



HMCPSI

HM Crown Prosecution
Service Inspectorate

Area inspection programme

CPS Mersey-Cheshire

Baseline assessment

September 2022

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Who we are

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

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

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

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1. Summary

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

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

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

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

1.4. This report sets out our findings for CPS Mersey-Cheshire.

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. The Area has historically had a stable workforce, but this has changed more recently. More budget being available for staff and more staff retiring or leaving for other jobs have shifted the balance significantly towards staff with less rather than more experience. The Area has also had frequent changes in key management roles, including having three Chief Crown Prosecutors in under two years. Five of the most senior managers have either been in post for less than a year or are in their post temporarily, and many of the legal managers are also new to their roles.

1.7. New joiners or those moving into new roles receive induction, mentoring and support but this, too, takes the more experienced staff away from their casework.

Overall, this is a very good report for the Area

1.8. These challenges would have risked affecting casework without any other factors, but like the rest of the CPS, the Area has also had to manage increased caseloads and backlogs as a result of Covid-19. Caseloads are

still not back to pre-pandemic levels, and there are more custody cases in the system, which tend to involve serious allegations and require careful monitoring. The Area has lost more working days than the national average, partly because of some long-term sickness absences which are now resolving, and partly because of Covid-19 absences. The defence community has faced its own pressures during the pandemic, which have had an impact on the Area's ability to engage fully and resolve cases with appropriate pleas at the earliest opportunity.

1.9. Inevitably, some aspects of casework are not where the Area would wish them to be, most notably the case analysis and strategy deployed by prosecutors in reviews at and after charge. There is also room to improve some aspects of disclosure and the explanations given to victims when a charge is discontinued or substantially altered.

1.10. As part of the methodology for these Area inspections, we rated each Area as fully meeting, partially meeting, or not meeting expected standards under 29 themes across the three casework types. We rated CPS Mersey-Cheshire as fully meeting the required standard under 24 of the 29 themes, partially meeting the standard under four and only not meeting it under one theme.

1.11. Overall, this is a very good report for the Area, and shows a real focus on quality casework during and since Covid-19 lockdowns, in the face of considerable challenges. The Area has demonstrated strong performance in many aspects of its casework, for which the dedication, hard work and resilience of its staff across all grades and cadres are largely responsible. Despite the difficulties, Area staff have maintained quality in much of their casework and service delivery for partners, victims and witnesses, and the local communities of Merseyside and Cheshire. We are confident that the Area has the determination and the capacity to achieve further improvements where necessary.

Added value and grip

1.12. 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.

1.13. Table 1 shows our baseline assessment of CPS Mersey-Cheshire's added value and grip.

Table 1: Baseline assessment of CPS Mersey-Cheshire

CPS Mersey-Cheshire	Added value	Grip
Magistrates' courts casework	74.1%	80.8%
Crown Court casework	72.0%	86.4%
Rape and serious sexual offences casework	80.5%	84.7%

1.14. Overall, our file examination found that the Area demonstrates good grip and adds value to much of its casework.

1.15. The Area adds value by making decisions about whether there is a realistic prospect of a conviction, in accordance with the Code for Crown Prosecutors, and by selecting charges that reflect the alleged offending and give the court adequate sentencing powers. Indictments are generally of good quality, especially in rape and serious sexual offences (RASSO) cases, which can raise complex issues around the choice of offences. The RASSO team's handling of sensitive and third-party unused material also adds value.

1.16. Many aspects of victim and witness care add value but there is more to do to make sure that special measures are considered at the earliest possible stage.

1.17. There were some aspects where improvement is called for, most notably in the quality of case analysis and strategy in reviews at and after charge. These reviews often did not clearly analyse the evidence and set out on what basis the case would be prosecuted by way of a cogent case strategy. When significant changes happened in a case, there was often no review to address the impact on the prosecution case.

1.18. Improvement is also needed in disclosure, especially in the less serious cases. The Area would add greater value by challenging police schedules more often, and by making better decisions about what unused material meets the test for disclosure.

1.19. Good grip was apparent in the timeliness of most charging decisions, reviews and decisions to discontinue, and in the disclosure of unused material. New material received from the police and correspondence with the witness care unit, court and defence were dealt with promptly, enabling cases to progress. The prosecution case was served promptly by the Crown Court and RASSO teams.

1.20. To build higher ratings for grip across casework, the Area needs to improve the timeliness of RASSO charging decisions and serve hard media evidence on the court and defence more promptly. There is also room to improve the quality of instructions to court advocates so that they have all the information they need, especially in relation to the prosecution trial strategy and acceptable pleas.

Casework themes

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

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

1.22. 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.

¹ See annex F for scoring methodology.

Pre-charge decisions and reviews

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

1.24. 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.

1.25. In our file sample, we found that 77 of the Area’s 79 charging decisions² (97.5%) complied with the Code for Crown Prosecutors at the pre-charge stage. This is excellent.

1.26. Within the different teams, the Code compliance rates were:

- magistrates’ court cases: 96.2%
- Crown Court cases: 100%
- RASSO cases: 94.7%.

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

1.28. A significant number of the pre-charge reviews in our file sample did not clearly analyse the evidence and set out on what basis the case would be prosecuted by way of a cogent case strategy. We assessed 32 of the 79

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

applicable cases (40.5%) as fully meeting the expected standard for case analysis and strategy, 27 cases (34.2%) as partially meeting it, and 20 cases (25.3%) as not meeting the standard. Crown Court cases were the weakest for this aspect, and RASSO cases the strongest.

1.29. In the weaker cases, we found that the case analysis did not adequately assess the legal points to prove and the strengths and weaknesses of the evidence. Defences that had been raised, or were likely to be raised, were often not properly explored and often, the police were not asked to carry out reasonable lines of enquiry.

1.30. The charging advice needs to set out, to a higher standard, what applications are needed to support the prosecution case, especially bad character. We assessed 32 of the 65 applicable cases (49.2%) as fully meeting the expected standard.

1.31. Unused material also needs to be considered more carefully. Our file sample contained 37 cases (46.8%) where we assessed this as fully meeting the required standard, 16 cases (20.3%) assessed as partially meeting it and 26 cases (32.9%) as not meeting the standard.

1.32. The instructions to the court prosecutor need work. We rated 43 of the 79 applicable cases (54.4%) as fully meeting the expected standard. Within the instructions, acceptable pleas were not set out as often as they should have been, and this may be hampering the Area's ability to improve its performance for guilty pleas at the first hearing in the magistrates' courts.

1.33. Charging advices also need demonstrate better consideration of relevant special measures to support victims and witnesses at trial. We rated just under half the cases in our sample (45.6%) as fully meeting the standard for this aspect.

1.34. The selection of charges in the pre-charge advice is a strength for the Area, with 66 of the applicable 77 cases (85.7%) assessed as fully meeting the required standard. In the RASSO cases in our sample, this rose to 100%, which is particularly commendable given the complexity that there can be in these cases, especially where allegations are not recent.

1.35. Just over a third (36.8%) of RASSO charging advices were timely. In the magistrates' court and Crown Court teams, the timeliness of charging decisions was a strength, with 91.2% and 100% of cases, respectively, fully meeting the expected standard.

Post-charge decisions and reviews

1.36. As with pre-charge reviews, the quality of ongoing reviews and strategy is of critical importance to the effective and efficient progress of cases through the criminal justice system. In our file sample, we found that 89 of the Area's 90 post-charge decisions (98.9%) complied with the Code for Crown Prosecutors. As with pre-charge Code compliance, this is an excellent finding. Within the different teams, the Code compliance rates were:

- magistrates' court cases: 96.7%
- Crown Court cases: 100%
- RASSO cases: 100%.

1.37. Post-charge reviews contained slightly better case analyses and strategies than pre-charge reviews, although there is still room to improve. We rated 53 of the 90 cases (58.9%) as fully meeting the expected standard for post-charge reviews, 18 cases (20.0%) as partially meeting it and 19 cases (21.1%) as not meeting the standard. Again, the issues included the quality of case theory and consideration of pleas and applications. Most initial or post-sending reviews were timely; we rated 68 cases (81.0%) as meeting the relevant timeliness target.

1.38. There were ten cases where a decision was made to accept a plea or a basis of plea, and the acceptance was correct in nine of those cases (90.0%). Decisions to discontinue were also made appropriately and in good time in most instances (16 of the 20 relevant cases, or 80.0%).

1.39. Post-charge reviews should also be carried out at other stages during the case. In Crown Court cases (including RASSO cases listed before the Crown Court), a review should be conducted when the prosecution is required to serve the full evidence upon which the prosecution is to be based. This is called a stage 1 review. 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, any additional material should have been submitted by the police to allow the prosecution to review it before it is served on the defence.

1.40. We assessed the Area's stage 1 reviews as fully meeting the required standard in 16 of the 53 relevant cases (30.2%), as partially meeting it in 15 cases (28.3%) and as not meeting the standard in 22 cases (41.5%). The weaker cases either had no record of a review, or had one which copied the pre-charge advice or earlier review without addressing changes in the case or new information which had been received.

1.41. 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:

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

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

1.43. There were 32 cases in our file sample that called for a significant event review. The review was carried out to the required standard in 11 of those cases (34.4%). We rated eight cases (25.0%) as partially meeting the standard and the remaining 13 cases (40.0%) as not meeting the standard, usually because there was no record of a review.

1.44. Throughout the life of a case, prosecutors made appropriate and timely decisions about bail (including applying for bail conditions) and custody in almost all the files in our sample. We rated 82 cases out of 90 (91.1%) as fully meeting the expected standard for this aspect of work, another seven cases (7.8%) as partially meeting it and the one remaining case (1.1%) as not meeting the standard. This is important to make sure that victims, witnesses and the public are protected, and also that applications to remand a suspect in custody are made only where necessary.

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

1.45. 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.

