5%) as partially meeting the standard and ten cases (37.0%) as not meeting the standard.

7.28. Most commonly, in those cases not meeting the standard, the prosecutor failed to consider special measures where they could assist witnesses with giving their best evidence, restraining orders where they were appropriate, or compensation for victims where they had suffered loss. In one example, the victim was subjected to a knife-point robbery at night, by a group of males, during which he had several items stolen. The pre-charge decision made no reference to any potential special measures for the victim to assist him while giving evidence. Neither was there any reference to the need for a Victim Personal Statement or details of any compensation requested.

7.29. We also assessed whether prosecutors had considered bad character and hearsay applications and had taken appropriate action to progress them. We assessed 12 out of 27 relevant cases (44%) as fully meeting the required standard, four cases (14.8%) as partially meeting the standard, and 11 cases (40.7%) as not meeting the standard. These ancillary applications should often form an integral part of the trial strategy, but there was often a failure to grasp this at an early stage and address them in the pre-charge review.

Post-charge decision-making and reviews

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

7.30. 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.

7.31. 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%
Not meeting the required standard	2	5%

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 identified as wholly unreasonable decisions at the post-sending review stage. These were both decisions that had previously been identified as wholly unreasonable decisions at the pre-charge stage. In one of those cases, the Area did not change its decision at the post-sending review stage. It should, however, be noted that the Area subsequently reviewed that decision and corrected it.

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

7.34. 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 Crown Court cases is 61.4%.

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 Table 12 shows, the percentage of cases where we assessed the legal analysis and trial strategy as fully meeting the standard in the initial post-sending review was significantly higher than at the pre-charge stage. There

remains room for improvement, however, as less than half of cases fully meet the standard expected.

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

Question	Crown Court cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	25.0%
Partially meeting the required standard	37.5%
Not meeting the required standard	37.5%
Post-sending review analysis and strategy	
Fully meeting the required standard	44.0%
Partially meeting the required standard	30.0%
Not meeting the required standard	25.0%

Case analysis and strategy

7.37. When considering the overall theme of case analysis and strategy by the Area in its Crown Court casework, there was a noticeable improvement in the quality of post-charge reviews compared to the pre-charge stage (61.4% compared to 48.6%). These are the overall rating figures generated by the scoring model set out in annex F. There remains room for more improvement.

7.38. We assessed that 18 out of 40 cases (45%) had an initial post-sending review fully meeting the standard, 11 cases (27.5%) partially meeting the standard, and 11 cases (27.5%) not meeting the standard.

7.39. We found some examples of cases where prosecutors had carefully considered the case afresh, where this was required, and addressed relevant issues within the review, adding value. These were cases where it was clear from the review that the case had been properly checked for new evidence, not just accepted because it had already been reviewed, and that issues that had been overlooked at the pre-charge stage were addressed. Relevant outstanding issues were identified and either dealt with or appropriate actions put in place. In one case involving an identity fraud that had been charged by CPS Direct on the threshold test, the Area prosecutor undertook a very thorough and cogent review that identified a fundamental issue with the case following receipt of a further statement from a key witness. The case was properly discontinued.

7.40. While some cases were dealt with effectively at the post-charge review, our assessment of the quality of case analyses in the Crown Court identified several issues:

- Prosecutors replicating the charging advice, adding no further review and therefore no added value in cases where key aspects had not previously been addressed. At times, there appeared to be an assumption that the pre-charge decision was accurate and correct, without this being adequately checked. There were several cases where either no review took place at all, or the review amounted to a 'cut and paste' of the pre-charge review or an adoption of the pre-charge review without adding anything further. These were cases where a review was required, the reviewing lawyer was different to the charging lawyer and added no value by completing the review. Our findings in relation to the quality of pre-charge reviews show the danger of adopting this approach
- A failure to properly address additional evidence or information in the review. This was often in the form of additional material or comments received from the police or defence post-charge. In one example, a post-sending review did not refer to the fact that an important witness who audio-recorded part of an incident told the police she was no longer willing to give evidence, fearing reprisals. This information was provided in an email sent by the police post-charge and before the first appearance. In another case involving an allegation of assault, the hearing record sheet completed by the magistrates' court prosecutor at sending set out details of a proposed basis of plea for one defendant. This should have been explored in the post-sending review and consideration given to how it affected the trial strategy in relation to the other defendants and on what basis the prosecution now put its case. There was no consideration of the acceptability of the basis of plea or reference to it in the post-sending review
- The acceptability of pleas not being addressed as part of the review in cases where it is appropriate to do so, meaning that opportunities to add value by progressing or clarifying matters at an early stage may have been lost
- Reviews failing to consider police compliance with the pre-charge action plan and prosecutors not following up on such non-compliance.

Case study

Police officers attended a property on two occasions following a report that a male was acting aggressively after he had taken drugs and that his family were unable to control him.

On the second occasion when the police arrived, they found the male under his bed, slurring his words and in an intoxicated state. A family member told officers that drugs had been found in the male's bedroom and hidden from him. Officers were then taken to another bedroom and shown a glass jar containing cannabis and a plastic food container which contained cocaine.

A search was completed, and the police located a bag containing scales and cash in the garden and recovered three phones from the male's bedroom.

The male was arrested and taken to hospital because of his drug intake. He was later interviewed and made no reply to all questions in relation to the drugs and gave an innocent explanation for the money and phones recovered. The phones were unable to be downloaded.

A prosecutor subsequently authorised that the male should be charged with possession with intent to supply cocaine and possession of cannabis.

Post-charge, the prosecutor completed a thorough review of the evidence and correctly identified that there was no evidence to prove that the male was ever in possession of the drugs. The only witnesses were family members, it was not clear who found and moved the cannabis and cocaine, and the family members involved would not attend court. There was no scientific evidence linking the male to the drugs and absent an admission by him that they were his, there was insufficient evidence that he was in possession of them.

The case was discontinued prior to the PTPH directly as a result of the quality of the post-charge review, where the prosecutor did not assume the decision to charge was correct but undertook a thorough independent review identifying the evidential problems. As a consequence, further resources were prevented from being wasted.

Significant events

7.41. 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.

7.42. We found some evidence of reviews in accordance with the Code taking place to evidence the strategy or approach taken at these specific points in Crown Court cases. Eight out of 18 cases (44.4%) were assessed as fully

meeting the standard, adding value by clearly detailing the change or development in the case and the action proposed to respond to it. Five cases (27.8%) were assessed as partially meeting the standard and five cases (27.8%) as not meeting the standard.

7.43. In one case assessed as fully meeting the standard, the defendant was charged with outraging public decency and there were two significant developments in the case. In the first development, medical evidence was received outlining that a key witness's mental health was declining. In the second development, the trial Judge made negative comments about the choice of charge and whether it was appropriate to encompass the defendant's alleged behaviour. In both instances the reviewing lawyer considered the implications on the trial strategy and left a clear record of the rationale and decisions taken in light of those developments.

7.44. In those cases assessed as partially meeting the standard, there was a review acknowledging that a significant development had occurred, but it did not go on to adequately explain the impact of the development on the case and any decision taken as a result.

7.45. In most cases which failed to meet the standard, there was no review recorded where significant events had taken place. In one example, a case where the original charge was aggravated burglary, a count of conspiracy to rob was added with no explanation. In another involving a serious assault, defence counsel emailed the CPS directly canvassing views on the acceptability of a plea to a lesser offence, but no review was recorded by the prosecutor.

Stage 1 reviews

7.46. 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.

7.47. In our file sample, seven out of 32 relevant cases (21.9%) were assessed as fully meeting the standard for value added at stage 1 review. Eleven cases (34.4%) were assessed as partially meeting the standard and 14 cases (43.8%) as not meeting the standard.

7.48. A failure to meet the standard was usually a result of either no review taking place at all at stage 1, or the reviews being perfunctory, adding little value where there were outstanding issues to address. In addition, errors or omissions at the pre-charge stage were often not identified and dealt with and, as with the post-sending reviews, additional evidence received prior to service was not

referenced. In one example, the stage 1 review was largely unchanged since the post-sending review despite prosecution counsel providing a detailed advice and a list of actions which had been sent to the police. The prosecutor did not review counsel's advice and did not develop the trial strategy by reference to the actions that had been proposed.

Threshold test cases

7.49. 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 further evidence or material is received.

7.50. 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).

7.51. There were three cases in our file sample that were charged on the threshold test by CPS Direct. In two of those cases, the full Code test was applied at either the post-sending review stage or stage 1. In the third case, the full Code test was never formally applied in relation to the lead defendant, who was remanded in custody throughout proceedings and acquitted after trial. The Area has subsequently introduced early case planning conferences on all threshold test decisions, which will ensure greater oversight in these cases.

Applications

7.52. We assessed 11 out of 22 cases (50%) as fully meeting the standard for the use of applications such as bad character or hearsay to strengthen the prosecution case, with another three (13.6%) partially meeting the standard and the remaining eight (36.4%) not meeting the standard.

7.53. 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. We also found that the applications were often not prepared in advance of the PTPH when the relevant material was available, and it should have been obvious they would be needed. In one case, which we assessed as not meeting the standard because of the lateness of the application, the defendant had a recent conviction for possession with intent to supply drugs which would have been relevant to the issues in the case and would have assisted in rebutting his defence. The prosecutor did not identify the need for a bad character application as the case progressed to trial.

An application to adduce bad character to demonstrate a propensity to commit offences linked to drugs and to correct a false impression was only made on the first day of trial following comments by the Judge. The application should have been made earlier, upon receipt of the defence statement, in which the defendant portrayed himself as an innocent person who had become involved in the incident for purely altruistic motives.

Feedback on police file quality

7.54. 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.

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

7.56. Of the 40 police files in the Crown Court sample, we assessed 22 cases (55%) as not meeting the National File Standard. Inspectors assessed Area feedback on 11 of these cases (52.4%) as not meeting the standard and on eight cases (47.6%) as partially meeting the standard.

7.57. From our discussions with the Area, we are aware the Area has recognised the issue with police file quality and is working with the three police forces to improve across all types of casework. In December 2019, a Criminal Justice Task Force was set up to address file quality, to which the three police forces in the Area were committed. However, owing to the impact of Covid-19, progress has been limited. The Area continues to work diligently with all three police forces through focus sessions, by implementing casework improvement plans and by delivering training. The Area also takes the lead on file quality at Joint Operational Improvement Meetings, which are the primary local operational improvement meetings between CPS and police. Their purpose is to identify joint priority areas for focused activity to drive improvement in a number of aspects including file quality. They are held regularly at a senior level between the CPS and the police.

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

7.58. Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for preparation for the Plea and Trial Preparation Hearing (PTPH) in Crown Court cases is 64.1%.

7.59. 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 (CCDCS) 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).

7.60. We assessed 12 out of 39 cases (30.8%) as fully meeting the standard for preparation for the PTPH, including completion of the PTPH form. We rated a further 15 cases (38.5%) as partially meeting the standard, and 12 cases (30.8%) as not meeting the standard.

7.61. By far the most common issues were errors on the PTPH forms, prosecutors failing to address or draft relevant applications (such as bad character or special measures), and the acceptability of pleas not being properly addressed in appropriate cases. There was evidence of PTPH forms being completed late on several occasions, which was likely to be a cause of some of these issues; the preparation appeared at times to be rushed, leaving an impression that prosecutors were overburdened and unable to concentrate on the quality of preparation.

7.62. In one example where the allegation was of domestic violence, the post-sending review and PTPH form were completed two days before the PTPH. The review was cursory, the form stated that there were to be no special measures applications (when they were a relevant consideration), a defence request for additional material on the Better Case Management form was not considered, and the acceptability of pleas was not addressed. This all gave the impression that preparation for the PTPH had been rushed and the prosecutor had been more intent on completing the task than adding any value.

7.63. 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 hard media was correctly shared before the PTPH in ten out of 17 cases (58.8%). Two cases were rated as partially meeting the standard (11.8%) and the remaining five cases (29.4%) as not meeting the standard, potentially

resulting in lost opportunities to resolve or progress cases effectively at the first Crown Court hearing.

7.64. We note from information provided by the Area that there are significant issues with the provision of hard media by the police, with the three forces adopting different approaches to dealing with such material. Avon and Somerset Police are in the process of developing a new multimedia management system which will enable them to share links to all hard media, but Devon and Cornwall Police and Gloucestershire Police are yet to commit to this new system. The Area is currently liaising with all three forces to encourage uniformity of approach. In addition, the Area reported an increase in the provision of unedited body worn video from the police, which is significantly increasing the time it takes for prosecutors to review cases and adding to the pressures on units.

Direct engagement with the defence

7.65. The prosecution and defence are under a duty to engage with each other to make sure that the case progresses as efficiently and 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.

7.66. Covid-19 has had a significant impact on the defence's ability to comply with the duty of direct engagement. 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. The Area also explained that defence practitioners were experiencing difficulties in arranging prison visits and telephone conferences with defendants during the pandemic, which further hindered engagement. This meant that even in cases where engagement was attempted, it had very little impact as the defence was not in a position to have any meaningful discussions with the prosecution.

7.67. We found a sporadic picture in relation to direct engagement with the defence in the cases considered, with 15 out of 38 relevant cases (39.5%) fully meeting the standard and six cases (15.8%) partially meeting the standard. However, there was no evidence of defence engagement carried out in the other 17 cases (44.7%). Where engagement was attempted it was usually by means of a letter rather than a telephone call, in view of some of the issues created by the pandemic.

7.68. In eight out of 15 relevant cases (53.3%), we found that the DDE logs had been uploaded to the DCS for the Judge to view in accordance with the requirements of the Criminal Procedure Rules.

7.69. We note that the Area is attempting to increase defence engagement by holding regular 'clinics', which involve prosecutors reviewing cases due for first hearing and contacting defence practitioners to discuss trial issues and any outstanding matters to make sure that cases are better prepared at an early stage.

The indictment

7.70. We found the indictment was properly drafted in 32 out of 39 cases (82.1%), which is good. We rated another six cases (15.4%) as partially meeting the standard and one case (2.6%) as not meeting the standard. Most indictments were legally correct and contained an appropriate number of counts which adequately reflected the criminality involved.

7.71. The timeliness of service of the draft indictment and key evidence was not as good, with 19 out of 39 cases (48.7%) assessed as fully meeting the standard, 13 cases (33.3%) as partially meeting the standard and seven cases (17.9%) as not meeting the standard. We apply the standard of uploading to the DCS seven days before the PTPH.

7.72. Our assessment of those cases rated as partially meeting the standard was more often because the draft indictment was served late than because the key evidence not being served. Again, this is reflective of preparation for the PTPH being rushed and late. In the cases which were assessed as not meeting the standard, the indictment and evidence were served between two and five days before the PTPH and, in one case, on the day of the PTPH, which led to the hearing being adjourned for counsel to consider the papers and take instructions.

Instructing the advocate

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

7.74. We found that the quality of instructions to the PTPH advocate needs to be significantly improved, with one out of 31 cases (3.2%) rated as fully meeting the required standard. In five cases (16.1%) we assessed as partially meeting the standard, there was a document, but it did not cover all the issues relevant to the case. We assessed 25 cases (80.6%) as not meeting the standard either because there was no document where one was required, or the document was misleading or silent on almost all key issues, often simply referring to the

charging review with no specific instructions on acceptability of pleas and applications such as special measures and bad character, which would have an impact on the advocate's effectiveness at the hearing.

7.75. This must also be seen in the context of our earlier findings regarding the quality of the pre-charge case review and strategy contained within the charging review. If the charging review is not of the correct standard, then forwarding that to the advocate as the basis of the instructions in the case does not assist and just perpetuates a lack of a cogent strategy for the case.

7.76. In one example which did not meet the standard, bespoke instructions were created but not dispatched and prosecution counsel had to call the CPS for information on the morning of the hearing.

7.77. Regardless of whether a covering instruction to counsel document had been prepared, we found that advocates were, in most cases, being instructed by being sent the case papers electronically at least seven days before the PTPH or, if not, with sufficient time to prepare the case effectively.

7.78. We rated 24 out of 39 cases (61.5%) as fully meeting the standard, eight cases (20.5%) as partially meeting the standard, and seven cases (17.9%) as not meeting the standard. In cases which were assessed as not meeting the standard, there was often no audit trail on CMS to show when advocates were instructed. In one case, instructions were emailed to counsel at 9.27am on the day of the PTPH.

Does the Area fully comply with its duty of disclosure?

7.79. 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 73.3%.

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

Police service on disclosure

7.81. The police's compliance with their disclosure obligations was assessed as fully meeting the standard in 15 out of 38 cases (39.5%), partially meeting the standard in 17 cases (44.7%), and not meeting the standard in six cases (15.8%). Like the magistrates' court cases, the most common deficiencies which resulted in cases falling below the standard included relevant items missing from the schedules, inadequate descriptions, and rebuttable presumption material not being provided.

7.82. 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. It is recognised that feeding back to the police to identify deficiencies creates additional work for CPS prosecutors at a time when they already face significant pressures. It can cause delays in the disclosure of unused material and additional work when further schedules are provided and then reconsidered. However, the police failed to fully comply with their disclosure obligations in almost two thirds of cases, so it is vital that the CPS both recognises and draws attention to these failings.

7.83. CPS feedback to the police was found to be fully meeting the standard in six out of 23 cases (26.1%), partially meeting the standard in five cases (21.7%), and not meeting the standard in another 12 cases (52.2%).

7.84. We heard from the Area that disclosure issues persist, particularly in relation to the provision of rebuttable presumption material and the quality of schedules of unused material. The Area is working with all three police forces to deliver disclosure training. Ongoing feedback by the Area to the police is an important aspect of this. The Area has mandated the Director's Guidance Charging Assessment training for all prosecutors. This was due for completion by the end of June 2022.

Initial disclosure

7.85. We assessed compliance with the duty of initial disclosure in the Crown Court as fully meeting the required standard in 17 of the 36 applicable cases (47.2%). Another 13 cases (36.1%) were assessed as partially meeting the standard and six cases (16.7%) as not meeting the standard.

7.86. We found that decisions around the initial disclosure of unused material were inconsistent. The most common reasons for cases being assessed as not meeting or partially meeting the required standard were:

- disclosable unused material not being disclosed (six cases)
- failure to endorse or sign a blank sensitive material schedule (three cases)
- failure to identify that items of unused material were not scheduled (two cases)
- disclosing non-disclosable unused material (two cases).

7.87. The number of cases where disclosable unused material was not disclosed at the initial disclosure stage is of concern.

7.88. For example, in one case the defendant was being prosecuted for assault. In the body worn video of the initial complaint by the victim, he referred to being involved in an argument with the defendant before he was assaulted. This was not mentioned in his written statement to the police. This footage assisted the defence but was incorrectly marked by the prosecutor on the disclosure schedule as clearly not disclosable.

7.89. In another case, the defendant was being prosecuted for causing grievous bodily harm, and the issue of self-harm by the victim giving rise to the incident was clearly raised by the defendant in interview. At the pre-charge stage the prosecutor had viewed parts of the complainant's medical notes, which referred to self-harm on earlier occasions. The prosecutor had correctly identified those entries as being disclosable. However, at the initial disclosure stage, the notes were listed on a sensitive material schedule (MG6D) by the police and considered by another prosecutor, who endorsed the schedule to the effect that the entries were only disclosable if the defence maintained that the injury was due to self-harm. There was no reasonable basis on which the prosecutor should have withheld this material at that stage.

7.90. We have considered the cases where disclosable unused material was not disclosed at this stage. We are satisfied that none of these require a referral to the Area in accordance with our policy for handling cases involving a potential miscarriage of justice.

Continuing disclosure

7.91. We assessed that the Area's performance around continuing disclosure was better than initial disclosure, with 19 out of the 31 cases (61.3%) being assessed as fully meeting the standard. We rated continuing disclosure as partially meeting the standard in seven cases (22.6%) and not meeting the standard in five cases (16.1%).

7.92. There were a variety of reasons for cases being rated as partially or not meeting the standard, but the most common reasons were:

- assessing non-disclosable unused material as disclosable (three cases)
- assessing disclosable material as non-disclosable (two cases)
- not endorsing decisions upon receipt of new unused material (two cases).

7.93. By way of example, in one case assessed as partially meeting the standard, an updated disclosure schedule was served as part of continuing disclosure along with items not previously disclosed to the defence. One of those items was the victim's full criminal record, but it was not listed on the schedule and there was no explanation why the full list had been disclosed when only one of the conviction entries was relevant.

7.94. Disclosable material was not disclosed at the continuing disclosure stage in significantly fewer cases than at the initial disclosure stage. It was apparent that these items were being identified for disclosure at this later stage. This suggests that Area prosecutors are adopting more of a 'thinking approach' to disclosure when they have a defence statement than when they have to adopt a wider overview of the disclosure position at an earlier stage.

7.95. We have considered the cases where disclosable unused material was not disclosed at this stage. We are satisfied that none of these require a referral to the Area in accordance with our policy for handling cases involving a potential miscarriage of justice.

7.96. There was one inadequate defence statement in our Crown Court file sample and it was not challenged by the prosecutor.

7.97. We found that defence statements were reviewed by prosecutors and directions given to the police in most cases. Nineteen out of 32 cases (61.3%) were assessed as fully meeting the standard, 11 cases (35.5%) as partially meeting the standard and one case (3.2%) as not meeting the standard.

7.98. Where we assessed cases as partially or not meeting the standard, the most common issue we identified was that while the defence statement was forwarded to the police by both paralegal officers and prosecutors, the guidance given was inadequate.

Timeliness

7.99. The timeliness of the Area's disclosure of unused material in Crown Court casework was a strength. We assessed 34 out of 36 cases (94.4%) as fully meeting the standard for initial disclosure and the remaining two cases (5.6%) as partially meeting the standard. This means that there were no cases demonstrating a significant delay to service of initial disclosure which could have an impact on case progression.

7.100. The timeliness of continuing disclosure was rated as fully meeting the standard in 25 out of 30 cases (83.3%) and partially meeting the standard in three cases (10%). There were two cases (6.7%) which were assessed as not meeting the timeliness standards for continuing disclosure.

7.101. The Area was proactive in its approach to seeking extensions to the date for service, in accordance with the Criminal Procedure Rules, in situations 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

7.102. There were 14 cases featuring sensitive material in our Crown Court sample.

7.103. There did appear to be some misunderstanding about the endorsement of sensitive material schedules and the process to be followed for considering sensitive material. We found six cases (42.9%) to be fully meeting the standard, two cases (14.3%) partially meeting the standard and six cases (42.9%) not meeting the standard.

7.104. In four cases, items were listed on sensitive material schedules, but these schedules were never endorsed at all. While none of the items were likely to be disclosable, there was nothing on the file to indicate that they had been considered to be either sensitive or disclosable.

7.105. In another example, there were items listed on the sensitive material schedule, but only some of the entries had been partly endorsed and the correct process had not been followed. It was unclear what had happened to one of the items listed on the schedule, as it was endorsed as not being sensitive, but no direction was then given to the police to transfer it to a non-sensitive schedule.

7.106. We know from our discussions with the Area that its own internal quality assurance had previously revealed some concerns about the correct endorsement by prosecutors of all schedules. This is something the Area has addressed and is monitoring.

7.107. Third party material was correctly dealt with in all four cases (100%) where it was relevant. In the cases considered by inspectors, third party material related primarily to medical records.

7.108. We are satisfied that none of these cases require a referral to the Area in accordance with our policy for handling cases involving a potential miscarriage of justice.

Disclosure records

Disclosure management documents

7.109. Disclosure Management Documents (DMDs) were not mandated in routine Crown Court cases until 1 January 2021, a change brought about by the publication 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.

7.110. Eleven of the cases we examined required a DMD, but one was only completed in seven of these cases. Out of those seven cases we assessed five (71.4%) as fully meeting the standard: that is, the DMD had been fully and accurately completed, with the correct issues identified and addressed. Two cases (28.6%) were assessed as partially meeting the standard.

Disclosure record sheets

7.111. The completion of the disclosure record on Modern CMS was assessed as fully meeting the standard in 20 out of 38 cases (52.6%), with another 13 cases (34.2%) rated as partially meeting the standard and five cases (13.2%) as not meeting the standard.

7.112. Some of the disclosure records rated as partially meeting or not meeting the standard lacked a rationale for decisions and amounted to little more than a record of the receipt and dispatch of documents. In others, the recording of decision-making was incomplete.

Does the Area address victim and witness issues appropriately?

7.113. 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 72.4%.

7.114. 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

7.115. 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.

7.116. We assessed the pre-charge consideration of relevant applications and ancillary matters to support victims and witnesses as fully meeting the standard in 12 out of 27 cases (44.4%), partially meeting the standard in five cases (18.5%) and not meeting the standard in ten cases (37.0%).

7.117. Most commonly, in those cases not meeting the standard, the prosecutor failed to consider special measures where they could assist witnesses with giving their best evidence, restraining orders where they were appropriate, or compensation for victims where they had suffered loss.

7.118. In one example, the victim was subjected to a knife-point robbery at night, by a group of males, during which he had several items stolen. The pre-charge decision made no reference to any potential special measures for the victim to assist him while giving evidence. Neither was there any reference to the need for a Victim Personal Statement or details of any compensation requested.

After charge

Warning witnesses and communication with witness care units

7.119. These aspects of the service provided to victims and witnesses post-charge were strengths for the Area.

7.120. We assessed that the Area was fully meeting the standard for the correct and timely warning of witnesses in 26 out of 33 cases (78.8%) and partially meeting the standard in the other seven cases (21.2%). Witness care unit

correspondence was handled well and in a timely manner in 20 out of 28 cases (71.4%) and partially meeting the standard in the other eight cases (28.6%).

7.121. We saw good examples of proactive management of witness issues and, where these were raised at the last minute, the Area did what it could to find practical solutions. A number of these issues arose because of the pandemic and the Area should be commended for its commitment to dealing with them.

Consulting victims and speaking to witnesses at court

7.122. Consultation with victims and witnesses was found to be fully meeting the standard in 18 out of 30 cases (60%), partially meeting the standard in five cases (16.7%) and not meeting the standard in seven cases (23.3%).

7.123. We found that witness consultation was generally good, particularly when the offer of pleas by a defendant was being considered. In six cases we found the speaking to witnesses at court (STWAC) procedure did not appear to have been followed at all or, if it was, there was no adequate record of it.

7.124. In one example, three civilian witnesses were warned to attend a trial, but the hearing record sheet recorded that only one witness was spoken to about special measures. There was no record anywhere that the STWAC guidance had been followed in relation to the other two witnesses.

7.125. We acknowledge that during the pandemic, there were barriers to delivering the STWAC procedure effectively and this undoubtedly had an impact on performance. Paralegal officers who usually record such conversations were not always present in courtrooms and had to prioritise trials that were effective over others. As the restrictions that had an impact on this have been removed, we would expect to see an improvement in performance.

7.126. We note that the Area is aware of this and is in the process of updating its hearing record sheets to include a specific section on STWAC. This will be disseminated internally and to all counsel's chambers, in order to remind advocates of their duties in relation to STWAC and improve the recording of it.

Victim Personal Statements and orders at sentencing

7.127. We assessed the Area's compliance with obligations regarding Victim Personal Statements (VPSs) as inconsistent. We rated 12 out of 30 applicable cases (40%) as fully meeting the required standard, 15 cases (50%) as partially meeting the standard and three cases (10%) as not meeting the standard.

7.128. The reason for cases partially meeting the standard was that although there was a VPS, we could not ascertain what had happened with it as the hearing record was silent. In those cases not meeting the standard, a VPS had been obtained but there was no record confirming the victim's views as to

whether they would like to read it themselves or would prefer the prosecuting advocate to do so on their behalf at the sentencing hearing.

7.129. We are aware that the Area is also amending its hearing record sheets to include a section on VPSs to encourage greater compliance with the scheme and better recording at court.

7.130. Appropriate orders were sought on sentence to protect victims, witnesses and the public in 13 out of 19 cases (68.4%), with three cases (15.8%) partially meeting the standard and three cases (15.8%) not meeting the standard.

7.131. In two of the cases rated as not meeting the standard, there was no evidence that applications for compensation were made. In the other case, the victim had requested a restraining order, but the sentencing note uploaded by counsel advised the court that no ancillary orders were to be requested and none were noted on the hearing record sheet. Given the nature of the offence, a restraining order would have been an important protective order to consider in this case.

Victim Communication and Liaison scheme letters

7.132. The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge. We found that performance around Victim Communication and Liaison scheme (VCL) letters was inconsistent.

7.133. There were nine cases in our Crown Court sample where letters were required. In three of those nine cases (33.3%), letters were sent and assessed as timely. In another four cases (44.4%), letters were sent but they were late – however, the delay was minimal. In the remaining two cases (22.2%), no letter at all was sent.

7.134. Out of the seven cases where letters were sent, we assessed four cases (57.1%) as fully meeting the standard for the quality of the letter, two cases (28.6%) as partially meeting the standard and one case (14.3%) as not meeting the standard.

7.135. The case where the letter was assessed as not meeting the standard was one which the Area discontinued the charges at the PTPH. The letter sent to the victim was poor; it was disingenuous in implying that the CPS had only just had conduct of the case, when it should have acknowledged and apologised for an error in charging. In addition, it omitted to refer to the Victims' Right to Review scheme.

7.136. From the information the Area provided, we are aware that compliance with the VCL scheme is a priority for the Area, with VCL performance a standing agenda item at the Casework Quality Committee monthly meetings and in all-staff calls. The Area now has a monitoring system in place to assess the quality of Crown Court VCL letters, involving the Senior District Crown Prosecutor carrying out a dip sample each month.

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, the movement of staff inexperienced in RASSO casework to the team, and increases in pre-charge receipts from the police.