1.46. We assessed the preparation for the PTPH as fully meeting the required standard in 24 of the 40 Crown Court cases (60.0%) and 15 of the 20 RASSO

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

cases (75.0%) in our sample. The most common issues in weaker cases were the use of appropriate applications to strengthen RASSO cases and the quality of instructions to the prosecution advocate.

1.47. There is no requirement for a formal instruction (or brief) to be drafted; sending the relevant parts of the case file should be enough to enable the advocate to conduct the PTPH and trial. However, we found that deficiencies in key parts of the case review (including lack of a case analysis and a trial strategy) and information about acceptable pleas meant that often, the advocate did not have the key information they needed. We assessed instructions as fully meeting the required standard in 11 of the 46 applicable cases (23.9%), partially meeting it in four cases (8.7%) and not meeting the standard in 31 cases (67.4%).

1.48. While the papers counsel received were not always adequate, they were usually sent in good time for the hearing. We assessed the service of papers on counsel as timely in over three quarters of instances (77.2%). Service of the prosecution case on the defence and court is a strength for the Area, being timely in 55 out of 58 relevant cases, or 94.8%.

1.49. Service of hard media in advance of the PTPH is reasonable, but could be improved. We rated 12 of the 36 applicable Crown Court and RASSO cases in our sample (33.3%) as partially meeting or not meeting the standard for this aspect of preparation.

1.50. Indictments were generally of high quality, with 44 of the 58 relevant cases in our file sample (75.9%) assessed as fully meeting the required standard.

1.51. In most cases (43 of the 58 applicable cases, or 74.1%), the prosecutor endeavoured to discuss the case with the defence. Usually this was by letter and did not lead to meaningful engagement. The defence community have experienced their own challenges during Covid-19 (including difficulties taking instructions from clients who were ill, isolating, caring for others or in prison) and this will have had an impact on the ability of the prosecution and defence to have proper discussions about issues in the case.

1.52. Incoming material from partners in the criminal justice system was dealt with appropriately and promptly most of the time. The handling of new material from the police was assessed as fully meeting the expected standard in 52 of the 63 relevant cases (82.5%). In terms of handling correspondence from the court and defence, and from the witness care unit, we assessed the Area as fully meeting the standard in 83.3% and 86.2% of cases respectively.

1.53. Requests to the police for additional material or editing of material were timely and escalated where appropriate in most of the 54 relevant instances. We rated prosecutors as fully meeting the standard for this aspect in 40 cases (74.1%), partially meeting it in another ten cases (18.5%) and not meeting it in four cases (7.4%). The Area has clear escalation procedures with both its police forces, which our file sample indicates are being used appropriately.

1.54. There was timely and appropriate action to comply with court directions or Judges' orders in 51 of the 63 applicable cases (81.0%). We assessed eight cases (12.7%) as partially meeting the expected standard and four cases (6.3%) as not meeting the standard.

Disclosure of unused material

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

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

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

1.58. The Area has done a great deal of work, independently and with the police, to improve disclosure, some of which will have post-dated the handling of disclosure in our file sample. Our findings suggest there is more work to do to build better compliance with some of the Area's duties under the disclosure regime.

1.59. We assessed the police's compliance with their disclosure duties as fully meeting the required standard in 32 of the 80 applicable cases in our file sample

(36.0%), as partially meeting the standard in 41 cases (46.1%) and as not meeting it in 16 cases (18.0%).

1.60. We rated the Area’s feedback to the police as fully meeting the expected standard in 21 of the 57 relevant cases (36.8%). The Area gave incomplete feedback, which we rated as partially meeting the standard, in nine cases (15.8%); and gave no feedback, which we rated as not meeting the standard, in 27 cases (47.4%).

1.61. The weaker standard of police files risks hampering the Area’s ability to comply with its duties of disclosure, so it is important that the Area’s feedback to the police improves, so that the police are aware of the need to improve compliance in a significant proportion of cases.

1.62. Table 2 summarises our findings for CPS Mersey-Cheshire about the standard of initial and continuing disclosure.

Table 2: CPS Mersey-Cheshire compliance with disclosure duties

Ratings	Cases (%)
Initial disclosure	
Fully meeting the expected standard	49.4%
Partially meeting the expected standard	25.3%
Not meeting the expected standard	25.3%
Continuing disclosure	
Fully meeting the expected standard	71.2%
Partially meeting the expected standard	19.2%
Not meeting the expected standard	9.6%

1.63. As Table 2 shows, continuing disclosure was carried out to a higher standard than initial disclosure. We conclude that not properly identifying issues as part of a cogent case theory at and after charge may have hampered initial disclosure, and that once the defence statement made clear what the issues were, prosecutors were better able to assess the unused material, making continuing disclosure more effective.

1.64. Initial disclosure was stronger in the RASSO team than the other two casework teams. The RASSO team was also stronger than the Crown Court team in handling continuing disclosure. There were only two cases in the magistrates’ court sample where continuing disclosure was required, but the team’s handling of both was assessed as fully meeting expectations.

1.65. The main issues in weaker cases, at both stages of the disclosure process, were failing to identify that obvious items of unused material were missing from the police schedules and incorrectly marking material as not disclosable. There were no disclosure failings which led us to invoke our policy on possible miscarriages of justice.

1.66. Sensitive and third-party material rarely featured in magistrates' court cases, so our findings about its handling relate primarily to Crown Court and RASSO cases. Overall, sensitive material was dealt with appropriately in about half of the Crown Court cases (45.5%) and all but one of the RASSO cases (85.7%). The handling of third-party material was rated as fully meeting the expected standard in all Crown Court and RASSO cases; this is a real strength in the Area's handling of unused material. The Area is also good at chasing late defence statements and challenging inadequate examples.

1.67. Disclosure records properly and fully recorded actions, decisions and reasoning in 67 of the 88 relevant cases in our sample (76.1%). Another 13 cases (14.8%) had a partial record, leaving only eight cases (9.1%) with an inadequate record. Magistrates' court and Crown Court teams both did well in this respect, but RASSO was the strongest team.

Victims and witnesses

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

1.69. 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.

1.70. Our file examination found room to improve the consideration of applications and ancillary matters for victims and witnesses, especially special measures, as part of the charging advice. We assessed this aspect as fully meeting the expected standard in 45.6% of the charging advices in our sample.

1.71. The service that the Area's casework teams and Victim Liaison Unit deliver to victims and witnesses is mostly strong and effective. We saw some very good witness care for vulnerable victims, and have included two case studies as examples in the Crown Court and RASSO casework chapters.

1.72. However, more work is needed on the quality of letters to victims when a charge is dropped or substantially altered. We rated 38.5% of the Area's letters as fully meeting the expected standard. In weaker letters, the issues were usually a lack of empathy or providing an incomplete or confusing explanation for the decision.

1.73. There is also scope to improve the Area's ability to demonstrate that a Victim Personal Statement has been obtained, considered, and used at sentencing in accordance with the victim's wishes, as required by the Victims' Code of Practice. We assessed this aspect of work as fully meeting the required standard in two thirds of the 51 relevant cases (66.7%), partially meeting it in eight cases (15.7%) and not meeting it in nine cases (17.6%).

1.74. We recorded higher compliance with expected standards for other parts of the Area's service to victims, witnesses and the public, including:

- securing best evidence by addressing witness care unit communications in a timely and effective manner; we assessed 50 of the 58 relevant cases in our sample (86.2%) as fully meeting expectations
- the correct and timely warning of witnesses, which we assessed as fully meeting the expected standard in 70 out of 77 cases (90.9%)
- consulting victims and witnesses where appropriate and complying with the speaking to witnesses at court initiative; we assessed 43 of the 52 relevant cases in our sample (82.7%) as fully meeting expectations
- timeliness of letters required under the Victim Communication and Liaison scheme; we assessed all but one letter as fully meeting the timeliness target (92.9%)
- seeking appropriate orders at sentencing to protect the victim, witnesses and the public; the Area sought appropriate orders almost all of the time, with 37 of the 40 applicable cases (92.5%) assessed as fully meeting the expected standard.

2. Context and background

Background to the inspection

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

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

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

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

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

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

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

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

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

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

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

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

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

The current landscape and the Covid-19 pandemic

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

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

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

⁷ *CPS response to COVID-19: 16 March to 8 May 2020*; HMCPsi; June 2020. www.justiceinspectorates.gov.uk/hmcp/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 courts⁸ were also set up as one of the measures to address the growing backlogs of Crown Court cases. In Mersey-Cheshire, Nightingale courts were set up in Liverpool and Chester. The courts are no longer in operation and Crown Court work has returned to the Crown Court centres used before the pandemic.

the Area had to address deficiencies in a significant number of cases as part of its casework preparation

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

caseload increased by 13.6% between April and June 2020, while another Area saw an increase of 30.3%.

2.12. Our findings need to be read in the context of the Covid-19 pandemic and the backlogs created by it, but also bearing in mind the other pressures on the Area, such as staffing issues, including recruitment, staff movements and the training and inductions these demanded.

2.13. Police file quality remains an issue. In our sample of cases, across all casework types, we rated 66.7% of files submitted by the police as fully meeting the National File Standard and 33.7% 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 casework preparation, which exacerbated the impact of Covid-19.

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

⁹ *CPS response to COVID-19: dealing with backlogs*; HMCPSI; March 2021. www.justiceinspectorates.gov.uk/hmcpsi/inspections/cps-response-to-covid-19-dealing-with-backlogs/

Impact on the Area

Staffing levels and structures

2.14. Along with all CPS Areas, CPS Mersey-Cheshire received an increase in its budget to recruit more staff. The Area has historically been good at staff retention and recruitment, and has benefited from relatively stable staffing.

2.15. The proportion of staff leaving the Area was lower than the national average in 2020–21, but has increased more recently. The pandemic caused many people to re-evaluate their priorities, and some staff have chosen to retire earlier than the Area anticipated. This has had an impact on the experience available within the casework teams. The Area has recognised the risk that this will continue, given the age profile of its staff; 39.0% are over 50 years old.