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

Table 13: Scoring for RASSO casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²⁷ at pre-charge decision stage	Fully meeting the standard	94.4%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	88.2%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	45.2%
Quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	90.0%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Partially meeting the standard	65.0%
Preparation for the Plea and Trial Preparation Hearing		
The Area prepares its cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to make sure progress is made	Partially meeting the standard	68.0%
Disclosure		
The Area fully complies with its duty of disclosure throughout its RASSO casework	Fully meeting the standard	77.3%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its RASSO casework	Fully meeting the standard	72.3%

8.4. Our assessment of RASSO casework was that there were aspects that were done well, including applying the Code for Crown Prosecutors correctly before and after charge, having a good grasp of the legislation, and applying it properly to the casework. The selection of charges and appropriate drafting of the indictment in these frequently complex cases was a strength.

8.5. In addition, timely compliance with Judges' orders and holding conferences with counsel, and the effective and appropriate handling of correspondence received from all parties were all positive aspects.

²⁷ Code for Crown Prosecutors, 8th edition; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

8.6. Similarly, aspects of disclosure were dealt with well, in particular compliance with the duty of continuing disclosure and the accurate completion of Disclosure Management Documents (DMDs). Furthermore, the Area was good at warning victims and witnesses to attend court, making appropriate applications for special measures to assist them with giving evidence, and seeking appropriate orders on sentence to protect victims, witnesses and the public.

8.7. There were other aspects that required more focus, specifically in relation to pre- and post-charge case analysis and strategy, compliance with the duty of initial disclosure and preparing cases effectively to ensure progress at the Plea and Trial Preparation Hearing (PTPH). In addition, there is scope for improvement with regard to consultation with victims and witnesses, compliance with the obligations around Victim Personal Statements (VPSs) and greater consideration of relevant applications and ancillary orders to support and protect victims and witnesses at the pre-charge stage.

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

Pre-charge decision-making and reviews

8.9. 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

8.10. 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).

8.11. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with 17 (94.4%) of the Area’s 18 pre-charged RASSO cases being compliant with the Code for Crown Prosecutors.

Table 44: Pre-charge Code compliance in RASSO cases

Rating	Number of cases	Percentage
Fully meeting the required standard	17	94.4%
Not meeting the required standard	1	5.6%

8.12. The Code for Crown Prosecutors was correctly applied in all but one of the cases we assessed. In that case the prosecutor authorised a defendant to be charged with five offences of indecent assault. Three of those offences were correctly charged, but in relation to the other two, there was no evidence of an assault and different charges should have been used. This was identified post-charge and the charges changed.

Selecting the most appropriate charges

8.13. 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).

8.14. In RASSO cases, the selection of charges can be complicated, with different offences being relevant depending on the date of the incident(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.

8.15. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with an overall score of 88.2%.

8.16. We found that prosecutors were selecting the most appropriate charges in most cases, with 14 out of 17 cases (82.4%) fully meeting the standard, two cases (11.8%) partially meeting the standard and one case (5.9%) not meeting the standard.

8.17. This is a strength given the complexities around charge selection in sexual offence cases. The single case assessed as not meeting the standard was correctly charged, but the charges chosen did not properly reflect the full extent of the offending and therefore could potentially have had an adverse impact on the final sentence.

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

8.18. 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 45.2%.

8.19. 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

8.20. The quality of case analysis and strategy in RASSO cases needs to improve. We assessed seven out of 18 cases (38.9%) as fully meeting the standard, seven cases (38.9%) as partially meeting the standard and four cases (22.2%) as not meeting the standard.

8.21. We found several common issues within the cases we examined, including:

- failures to address the strengths and weaknesses of the case in the analysis. We found that although the correct charges were selected, the analysis of the evidence did not always clearly identify the strengths and, in particular, weaknesses of the case and the trial strategy to address those weaknesses. In one case involving historical allegations of sexual abuse, we found that the prosecutor had not sufficiently scrutinised the video-recorded interview from the victim, which had an impact on the charges selected. The police were asked to complete enquiries on one specific aspect of the case, but not

on others, and certain important matters received limited attention in comparison. This erratic approach was in part because there was no analysis of strengths and weaknesses and no trial strategy formulated, which may have assisted in directing the necessary enquiries

- limited case strategies. Charging decisions frequently lacked specific reference to a trial strategy, either not considering it at all or briefly referring to it in the evidential analysis section. Area prosecutors need to consider trial strategy as a discrete aspect of their review and focus on how the case will be opened and conducted at trial. This approach and thinking would help prosecutors address evidential problems and direct the enquiries necessary to resolve them
- failures to identify reasonable lines of enquiry that could either support the prosecution or undermine it, depending upon the outcome of those enquiries. In one example, where the offence involved sexual activity with a person with a mental disorder by a care worker, a key reasonable line of enquiry was missed, namely the requirement for medical or psychiatric evidence, to prove that a victim had a “mental disorder”. The charging lawyer recognised it was necessary to prove this element but wrongly relied on a registered intermediary’s report to do so, failing to appreciate that the report was inadmissible as evidence in the case on this point as the intermediary was not an expert and could not provide a medical opinion.

Case study

The victim and the defendant were partners, having met via a dating website.

The victim reported an incident during which she said that the defendant had raped her, threatened to kill her with a knife and assaulted her, breaking a bone in her arm. He denied the rape and making a threat to kill the victim. In relation to the assault, the defendant said that the injury had occurred when he was trying to restrain the victim for her own safety. The defendant was charged with rape and inflicting grievous bodily harm.

There was a history of violence in the relationship, with the victim having made previous allegations of assault and controlling and coercive behaviour against the defendant but then withdrawn those allegations.

The pre-charge review contained no meaningful case analysis or trial strategy. An inferred defence of self-defence advanced by the defendant during interview in relation to the assault allegation was not addressed in the review. There was no rationale recorded for the decision not to charge an offence of making a threat to kill despite the clear evidence to support it. In addition, there was no reference to CPS charging standards in relation to the assault, nor consideration of the CPS domestic abuse policy.

Most importantly, a key reasonable line of enquiry was not identified in relation to the defendant's controlling and coercive behaviour. In her video-recorded interview, the victim referred to regular instances of violence and controlling and coercive behaviour by the defendant. A statement from the victim's mother supported the victim's account as she referred to various disclosures made by the victim and provided details of her own observations of the victim's changed behaviour since meeting the defendant.

A more proactive approach to building the case would have included a request to the police to make further enquiries in relation to the controlling and coercive behaviour, including interviewing the victim again. This would have ensured that all relevant offences were included in the indictment from the outset and the defendant's criminality was properly reflected.

Post-charge, following another review of the case and an advice from prosecution counsel, further lines of enquiry were pursued and two additional counts were added to the indictment to reflect the threat to kill and the controlling and coercive behaviour.

The case proceeded to trial in the Crown Court. The defendant was convicted of inflicting grievous bodily harm and controlling and coercive behaviour. He was acquitted of rape and making a threat to kill. He was sentenced to five years' imprisonment and a restraining order was imposed until further order to protect the victim from any further incidents.

8.22. While there were a number of cases where the quality of the analysis and strategy needed to improve, we did see some where the quality of analysis by the prosecutor at the pre-charge stage was of a high standard, with a clear trial strategy and an understanding of the strengths and weaknesses in the evidence being set out and considered in the case review.

8.23. One example was a case that involved several allegations of sexual assault upon a child under 13 years. The victim was 13 when she disclosed that she had been abused by her mother's boyfriend over a period of three years. She told her father what was happening, and he reported the abuse to the police. The victim also told her friends how unhappy she was at home and numerous conversations were held between them using telephone messaging, Instagram and Snapchat. The pre-charge review contained a sound case analysis with a clear case strategy that demonstrated a good grip of the issues in the case. It encompassed the presentation of the case, the use of the available evidence and the impact of conflicting evidence and disclosable unused material. The victim's credibility was considered, and this included a strategy for dealing with incidents where she had not been truthful. The evidence of other child witnesses was carefully addressed, relevant CPS policies were referred to along with appropriate applications and ancillary orders, and information to progress them was requested from the police in an action plan. A DMD was prepared, and a clear disclosure strategy was set out that provided guidance to the police on the redaction and scheduling of disclosable material from third party records and highlighted that items were missing from the disclosure schedules provided by the police.

Instructions to the court prosecutor

8.24. Instructions to court prosecutors to assist them at the first hearing were poor. We assessed one case out of 18 (5.6%) as fully meeting the standard, 11 cases (61.1%) as partially meeting the standard and six cases (33.3%) as not meeting the standard.

8.25. The main reason for cases not fully meeting the standard was a failure to consider the suspect's bail status during the pre-charge investigative stage and provide guidance to the court prosecutor on the approach to be taken post-charge. For example, in one case of domestic violence and rape, there was no consideration of attaching to the defendant's bail a condition of non-contact to

protect the victim. The other common reason for cases not meeting the standard was a failure to address the acceptability of pleas in relevant cases.

8.26. 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 it. The weaknesses identified 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

8.27. Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan, which is a specific section of the police manual of guidance form 3. This allows for actions to 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.

8.28. Action plans were assessed as fully meeting the standard in five out of 17 cases (29.4%), partially meeting the standard in six cases (35.3%) and not meeting the standard in six cases (35.3%).

8.29. In some cases, we found that key reasonable lines of enquiry were omitted from action plans. For example, in a case involving an attempted rape, a witness had commented that leading up to the incident, the defendant experienced difficulties doing up his trousers during the evening and that he would not have had time to undo his trousers, undo the victim's trousers and then do up his own trousers again in the short time in which both parties were in an alleyway together. This was something that could potentially have been rebutted by examination of the defendant's trousers, which were seized as an exhibit in the case, to establish whether there was a buttoning or zip defect, but this line of enquiry was not included in an action plan to the police.

8.30. In three cases that we assessed as not meeting the standard, there was no action plan when there should have been, because there were reasonable lines of enquiry outstanding.

8.31. In other cases, we found evidence that the action plans failed to request items such as a VPS, information to support applications for restraining orders, and information on special measures to assist witnesses other than victims in giving evidence.

Applications and ancillary matters

8.32. 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.

8.33. We found there was a need for improvement in the approach at pre-charge to ancillary matters and applications to strengthen the prosecution case, such as bad character or hearsay evidence. Two out of 15 cases (13.3%) were rated as fully meeting the standard, five cases (33.3%) as partially meeting the standard and eight cases (53.3%) as not meeting the standard.

8.34. A common issue we found when considering these applications at the pre-charge stage was a failure to recognise the relevance of bad character evidence and to use this to develop the case strategy. By way of example, in a case involving sexual activity with a child under 16, a bad character application relating to significant evidence of online sexualised chat between the defendant and other unidentified young girls was missed. Bad character was an important consideration in this case as it potentially allowed the prosecution to introduce key material to show the defendant had a propensity to commit offences of a similar nature. In the same case the prosecutor also did not consider a forfeiture and destruction order for digital devices used by the defendant to communicate with young girls online.

8.35. In another example involving allegations of rape, inflicting grievous bodily harm and controlling and coercive behaviour towards a victim, the prosecutor referred to a bad character application without sufficient consideration of the information provided by the police and the legal basis upon which the application should be made. It was clear from the information provided that the defendant had relevant convictions for assaults on women, one of whom was the victim, and therefore an application to introduce his bad character on the basis that he had a propensity to commit offences of the kind charged should have been identified at the pre-charge stage and progressed. In fact, such an application was only identified and successfully made five months later.

8.36. We also found that the approach to relevant applications and ancillary matters to support victims and witnesses pre-charge was inconsistent. We assessed three out of 18 cases (16.7%) as fully meeting the standard, ten cases (55.6%) as partially meeting the standard and five cases (27.8%) as not meeting the standard.

8.37. The common issues we identified were a failure to address special measures for witnesses other than the victim; the pre-charge review not being

specific enough in detailing which special measures were required; referring to the wrong special measure (for example, a live link when the witness had requested screens); and missing key applications such as restraining orders, compensation, or requests for a VPS.

8.38. In several cases, we found a failure to consider and progress a sexual harm prevention order where such an application was potentially relevant. While these orders would be relevant at the conclusion of the case, a failure to consider them 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. In one example involving allegations of rape and assault, a sexual harm prevention order was listed under ‘trial strategy’ but without considering the relevance of this or making any request to the police for details of the risk the defendant posed to the victim and other women.

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 post-charge decision-making. Overall, the score for Code compliance in RASSO cases is 95%. 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.

Table 55: Post-charge Code compliance in RASSO cases

Rating	Number of cases	Percentage
Fully meeting the required standard	19	95.0%
Not meeting the required standard	1	5.0%

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. There was one case identified as a wholly unreasonable decision at the post-sending review stage. This was a decision that had previously been identified as a wholly unreasonable decision at the pre-charge stage.

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

8.43. 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 RASSO cases is 65.0%.

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. As Table 16 shows, the percentage of cases we assessed as fully meeting the standard for legal analysis and trial strategy at the initial post-sending review was significantly higher than at the pre-charge stage. There remains room for improvement, as only just over half fully meet the standard expected.

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

Question	RASSO cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	38.9%
Partially meeting the required standard	38.9%
Not meeting the required standard	22.2%
Post-sending review analysis and strategy	
Fully meeting the required standard	55.0%
Partially meeting the required standard	25.0%
Not meeting the required standard	20.0%

Case analysis and strategy

8.46. Inspectors rated 11 out of 20 cases (55%) as fully meeting the standard, five cases (25%) as partially meeting the standard and four cases (20%) as not meeting the standard.

8.47. There were some good examples of proactive case analysis at the post-sending review stage, which built on the pre-charge decision making rather than simply adopting the pre-charge review without comment. In one case which involved sexual activity with a child, the prosecutor considered additional counts to be added to the indictment, set out the basis on which a hearsay application should be made, explained their rationale for tendering witnesses to the defence, and set out the grounds on which a potential abuse of process

argument could be rebutted. The review added value and demonstrated that the case had been thoroughly checked.

8.48. In the four cases that failed to meet the standard, we found that the initial post-sending reviews were not used to proactively to manage the case, consider responses to action plans, or update the case analysis and strategy. Examples of this included one case where no review took place at all; another case which simply referred to the defence comments at the sending hearing and implied a later review would take place, which never did; a case that adopted a pre-charge review from four months earlier, where evidential issues remained unresolved; and another case where the review noted that there was no change in the evidence, but did not consider an application for a sexual harm prevention order or four further crime reports which were disclosable, that had been received post-charge.

8.49. In most cases, the post-sending review was timely, with 14 out of 19 cases (73.7%) being assessed as fully meeting the standard.

Significant events

8.50. 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.

8.51. We found that these significant event reviews were not always being completed when they should be.

8.52. We assessed five out of ten cases (50%) where there was a significant event necessitating a review as fully meeting the standard, one case (10%) as partially meeting the standard and four cases (40%) as not meeting the standard.

8.53. In two of the cases we assessed as not meeting the standard, pleas were accepted but there was no review to explain the reasons. In another case, important forensic evidence was received on two occasions following the stage 1 service but there was no review to explain its significance and impact on the case. In the fourth case, significant unused material was revealed and disclosed before and during trial, but there was no review explaining its effect on the evidence.

Stage 1 reviews

8.54. 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.

8.55. 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.

8.56. We assessed seven out of 18 cases (38.9%) as fully meeting the standard for the required level of value at stage 1 review, two cases (11.1%) as partially meeting the standard and nine cases (50%) as not meeting the standard.

8.57. A failure to meet the standard was usually because either no review had taken place at all (six cases), or the review simply copied the post-sending review (three cases), adding no value to the case. In one example we examined where there was no stage 1 review, the transcript of police interview was missing and there was no action plan to obtain it, meaning that the defence case could not be reviewed adequately, and no decisions made to develop the trial strategy.

8.58. The seven reviews which met the standard were of good quality, demonstrating a clear grasp of the prosecution case and adding value.

Threshold test cases

8.59. 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 further evidence or material is received.

8.60. 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).

8.61. There were three RASSO cases that had been charged by the CPS on the threshold test. One of these was charged by an Area prosecutor and the other two by CPS Direct prosecutors.

8.62. We found that the first case was incorrectly charged by the Area lawyer on the threshold test as there was sufficient evidence to apply the full Code test. The defendant was remanded in custody. The prosecutor correctly confirmed in the post-sending review that the full Code test could be applied. The defendant pleaded guilty to all offences before the trial date.

8.63. In the cases charged by CPS Direct, the threshold test was correctly applied and the defendants were remanded in custody throughout proceedings. There were subsequent reviews on both cases. In the first case, the full Code test was applied in an ad-hoc review upon receipt of the full file and a decision was made that there was insufficient evidence to provide a realistic prospect of conviction. The case was discontinued before the PTPH. In the second case, the prosecutor confirmed in the stage 1 review that the full Code test could be applied. A timely guilty plea was entered, and the defendant was convicted.

Feedback on police file quality

8.64. 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.

8.65. Within our file sample of 20 RASSO cases, we assessed police files in eight cases (40%) as not meeting the National File Standard. Two of these cases were received during the period when mandatory NFQ feedback was suspended; in the other six cases, inspectors assessed Area feedback as not meeting the standard.

8.66. Based on our discussions with the Area, we are aware that problems persist in relation to police file quality across all types of casework and work is ongoing at a senior level to improve this. However, that alone is unlikely to result in the improvement required and individual feedback on cases where the NFS has not been complied with is an important way of improving the performance of the police. In our file sample, there was no feedback on any of the cases where the NFS was not met. That is disappointing and needs to improve to encourage any change from the police.

Conferences with counsel

8.67. 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.

8.68. 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.

8.69. This was a strength for the Area, as a conference with trial counsel was held in all ten cases (100%) we examined where one was mandated. It was also impressive that the conferences took place at a time when additional enquiries could still be pursued to strengthen the prosecution case, giving an opportunity for significant value to be added.

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

8.70. Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for preparation for the Plea and Trial Preparation Hearing (PTPH) in RASSO cases is 68.0%.

8.71. 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 (CCDCS) 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).

8.72. Preparation for the PTPH, including completion of the plea and trial preparation forms, ensuring actions have been completed by the police together with instructions on acceptable pleas, was found to be fully meeting the standard in six out of 18 cases (30%). We rated another 12 cases (60%) as partially meeting the standard and two cases (10%) as not meeting the standard.

8.73. While it was not the only reason for a case partially or not meeting the standard, we found that by far the most common issue was a failure to address the acceptability of pleas in cases where there was a realistic possibility of pleas

being offered. This mirrors the lack of instructions given to court prosecutors at the pre-charge stage and is something the Area will want to improve.

8.74. In one example involving a multi-count indictment for serious sexual offences, plea acceptability was not addressed and, in addition, a bad character application which had been identified as appropriate was not served before the PTPH. In another case involving sexual activity with a child, neither an application for the pre-recorded cross-examination of the victim nor instructions to counsel to submit an oral application were prepared, and an application for a sexual harm prevention order was missed.

8.75. The police upload hard media, such as CCTV footage and body worn video, to secure online locations and send the links to the CPS. Hard media was correctly shared before the PTPH in 14 out of 19 cases (73.7%). the remaining five cases (26.3%) were assessed as not meeting the standard.

8.76. In RASSO cases, hard media will often be the video interviews conducted with victims or witnesses that form their evidence. It is crucial that this is shared before the first hearing so that the case can be progressed effectively, with appropriate orders made for actions to take place to make sure the trial is effective and appropriate witness care is in place.

8.77. In the five cases assessed as not meeting the standard, the link to the video-recorded evidence of the victim or witness was not shared, potentially resulting in lost opportunities to resolve or progress the case effectively at the first Crown Court hearing.

Direct engagement with the defence

8.78. 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.

8.79. 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.

8.80. The Area's engagement with the defence in RASSO cases was marginally worse than that found in the Crown Court sample, in that six out of 19 applicable cases (31.6%) were rated as fully meeting the standard and three cases (15.8%) as partially meeting the standard. There was no evidence of defence engagement in the other ten cases (52.6%). In one out of six cases (16.7%) a DDE log had been uploaded to DCS for the Judge to view in accordance with the requirements of the Criminal Procedure Rules.

8.81. We note that the Area is attempting to increase defence engagement by holding regular 'clinics', which involve prosecutors reviewing cases due for first hearing and contacting defence practitioners to discuss trial issues and any outstanding matters to make sure that cases are better prepared at an early stage.

The indictment

8.82. 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 for the Area that indictments were found to be generally well drafted, with 12 out of 18 cases (66.7%) rated as fully meeting the standard, another five cases (27.8%) as partially meeting the standard and one case (5.6%) as not meeting the standard.

8.83. Most indictments were legally correct and contained an appropriate number of counts which adequately reflected the criminality involved. For example, in one case that involved the sexual assault of a child under 13 years of age, the victim could only recall when some incidents occurred by reference to her approximate age and school year. The indictment properly reflected the age of the child at the time of the offending behaviour and the dates of the counts encompassed the time period over which the offences occurred. The prosecutor addressed the lack of precision of dates from the child by adding a count that captured multiple incidents.

8.84. We assessed one case as not meeting the standard because the counts on the indictment alleging sexual activity were not consistent with the account given by the victim.

8.85. We found that the timeliness of service of the draft indictment and key evidence was a positive for the Area, with 15 out of 18 cases (83.3%) assessed as fully meeting the standard and another three cases (16.7%) as partially meeting the standard. We apply the standard of uploading to the DCS seven days before the PTPH.

Instructing the advocate

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

8.87. We found that the quality of instructions to advocates was inconsistent, with four out of 19 cases (21.1%) rated as fully meeting the required standard.

8.88. Ten cases (52.6%) were assessed as partially meeting the standard. In these cases, there was a document which amounted to a covering note but, like in the Crown Court cases, did not cover all the relevant issues in the case. The documents often simply referred to the charging review with no specific instructions on acceptability of pleas and applications such as special measures and bad character, which would have an impact on the advocate's effectiveness at the hearing. This must be seen in the context of our earlier findings regarding the quality of the pre-charge case review and strategy contained within the charging review. If the charging review is not of the correct standard, then forwarding it to the advocate as the basis for the instructions in the case does not assist and just perpetuates a lack of a cogent strategy for the case.

8.89. We did find that some prosecutors had contacted counsel directly to discuss the case at conference before the PTPH, where we assume the issues in the case were discussed more fully.

8.90. Five cases (26.3%) were assessed as not meeting the standard because there was no document where one was required. For example, in one case, counsel had to rely solely on material uploaded to DCS because no other material was provided before the PTPH. A draft bundle for counsel was prepared containing only the magistrates' court hearing record sheet, but this limited bundle was not dispatched. A lack of proper instructions can clearly have an impact on the advocate's effectiveness at the PTPH and this is something the Area needs to improve.

8.91. We also assessed the timeliness of sending instructions. In 14 out of 19 (73.7%) cases, papers were sent at least seven days before the PTPH. Given our findings on the quality of instructions, our findings highlight that while papers were sent in a timely way, the quality of what was sent was not sufficient for advocates to prepare properly.

Does the Area fully comply with its duty of disclosure?

8.92. Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for disclosure in RASSO cases is 77.3%.

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

Police service on disclosure

8.94. 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.

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

8.96. Feedback to police by prosecutors was assessed as fully meeting the standard in five out of 16 cases (31.3%) and partially meeting the standard in three cases (18.8%).

8.97. We rated eight cases (50%) as not meeting the required standard for feedback to the police. In seven of the cases, this was because no feedback at all was provided to the police. By way of example, in one case, feedback was required for two reasons: an MG6E schedule had not been provided and the police had not listed a witness's caution for theft on the unused material schedule, which could have had an impact on their honesty and credibility. In another case, the prosecutor amended a sensitive unused material schedule without returning it to the police with guidance for them to amend it in accordance with national practice.

8.98. We note from our discussions with the Area that problems persist in relation to the provision of unused material by the police, particularly rebuttable presumption material, and the quality of schedules of unused material. The Area is working with all three police forces to deliver disclosure training. Ongoing feedback by the Area to the police is an important aspect of this. The Area has mandated the Director's Guidance Charging Assessment training for all prosecutors, which was due for completion by the end of June 2022.

Initial disclosure

8.99. We assessed initial disclosure in RASSO cases as fully meeting the required standard in seven of the 19 applicable cases (36.8%). Another six cases (31.6%) were assessed as partially meeting the standard and six cases (31.6%) as not meeting the standard.

8.100. The main reasons for cases not meeting or partially meeting the standard were:

- failures to identify that items of unused material were not scheduled (three cases)
- disclosable unused material not being disclosed (two cases)
- using the wrong endorsements on schedules (two cases).

8.101. In one case involving allegations of rape and assault, where one of the trial issues was self-defence, an entry on the Investigation Management Document provided by the police described a section within medical records in which the victim stated she had stabbed someone several years earlier. The Disclosure Management Document prepared by the prosecutor also referred to this material as meeting the disclosure test. However, when the unused material schedules were provided by the police its existence was referred to generically on a sensitive material schedule as 'GP records'. It was not included on the schedule for disclosure to the defence. The prosecutor should have asked the police to extract the relevant part of the material and include it on that schedule where it could be properly disclosed.

8.102. 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.

Continuing disclosure

8.103. The quality of continuing disclosure was good and, like our Crown Court findings, better than for initial disclosure compliance, with 11 out of 15 cases (73.3%) fully meeting the standard and four cases (26.7%) not meeting the standard.

8.104. There were a number of reasons for cases being assessed as not meeting the standard, the most common theme being a failure to identify items of unused material that were not scheduled. Errors at the initial disclosure stage in this regard were not rectified at the continuing disclosure stage.

8.105. We saw cases where disclosure was dealt with well. One such case involved sexual activity with a child. The defence statement was reviewed by the prosecutor and a detailed letter sent to the police in which the defence issues were addressed point by point and guidance provided regarding further enquiries, one of which related to examination of the victim's telephone and Facebook account. The prosecutor reviewed GP records and counselling notes and correctly endorsed the sensitive material schedule that the material did not meet the disclosure test because it was consistent with the victim's account. The ongoing disclosure letter sent to the defence was coherent and comprehensive.

8.106. Inspectors found that defence statements which were more than minimally late were chased in two out of seven cases (28.6%). Five cases (71.4%) were assessed as partially meeting the standard because while the defence statements were late and not chased, they were not significantly delayed.

8.107. The review of defence statements and provision of directions to the police on further reasonable lines of enquiry was very good, with 14 out of 15 cases (93.3%) rated as fully meeting the standard and one case (6.7%) as partially meeting the standard. The reason for cases only partially meeting the standard was the lack of guidance on further enquiries.

8.108. 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.

Timeliness

8.109. The timeliness of service of initial disclosure was very good, with 18 out of 19 cases (94.7%) fully meeting the standard and one case (5.3%) partially meeting the standard. The timeliness of continuing disclosure was also good, with 13 out of the 15 cases (86.7%) being assessed as fully meeting the required standard and two cases (13.3%), where the deadline was missed but the delay was minimal, as partially meeting the standard.

Sensitive and third-party material

8.110. There were 16 cases featuring sensitive unused material in our RASSO sample. The handling of sensitive material was good, with 14 out of 16 cases (87.5%) handled appropriately and another two cases (12.5%) partially meeting the standard.

8.111. We found several examples where sensitive material was dealt with well. By way of example, in one case involving extensive sensitive material, the sensitive material schedule was considered by the prosecutor early in the proceedings and each item on the schedule endorsed correctly. The lawyer made a request to the police to extract and redact disclosable material from the schedule, which was then disclosed to the defence in an appropriate manner and in good time.

8.112. Third party material was handled adequately. Eleven out of 17 cases (64.7%) were assessed as fully meeting the standard, three cases (17.6%) as partially meeting the standard and another three cases (17.6%) as not meeting the standard.

8.113. In one case which did not meet the standard, a crime report that had previously been requested from the police by the prosecutor was received on the last working day before trial. This crime report was then disclosed to the defence by the prosecutor and it provided a lead to further disclosable unused material within social care records. At trial, the Judge asked for an assurance that all social care material had been reviewed and that it contained no disclosable material. The lawyer then reviewed the material and found more material which was disclosed to the defence. This material was not fatal to the case, but it was unhelpful to the prosecution. The defence applied unsuccessfully to stay proceedings and the trial continued, eventually resulting in an acquittal. The Judge was critical of the CPS's handling of disclosure and the case was the subject of a detailed casework briefing sent from a RASSO manager to the Chief Crown Prosecutor. It is clear from the action taken by the Area that it was keen to learn from the mistakes made in this case, which is commendable.

Disclosure records

Disclosure management document

8.114. Disclosure management documents (DMDs) are mandated in RASSO cases in accordance with the fifth and sixth editions of the Director's Guidance on Charging. The cases in our file sample were governed by this guidance.

8.115. The completion of DMDs was good, with 14 out of 19 relevant cases (73.7%) assessed as fully meeting the standard, three cases (15.8%) as partially meeting the standard and two cases (10.5%) as not meeting the standard (as no DMD was created).

8.116. We assessed 13 out of 17 cases (76.5%) where a DMD was created as fully meeting the standard for the quality (that is, accuracy and completeness) of the DMD and another four cases (23.5%) as partially meeting the standard. The main reason for cases only partially meeting the standard was that DMDs were not updated as the case progressed to reflect any changes that occurred. For example, in a case involving allegations of engaging in sexual activity with a child, some issues were not adequately addressed in the DMD, including the decision not to interrogate telephone or social media accounts.

Disclosure record sheets

8.117. The completion of the disclosure record on Modern CMS was assessed as fully meeting the standard in eight out of 19 cases (42.1%), with another ten cases (52.6%) assessed as partially meeting the standard, and one case (5.3%) as not meeting the standard.

8.118. We found that the disclosure record sheets partially meeting or not meeting the standard lacked sufficient detail of decisions made, and some decisions and/or actions were missing from the disclosure record.

Does the Area address victim and witness issues appropriately?

8.119. Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for victim and witness issues in RASSO cases is 72.3%.

8.120. 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.

8.121. We found that most victim and witness issues in the RASSO cases we examined were dealt with well. Many aspects of the service provided to victims and witnesses post-charge were good, particularly warning victims and witnesses to attend court, making appropriate applications for special measures to assist them in giving evidence, and seeking appropriate orders on sentence to protect victims, witnesses and the public. However, the Area's consultation and communication with victims and witnesses needs improvement. Similarly, at the pre-charge stage, there is room for improvement in relation to the consideration of applications and ancillary matters to support victims and witnesses.

Pre-charge

8.122. 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.