2.16. The Area has also experienced higher than average sickness absences, with an average working days lost figure that has exceeded the national average since Quarter 2 of 2020–21 (July to September 2020, which was the second quarter of the pandemic). Some of these absences were and are Covid-related, and others are long-term absences for various reasons which are gradually being resolved. The latter will take some time to fall out of the data because it is calculated on a rolling year basis.

2.17. In 2021, the Area was affected by two key bereavements, including notably the Area Business Manager. The loss of two well-respected colleagues had a significant impact on their colleagues and we offer our condolences to those affected.

2.18. In the past few years, the Area has experienced significant changes in the management cadre, including having three Chief Crown Prosecutors. At the time of writing, the Chief Crown Prosecutor, one of the two Deputy Chief Crown Prosecutors and one of the Senior District Crown Prosecutors have all been in post for less than a year, with the newest member of the team joining in March 2022. On the operational delivery side of the business, the Area Business Manager and one of the senior business managers are currently in post on a temporary basis.

2.19. New managers have been appointed at the legal manager one and two grades, and have required induction and extra support while they find their feet. The Area has also worked to develop legal grades by putting a mix of skills and experience into all units, which will build resilience. The Area invests in its legal trainees, who work in all three casework teams during their training, and they also need additional support as they change roles.

2.20. Having new staff join the Area or move to new teams places additional demands on managers and colleagues. More experienced staff have volunteered to act as mentors and buddies for those with less experience, but this adds to the burden on staff who have also had to deal with increased caseloads and to cover for colleagues who were ill, self-isolating or had caring responsibilities during the pandemic. The experienced staff also take on a larger proportion of the more serious casework while colleagues develop into their new roles.

2.21. The challenges of taking on new staff and moving many staff into different roles at management and operational levels, while coping with all the consequences of the Covid-19 pandemic, have been considerable. It is to the Area’s considerable credit that it has managed to deliver the largely positive findings in our casework examination despite these difficulties.

Caseloads and backlogs

2.22. CPS Mersey-Cheshire 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.

2.23. Table 3 shows the changes between Quarter 4 of 2019–20 (January to March 2020) and Quarter 4 of 2021–22 (January to April 2022) for the number of live cases the Area was carrying in the two teams at the end of each month.

Table 3: Changes in live cases 2020–21

Month	Q4 2019-20 (Jan-Mar 2020)	Q1 2021-22 (Apr-May 2021)	Difference	Difference (%)
Magistrates’ courts				
January	5,210	6,323	+1,113	+21.4%
February	5,044	6,560	+1,516	+30.1%
March	5,219	6,628	+1,409	+27.0%
Crown Court				
January	1,971	2,688	+717	+36.4%
February	1,951	2,641	+690	+35.4%
March	1,863	2,637	+774	+41.5%

2.24. The Area remains significantly affected by the substantial increase in caseload over the past year. The Area's caseload per prosecutor and caseload per Senior Crown Prosecutor have been consistently better than the national average for some time. However, the balance of experience has shifted significantly, as we discuss earlier in this chapter, and this presents real challenges.

2.25. The seriousness of the cases the Area is dealing with has also increased and there are more custody cases in the system, as we discuss from paragraph 2.36. The Area has mechanisms in place across the casework teams to identify trends in caseloads, allocations and task numbers, which provide tools for assessing the current pressure on particular teams and individuals. Legal managers also use a spreadsheet of higher risk cases to determine who is carrying a more complex caseload. This informs discussions around new allocations.

Magistrates' courts

2.26. When the pandemic struck, there was a significant increase in the live caseload for the magistrates' courts. This peaked at 9,345 cases in Quarter 2 of 2020–21 (July to September 2020), which was an increase of 79.4% on the caseload in the final quarter before Covid-19 (5,210 in Quarter 4 of 2019–20).

2.27. Since the peak, caseloads have decreased but are still significantly higher than before the pandemic, and are once again rising. They increased in the most recent quarter for which national data was available at the time of writing – Quarter 4 of 2021–22 (January to March 2022) – to 6,323, some 21.4% higher than the same time two years earlier, just before the pandemic struck.

2.28. Trial 'blitzes' took place in the magistrates' courts in Liverpool to try to reduce the backlog. In June 2021, there were 498 cases awaiting trial and lead-in times had reached up to 27 weeks. Following the trial blitz, where 133 additional cases were listed for trial over a two-week period, the lead-in times were reduced to 20 weeks.

2.29. The Area worked closely with the courts to make sure that appropriate cases were included in the blitz listings. It put considerable effort into triaging and preparing cases, including checks that victims and witnesses were engaged. As a result, some cases were discontinued. Of the additional cases listed, nearly half (48.5%) were resolved on the day without a trial, and half of those resulted from acceptable pleas being entered.

2.30. While there are a number of factors why a defendant pleads guilty, a review of the Area's trial blitzes showed that there had been a lack of robust case strategies and case progression at first hearings, which may have resulted

in acceptable pleas not being entered at an earlier stage, and cases being set down for trial unnecessarily. This accords with our finding that the Area has work to do on the quality of case reviews, especially analysis and strategy, at the earliest stages. This is one of the few aspects of weakness in what is otherwise a strong performance in our file examination findings.

Crown Court

2.31. The Area has experienced a significant increase in its Crown Court caseload since the start of the pandemic, which is apparent from Table 3. The live caseload continued to climb for longer than in the magistrates' courts. Crown Court case numbers reached their peak of 2,875 in Quarter 2 of 2021–22 (July to September 2021), an increase of 45.9% on the quarter immediately preceding the pandemic. The latest caseload data shows that the Area still has a caseload over a third higher (36.4%) than before Covid-19.

Rape and serious sexual offences

2.32. Many rape and serious sexual offences (RASSO) cases, including the most serious and complex ones, are heard in the Crown Court. It follows that the same difficulties found in the Crown Court also had an impact on RASSO case throughput.

2.33. At the beginning of the pandemic, there was a decrease in receipts of RASSO cases from the police. This was in part because of a decrease in allegations being reported by victims at the beginning of the first lockdown. In the Area, the live caseload was at its lowest in the first quarter of the pandemic, some two thirds (63.1%) below the previous quarter's caseload.

2.34. Receipts began to increase at the end of 2020. The Area's RASSO caseload took the longest of all three casework types to reach its peak. By Quarter 3 of 2021–22 (October to December 2021), the caseload was nearly a third (29.2%) higher than before Covid-19.

2.35. The increase in caseloads and backlogs has been particularly difficult for what is a relatively small RASSO team, and has had an impact on the Area's timeliness in charging RASSO cases. The caseload has started to fall again; the most recent data shows a caseload of 13.8% above pre-pandemic levels.

Custody cases

2.36. The number of days that a defendant can be held in custody, the custody time limit (CTL), was extended nationally in September 2020. This was a temporary measure in response to the early stages of the pandemic effectively closing courtrooms. The extension to CTLs ended in June 2021.

2.37. Some older cases with longer CTLs remained unfinalised, while newer cases with shorter CTLs entered the system, so the number of custody cases continued to rise in the Area. This created additional work, not only in monitoring compliance with the CTLs but also in preparing applications to extend. A successful application to extend requires the court to find that there is a good reason to do so and that the prosecution has acted with due diligence, so to prepare each application, the Area had to review whether or not these criteria were met.

2.38. During the early stages of the pandemic, the Area worked closely with HM Courts and Tribunals Service to prioritise cases for hearing once the courts could re-open. A live CTL was one of the factors that was considered, and CTL cases continued to be expedited where they could.

2.39. The Area's monitoring of CTL cases goes over and above what is called for by the national Standard Operating Practice, and includes regular narrative reports on all high risk and CTL cases. The Area runs CTL reports on the case management system and has a tracker for custody cases.

2.40. The Area was the subject of a CTL audit before the pandemic, which was complimentary of the Area's work. A more recent peer review of CTL handling led to further assurance of the efficacy of the Area's processes. The Area's last CTL failure was in 2018–19.

Defence

2.41. There is a settled defence community and culture in the Area, with positive working relationships between the Area and those representing defendants.

2.42. Engaging with the defence during the pandemic has been complicated by the fact that many defence firms furloughed staff initially, and by staff absences and remote working. Defence practitioners have also had difficulties taking instructions from their clients because of social distancing or clients having to isolate. Arranging to see clients in custody has been particularly problematic. These barriers have meant that defence representatives have often been able to take instructions only on the day of hearings, which limits the effectiveness of early engagement between the defence and prosecution.

2.43. While we noted from our file sample that the Area sought to engage with the defence in most cases, there were few instances where this resulted in a meaningful exchange or discussion about the issues in the case.

2.44. The difficulties engaging with the defence extended to the trial blitzes in the magistrates' courts. Acceptable pleas were taken at the court once the defence had been able to take instructions, but there was positive engagement with the defence before the trial date in only a third of the trials listed, and only one case resulted in acceptable pleas before the day of trial.

Moving forward

2.45. While the backlogs have been extremely challenging and the Area has worked with others to mitigate the impact, we recognise that a court backlog is not simply something that can be worked through and cleared by increasing resources. More resources, increases in court sittings, and initiatives such as trial blitzes and Nightingale courts do help, but they also bring additional pressures. We were told that significant pressures remain for the Area.

2.46. Despite this, the Area has shown signs of recovery in terms of the measures used by the CPS to assess performance, which gives confidence that further improvements can be won. The Area ranked above average in 14 of the 18 high weighted measures in Quarter 4 of 2021–22 (January to March 2022) and has improved over the past year (from Quarter 4 of 2020–21 to Quarter 4 of 2021–22) in six of the measures, while staying the same or declining only slightly in another three. The Area's recovery, based on the CPS's performance trends, has been stronger than the national picture.

2.47. There is scope to reduce the number of hearings per case in the magistrates' courts and Crown Court, which we conclude may result partly from not identifying the issues in the case at an early stage or addressing acceptable pleas in reviews and instructions to court prosecutors.

2.48. The Area's performance on most of the measures for charging is above average, although we noted a decline in the timeliness of charging, particularly cases which had a target of 28 days for advice to be given.