8.123. We assessed the pre-charge consideration of relevant applications and ancillary matters to support victims and witnesses as fully meeting the standard in three out of 18 cases (16.7%), partially meeting the standard in ten cases (55.6%) and not meeting the standard in five cases (27.8%).

8.124. Common issues we identified included failures to address special measures for witnesses other than the victim, pre-charge reviews not being specific enough in detailing which special measures were required, or referring to the wrong special measure – for example, a live link when the witness had requested screens.

8.125. Other reasons for cases being assessed as not meeting the standard included Victim Personal Statements not being referred to or not being actioned, failures to consider and progress sexual harm prevention orders where appropriate, and applications for restraining orders being missed or not progressed.

8.126. The Area will want to improve its pre-charge approach to ancillary measures and applications to support victims and witnesses in these often sensitive and difficult cases.

After charge

8.127. After charge, the Area performed much better when considering and applying for special measures for victims and witnesses. We assessed applications for special measures in 14 out of 19 cases (73.7%) as fully meeting the standard and five cases (26.3%) partially meeting the standard. No cases failed to meet the standard. Special measures post-charge are a strength for the

Area, with several instances of the successful use of pre-trial recorded cross-examination of victims and the use of registered intermediaries.

Case study

The victim was four years old at the time of the incident.

The defendant and his wife, who knew the victim's family, attended a festival which was organised by the grandparents of the victim. The defendant accompanied the victim to the toilet and assaulted him. The defendant was subsequently charged with sexual assault.

Before the PTPH, a written application was submitted to the court for the victim's video-recorded interview to be played at trial and for any cross-examination and re-examination to be pre-recorded. The prosecutor highlighted in the application that the original intermediary who had assisted the victim in giving his video-recorded evidence interview was no longer available, and another intermediary would be sought. This was followed up the same day with a request to the police to identify another suitable person.

At the PTPH, the court granted the prosecution's application and set a timetable for the video-recorded cross-examination and re-examination to take place. The prosecutor obtained another intermediary's report, which was served promptly on all parties, and chased the defence for a copy of the questions they intended to ask the victim in cross-examination. This enabled there to be sufficient time for the intermediary to consider them before the hearing.

At the hearing, the advocate met with the victim, his mother and the intermediary and explained the procedure. The video-recorded cross-examination was successfully obtained, which obviated the need for the young victim to attend court for the trial.

On the first day of trial, the defendant pleaded guilty and was sentenced to a term of imprisonment. The prosecution successfully applied for a restraining order, to protect the victim from any further contact with the defendant, and a sexual harm prevention order to prevent the defendant from having contact with any child under 16 years of age.

A caring and proactive approach was demonstrated throughout the case, which resulted in good engagement with the victim and his family and minimised any distress to the young victim.

Warning witnesses and communications with witness care units

8.128. This is another strength for the Area. The warning of witnesses was assessed as fully meeting the standard of correctness and timeliness in 16 out of 18 cases (88.9%) and partially meeting the standard in the other two cases (11.1%). Witness care unit correspondence was handled well and in a timely manner in 14 out of 15 cases (93.3%) and was assessed as partially meeting the standard in the other case (6.7%).

Consulting victims and speaking to witnesses at court

8.129. Consultation with victims and witnesses was found to be fully meeting the standard in seven out of 18 cases (38.9%), partially meeting the standard in five cases (27.8%) and not meeting the standard in six cases (33.3%).

8.130. Generally, we found that witness consultation was good, particularly when the offer of pleas was being considered and appropriate consultation was required with the victim. However, in the six cases not meeting the standard, we found the speaking to witnesses at court (STWAC) procedure did not appear to have been followed at all or, if it was, there was no record of it.

8.131. We note that the Area is aware of this and is in the process of updating its hearing record sheets to include a specific section on STWAC, which will be disseminated internally and to all counsel's chambers, in order to remind advocates of their duties in relation to STWAC and improve the recording of it.

Victim Personal Statements and orders at sentencing

8.132. We found that the Area was fully meeting its obligations around Victim Personal Statements (VPS) in eight out of 18 cases (44.4%), partially meeting the standard in seven cases (38.9%) and not meeting the standard in three cases (16.7%).

8.133. An example of good performance was in a case where a victim wanted to read her own VPS at court, but the sentencing hearing was delayed on two occasions. With support from the witness care unit, the Area successfully arranged for the victim to access the court remotely through a live link so she could read out her VPS at the hearing.

8.134. The main reasons for assessing cases as partially meeting the standard were that there was no indication on file if the victim wished to attend court to read out their VPS, or the VPS was available and the victim's views known, but at sentence there was no endorsement on the hearing record sheet of the VPS being read out to the court. In the cases failing to meet the standard there was no VPS on file. In one of those cases, the police had specifically stated they would obtain a VPS nearer to the trial, but this was never done and was not followed up by the Area.

8.135. We are aware that the Area is also amending its hearing record sheets to include a section on VPSs to encourage greater compliance with the scheme and better recording at court.

8.136. Orders sought on sentence were assessed as appropriate and fully meeting the standard in eight out of 11 cases (72.7%), with another three cases (27.3%) not meeting the standard.

8.137. We found that in cases that failed to meet the standard, applications for a restraining order or sexual harm prevention order were not made. This mirrors some of our findings about the failure to address these orders at the pre-charge stage. In one example, the police submitted an application for a restraining order, which was requested by the victim following the defendant pleading guilty. While the information was provided by the police, no draft application was prepared or served by the prosecutor. The information was not sent to counsel and no application for a restraining order was mentioned on the hearing record sheet or on the DCS.

Victim Communication and Liaison scheme letters

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

8.139. We found that performance around Victim Communication and Liaison scheme (VCL) letters was inconsistent. In four out of seven cases (57.1%), VCL letters were assessed as timely. In the other three cases (42.9%), no letters were sent when they were required. Of the four cases where VCL letters were sent, three cases (75%) were rated as fully meeting the standard for quality and one case (25%) as partially meeting the standard. The case assessed as partially meeting the standard was one which the Area discontinued prior to trial. The letter sent to the victim did not contain a sufficiently detailed explanation to allow the victim to understand what had happened.

8.140. From information the Area has provided, we are aware that compliance with the VCL scheme is a priority for the Area, with VCL performance a standing agenda item at the Casework Quality Committee monthly meetings and in all-staff calls. The Area now has a monitoring system in place for all RASSO VCL letters: they are quality checked by a District Crown Prosecutor or a Senior District Crown Prosecutor and are subject to peer review.

9. Public confidence

9.1. One of the five aims of the of the Crown Prosecution Service’s (CPS’s) 2025 strategy²⁸ 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.

²⁸ CPS 2025 is the CPS’s strategy and vision for where it wants to be in 2025. www.cps.gov.uk/sites/default/files/documents/publications/CPS-2025-strategy.pdf

Sending Victim Communication and Liaison scheme letters

Compliance with the Victim Communication and Liaison scheme

9.7. In our examination of 90 cases, 21 required a VCL letter to be sent. Of those 21 letters, 15 (71.4%) were sent – four in magistrates’ court cases, seven in Crown Court cases and four in rape and serious sexual offences (RASSO) cases. Of the six cases (28.6%) where letters were not sent, one was a magistrates’ court case, two were Crown Court cases and three were RASSO cases.

9.8. Of the 15 letters sent, 11 (73.3%) were sent in accordance with the expected timescales, and four (26.7%) were sent late, in that they missed the target set by the scheme, but the delay was minimal. The late letters were all in Crown Court cases.

Quality of Victim Communication and Liaison scheme letters

9.9. We assessed the quality of the 15 letters sent, as set out in Table 18. Inspectors assessed the quality of the letter as fully meeting the standard in nine cases (60%), partially meeting the standard in five (33.3%) and not meeting the standard in one case (6.7%). No themes emerged from the letters that did not fully meet the standard. Instead, there were a range of issues including the use of legal jargon, a failure to provide sufficient detail or a full explanation, and a lack of empathy.

Table 6: Quality of Victim Communication and Liaison scheme letters

Casework type	Magist-rates’ courts	Crown Court	RASSO	All cases
Number of letters sent	4	7	4	15
Fully meeting the standard	50.0%	57.1%	75.0%	60.0%
Partially meeting the standard	50.0%	28.6%	25.0%	33.3%
Not meeting the standard	0%	14.3%	0%	6.7%

9.10. The Area has several processes to support interaction with victims and witnesses.

9.11. The Area has allocated a Senior District Crown Prosecutor (SDCP) as the strategic lead on victim and witness issues. It has also recently appointed a District Crown Prosecutor (DCP) as a Victim Liaison Unit (VLU) legal lead. That role involves providing support to the VLU, overseeing the performance data, attending VLU panels and performance meetings, and liaising between prosecutors and the VLU. This has been in place for approximately five months, during which the legal lead has been able to raise awareness of the importance of victim communication and bridge the gap between operational and legal staff. They are also tasked with driving improvements on the quantity and quality of letters, particularly focusing on making sure the escalation process is followed when letters are not completed by prosecutors.

9.12. The Area holds monthly VCL performance meetings chaired by the Deputy Chief Crown Prosecutor (DCCP), which examine the performance data for the timeliness of letters, performance against the proxy target, escalations, and compliance with the bereaved family scheme. At these meetings, issues from the data are identified and options considered to bring about improvement in performance. The Area's performance in respect of timeliness is also measured against the best performing CPS Areas. VLU highlight reports are created, performance data is broken down by unit and the results are rated red/amber/green (RAG) to identify where any issues arise. The reports are provided to the Area Strategy Board (ASB) to consider VCL compliance performance as a standing item on the monthly ASB agenda.

9.13. The Area has an escalation process in place for cases where letters are required but have not been forwarded by prosecutors to the VLU in accordance with the mandated timescales. From our discussions with the Area, we note that the escalation process has been improved recently: if letters are not sent, the DCP for that team is notified and the matter is ultimately referred to the DCCP. A revised reporting system is being used to identify those prosecutors who repeatedly draft letters late to enable the Area to focus its efforts and identify those prosecutors for training or awareness sessions.

9.14. The Area suspended VCL quality assurance panels during the pandemic. However, in November 2021 they resumed, and they now take place every month. The panel is chaired by the Area Business Manager (ABM) and includes the Operational Business Manager (OBM), Victim Liaison Manager (VLM) and complaints co-ordinator. It is also attended by volunteers from among operational delivery staff and prosecutors. At each panel, four VCL letters and one complaint response are selected for consideration. The aim of the panel is to quality-assure letters and identify common themes that will lead to improvements. The letters are assessed against four questions:

- Was the explanation provided sufficient, clear and written in plain English?
- Does the letter flow, with an appropriate tone and level of empathy?
- Was a VRR/meeting offered where appropriate?
- Are the details correct and has it been quality checked?

9.15. The panel provides feedback on each letter and an overall report on the main themes identified. The findings of the VCL panel are recorded on spreadsheets. More detailed feedback is drafted and sent to individual prosecutors and copied to their line manager to discuss with them. Any wider learning points for the Area are then taken to the Area Casework Quality Committee (CQC) for a decision as to how to take them forward within the Area.

9.16. Recent reports highlight several issues including a lack of empathy, inappropriate use of legal terminology, poor layout of letters and explanations that lacked clarity. It is noted that these all mirror the findings from our inspections and, as such, are something the Area is already looking to address. Positive points and good practice are also identified in the reports. DCPs who attend the panels are required to share what they have learned with colleagues along with the benefits of attending, to encourage greater participation. The Area has confirmed that additional specially convened panels are due to start shortly on a rotational basis, to allow more prosecutors to attend while still keeping an appropriate balance with operational delivery staff, so they do not lose their original purpose of generating feedback on the quality of letters from non-legal staff. Through this, the Area's aim is for the panels to drive improvement in the quality of VCL letters.

9.17. Each VCL panel report is provided to the CQC for consideration. The Area holds a monthly CQC with several standing items on the agenda. These include Victim Communication and Liaison; Complaints – Lessons Learned; and Victims' Right to Review Cases. Following the CQC, the DCCP sends email updates to all staff providing a detailed summary of the items discussed,

outcomes and learning. These include the CQC's findings on VCL, VRR and the VLU panel report together with specific comments about poor communication and grammar identified generally within correspondence. We have seen a number of these updates and they are clearly aimed at improving performance on these issues.

9.18. In addition to the formal panels, the Area has introduced quality assurance of victim communications undertaken by DCPs and SDCPs on a regular basis. All RASSO VCLs are checked by a DCP within that team, with a proportion being dip-sampled by the SDCP. In Crown Court and magistrates' court cases, the SDCP dip-samples a proportion of the VCLs. In the VLU there is a system where a peer review from another VLU member takes place on all non-RASSO cases.

Complaint and Victims' Right to Review responses

9.19. The Area has systems and processes in place to manage the timeliness of responses to complaints and requests made under the VRR scheme. The Area completes a log of all complaints, which identifies whether a complaint was dealt with in a timely manner, whether it was upheld, any lessons to be learned and any action taken as a result. The complaints log is considered as a standing item on the agenda at the CQC, and the CCP identifies any cases which warrant further discussion and where feedback to staff is appropriate.

9.20. In addition, the Area completes a log of all cases where the VRR has been triggered. Again, this identifies the stage it has reached, timeliness, outcome, and lessons learned. This is also a standing item on the CQC agenda, where volumes and outcomes are considered. Individual reports are provided on any recent VRR reviews and, where the CCP identifies it as appropriate, these are discussed in detail. A summary of the complaints and VRR discussions is included in the DCCP email update following the CQC (see paragraph 9.17).

Victims' Code and Witness Charter

Expectations

9.21. 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.

9.22. 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.

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

9.24. 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.

9.25. 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

9.26. In our file examination, we assessed prosecutors' consultation with victims and witnesses, which includes STWAC compliance, as fully meeting the standard in 34 of 64 cases (53.1%), partially meeting the standard in 15 cases (23.4%) and not meeting the standard in 15 cases (23.4%). Performance was better in magistrates' court and Crown Court cases, where 56.3% and 60% of cases respectively fully met the standard, than in RASSO cases, where 38.9% fully met the standard. One of the issues we identified was the lack of recording of STWAC compliance on hearing record sheets, particularly on Crown Court and RASSO files.

9.27. It is evident from performance reports that the Area has concentrated recently on improving STWAC compliance. In Quarter 3 of 2021–22 (October to December 2021) the magistrates' court unit focused on STWAC compliance while conducting advocacy individual quality assessments (IQAs). In the same quarter, the Area used a form to monitor STWAC compliance on Crown Court and RASSO cases. A key finding from the Crown Court monitoring was that STWAC was being complied with but not always recorded. This mirrors our own findings.

9.28. As a result, instructions have been sent out to all staff responsible for recording STWAC compliance reminding them about the necessity to complete this. In addition, the Area is in the process of updating its hearing record sheets to include a section on STWAC compliance which will be disseminated internally and to all counsels' chambers. The hearing record sheets will then be uploaded to the case management system (CMS).