2.49. Many of the performance indicators for hate crime and violence against women and girls show better results than the national average and/or are improving.

2.50. The Area has taken a positive approach to dealing with the pandemic and is continuing to work with partners on recovery plans. There remains significant pressure on workloads and this is likely to continue for some time. It is a credit to the casework teams that the Area has performed at a consistently

high level despite these challenges. As the pressures start to lift, it is hoped that the Area can focus on improving the quality of casework in those aspects where it is called for.

Police service to the Area

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

2.52. 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.

2.53. The police's service to the CPS is generally better in CPS Mersey-Cheshire than we have seen in many other Areas, but there is still room for improvement, particularly around compliance with DG6. In order to improve the service it receives from the police, the Area needs to improve its use of DG6 Assurance so that issues of file quality can be identified and tackled.

Performance data

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

2.55. While we have considered the performance data available, our assessment of the quality of CPS Mersey-Cheshire'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.

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

3. Framework and methodology

Inspection framework

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

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

Methodology

File examination

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

3.4. The file sample composition is set out in annex E. We selected the cases according to these criteria to ensure the same balance of successful and unsuccessful outcomes, and of sensitive and non-sensitive case types, for each Area. We chose live cases for 10% of the file sample to enable us to examine cases that were affected by pandemic pressures, particularly pressures in listing practices. Most of the remaining 90% were finalised between October and December 2021, although to find sufficient RASSO cases, we had to select a few cases finalised before or after that. The RASSO cases were finalised between August 2021 and February 2022. Within the criteria, cases were chosen at random.

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

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

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

Other inspection activity

3.7. We asked CPS Mersey-Cheshire 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 virtually observed the Area's casework quality board meeting on 10 February 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 board. We sent this assessment document to the Area in advance of a meeting to discuss its contents with senior managers. At the meeting, the Area was able to put the findings in context, explain more about the pandemic and other pressures its was dealing with, and supply more evidence where necessary.

Quality assurance

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

3.11. In line with our methodology¹¹, we held consistency exercises for our inspectors on the question set and guidance, and we invited staff from a number of Areas including CPS Mersey-Cheshire. 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.

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

3.12. As set out in detail in our methodology, we follow a robust quality assurance process for cases where we reach a provisional conclusion that a decision to charge, proceed to trial, accept pleas, or discontinue was not in compliance with the Code for Crown Prosecutors. The process involves two stages of internal review and between one and three stages of consultation with 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, HMCPSI has awarded a single score to a CPS Area at the conclusion of an Area inspection: excellent, good, fair, or poor. While this provided an overall score which was easily accessible to those reading the report, it did not always reflect the variety of findings we found in each Area, and across the Areas.

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

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

¹² See annex D for the full question set.

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

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.

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

4. Key stages in a prosecution case

Pre-charge decision-making

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

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

Complying with the Code

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

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

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

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

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

Selecting the most appropriate charges

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

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

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

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

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

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

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

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

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

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

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

- It sets out a clear trial strategy demonstrating how each of the essential legal elements of the offence 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 or not an appeal against bail being granted was necessary
- which applications and/or ancillary orders were to be made at first hearing or notice given to the court and defence
- advice on representations to the court as to venue, including sentencing guidelines where appropriate

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

Post-charge decision-making and reviews

Police file quality – the National File Standard

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

4.20. The CPS case management system allows the CPS to report whether a police file submission complied with the National File Standard. This national file quality data is collated and considered at local prosecution team performance meetings, which are held between CPS local legal managers and their police counterparts 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 on Charging, sixth edition (DG6) Assurance.

¹⁵ The contents of the initial details of the prosecution case are regulated by [Part 8 of the Criminal Procedure Rules \(CrimPR\)](#) and the [Criminal Practice Directions \(CPD\) 2015 Division 1, at Part 3A](#).

¹⁶ The latest version of the National File Standard is contained in [the Director's Guidance on Charging, sixth edition \(DG6\)](#). Many of the files we examined pre-date the 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. We call this a significant event review.

Stage 1 reviews

4.25. 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

4.26. 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.

4.27. 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.

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

4.29. 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.

4.30. 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.

4.31. 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

4.32. 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.

4.33. 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

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

4.35. Although the duty is placed on all parties, in practice the prosecution tends to take the lead in contacting the defence and providing the information to the court. The CPS case management system includes a duty of direct engagement log; this should be completed by the prosecutor and then uploaded to the 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 positive for resources and provides certainty for victims, witnesses and defendants.

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

Disclosure of unused material

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

Police duties

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

4.38. 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.

4.39. 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.

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

Feedback on the police's compliance with their disclosure duties

4.41. Despite the pressures on CPS Areas, feedback to the police by the CPS about disclosure failings remains central to the effectiveness of joint working and joint national disclosure improvement plans.

Initial disclosure

4.42. 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.

4.43. 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

4.44. 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.

4.45. 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.

4.46. 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.

4.47. 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.

4.48. 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

4.49. 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

4.50. 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 or withholding unused material to or 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 rationales for disclosure decisions that have not been logged automatically.

Disclosure management documents

4.51. 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

4.52. 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

4.53. We examined whether appropriate consideration was given before charge to the relevant issues 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

4.54. 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

4.55. 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.

4.56. 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

4.57. 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.

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

Victim Personal Statements

4.59. 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.

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

Victim Communication and Liaison scheme letters

4.60. 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.

4.61. 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

4.62. 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

4.63. 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

4.64. 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

4.65. 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:¹⁹

- 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.²⁰

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

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

Grip

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

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

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

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

Added value and grip scoring

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

Table 4: Added value and grip scoring

CPS Mersey-Cheshire	Added value	Grip
Magistrates’ court casework	74.1%	80.8%
Crown Court casework	72.0%	86.4%
Rape and serious sexual offences casework	80.5%	84.7%

5.12. Our findings for added value and grip need to be viewed in the context of the impact of the Covid-19 pandemic, staff abstractions and absences, and the many changes of senior managers over the past two to three years. The Area has lost some very experienced staff, some through early retirement, and is now facing increased caseloads and backlogs while trying to support new legal and operational delivery staff and managers. We discuss these factors in more detail in paragraphs 2.14 to 2.53.

5.13. Despite the challenges, the Area has achieved high scores for grip and added value. This is a testament to the dedicated efforts of staff, across all grades and in both legal and operational roles, to maintain quality casework and a quality service for partners, victims and witnesses, and the local communities of Merseyside and Cheshire.

Magistrates' court casework added value and grip

Added value

5.14. The Area's score for added value in magistrates' court casework is 74.1%.

5.15. The Area added significant value to cases in its application of the Code for Crown Prosecutors when making decisions to charge, and in selecting the most appropriate charges. However, our file examination highlighted that in magistrates' court cases, the Area could improve the quality of its pre-charge and post-charge reviews and its compliance with disclosure obligations.

5.16. Reviews at the pre-charge and post-charge stages sometimes lacked a clear case analysis and strategy that demonstrated that the prosecutor had:

- properly considered the available evidence
- understood and addressed the strengths and weaknesses of the case.

5.17. Where a significant event review was required, many of these reviews did not properly address the changes or new material and the impact that this would have on the case strategy. This detracts from the Area's ability to demonstrate it is adding value to its casework.

5.18. The value added when handling and making decisions around the disclosure of unused material throughout the case was variable in magistrates' court cases. There were issues with items of disclosable material not being disclosed and failures to identify items of unused material that had not been provided by the police.

Grip

5.19. The Area's score for grip of its magistrates' court casework is 80.8%.

5.20. The Area demonstrated that it had a good grip of its magistrates' court cases, with charging decisions, reviews, and decisions to discontinue being dealt with in a timely manner. New material received from the police and correspondence with the court and defence were dealt with promptly, enabling cases to progress and hearings to take place as scheduled.

5.21. The Area needs to improve the service of hard media before the not guilty anticipated plea hearing. Of the 15 cases where there was hard media, under half (seven cases or 46.7%) were rated as fully meeting the standard for the service of hard media and the remaining eight (53.3%) were rated as not meeting the standard. Failing to serve hard media in a timely manner may contribute to avoidable listings for trial and/or late guilty pleas.

Crown Court casework added value and grip

Added value

5.22. The Area's score for added value in its Crown Court casework is 72.0%.

5.23. As with magistrates' court casework, the Area was good at applying the Code for Crown Prosecutors and selecting appropriate charges. Indictments were generally of good quality.

5.24. Our file examination showed that the quality of reviews, particularly pre-charge reviews, could be improved, with more value added. We found that a significant number of Crown Court pre-charge reviews did not clearly analyse the evidence and set out on what basis the case would be prosecuted by way of a cogent case strategy.

5.25. Disclosure in Crown Court cases is generally a strength for the Area, but there is room to improve the quality of initial and continuing disclosure, which would add more value.

Grip

5.26. The Area's score for grip of its Crown Court casework is 86.4%.

5.27. Charging decisions and other reviews were generally timely. Decisions to discontinue cases were made and put into effect in a timely manner.

5.28. The draft indictment and key evidence were served in good time for the Plea and Trial Preparation Hearing (PTPH). Papers were uploaded to the Crown Court Digital Case System at least seven days before the hearing in 38 out of 40 cases (95.0%), with the remaining two cases (5.0%) assessed as partially meeting the expected standard.

5.29. Court directions were complied with in a timely manner in 31 of the 36 relevant cases in the Crown Court (86.1%).

5.30. The Area needs improve the quality of instructions to counsel. Counsel was instructed in a timely manner in 29 out of 39 cases (74.4%). However, the quality of the instructions was poor, with 21 of 28 cases (75.0%) assessed as not meeting this standard. This was usually because no formal instructions were drafted, and the material sent to the advocate from the case file was deficient in key respects.

5.31. The timeliness of the disclosure of unused material in Crown Court cases is a strength for Area. Initial disclosure was timely in 32 out of 36 cases (88.9%) and continuing disclosure was timely in 28 out of 32 cases (87.5%).

Rape and serious sexual offences casework added value and grip

Added value

5.32. The Area's score for added value in its RASSO casework is 80.5%.

5.33. As with magistrates' court and Crown Court work, in RASSO cases the Area was good at applying the Code for Crown Prosecutors when making decisions to charge and making review decisions before charge. It was also good at selecting the most appropriate charges and drafting the indictment correctly. This is especially notable because RASSO cases have an added layer of complexity when it comes to deciding on charges, particularly when the allegations are not recent.

5.34. Disclosure in RASSO cases is generally a strength for the Area. The quality of initial and continuing disclosure was better in RASSO cases than in those handled by the magistrates' court and Crown Court teams. The team's handling of sensitive unused material and third-party material were particularly strong.

5.35. As with magistrates' court and Crown Court work, the quality of reviews both before and after charge could be improved and add more value. In particular in RASSO work, we found that significant event reviews required work, with five of seven applicable cases (71.4%) assessed as not meeting the standard. This was generally because a review did not take place when required and therefore did not add value.

Grip

5.36. The Area's score for grip of its RASSO casework is 84.7%.

5.37. The timeliness of key decisions was mixed. Post-sending reviews were assessed as fully meeting the expected standard for time taken in 17 out of 19 cases (89.5%). However, charging decisions were assessed as fully meeting timeliness expectations in seven of the 19 Area-charged cases (36.8%). Our assessment of timeliness in charging was taken from the last request for charging advice, and we saw that there were often delays at earlier stages in cases with more than one consultation, and in the initial police submission of the case for charging advice.

5.38. Compliance with court directions was assessed as fully meeting the expected standard in 15 of the 18 relevant RASSO cases (83.3%).

5.39. Sharing of hard media before the PTPH was better in RASSO cases than in either the magistrates' courts or the Crown Court. We assessed 12 of the applicable 17 cases (70.6%) as fully meeting the expected standard, three cases

(17.6%) as partially meeting it and two cases (11.8%) as not meeting the standard.

5.40. There were 11 cases where a conference with trial counsel was mandated, and one was held promptly in seven of these cases (63.6%). In the other four cases (36.4%), no conference was held; we assessed these cases as not meeting the standard.

5.41. In nine cases, counsel's advice was not delivered on time. In five of these (55.6%), the advice was chased; we assessed these cases as fully meeting the expectation in this respect. We assessed two cases (22.2%) as partially meeting the expectation that the advice would be chased and two (22.2%) as not meeting it.

5.42. Correspondence was generally well handled, with timely and effective actions being taken in response to material received from all parties. Out of the 17 cases where new material was received from the police after charge, we assessed the response to it as fully meeting the expected standard in 15 cases (88.2%), and as partially meeting the standard in the remaining two cases (11.8%). The Area's response to correspondence from the defence and the court was assessed as fully meeting the expected standard in 15 of the 16 relevant cases (93.8%) and as partially meeting it in the remaining case (6.3%).

6. Casework quality: magistrates' court casework themes

Introduction to magistrates' court casework

Does the Area deliver excellence in magistrates' courts prosecutions by ensuring 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, particularly the increased caseloads, changes in legal managers, and relative inexperience of many of the staff in the magistrates' court team.

6.3. We have scored CPS Mersey-Cheshire for its magistrates' court casework as follows.

Table 5: Scoring for magistrates' court casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²² at pre-charge decision stage	Fully meeting the standard	96.2%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	94.0%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Partially meeting the standard	66.3%
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	Fully meeting the standard	71.2%
Disclosure		
The Area fully complies with its duty of disclosure throughout its magistrates' court casework	Partially meeting the standard	64.0%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its magistrates' court casework	Fully meeting the standard	83.3%

6.4. Our assessment of magistrates' court casework was that there were aspects of casework that were done well, including selection of the right charges, post-charge reviews, and looking after victims and witnesses. There were other aspects that required more focus, specifically case analysis and strategy at charge, and dealing with unused material.

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

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

6.5. As Table 6 shows, the overall quality of legal analysis and trial strategy was generally higher after charge than at the pre-charge stage, although we found more cases after charge that were not meeting the standard. This was more often because reviews were not carried out at all, rather than because they were of poorer quality.

Table 6: 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	49.3%
Partially meeting the required standard	34.0%
Not meeting the required standard	16.7%
Post-charge analysis and strategy	
Fully meeting the required standard	65.4%
Partially meeting the required standard	11.5%
Not meeting the required standard	23.1%

Pre-charge decision-making and reviews

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

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

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

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

6.8. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with 25 of the Area’s pre-charged magistrates’ court cases being compliant with the Code for Crown Prosecutors.

Table 7: Pre-charge Code compliance in magistrates’ court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	25	96.2%
Not meeting the required standard	1	3.8%

6.9. We found that one of the charging decisions we examined (3.8%) resulted in a decision that no reasonable prosecutor could have made and was therefore a wholly unreasonable decision.

6.10. The wholly unreasonable decision arose from a failure to consider the elements of the offence that needed to be proved for there to be a realistic prospect of conviction. The case concerned a suspect who was found to be in possession of a motorbike that was thought to be one of a number stolen in a burglary at a motorcycle dealership. At the time, the Area advised charging the defendant with handling stolen goods.

6.11. There was no admissible evidence that the recovered motorbike was one of the ones stolen in the burglary. In addition, there was insufficient evidence to prove that the suspect was acting dishonestly. His explanation in interview was that he was carrying out a legitimate motorbike transportation business and had

taken the motorbike to a repairer at the request of someone he believed to be the owner, then collected it again when it could not be repaired. This was not tested by the police undertaking reasonable lines of enquiry, nor did the Area raise a request for further enquiries with the police. The defendant was acquitted after a full trial.

6.12. The two issues identified in this case – not addressing elements of the offence that need to be proved, and failure to pursue reasonable lines of enquiry, including when suspects provide an account – have contributed to weaker findings in our file sample across casework themes.

Selecting the most appropriate charges

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

6.14. Selecting the most appropriate charges in magistrates' court cases is a strength for the Area. We assessed 22 of the 25 relevant cases (88.0%) as fully meeting the standard, and another three cases (12.0%) as partially meeting the standard. There were no cases where the choice of charge was rated as not meeting the standard. This means that in all cases, the main charge selected adequately reflected the criminality and gave the court sufficient sentencing powers.

6.15. In one case we assessed as fully meeting the required standard, a clear analysis by the prosecutor set out why a charge of threats to kill (as sought by the police) was not appropriate in respect of one of the two complainants. The prosecutor instead authorised a charge of malicious communication, which properly reflected the criminality. The defendant entered acceptable pleas on the day of trial, and restraining orders were made in relation to both victims.

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

6.16. Our assessment is that the Area is **partially meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in magistrates' court cases is 66.3%.

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

6.18. We found that the Area's pre-charge decision-making was excellent in terms of timeliness, with all 26 cases assessed as fully meeting the standard for timely delivery of the charging advice. However, this contrasted with the quality

of the reviews, reflecting a process-driven approach to progressing cases but without the necessary focus on quality. This is perhaps understandable, given the significant pressures brought about during and as a result of the pandemic. It is something the Area is focusing on as those pressures ease, to make sure prosecutors consistently add value through their reviews.

Case analysis and strategy

6.19. We assessed nine of the 26 Area-charged cases (34.6%) as fully meeting the expected standard for case analysis and strategy. Another 11 cases (34.6%) were found to be partially meeting the standard, and the remaining six cases (23.1%) were assessed as not meeting the standard.

6.20. In the weaker cases, we found that the case analysis did not adequately assess the legal points to prove and the strengths and weaknesses of the evidence. This included:

- lack of proper analysis of the case against the defendant for each of the allegations in a series of fraudulent transactions using gift vouchers
- lack of analysis of whether weapons were in the suspect's possession in a public place in a neighbours' dispute
- lack of analysis of the case against each defendant in a multi-handed public order case.

6.21. Defences raised or likely to be raised were not addressed and the evidence relating to them, or possible lines of enquiry which may support or rebut them, were not explored. In one case, an allegation of exposure, the complainant's identification of the defendant was not a confident one, but the alibi he raised in interview was not explored by way of further enquiries.

6.22. We saw some better examples of case analysis, including a case where the prosecutor dealt well with the suspect's account that they had just found the knife they were in possession of and therefore had a reasonable excuse to be in possession of it. The charging advice set out a cogent strategy to rebut the explanation at trial. In a burglary case, there was sound analysis of the evidence available, how it applied to the points to prove, and how best the case could be presented at court.

6.23. There was also a good example of analysis in a case where the allegation was that the defendant had carried out an offence with intent to commit a sexual offence. Two victims had, on separate occasions, seen the suspect watching pornography while driving slowly and following them, then trying to engage them in conversation. While the suspect's behaviour was

concerning, the prosecutor logically and correctly set out how the evidence did not support the charge of committing an offence with intent to commit a sexual offence, instead advising two public order offences. The defendant pleaded guilty on the day of trial.

Case study

This was a case where a robust case analysis and charging advice would have saved time and effort. The defendant was subject to a criminal behaviour order, which included a condition that he was “not to sit on the floor on X street, Y town”. The order had been imposed as a result of the defendant’s persistent begging.

In the early hours of the morning, the police found the defendant sitting on a step of a building on X street and arrested him for breach of the criminal behaviour order. The defendant said in interview that he was sat drinking, but he was not in breach of the order as he was sitting on a step, not the floor.

The prosecutor authorised a charge of breach of the criminal behaviour order. They did not provide an analysis or a rationale to address the defendant’s argument that he was not sat on the floor. Neither was there an analysis as to whether it was in the public interest to prosecute the defendant, what the reasoning was behind the criminal behaviour order and what it was trying to achieve. It was noted that the defendant had previous convictions, including a breach of the same order in the months before, but the prosecutor did not ask for further details of this or other offences to enable an assessment to be made of possible bad character evidence.

The defendant pleaded not guilty at the first hearing, confirming his defence that he knew there was a criminal behaviour order in place and that he could not sit on the floor. His defence was that he was sitting on the step to eat and drink.