Victim Personal Statements

9.29. Our file examination revealed that the victims' wishes regarding VPS were fully complied with in 29 of 64 cases (45.3%), partially complied with in 26 cases (40.6%) and not complied with in nine cases (14.1%). We found varying degrees of compliance with VPS obligations across the different casework types in our file sample. Magistrates' court cases showed the strongest rate of compliance, with 56.3% fully meeting the standard, followed by RASSO cases at 44.4% and then Crown Court cases at 40.0%.

9.30. At the pre-charge review stage, the consideration of VPSs was often weak, and this may partly explain why the rate of compliance in the latter stages is so variable. In addition, one of our main findings was that, 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.

9.31. The Area has been working with other agencies through the Local Criminal Justice Board (LCJB) to improve compliance with the Victims' Code of Practice and victims' and witnesses' experiences at court. As part of the LCJB victim and witness sub-group, the Area ran a pilot to record information about the use of VPSs in court. This involved examining 30 files to see whether the file had a VPS, whether it had been used in court and, if not, why not. It was noted in the minutes that there were several cases where the Area had not recorded if the VPS had been read out at the sentencing hearing and the Area was to work on improving its performance in this respect.

9.32. The Area is in the process of amending its hearing record sheets. This will include adding a specific section on VPS compliance and whether one was used at court. This will be disseminated internally and to all counsels' chambers. The hearing record sheets will then be uploaded to CMS.

Offering meetings in all appropriate cases

9.33. The bereaved family scheme and the Victims' Code both give certain victims the opportunity to meet the prosecutor (or trial advocate in the case of bereaved families).

9.34. The Area has developed a presentation on the bereaved family scheme. This detailed presentation brings together guidance on the obligations under the VCL scheme and the Victims' Code. It includes information on when meetings should be offered, the purpose of those meetings, and who should attend. This has been delivered to 52 prosecutors within the Area who deal with Crown Court and RASSO cases as well as any in the magistrates' court team who are responsible for cases involving fatalities.

9.35. We understand from our discussions with the Area that a DCP recently attended a meeting with a bereaved family and, since then, the family member has agreed to visit the Area and provide feedback to prosecutors on the conduct of the meetings. In addition, one letter per month to a bereaved family is dip-sampled for quality.

Community engagement

9.36. The Area attends a significant number of different scrutiny panels involving each police force within its Area, at which topics and issues relevant to victim communication and care are highlighted and discussed with a view to driving improvements.

9.37. The Area attends several other working groups with outside stakeholders, including the domestic abuse strategic working group, regional sexual violence partnership, regional RASSO meeting, Independent Sexual Violence Advisor regional meeting and Independent Domestic Violence Advisor forum. We have seen from the minutes of these meetings that relevant victim and witness issues are discussed including VCL, VRR, STWAC and VPS performance.

9.38. The Area participates in the regional LCJB victim and witness sub-groups, where it reports on its compliance with the Victims' Code. The Area is represented by the RASSO SDGP and a DCP. As part of that, the Area has agreed to share with the Police and Crime Commissioners, who are monitoring Victims' Code compliance, the national data relating to its performance on the timeliness of VCL letters, thereby aiding scrutiny of the Area's performance.

10. CPS people

10.1. One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy²⁹ 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.

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

Staff induction

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

Table 7: Legal staff in post (full-time equivalent)

	LM1	LM2	SCP	CP	Total
At 31 March 2019	11.92	3.0	66.69	3.8	106.23
At 31 December 2020	12.80	3.0	67.22	10.0	113.03

10.5. The numbers shown above reflect only a small increase in the number of legal staff between March 2019 and December 2020. In the financial year 2021–22 the Area had a total of 29 new members of staff join: 15 legal staff and 14 operational delivery staff. However, over the same period 20 members of staff left the Area. During that period there has also been a significant number of staff moving internally within the Area, with 18 operational staff and 20 legal staff being promoted. In addition, seven members of operational delivery staff have moved between roles at the same grade, 10 apprentices secured permanent roles and the Area has three Associate Prosecutors in the process of completing their solicitor apprenticeship and about to begin their secondment away from the Area.

10.6. Consequently, the Area has seen a continual level of turnover and movement of staff. The necessary recruitment has resulted in additional pressure on the Area as there has been a demand to deliver training and induction of staff, whether they are new starters or current members of staff changing roles. In addition to training, there is also the burden on experienced staff members of providing support and mentoring to those new in post.

10.7. As a result of the challenges the Area faced during the pandemic, the CPS provided the Area with assistance for its RASSO and Crown Court work. This was provided in the main by CPS Wessex and specialist casework divisions in CPS Headquarters. This additional assistance allowed the Area to focus its resources on its more routine work during this period and, in turn, reduce the backlogs in the magistrates' courts and Crown Court. This additional support has now stopped but was of valuable assistance to the Area during the pandemic.

10.8. The Area is focused on workforce planning. The Area routinely monitors its staffing levels and reconciles the number of staff across the various roles and grades (senior, legal, operational delivery, and so on) through several sources.

10.9. The Area Strategy Board discusses staffing at every meeting. A standing item is the Senior District Crown Prosecutors' (SDCP) and Senior Operational

Business Manager's (SOBM) reports on staffing issues on each unit. Pressures caused by staff absences are considered and the actions taken to manage workloads on the units are discussed. Discussions also take place on the challenges the Area faces, and we saw references to the impact of factors such as staff absences; poor quality police files; an increase in the number of complex cases in the Crown Court Unit (exacerbated by a lack of experienced staff); and a 170% increase in pre-charge work in the RASSO unit in the two years between 2019–20 and 2021–22.

10.10. In addition, there are concerns that the Area is disadvantaged by the impact of its geographical size (covering the wide distances in Devon and Cornwall) and its workload is not properly reflected in the national resourcing model. For example, neither the necessity to deploy staff at short notice to court centres out of their immediate locality, with the consequent increase in travelling time, nor the abstraction of Associate Prosecutors for study are currently provided for in the resourcing model.

10.11. The Area's managers have a monthly finance meeting chaired by the Area Business Manager (ABM) where workforce capacity planning is an agenda item and workforce planning issues are reviewed. Discussions are held about staff promotions and the impact these have on a unit when a person leaves to take up their new role. There are also more general discussions about promotion campaigns, the effect of staff absences, and how cover is arranged. One item on the agenda covers internal staff changes, resignations, retirements, maternity leave, and recruitment campaigns so that Area managers are appraised of any issues.

10.12. As a result of this approach, the Area anticipates any upcoming vacancies and any other challenges it needs to address. The Area is proactive in its approach to workforce planning by building up waiting lists of successful candidates following recruitment exercises and finding ways of filling positions quickly and efficiently. For example, following a national recruitment campaign which had failed to secure any crown advocates for the South West, the Area has escalated the need to run a local recruitment exercise for crown advocates or expedite a national campaign.

10.13. The Area's senior management team are aware of the priority issues in their workforce planning. The shortfall in recent months was primarily in operational delivery staff; the Area has been operating a continual programme of overtime, but recognises that this approach is not sustainable in the long term. In addition, the Area has approached local universities offering opportunities for fixed term appointments and apprentices are applying for permanent Casework Assistant roles in the national recruitment campaigns.

10.14. The Area has begun recruitment as a priority, although managers are conscious that any consequent promotions will then create vacancies to backfill. Operational delivery staff vacancies currently stand at 20% for paralegal officer level, 31.5% for paralegal assistant level, and 28.5% for A2 level. The Area is currently recruiting at those grades. When complete, this should allow for a surplus. The Area is planning ahead by aiming to establish waiting lists from recruitment campaigns that would allow it to quickly fill any posts that become vacant. However, the continual turnover of operational delivery staff also has an impact on the prosecutors who are left without administrative support.

10.15. The shortfall in legal posts is recognised as not such an issue, as currently the Area is only carrying an overall shortfall of 2.14 full-time equivalent staff and there is a recruitment campaign to fill these posts. The Area has recruited a SDCP to assist with Operation Soteria and is recruiting for a second Crown Court manager to assist with the Covid-19 recovery plan.

10.16. Another issue for the Area is its shortage of experienced prosecutors, particularly in the RASSO team, where the Area has a resourcing issue because of a lack of desire by its most experienced prosecutors to work there. This has resulted in less experienced prosecutors, who are keen to develop, joining the team. This has led, in turn, to challenges in offering the correct levels of training and support to enable these prosecutors to gain the necessary skills and confidence to work as RASSO prosecutors. Currently, nine of the unit's thirteen prosecutors are relatively new to the unit.

10.17. The Area has induction plans in place for all its roles on the legal and operational sides. These are utilised for new members of staff and staff moving between teams within the Area, and are personalised to the individual depending on their background and experience.

Succession planning

10.18. The Area has a career development strategy, and this is regularly discussed by the senior management team. The Area has systems in place to track staff development needs and the training they receive. This forms part of an approach to effective succession planning and allows the Area to consider development moves to support the business and the individual.

10.19. Legal staff in all of the units are closely monitored by managers in terms of their current skill set and how they may develop in the future, with an eye on succession planning and making sure staff are developed appropriately. Managers are encouraged to make sure staff cover a spread of work and that all prosecutors have an opportunity to develop skills related to different types of serious casework.

10.20. Expressions of interest in movement between teams are regularly sent to all staff. Deputising opportunities are also offered to staff when colleagues are on leave.

Staff engagement

10.21. Staff engagement in the most recent Civil Service People Survey in 2021 showed that the overall engagement score for the Area was 66%, which is in line with the overall Civil Service engagement score but below the national CPS score of 69%.

10.22. The Area's score was also 66% in the 2020 survey, but it should be noted that in 2019 the score was much lower at 60% and in 2018 the score was 58%. Therefore, the past two years have seen a marked improvement in the level of engagement amid the pressure of the pandemic, which is an impressive achievement and something of which the Area is rightly proud. The survey revealed that the changes staff would most like to see in the next 12 months were a better work/life balance and better information and technology systems.

10.23. The Area was aware of sensitivities in how it managed its people during the unprecedented turbulence caused by the pandemic and therefore put in place measures to prioritise the health and safety of colleagues. This involved making sure there was a consistent approach from senior managers and all line managers to holding regular meetings with their staff on a one-to-one basis, making personal telephone calls to check on their wellbeing, recording video messages to staff and arranging all staff events. The senior managers value their teams and wrote personalised handwritten thank-you cards to each member of staff, which was very well received.

10.24. In addition, over recent months, the Area helped build relationships with an event to promote the culture of the CPS and improve performance within the teams. This was followed up with more events. Senior managers are conscious of the need to be as visible and accessible as possible and therefore, during the pandemic, made themselves available to staff through the use of Microsoft Teams and, since the restrictions have been lifted, have visited offices wherever possible.

10.25. In January 2022 the Area launched a commendation scheme whereby staff can nominate colleagues for commendations for excellence to celebrate outstanding work. The commendations are awarded to individuals or teams whose excellent work has been recognised and nominated by their colleagues. Two commendations are awarded each month in the categories of excellence in legal work and excellence in operational delivery work. These are celebrated in all staff meetings and the Area newsletter.

Learning and development

Expectations

10.26. 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

10.27. The pandemic has brought increased pressure across all the CPS Areas, with increased caseloads for lawyers and additional stakeholder liaison for managers, and therefore to maintain a comprehensive training and induction programme throughout this period has been a challenge. The documents provided showed that the Area has been able to do this and maintains records of individuals and groups who have received training.

10.28. The Area maintains a record of training courses on a spreadsheet. Details include the date of training, intended audience, whether mandated or voluntary, the content of the training, the names of delegates who attended and an evaluation of the training.

10.29. A wide range of courses has been delivered within the Area including legal, digital and operational. This includes “legal discussion” training and

training on topics such as case reviews (a bespoke session for South West), bad character applications, general indictment training, special measures, and more. The Area maintains a training log which summarises the courses completed by prosecutors.

10.30. There are national CPS management programmes aimed at both experienced and aspiring managers. Existing managers and prospective managers within the Area are encouraged to use these programmes.

10.31. Training is evaluated with staff members and line managers in personal development review discussions. The Area's Casework Quality Committee (CQC) also looks overall at the trends in quality and whether the training interventions have been successful.

Coaching and mentoring

10.32. Induction plans are put in place for all new starters and staff moving between teams. These are accompanied by a mentoring/'buddy' scheme which involves an experienced member of staff providing support and guidance. Staff also have access to the National Coaching Scheme. All new managers were offered coaching by an SDCP and 10 of them took this up. In relation to specialist teams such as RASSO, bespoke training plans are devised together with shadowing and mentoring programmes to make sure that new members of staff are fully supported and developed.

10.33. There is a culture within the Area whereby it supports Crown Prosecutors to secure roles as Senior Crown Prosecutors and prosecutors to become legal managers. In addition, it has several legal trainees and legal apprentices which it supports through their training.

Quality assurance

Expectations

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

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

10.35. 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

10.36. The Area has a variety of means to quality-assure its casework.

10.37. Reports are prepared on all cases which result in an adverse outcome, identifying issues and actions or recommendations in each case. The reports identify whether the case has been raised with the police at operational prosecution team performance management (PTPM) meetings and whether it needs to be raised at strategic joint operational improvement meetings (JOIMs). In RASSO cases, these include reports on all cases of rape which result in an acquittal.

10.38. In addition, monthly reports analysing all the adverse outcomes are prepared, bringing together details from the individual reports. These reports detail the overall data pertaining to adverse outcomes, summarise and explain the individual cases, and identify issues and lessons to be learned from them. These are discussed at the Area's Casework Quality Committee (CQC) and the themes and lessons to be learned are referred to in a Deputy Chief Crown Prosecutor (DCCP) note to all staff following the CQC meeting. The findings are also followed up by the District Crown Prosecutors (DCPs) with their staff to make sure that messages are embedded and to encourage improvement.

10.39. DCPs complete IQAs monthly in accordance with the national guidance and the SDCPs dip-sample a proportion of them. Summary reports are produced by each DCP every quarter in relation to the IQAs they have undertaken, confirming the numbers expected, the numbers completed and the number assessed as 'not met'. DCPs comment on the quality of files considered, any trends noted, feedback given and actions taken. These reports are then used to create quarterly highlight reports by each SDCP that detail the numbers undertaken by each DCP and overall for the unit, the number of 'not met' assessments and the numbers dip-sampled by each SDCP. They identify key findings and recommendations from the IQAs together with any additional findings from the SDCP dip samples. These are discussed at the CQC and then the themes and lessons to be learned are referred to in the DCCP's note to all staff following the CQC meeting.

10.40. During the pandemic, CPS Headquarters determined that Areas could reduce the number of IQAs they carried out or stop them entirely, if the pressures the Area faced made that necessary. CPS South West continued to undertake IQAs for disclosure and these take place for each unit on a quarterly basis. We also note that IQAs have been revised; they now include a section to allow feedback from staff to their line managers within seven days of being notified that an IQA has been created. It is hoped that this will encourage greater discussion between the parties about the issues identified and lead to improvements in performance.

10.41. In addition, all units' Disclosure Champions prepare an IQA disclosure summary, which is disseminated to all prosecutors, referring to any disclosure issues identified through IQAs.

10.42. The South West recently ran a consistency exercise with all its legal managers to make sure they were approaching IQAs in a uniform manner. This was successful and led to some useful debate on the approach to be taken in the future. The Area plans to continue with such an exercise every six months to make sure its legal managers continue to adopt a consistent approach.

10.43. We have seen examples of case management panels and early planning conferences the Area undertakes at the pre-charge and post-charge stages for the most complicated or high profile cases within each of the units. The panels, chaired by the SDCP for the unit responsible, outline the proposed management of the case including the issues for trial, disclosure strategy, indictment strategy, custody time limit risks and any actions and tasks required.

10.44. The Area holds a monthly Casework Quality Committee (CQC). We had the benefit of observing a CQC. The permanent members of this committee are the Chief Crown Prosecutor (CCP), DCCPs, SDCPs and legal leads. Senior

representatives from the three police forces also attend on an ad hoc basis. It has several standing items for consideration and discussion which all have substantial impacts on casework quality. These include:

- victim communication
- complaints
- Victims' Right to Review
- casework issues
- adverse findings
- Judge directed acquittals
- disclosure failures
- unduly lenient sentences
- local case management panels
- Area 'Top 10' cases
- casework successes and good practice
- hate crime
- violence against women and girls.

10.45. This allows the CQC to reflect on all the above aspects of Area casework and to identify areas of strength and areas for improvement.

10.46. After each CQC, the DCCP publishes a CQC update to the Area, identifying and explaining the themes discussed at the CQC. This includes links to training and podcasts where relevant. We have seen from the minutes provided that over the past 12 months, the CQC has taken a proactive approach to identifying themes, trends and areas for improvement. It has then addressed those issues with appropriate remedial action. Some examples include providing guidance to staff on prosecuting domestic abuse, stalking and harassment, assaults upon emergency workers and identification evidence.

10.47. It is noted that the Area has been proactive by carrying out assurance work ahead of this inspection, focusing on aspects of work highlighted in other inspection reports. The Area has carried out a 'mini-inspection' of cases against HMCPSP's file questionnaire with feedback provided to prosecutors. The Area then created an action plan showing the aspects of work to be improved

following the file examination exercise. Several of the issues identified are replicated in our findings. Progress against each point is being monitored and an action plan is in place to address these, which we understand will be combined with the findings from this inspection in order for the Area to monitor improvements in performance in relation to both sets of findings.

10.48. Our findings from the file examination suggest that there is a need to improve the quality of case analysis and case strategy in both pre-charge and post-charge reviews across all areas of casework. The Area has identified the need for further bespoke case review training and that will be mandated and rolled out to all prosecutors over the coming months.

11. Digital capability

11.1. One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy³⁰ 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 has a formal performance management meeting regime. All managers are regularly held accountable for the performance of their unit/team and we saw evidence of high level and detailed performance reports produced for magistrates' court, Crown Court and rape and serious sexual offences (RASSO) casework.

11.5. High level performance is discussed at the monthly Area Strategy Board (ASB) as a standing item. An overall highlight report is produced for the ASB based on detailed performance data for the Area, focusing on key issues with an impact on performance, progress against any action plans, best practice and risks.

11.6. The ASB minutes show that action taken on issues previously highlighted is reported back on, with further action identified and any progress acknowledged. It is therefore clear that the Area responds to issues identified through its review of the data. In addition, each unit supplies the ASB with their own highlight report identifying any key issues affecting performance within that unit, resourcing issues and steps taken to address any risks identified. These highlight reports are then discussed at the ASB.

³⁰ 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

11.7. The ASB does not remain fixed on specific performance issues but adapts its focus in accordance with the performance data. Data is often broken down by police force area, enabling specific issues to be identified. The Area also compares its performance to other CPS Areas. By way of example, in November 2021, the ASB focused on key data in its highlight report relating to the number of guilty pleas at first hearing at the magistrates' court, cases dropped at third and subsequent hearing, Crown Court cracked and ineffective trials, and operational delivery triage of the acceptance of cases received from the police. By the time of the December 2021 ASB, the key issues were the same, but the Board also considered hate crime sentence uplifts, charging data and task management.

11.8. Once the issues have been explored, appropriate action is agreed. For example, the Area identified that one of the issues contributing to low conviction rates was the acceptance of non-conviction restraining orders, which appeared to be used to resolve cases rather than proceeding to trial. The ASB agreed that District Crown Prosecutors (DCPs) would have to sanction the acceptance of non-conviction restraining orders in the future.

11.9. In addition to the ASB, the Area holds a more detailed performance meeting monthly, attended by the Deputy Chief Crown Prosecutor (DCCP), Senior Operational Business Managers (SOBMs), Operational Business Managers (OBMs), Senior District Crown Prosecutors (SDCPs) and the Area Performance Manager (APM). The agenda is broken down into the five strategic aims:

- our people
- digital capability
- strategic partnerships
- casework quality
- public confidence.

11.10. A variety of reports are included for discussion at these performance meetings including, by way of example, high weighted measures, disclosure reasons for non-convictions, timeliness of service of Disclosure Management Documents, Victim Liaison Unit performance and case management system (CMS) task analysis.

11.11. An example of a report prepared by the Area analysing a specific performance issue was one detailing charging performance in relation to volumes, cases over 90 days, backlogs and plans to manage timeliness. We

note that data in relation to charging backlogs is routinely considered by the Area. This identified issues with a lower acceptance rate at triage for Avon & Somerset Police, compared to the other police forces for the Area. We were informed by the Area that Avon and Somerset Police have committed significant resources to identifying the issues with file quality which have led or are leading to a high triage rejection rate, but owing to organisational change likely to last until 2023, challenges remain. As a result, the Area is working with the police by delivering training on the contents of the National File Standard and disclosure issues. In addition, it is holding more local case management panels to identify issues at an early stage and provide feedback to the police to encourage better grip of cases from the outset.

11.12. Each unit also holds a monthly performance board attended by all the managers within their unit. The agenda mirrors that of the Area performance meeting and has the five strategic aims as standing items. Performance data is also discussed under the relevant theme.

11.13. The Area makes sure that performance data is disseminated to all staff in a realistic way, so that awareness is raised but there is not an overload of performance data. We saw evidence that the Area uses data at its all-staff engagement meetings to highlight areas of good and poor performance. Team meetings and Team Information Boards (TIBs) are held for the magistrates' court, Crown Court and RASSO units, during which the data specific to that team is discussed and analysed. In addition, in all-staff telephone calls, slides are prepared with data tables and graphs outlining the performance headlines, which are discussed followed by any particular areas of concern. The Area has also used more innovative ways to raise awareness of performance, such as quizzes on specific areas – for example, charging performance.

Digital tools and skills

Expectations

11.14. 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)³¹.

³¹ 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.

Our findings

11.15. 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, staff appraisals and conferences, and the CVP to conduct virtual or remote hearings. The Area has made a positive effort to help staff understand the needs of new digital processes and applications and has distributed user guides to enable staff to gain an understanding of what is required of them to make sure the systems work as intended. For example, South-West News, which is a digital newsletter to all staff, provides guidance on subjects such as redaction of documents, oracle learning, Microsoft Excel training and digital capability, along with a range of webinars.

11.16. The Area maintains a training log that confirms that it has delivered training in 2021 in relation to several digital topics, including paralegal officer functions in Modern CMS, principal offence codes, CMS refresher training for managers, CMS foundation training, General Data Protection Regulation (GDPR) and an introduction to the Crown Court Digital Case System. We have been told by the Area that all relevant staff have been trained on these digital subjects.

11.17. A digital skills CMS training needs analysis was carried out with operational delivery staff in Quarter 4 of 2021–22 (January to March 2022) before the restructuring of the administration team in the South West. The analysis highlighted gaps in the digital capability of certain staff and the training that needed to be prioritised. The Area has confirmed that training is currently being delivered to bridge this gap in learning. It is working with the Central Operational Training Team and digital trainers to deliver enhanced CMS training. It is anticipated that this training will take place from September 2022 onwards.

11.18. A similar digital skills CMS training needs analysis is currently ongoing for legal staff and is due for completion in June 2022. Following this, the Area will act on the results and deliver further targeted training to their legal cadre.

11.19. Performance conversations take place with legal managers at all levels to assess the extent of their digital skills to allow them to undertake their management functions.

11.20. Training has been carried out in the Area on the new redaction app. This had been delivered by the Central Operational Training Team. In February 2022, an early assessment of the data on the redaction log suggested that the training has improved and increased the reporting of redaction issues.

12. Strategic partnerships

12.1. One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy³² 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 documents we have seen suggest that Area has constructive relationships at senior level with its three local police forces.

12.5. The Chief Crown Prosecutor (CCP) meets on a regular basis with the Chief Constables of the three police forces within the Area as well as the Police and Crime Commissioners. Similarly, the Deputy Chief Crown Prosecutor (DCCP) has regular meetings with senior officers in those forces. This engagement provides regular opportunities to discuss casework quality and encourage improvements on issues specific to each police force and the wider criminal justice system.

12.6. Strategic Prosecution Team Performance Meetings (SPTPMs) are held on a quarterly basis with all three police forces. The DCCP, Senior District

³² 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

Crown Prosecutor (SDCP), Area Business Manager (ABM) and Senior Operational Business Manager (SOBM) attend from the Area and there is police representation at the rank of Assistant Chief Constable and Chief Superintendent. The agendas for the meetings with the three separate forces generally mirror each other, with several standing items including:

- a Covid-19 update
- performance data in relation to charging, magistrates' court, Crown Court and rape and serious sexual offences (RASSO) file quality
- thematic crime
- any items raised from the various local prosecution team performance management (PTPM) meetings.

12.7. We have read minutes of these meetings, which appear to reveal an honest and frank exchange of views about these and other issues, including some of the problems surrounding file quality and the timeliness of the provision of material for charging decisions.

12.8. We also note that, during these meetings, good practice by the police is recognised and commended by the Area, which assists with creating constructive relationships. An example of this is the action taken by Gloucestershire police in response to the increase in body worn video since the implementation of the sixth edition of the Director's Guidance on Charging, which was causing further work for police and prosecutors. Gloucestershire police ensured that any body worn video submitted to the Area was properly clipped to show relevant parts only. They were commended for their approach and the Area requested that any guidance that had been circulated to officers was shared with other police forces to drive improvements across the Area.

12.9. Local PTPM meetings (now Joint Operational Improvement meetings) are held on a monthly basis between the Area and each of the three police forces, and there is a separate RASSO PTPM meeting. The Area and police are committed to improving key areas such as file quality and charging and we noted reference to persistent problems such as the backlog of cases awaiting charging advice.

12.10. We considered documents relating to the Area's work with its police forces on disclosure. The Joint Disclosure Board (JDB) is responsible for delivering improvements in the handling of the disclosure of unused material. Meetings are held quarterly and attended by the DCCP, SDCCPs and senior representatives from all three police forces.

12.11. In the minutes, we saw common themes were discussed, which included poor quality disclosure forms, lack of/quality of Investigative Management Documents and compliance with the Director's Guidance, including the lack of/quality of rebuttable presumption material. We saw evidence of a collaborative approach to improving police officers' understanding of their disclosure obligations and there have been several actions by the Area to help address these issues, including creating a batch of templates to share examples of good practice across the region, holding local disclosure forums with the three police forces, and producing short podcasts which officers can access for guidance. The Area has tried to take a regional approach to the police forces, with the aim of encouraging them to all work together with a view to improving file quality.

12.12. Despite this, we were informed by the Area that disclosure and general file quality problems persist. That is reflected in our findings from the files we assessed in relation to police compliance with disclosure obligations and the NFS. As a result, the Area is currently delivering bespoke training on the Director's Guidance to all three police forces and file quality is being assessed to monitor compliance.

12.13. The Area takes an active role in a significant number of scrutiny panels with its three police forces on several subjects including hate crime, domestic abuse, rape and modern slavery. The feedback received from the panels on the quality of service the Area provides shows the Area's willingness to influence change through its trusted partnerships with the police at all levels. It uses the feedback constructively to improve its casework quality and influence the performance of the other agencies.

Strategic partnerships with the criminal justice system

Expectations

12.14. 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

12.15. We saw evidence of proactive joint working across the criminal justice agencies.

12.16. Local Criminal Justice Boards (LCJB) are in place for all parts of the Area. There is consistent representation across each LCJB by all the main partner organisations. The purpose of these Boards is to deliver effective, efficient and fair justice to the local communities. Although performance in general is discussed at LCJBs, understandably over the recent period the focus of discussions has been the impact of the pandemic and how this is being dealt with. The minutes we read demonstrated a willingness from the Board members to work collaboratively to manage, and recover from, the significant pressures and backlogs caused by the pandemic.

12.17. The CCP and DCCP engage on a regular basis with the senior judiciary including Resident Judges, Presiding Judge and Her Majesty's Courts and Tribunals Service (HMCTS). This engagement usually involves a combination of the CCP and DCCP and focuses on improving casework quality. There is strong evidence of proactive engagement with stakeholders and trusted partnerships with the criminal justice system at all levels.

12.18. Regular court user group meetings, including a magistrates' court regional task force and a Covid-19 recovery group, are held with the judiciary, defence, probation and youth offending team to discuss any issues and resolve any difficulties. By way of example, in response to an issue regarding timeliness of initial details of the prosecution case (IDPC) bundles and the completion of Better Case Management (BCM) forms, a working group was set up to try to improve communication between the CPS and the defence. The Area acknowledges that there have been mixed results, but that work continues with drop-in clinics at court centres where defence representatives can discuss cases with prosecutors to resolve trial issues and any outstanding matters to make sure that cases are better prepared at an early stage. By way of example, in

Devon and Cornwall, an SDCP attends an advertised clinic and is available to discuss specific casework.

12.19. In addition, the Area attends other working groups with external stakeholders, including a domestic abuse strategic working group, a regional sexual violence partnership, regional RASSO meetings, Independent Sexual Violence Advisor regional meetings and the Independent Domestic Violence Advisor forum. As with police scrutiny panels, the feedback received from the working groups shows the Area's willingness to influence change through its trusted partnerships with other stakeholders at all levels. It uses the feedback constructively to improve its casework quality and influence the performance of the other agencies.

12.20. We also saw evidence that the Area is at the forefront of initiatives to improve casework quality, an example of which is Operation Soteria³³. Since September 2021 the Area has been a pathfinder site for Operation Soteria. It has been keen to lead on this in order to work with rape victims to improve performance and victim care, despite the resulting increase in pressure on resources within the RASSO unit.

Self-employed barristers (counsel)

12.21. Meetings take place between the Area and local counsel's chambers on a regular basis. The Area attends the Circuit Advocate Liaison Committee and meetings with the Heads of Chambers to improve liaison and performance between the Area and local Bar. In addition, it attends a Chambers Forum every six months where several issues are discussed including workloads, crown advocate deployment, return of briefs, advocate panel numbers and casework issues.

³³ Operation Soteria is a response to the government End-to-End Rape Review, and the Home Office pledge to increase the number of rape cases resulting in prosecution. It is a national operation to drive RASSO performance to transform the way that rape investigations are handled and the way that rape cases are prosecuted and progressed through the criminal justice system. Operation Soteria uses new ideas and approaches such as enhancing early advice on investigations with the police, enhancing case progression, improving victim communications, supporting victims better and raising the visibility of the CPS.

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.