Following the first hearing, another review took place which made up for the deficiencies at the charging stage. A decision was made to discontinue proceedings. The reviewing lawyer demonstrated a good understanding of the case and the evidential difficulties. There was reference to case law which did not support the prosecution case and a detailed analysis of whether it was in the public interest to prosecute. The lawyer noted that the criminal behaviour order was in place owing to the defendant’s persistent begging but that the defendant had been arrested in the early hours of the morning and there was no evidence of him begging at the time.

Pre-charge disclosure

6.24. There is scope to improve the consideration of unused material and its possible impact at the pre-charge stage. The Area has been working with the police since the introduction of the sixth edition of the Director's Guidance on Charging (DG6) and the revised guidelines from the Attorney General on disclosure, which changed expectations as to how unused material would be dealt with before charge. Much of this work will have post-dated the charging advices delivered in the files in our sample, and we look forward to seeing improvements when we follow up this inspection.

6.25. Of the 26 Area-charged cases, we assessed 14 cases (53.8%) as fully meeting the standard for the handling of unused material, five cases (19.2%) as partially meeting the standard and seven cases (26.9%) as not meeting the standard.

6.26. DG6 applies to all cases submitted to the CPS for a charging decision after 31 December 2020. It includes a requirement for the police to provide the CPS with schedules of unused material. The prosecutor should record, as part of their charging decision, that they have considered the impact of potentially disclosable material on the decision to charge, including any unexamined material or material that could be obtained through further reasonable lines of enquiry. This would include considering and endorsing schedules of unused materials that have been provided, or recording the decisions made in regard to that material.

6.27. Four of the cases we assessed as not meeting the standard were DG6 cases, where schedules had not been considered or endorsed before charge. In another case, the schedule had been completed but items had been marked as "clearly not disclosable" when they were available for the prosecutor to consider. One of the items was a document containing the first account from a child witness. This described shouting and items being thrown, but no assault. In their video-recorded witness interview, the child described an assault, so the first account in the unused documentation was undermining and disclosable.

Instructions to the court prosecutor

6.28. We found half of the relevant cases we assessed (13 out of 26, or 50.0%) to be fully meeting the standard expected for instructions to the court prosecutor, with 12 cases (46.2%) partially meeting the standard and the remaining case (3.8%) not meeting the standard. In particular, acceptable pleas were often not addressed, meaning that there may have been missed opportunities to resolve cases in a timely manner and without the need for a trial. We also noted that bail was not considered in some of the weaker cases, and

there were several instances where no preparation for effective trial (PET) form had been completed.

6.29. The Area's key performance indicators show that more work is needed to improve the rate of guilty pleas at the first hearing in magistrates' court cases. The Area is rated as red (on the traffic light system) for this measure, and performance is worsening. We conclude that there may be scope to improve performance by equipping the court prosecutor with good information about the issues in the case and what pleas may be acceptable. This would enable court advocates to engage more effectively with the defence at the first hearing, and to resolve cases where it is appropriate to do so.

Reasonable lines of enquiry and action plans

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

6.31. We found action plans to be of varying quality. Of the 22 cases where an action plan was required, 13 cases (59.1%) were assessed as fully meeting the standard, three cases (13.6%) as partially meeting the standard and six cases (27.3%) as not meeting the standard. In many of the weaker cases, the prosecutor omitted actions for further necessary work, or there was no action plan at all. We found that this tended to occur when there were deficiencies within the case analysis and strategy, so that reasonable lines of enquiry were missed.

Applications and ancillary matters

6.32. 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.

6.33. We assessed the consideration of relevant applications and ancillary matters to strengthen the prosecution case, such as bad character or hearsay evidence, as fully meeting the expected standard in ten out of 21 cases (47.6%), as partially meeting it in ten cases (47.6%) and as not meeting the standard in the remaining case (4.8%). In the cases we rated as partially meeting the standard, the need for an application was often identified but no further information was requested from the police to enable the application to be progressed.

6.34. We also assessed the consideration of relevant applications and ancillary matters to support victims and witnesses, for example special measures, compensation or restraining orders. We rated 12 of the 23 applicable cases (52.2%) as fully meeting the required standard, eight cases (34.8%) as partially meeting it, and three cases (13.0%) as not meeting the standard. We noted that, while the police usually supplied information about the need for special measures or restraining orders, often this was not before charge, and the prosecutor did not seek out the relevant information.

6.35. We understand that special measures applications are usually made in the Area by way of oral application, as permitted by the court. However, not seeking the relevant information at the pre-charge stage or providing instruction to the advocate to make such an application places additional work on the court advocate, which could be avoided, or may lead to delay while the information is obtained.

6.36. One case was flagged as a disability hate crime based on the defendant's words of abuse directed at the victim, who had learning difficulties. The prosecutor did not consider what support the victim might require in order to give their best evidence, or whether a restraining order was appropriate. Both of these were addressed after charge, with a live link being agreed at the first hearing and a restraining order being made upon conviction.

Post-charge decision-making and reviews

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

6.37. 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 8: 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%

6.38. 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.

6.39. As Table 8 shows, in all but one of the cases we assessed, the Area prosecutor correctly applied the evidence and public interest stages as required. That case was the one discussed at paragraph 6.10, where there was a wholly unreasonable decision at charge; the issues that were present before charge were not identified and rectified at the post-charge stage.

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

6.40. Our assessment is that the Area is **fully meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in magistrates' court cases was 71.2%.

6.41. We discuss the standards expected of a post-charge review in paragraphs 4.21 and 4.22.

Case analysis and strategy

6.42. In certain circumstances, the Area is required to carry out a post-charge review before the first hearing where a not guilty plea is anticipated. Those circumstances include where the police charged the chase, where key steps (such as identifying the contents of the initial bundle to be served on the defence, or completing the streamlined disclosure certificate and/or PET form) were not undertaken at charge, or where additional information has been received since the charging decision.

6.43. We found that the overall quality of the reviews improved after charge, although some of the issues identified in pre-charge reviews also featured at this stage. We assessed 15 out of 30 initial post-charge reviews (50.0%) as fully meeting the standard, four (13.3%) as partially meeting it, and 11 (36.7%) as not meeting the standard.

6.44. Where we rated reviews as not meeting the standard, this was often because there had been no review when one was needed, either in police-charged cases or where one or more of the criteria for another review were met. In the latter cases, this was often because unused material had not previously been dealt with or new material had been received since charge.

6.45. Some cases we assessed as not meeting the standard contained a post-charge review that was a copy of the charging review, without any value added. This meant that deficiencies in the pre-charge advice were not addressed and actions that had been set were not always chased up.

6.46. One example was a review which was completed on the CPS case management system (CMS), but only the comment "As per pca" had been recorded in most of the sections of the review. A new statement was not dealt with, outstanding action plan points were not chased and omissions from the pre-charge advice were not identified and addressed, including what pleas were acceptable. Some of the outstanding issues with the pre-charge advice and the new statement concerned whether the suspect had been acting in self-defence and, at trial, he was acquitted of the assaults because the prosecution could not rebut this to the required standard. An earlier review, with consideration of the guilty pleas already entered to one offensive weapon charge and criminal damage, and proactive engagement with the defence regarding another offensive weapon charge (of which the suspect was convicted), may have avoided the need for a trial.

6.47. An example of a very good post-charge review was a case of coercive and controlling behaviour. The case was charged by CPS Direct on the threshold test and the suspect was kept in custody. The post-charge reviewing lawyer applied the full Code test and noted that according to CPS policy,

assaults should have also been charged to deal with the eventuality that the coercive and controlling behaviour was not proved. They therefore added five charges of section 39 assault, setting out clearly in the review to which incident each charge related. The review also addressed in detail what the hard media evidence showed (with time stamps) and what the issues in the case were. The lawyer telephoned the officer in the case to discuss editing of media and other tasks to be completed before the first hearing.

6.48. At trial, and with the agreement of the victim, who was extremely nervous about giving evidence (even with special measures), the prosecution accepted pleas to the assaults. The defendant received an immediate custodial sentence, and the court also imposed a restraining order and ordered compensation for the victim.

Significant events

6.49. As cases progress, things can change which materially impact on the prosecution case. We discuss at the expectations around reviews that should follow these significant events in paragraphs 4.23 to 4.24.

6.50. Significant event reviews were required in eight of the 30 magistrates' court cases in our file sample. Two cases (25.0%) were assessed as fully meeting the standard for significant event reviews, four cases (50.0%) were assessed as partially meeting it, and two cases (25.0%) were assessed as not meeting this standard.

6.51. In one case that we assessed as not meeting the required standard, a jointly charged theft case against two defendants, there were several events that called for a review of the case. The first was when one of the defendants failed to attend the first hearing and a trial was listed for the other defendant alone. A review took place but failed to address properly the change required in trial strategy, particularly as the case was stronger against the missing defendant. The first defendant later appeared on a warrant and pleaded guilty. Again, this would have an impact on the trial strategy for the second defendant, but no review was recorded. The third significant event was the withdrawal of the victim and eyewitness's cooperation. While a proposed discontinuance notice was sent to the police, again no review was recorded.

Feedback on police file quality

6.52. 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. However, CPS Mersey-Cheshire made the decision not to suspend NFQ feedback during this time.

6.53. Since then, revised assurance has been introduced nationally to reflect changes in the NFS brought about by DG6. This revised assurance is known as DG6 Assurance. As with NFQ, DG6 Assurance uses CMS to record feedback.

6.54. Within our file examination, 13 (43.3%) of the magistrates' court files submitted by the police to the Area did not meet the requirements set out in the NFS. Out of those 13 cases, the prosecutor used NFQ or DG6 Assurance to feed back to the police appropriately in five cases (38.5%); we rated these cases as fully meeting the standard for feedback on police file quality. Feedback was assessed as partially meeting the expected standard in one case (7.7%), and as not meeting the standard in seven cases (53.8%). These seven cases had no assessment of compliance with NFS, and no feedback provided through NFQ or DG6 Assurance.