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

Rape and serious sexual offences (RASSO) casework

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

Evidence will be drawn from:

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

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

B. Public confidence

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

All correspondence with victims is accurate, timely and empathetic.

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

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

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

Evidence will be drawn from:

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

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

C. CPS people

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

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

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

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

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

The Area uses internal assurance to improve casework quality.

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

Evidence will be drawn from:

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

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

D. Digital capability

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

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

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

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

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

Evidence will be drawn from:

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

E. Strategic partnerships

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

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

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

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

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

Evidence will be drawn from:

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

Annex B

File examination findings

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

Magistrates' courts

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	100%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	40.0% 36.0% 24.0%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	80.0% 12.0% 8.0%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	32.0% 32.0% 36.0%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	16.0% 48.0% 36.0%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	37.5% 43.8% 18.8%
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	12.0% 84.0% 4.0%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	30.0% 20.0% 50.0%
Police initial file submission post-charge			
9	The police file submission complied with National File Standard for the type of case.	Fully met Not met	73.3% 26.7%
10	The police file submission was timely.	Fully met Not met	86.7% 13.3%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	25.0% 75.0%

No.	Question	Answers	Result
Post-charge reviews and decisions			
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	36.7% 16.7% 46.7%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	50.0% 25.0% 25.0%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	60.0% 20.0% 20.0%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	75.0% 12.5% 12.5%
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	42.9% 42.9% 14.3%
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met	30.8% 30.8% 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	63.3% 20.0% 16.7%
Post-charge case progression			
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	37.9% 37.9% 24.1%

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	52.4% 9.5% 38.1%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	29.4% 11.8% 58.8%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	16.7% 16.7% 66.7%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	77.3% 18.2% 4.5%
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	41.2% 35.3% 23.5%
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	16.7% 50.0% 33.3%
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	50.0% 27.8% 22.2%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	55.6% 22.2% 22.2%
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	70.0% 16.7% 13.3%
Disclosure of unused material			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	48.3% 41.4% 10.3%
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	35.7% 25.0% 39.3%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not carry out initial disclosure at all	17.6%
		Did not endorse any decisions on a non-blank MG6D	5.9%
		Did not endorse any decisions on the MG6C	5.9%
		Failed to identify that other obvious items of unused material were not scheduled	11.8%
		Other	23.5%
		Said DUM was not disclosable	11.8%
		Said NDUM was disclosable	11.8%
		Used the wrong endorsements	11.8%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	34.6%
		Partially met	15.4%
		Not met	50.0%
45	The prosecutor complied with the duty of continuous disclosure (but not including timeliness of disclosure).	Fully met	50.0%
		Partially met	
		Not met	50.0%
46	If Q45 is PM or NM, the most significant failing was:	Said DUM was not disclosable	100%
47	The prosecution complied with its duty of continuous disclosure in a timely manner.	Fully met	50.0%
		Partially met	
		Not met	50.0%
48	Sensitive unused material was dealt with appropriately.	Fully met	25.0%
		Partially met	25.0%
		Not met	50.0%
49	Third party material was dealt with appropriately.	Fully met	
		Partially met	
		Not met	100%
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	50.0%
		Not met	50.0%

No.	Question	Answers	Result
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	65.5% 27.6% 6.9%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	6.7% 46.7% 46.7%

Victims and witnesses

55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	56.3% 31.3% 12.5%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	56.3% 25.0% 18.8%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	82.4% 17.6%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	80.0% 20.0%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	50.0% 50.0%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	38.1% 28.6% 33.3%

Crown Court

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	90.6% 9.4%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	43.8% 46.9% 9.4%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	86.2% 10.3% 3.4%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	25.0% 37.5% 37.5%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	37.5% 21.9% 40.6%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	44.4% 14.8% 40.7%
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	21.9% 46.9% 31.3%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	24.1% 51.7% 24.1%
Police initial file submission post-charge			
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met	45.0% 55.0%
10	The police file submission was timely.	Fully met Not met	80.0% 20.0%
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	9.5% 38.1% 52.4%
Post-charge reviews and decisions			
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	45.0% 30.0% 25.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	56.4% 30.8% 12.8%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	70.0% 30.0%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	90.0% 10.0%
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	60.0% 24.0% 16.0%
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	21.9% 34.4% 43.8%
19	In all cases (MC, CC and RASSO) any reviews addressing significant developments that represent a major change in case strategy (and which are additional to those reviews considered in Qs 13 and 18) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully met Partially met Not met	44.4% 27.8% 27.8%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	65.0% 22.5% 12.5%
Post-charge case progression			
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	30.8% 38.5% 30.8%

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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	58.8% 11.8% 29.4%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	82.1% 15.4% 2.6%
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	48.7% 33.3% 17.9%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	3.2% 16.1% 80.6%
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	61.5% 20.5% 17.9%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	39.5% 15.8% 44.7%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	53.3% 46.7%
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	12.5% 6.3% 81.3%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	63.6% 27.3% 9.1%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	50.0% 13.6% 36.4%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	78.8% 21.2%
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	71.4% 28.6%

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	85.3% 8.8% 5.9%
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	85.3% 8.8% 5.9%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	83.3% 16.7%
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	70.0% 22.5% 7.5%
Disclosure of unused material			
39	In relevant cases a DMD was completed.	Fully met Partially met Not met	45.5% 18.2% 36.4%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	71.4% 28.6%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	39.5% 44.7% 15.8%
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	47.2% 36.1% 16.7%

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	5.3%
		Failed to endorse or sign a blank MG6D	15.8%
		Failed to identify that other obvious items of unused material were not scheduled	10.5%
		Other	21.1%
		Said DUM was not disclosable	31.6%
		Said NDUM was disclosable	10.5%
		Used the wrong endorsements	5.3%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	94.4%
		Partially met	5.6%
		Not met	
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met	61.3%
		Partially met	22.6%
		Not met	16.1%
46	If Q44 is PM or NM, the most significant failing was:	Did not carry out continuous disclosure at all	8.3%
		Did not endorse any decisions on newly revealed items	16.7%
		Other	25.0%
		Said DUM was not disclosable	16.7%
		Said NDUM was disclosable	25.0%
		Used the wrong endorsements	8.3%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met	83.3%
		Partially met	10.0%
		Not met	6.7%
48	Sensitive unused material was dealt with appropriately.	Fully met	42.9%
		Partially met	14.3%
		Not met	42.9%

No.	Question	Answers	Result
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	100%
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met	81.8% 18.2%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	100%
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	61.3% 35.5% 3.2%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	52.6% 34.2% 13.2%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	26.1% 21.7% 52.2%

Victims and witnesses

55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	60.0% 16.7% 23.3%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	40.0% 50.0% 10.0%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	68.4% 15.8% 15.8%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	33.3% 44.4% 22.2%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	57.1% 28.6% 14.3%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	44.4% 18.5% 37.0%

RASSO

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	94.4% 5.6%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	22.2% 44.4% 33.3%
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% 11.8% 5.9%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	38.9% 38.9% 22.2%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	33.3% 38.9% 27.8%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	13.3% 33.3% 53.3%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	5.6% 61.1% 33.3%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	29.4% 35.3% 35.3%
Police initial file submission post-charge			
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met	60.0% 40.0%
10	The police file submission was timely.	Fully met Not met	95.0% 5.0%
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	100%
Post-charge reviews and decisions			
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	55.0% 25.0% 20.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	73.7% 15.8% 10.5%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	66.7% 33.3%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	60.0% 40.0%
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	73.7% 26.3%
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	38.9% 11.1% 50.0%
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	50.0% 10.0% 40.0%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	50.0% 50.0%
Post-charge case progression			
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	30.0% 60.0% 10.0%

Area inspection programme CPS South West

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	73.7% 26.3%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	66.7% 27.8% 5.6%
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	83.3% 16.7%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	21.1% 52.6% 26.3%
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Fully met Partially met Not met	73.7% 26.3%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	31.6% 15.8% 52.6%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	16.7% 83.3%
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	25.0% 75.0%
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met	100%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	72.2% 22.2% 5.6%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	85.7% 14.3%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	88.9% 11.1%

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	93.3% 6.7%
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	90.0% 5.0% 5.0%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	78.9% 15.8% 5.3%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	77.8% 11.1% 11.1%
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	70.0% 20.0% 10.0%
Disclosure of unused material			
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met	73.7% 15.8% 10.5%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	76.5% 23.5%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	20.0% 50.0% 30.0%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	36.8% 31.6% 31.6%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not identify reasonable lines of enquiry	8.3%
		Failed to identify that other obvious items of unused material were not scheduled	25.0%
		Other	16.7%
		Said DUM was not disclosable	16.7%
		Said NDUM was disclosable	8.3%
		Set out the wrong test for disclosure (eg courtesy disclosure)	8.3%
		Used the wrong endorsements	16.7%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	94.7%
		Partially met	5.3%
		Not met	
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met	73.3%
		Partially met	
		Not met	26.7%
46	If Q42 is PM or NM, the most significant failing was:	Failed to identify that other obvious items of unused material were not scheduled	50.0%
		Other	25.0%
		Said DUM was not disclosable	25.0%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met	86.7%
		Partially met	13.3%
		Not met	
48	Sensitive unused material was dealt with appropriately.	Fully met	87.5%
		Partially met	12.5%
		Not met	
49	Third-party material was dealt with appropriately.	Fully met	64.7%
		Partially met	17.6%
		Not met	17.6%

No.	Question	Answers	Result
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met	28.6% 71.4%
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	93.3% 6.7%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	42.1% 52.6% 5.3%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	31.3% 18.8% 50.0%
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	38.9% 27.8% 33.3%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	44.4% 38.9% 16.7%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	72.7% 27.3%
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	75.0% 25.0%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	16.7% 55.6% 27.8%

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
Pre-charge decision		
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met Not applicable (NA)
2	The CPS decision to charge was timely.	Fully met Partially met Not met NA
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met NA
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met NA
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met NA
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met NA
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met NA
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met NA
Police initial file submission post-charge		
9	The police file submission complied with the National File Standard for the type of case.	Fully met Not met
10	The police file submission was timely.	Fully met Not met
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met NA

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

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

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

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

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

Annex E

File sample composition

Breakdown of the standard file sample

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

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

Finalised cases included those concluded at either the not-guilty anticipated plea (NGAP) hearing in the magistrates' courts or the Plea and Trial Preparation Hearing (PTPH) in the Crown Court in order to be able to properly assess decision-making and case progression. The sample also included cracked trials, and a mix of successful and unsuccessful cases.

All magistrates' court files were drawn from NGAP cases to capture the review and preparation required before the NGAP hearing. The magistrates' court sample included three youth cases; the remainder were adult cases. Minor motoring cases were excluded from the magistrates' court file sample.

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 8: File sample structure

Outcome	Magistrates' courts	Crown Court	RASSO	Total
Late guilty plea	6 (20%)	10 (25%)	5 (25%)	21
Guilty plea at NGAP hearing	3 (10%)	4 (10%)	2 (10%)	9
Conviction after trial	7 (23%)	8 (20%)	4 (20%)	19
Discontinued/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
Total	30	40	20	90
<i>Police charged</i>	2 (max)	0	0	
<i>CPS Direct charged</i>	4 (max)	6 (max)	2 (max)	
<i>Youth cases</i>	3			

The categories in italics in Table 20 were not additional files but contributed to the total volume of cases. Where there were no Judge directed acquittal or no case to answer outcomes finalised during the quarter preceding the file examination, acquittals after trial were substituted in order to maintain the balance between successful and unsuccessful cases.

Occasionally, it may have been necessary to exceed the maximum numbers of CPS Direct charged cases to avoid selecting older cases, but this was at the discretion of the lead inspector.

Sensitive/non-sensitive split

Of the standard magistrates' court and Crown Court file samples, 20% were sensitive cases and half of these were domestic abuse allegations.

Table 21 sets out the mandatory minimum number of sensitive case types included in our magistrates' court and Crown Court samples. As far as possible, they were evenly split between successful and unsuccessful outcomes.

Occasionally, it may have been necessary to exceed the minimum numbers in certain categories of sensitive casework to avoid selecting older cases, but this was at the discretion of the lead inspector.

Table 9: Minimum sensitive case types in sample

Case type	Magistrates' courts (30)	Crown Court (40)	RASSO (20)	Total (90)
Domestic abuse	3	4	2	9
Racially or religiously aggravated (RARA)	1	1	0	2
Homophobic/elder/disability	1	1	0	2
Sexual offence (non-RASSO)	1	2	0	3
Total	6 (20%)	8 (20%)	2 (10%)	16 (17%)

If there was no RARA case available, another hate crime category file was substituted.

Annex F

Scoring methodology

The scores in this inspection are derived solely from our examination of the casework quality of 90 Area files: 30 magistrates' court cases, 40 Crown Court cases and 20 rape and serious sexual offences (RASSO) cases.

We based our evaluation of casework quality on two key measures: added value and grip. We define added value as the Crown Prosecution Service (CPS) making good, proactive prosecution decisions by applying its legal expertise to each case, and grip as the CPS proactively progressing its cases efficiently and effectively.

We used our file examination data to give scores for added value and grip, which are set out as percentages. They were obtained by taking the questions that feed into each aspect³⁴ 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

³⁴ 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 10: 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 11: Worked example scores

Question	Answer	All cases
Q17: Steps were taken to achieve best evidence by making appropriate applications for special measures.	Fully meeting	13
	Partially meeting	7
	Not meeting	5
	Not applicable	5
Q33: Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully meeting	23
	Partially meeting	5
	Not meeting	1
	Not applicable	1
Q34: Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully meeting	8
	Partially meeting	10
	Not meeting	9
	Not applicable	3
Q55: The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully meeting	3
	Partially meeting	4
	Not meeting	3
	Not applicable	20
Q56: The victim's wishes regarding VPS were complied with.	Fully meeting	17
	Partially meeting	3
	Not meeting	4
	Not applicable	6
Q57: The prosecution sought appropriate orders to protect the victim, witnesses, and the public.	Fully meeting	16
	Partially meeting	5
	Not meeting	4
	Not applicable	5
Q58: There was a timely VCL letter when required.	Fully meeting	5
	Partially meeting	4
	Not meeting	4
	Not applicable	17
Q59: The VCL letter was of a high standard.	Fully meeting	3
	Partially meeting	3
	Not meeting	3
	Not applicable	21
Q60: The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses.	Fully meeting	11
	Partially meeting	7
	Not meeting	5
	Not applicable	7
Total for all above questions	Fully meeting	99
	Partially meeting	48
	Not meeting	38
	Not applicable	85

Excluding the not applicable answers leaves 185 answers. The maximum score possible would therefore be 370 points (185 answers × 2 points per answer) if all answers were “fully meeting the standard”.

The score for this fictitious Area is calculated as follows:

- Two points for each case assessed as fully meeting the expected standard = 198 points
- One point for each case assessed as partially meeting the standard = 48 points
- Total (198 + 48) = 246 points
- Expressed as a percentage of 370 available points, this gives the score as 66.5%. When the ranges are applied, 66.5% (60% to 69.99%) gives an overall rating of partially meeting the required standard for this casework theme.

Annex G

Casework themes

Table 12: 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 ³⁵	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

³⁵ 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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