6.55. While the police's service to the Area is better than in other Areas, it remains important to take every opportunity to support the police's efforts to improve file quality. The Area is conscious of this, and is aware of the lower rate of feedback. It has been working closely with the lawyers to improve the amount of feedback delivered, and with the police on file quality.

Does the Area fully comply with its duty of disclosure?

6.56. Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for disclosure in magistrates' court cases is 64.0%.

6.57. The duties of the police and CPS in relation to the disclosure of unused material are set out in chapter 4, paragraphs 4.36 to 4.51. 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

6.58. The police's compliance with their disclosure obligations was assessed as fully meeting the required standard in 11 out of the 29 applicable cases (37.9%), partially meeting the standard in another 11 cases (37.9%) and not meeting the standard in the remaining seven cases (24.1%). In the cases falling below the standard, the flaws included relevant items omitted from the unused material schedules and descriptions of items on the schedules being inadequate.

6.59. The requirement to feed back deficiencies to the police creates additional work for CPS prosecutors at a time when they already face significant pressures. Police compliance issues also result in delays to service of initial disclosure, and in duplication of work when prosecutors have to reconsider cases after material is provided which should have been available with the initial file.

6.60. 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. In our sample, feedback to the police was rated as fully meeting the expected standard in five out of 18 cases (27.8%) and partially meeting the standard in two cases (11.1%). The remaining 11 cases (61.1%) had no feedback to the police regarding the disclosure deficiencies.

Initial disclosure

6.61. We assessed initial disclosure in the magistrates' courts as fully meeting the required standard in 14 of the 29 applicable cases (48.3%). Another four cases (13.8%) were assessed as partially meeting the standard and 11 cases (37.9%) as not meeting it.

6.62. For those cases we rated as not fully meeting the standard, the most prevalent issue was that the prosecutor decided that disclosable unused material was not disclosable. This was the case in five of the 15 applicable instances (33.3%).

6.63. For example, one case, an allegation of assault, the defendant raised self-defence. The police log noted that the suspect saw a health professional in custody and went to hospital, and the unused material schedule also included an item entitled "D hospital report". The prosecutor decided that both were, on the face of the descriptions, not disclosable. The material should have been requested to see if it showed injuries to the defendant which supported his account of acting in self-defence.

6.64. A failure by prosecutors to adopt a thinking approach to disclosure can have a serious effect on the fairness of trials. However, in our judgment, none of the failures in the cases we assessed led to a miscarriage of justice.

6.65. Timeliness of disclosure is a strength for Area. Initial disclosure was dealt with in a timely manner in 21 out of 29 cases (72.4%). Two cases (6.9%) were assessed as partially meeting the timeliness standard and six cases (20.7%) were assessed as not meeting it. Where there were delays to initial disclosure being carried out in the cases in our sample, these did not result in ineffective trials or additional hearings to address the failures.

Sensitive material

6.66. There was one case featuring sensitive material in our magistrates' courts sample, which related to the location of an automatic numberplate recognition camera. The disclosure of its location could have hindered the prevention and detection of crime. The material was properly withheld, but the schedule listing it was not endorsed with the lawyer's reasoning.

Other disclosure matters

6.67. There were two cases in our magistrates' courts sample that featured the need for continuing disclosure. In both, we rated the Area's compliance with these duties as fully meeting the expected standard (100%).

6.68. One case had the potential for there to be third-party unused material (from one victim's school), but no enquiry was made to explore this.

Disclosure records

6.69. In all cases, prosecutors should complete a disclosure record on CMS. This provides an audit trail for the receipt and service of the streamlined disclosure certificate and any sensitive unused material schedules, decisions made, actions taken, and the legal reasons for these decisions and actions.

6.70. Completion of the disclosure record was assessed as fully meeting the standard in 22 out of 30 cases (73.3%). These records were completed appropriately throughout the life of the case, with clear explanations for decisions about unused material. Five cases (16.7%) were assessed as partially meeting the standard and three cases (10.0%) as not meeting the standard.

Area training

6.71. We note that Area has had a number staff changes and that the prosecutors in the magistrates' court team are usually the least experienced. The Area's staff have received the national disclosure training and all new prosecutors complete mandatory refresher training on disclosure within 12 months.

6.72. The Area has a clear focus on improving the standard of disclosure across the casework types, and uses the various quality assurance mechanisms at its disposal (including individual quality assessments) to identify and resolve issues. Individuals and teams receive feedback and updates on performance. The Area also works with the police on a disclosure improvement plan through the joint disclosure working group.

6.73. We discuss quality assurance and partnership working in more detail in chapters 10 and 12.

Does the Area address victim and witness issues appropriately?

6.74. 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 83.3%. This is a strength for the Area.

6.75. The duties owed by the CPS to victims and witnesses are set out in chapter 4, paragraphs 4.52 to 4.61. 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

6.76. At charge, the prosecutor should actively consider relevant applications and ancillary matters to support victims and witnesses. We rated 12 of the 23 applicable cases in our magistrates' court sample (52.2%) as fully meeting the standard for pre-charge consideration of these applications and ancillary orders. We rated eight cases (34.8%) as partially meeting the standard and three cases (13.0%) as not meeting the standard.

6.77. For more analysis related to these findings, see paragraphs 6.32 to 6.36.

After charge

Applications to support victims and witnesses

6.78. After charge, the Area's consideration of special measures is much stronger. All necessary steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting, where a written application was required) in ten of the 12 relevant cases (83.3%) in our file sample.

Witness warning

6.79. In most cases, the Area works well to secure the best evidence possible from witnesses by correctly and promptly warning witnesses. We assessed 22 of 24 applicable cases (91.7%) as fully meeting the required standard. The remaining two cases (8.3%) were assessed as partially meeting the required standard.

Communications with witness care units

6.80. The Area deals appropriately and promptly with correspondence from the witness care unit. We assessed this aspect of witness care as fully meeting the standard in 15 out of 18 applicable cases (83.3%). One case (5.6%) was assessed as partially meeting the standard and the remaining two cases (11.1%) were assessed as not meeting the standard.

Consulting victims and speaking to witnesses at court

6.81. Victims are entitled to be consulted at key stages throughout the prosecution, including at trial. In addition, there is an expectation that the prosecutor will explain what victims and witnesses can expect at trial as part of the speaking to witnesses at court (STWAC) initiative.

6.82. The Area demonstrated good compliance with these requirements, with 18 of the 20 relevant cases (90.0%) in our file sample assessed as fully meeting the expected standard. The remaining two cases (10.0%) were assessed as partially meeting the standard.

6.83. The STWAC initiative is primarily aimed at lay or civilian witnesses, but the guidance allows prosecutors the discretion to apply it to other witnesses if they feel that it is appropriate to do so. We noted good practice in one case where the prosecutor used the principles of STWAC to explain what would happen to a police officer who had not given evidence before.

6.84. We saw a good example of proactive witness care in a domestic abuse case involving a series of common assaults and coercive and controlling behaviour. The victim's wishes regarding special measures were complied with before trial and a Victim Personal Statement (VPS) was chased. On the day of trial, the defendant offered to plead guilty to six common assaults and the prosecution offered no evidence on the charge of controlling and coercive behaviour. The victim was consulted at court and the hearing record sheet set out in full what happened. The victim was further consulted on the terms of the restraining order. Thereafter the prosecutor sent the victim a clear and empathetic letter explaining the decision.

Case study

This was a case where the acceptance of pleas was appropriate and handled very well. The impact on the victim of having to give evidence at trial, even with special measures in place, was considered.

The case concerned four allegations of exposure to an 84-year-old victim by the defendant, who was standing outside the front window of her house. The victim was very nervous about giving evidence, so the prosecution obtained a special measures order to enable a cloud video platform link, but the victim was still very reluctant on the day of trial when spoken to by phone.

The decision to accept pleas to two of the charges was sound, and clearly reasoned in the hearing record sheet by the Area's in-house advocate. The reviewing lawyer and victim were consulted from court, and the victim was also asked about a restraining order.

Careful consideration was given to providing the court with sufficient sentencing powers, including the requirement under the Sexual Offences Act 2003 to register as a sex offender.

A restraining order was made which prevented the defendant from entering the victim's road because, as she had explained to the trial advocate, she was extremely frightened that she might see him outside her house again.

Victim Personal Statements

6.85. Victims are entitled, if they wish, to provide a 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. In our magistrates' courts file sample, there were 16 cases where this applied. The handling of the VPS was assessed as fully meeting the required standard in nine of these cases (56.3%), as partially meeting the standard in two cases (12.5%), and as not meeting the standard in the remaining five cases (31.3%).

6.86. In the weaker cases, if a VPS was not provided at the pre-charge stage or there was no indication that one would be provided at a later date, this was often not revisited or chased after charge. These cases also lacked records on the hearing record sheet as to whether and how a VPS was presented to the court, or whether it was presented in a manner that accorded with the victim's wishes.

Orders at sentencing

6.87. Appropriate orders on sentencing to protect victims, witnesses and the public were sought in all but one of the 13 relevant cases (91.7%). This is a strength for the Area. The cases handled well included restraining orders to protect an elderly victim of exposure offences, and the receptionists at a doctors' surgery who had been harassed by an ex-patient.

Victim Communication and Liaison scheme letters

6.88. The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge. In our sample of magistrates' court cases, there were seven instances where a Victim Communication and Liaison scheme (VCL) letter was required. A letter was sent on time in six of those seven cases (85.7%). In the one remaining case (14.3%), no letter was sent.

6.89. Of the six letters sent, three (50.0%) were assessed as fully meeting the quality standard for the contents of the letter. Two letters (33.3%) were assessed as partially meeting the standard and one letter (16.7%) was assessed as not meeting the standard. The reasons for the letters partially meeting or not meeting the standard included unclear explanations and a lack of empathy.

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, particularly increased caseloads, changes in legal managers, and the need for more experienced Crown Court prosecutors to support and mentor those with less experience.

7.3. We have scored CPS Mersey-Cheshire for its Crown Court casework as follows.

Table 9: Scoring for Crown Court casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²³ at pre-charge decision stage	Fully meeting the standard	100%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	83.8%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	55.9%
Quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	100%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Fully meeting the standard	72.3%
Preparation for the Plea and Trial Preparation Hearing		
The Area prepares its cases effectively for the Plea and Trial Preparation Hearing in the Crown Court to ensure progress is made	Fully meeting the standard	82.5%
Disclosure		
The Area fully complies with its duty of disclosure throughout its Crown Court casework	Fully meeting the standard	74.8%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its Crown Court casework	Fully meeting the standard	83.0%

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

7.4. Our assessment of Crown Court casework was that most aspects were done well, including compliance with the Code for Crown Prosecutors at and after charge, selection of charges, and victim and witness care. The main aspect requiring more focus is the quality of case analysis and strategy. Table 10 sets out the standards we recorded at and after charge for this aspect of work.

Table 10: 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	35.3%
Partially meeting the required standard	32.4%
Not meeting the required standard	32.4%
Post-sending review analysis and strategy	
Fully meeting the required standard	62.5%
Partially meeting the required standard	22.5%
Not meeting the required standard	15.0%

7.5. The standard of case analysis and strategy is better after charge than before charge in Crown Court cases. The weaker pre-charge case analyses and strategies often failed to consider all the elements necessary to prove the case and possible lines of defence. The improved reviews post-charge may be a result of the prosecutor becoming more focused on the issues in the case after they have been clarified by or with the defence at the first hearing.

Pre-charge decision-making and reviews

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

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

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

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

7.8. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with prosecutors correctly applying the evidential and public interest stages of the Code test in all 34 Area-charged Crown Court cases. This is a real strength for the Area.

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

Rating	Number of cases	Percentage
Fully meeting the required standard	34	100%
Not meeting the required standard	0	0%

Selecting the most appropriate charges

7.9. 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).

7.10. We rated the Area’s selection of charge as fully meeting the required standard in 26 of the 34 Area-charged cases (76.5%), as partially meeting the standard in five cases (14.7%) and as not meeting it in the remaining three cases (8.8%).

7.11. In one of the three cases we assessed as not meeting the required standard, the defendant drove his car onto the pavement and collided with the victim, causing a four-centimetre cut that required seven stitches. The prosecutor advised charging attempted grievous bodily harm with intent and

dangerous driving. They did not advise charging wounding, contrary to section 20 of the Offences Against the Person Act 1861 (a 's.20 wounding'), or an alternative charge of dangerous driving based on the condition of the car, which would have circumvented the main line of defence. The post-charge review considered adding a s.20 wounding, but did not put this into effect.

7.12. At trial, the prosecution accepted pleas to s.20 wounding and dangerous driving. The case preparation had involved considerable work, including pre-recording the victim's cross-examination, which may have been avoided with a more appropriate choice of charges at the earliest stage.

7.13. In contrast, one of the cases we assessed as fully meeting the standard was a domestic assault where the charging lawyer carefully considered the level of charge, referring to relevant case law, CPS guidance and sentencing guidelines. They related these to the facts of the case and correctly concluded that the appropriate charge was one of assault occasioning actual bodily harm. The defendant pleaded guilty on the day of trial, received an immediate custodial sentence, and was made the subject of a restraining order for ten years.

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

7.14. 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 55.9%.

7.15. This is the only casework theme where we assessed the Area as not meeting the standard. This was largely a result of inadequacies in the case analysis and strategy at charge.

7.16. 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).

Case analysis and strategy

7.17. A significant number of the Crown Court pre-charge decisions we examined did not clearly analyse the evidence and set out on what basis the case would be prosecuted by way of a cogent case strategy. We assessed 12 of the 34 Area-charged cases (35.3%) as fully meeting the required standard for case analysis and strategy. Another 11 cases (32.4%) were assessed as partially meeting the standard, and the remaining 11 cases (32.4%) as not meeting it.

7.18. In stronger cases, we saw some good examples of proper consideration of the issues in the case, including how the prosecution could strengthen the evidence with further enquiries. One such case was an aggravated burglary at the home of a vulnerable victim, which was witnessed by his live-in carer. The charging advice correctly highlighted the circumstantial nature of the case against the defendant, especially the identification of him as the masked perpetrator. The case strategy was clearly outlined and included a good analysis of the strengths and weaknesses of the case. The police were tasked with carrying out further reasonable lines of enquiry regarding the CCTV footage at the station the suspect had gone to afterwards, and tightening up the descriptions given. Case progression after charge was also effective and built the case. The defendant was convicted at trial and sentenced to 12 years' imprisonment.

7.19. In weaker cases, we identified two main themes.

- Defences raised, or likely to be raised, were not addressed and neither the evidence relating to them, nor possible lines of enquiry which may support or rebut them, were explored. Two cases involved a failure to address the suspects' accounts for being in possession of an item, a knife in one case and drugs in the other. A third example had no consideration of how to rebut the defendant's claim to be acting in self-defence in relation to an assault.
- Case analyses did not adequately assess the legal points to prove and the strengths and weaknesses of the evidence. Examples included a lack of a proper analysis of the case against each defendant or of how to prove joint enterprise in a multi-handed case; a case featuring fleeting glimpse identification, where there was no reference to the principles in the leading authority on such cases (Turnbull); and a burglary charge where insufficient thought was given to proving the theft element. The latter case also featured a lack of adequate consideration of the suspect's account.

Instructions to the court prosecutor

7.20. There were proper instructions to court prosecutors in 18 of the 34 Area-charged cases (52.9%). We assessed ten cases (29.4%) as partially meeting this standard and six (17.6%) as not meeting it. Many of the weaker cases did not address acceptable pleas, meaning that opportunities to resolve matters at an early stage may have been lost.

7.21. We also noted few references to bail or custody and, in one case, the obvious flight risk for two foreign nationals was not identified. The defendants subsequently left the jurisdiction.

7.22. We noted weaknesses in the guidance included in charging advices for court prosecutors about whether the case was more suitable to be heard in the magistrates' courts or the Crown Court. This guidance on allocation sometimes amounted to no more than naming the appropriate venue without explanation or reference to the sentencing guidelines, 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 (MG3). This allows for actions to be prioritised and timescales set to make sure that all appropriate avenues of investigation have been completed, including those that may point away from a prosecution.

7.24. We noted in assessing the standard of case analysis and strategy that there were missed opportunities to build the case by tasking the police with further enquiries. This had an impact on our rating of the quality of action plans to the police, which we assessed as fully meeting the required standard in half the applicable cases (15 out of 30 cases or 50.0%). Another five action plans (16.7%) were assessed as partially meeting the standard, and the remaining ten (33.3%) as not meeting it.

7.25. In some cases, a lack of consideration of possible defences or of the suspect's account (which we also found was an issue with the case analysis) led directly to a failure to include reasonable lines of enquiry that could rebut or support those defences or accounts in the action plan. We also noted that some plans set unrealistic target dates for completion of the necessary work.

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. In our sample, there were 17 cases where applications and ancillary matters relating to victims and witnesses were relevant. Of those 17 instances, we assessed seven charging advices (41.2%) as fully meeting the expected standard, five advices (29.4%) as partially meeting the standard, and five advices (29.4%) as not meeting the standard.

7.28. Applications and ancillary matters to strengthen the prosecution case were addressed fully in just over half the applicable cases (15 cases or 53.6%). We rated three cases (10.7%) as partially meeting the required standard and ten cases (35.7%) as not meeting it. We noted that a number of charging advices did not address whether bad character evidence was available and an application was appropriate. There were also instances where the possibility of hearsay evidence being admitted was not discussed as part of the case analysis.

Post-charge decision-making and reviews

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

7.29. 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 100%.

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

Table 12: Post-charge Code compliance in Crown Court cases

Rating	Number of cases	Percentage
Fully meeting the required standard	40	100%
Not meeting the required standard	0	0%

7.31. 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.

7.32. As Table 12 shows, all 40 of the Area-charged cases complied with the Code. This is a real strength for the Area.

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

7.33. Our assessment is that the Area is **fully meeting** the standard for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in Crown Court cases is 72.3%.

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

7.35. While the standard of post-charge reviews, and especially case analyses and strategies, is better after charge than at charge, there is still room to improve the work done to review cases and make sure they are ready to progress.

Case analysis and strategy

7.36. Of the 40 cases in the Crown Court sample, 25 cases (62.5%) had an initial post-sending review we assessed as fully meeting the expected standard. We assessed another nine reviews (22.5%) as partially meeting the standard, and six (15.0%) as not meeting the standard.

7.37. We saw some cases where the prosecutor had carefully considered the case afresh where this was required, and addressed relevant issues within the review, clearly adding value. In these instances, 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 overlooked at the pre-charge stage had been addressed. Relevant outstanding issues were identified and either dealt with or appropriate actions put in place.

7.38. One strong example was a case where charging advice had been delivered by CPS Direct on the threshold test in serious assaults on two victims in one victim's home. The Area lawyer was not able to apply the full Code test, but added value by reviewing the existing charges and deciding to add a bladed article charge for a knife the defendant used during the assaults. The previous lawyer had ruled this out as the incident took place in a private place, but the Area lawyer added it on the basis that the defendant had travelled with the knife via public places to the victim's home. The lawyer also engaged with the defence while carrying out the review, thereby identifying the issues in the case, and gave the police an updated action plan. The defendant entered late guilty pleas at trial and was made the subject of a hospital order.

7.39. In weaker cases, however, we found instances of the prosecutor simply setting out what the allegation was and chasing up any outstanding items from the police without considering the case afresh, or copying the pre-charge review without adding any comments. This misses an opportunity not only to deal with new material, but also to put right any failings or omissions at the charging stage.

7.40. In one instance, the post-sending review did not address the fact that one of the defendants, who had fled the country, could not be brought before the court because the foreign authority refused to execute the European arrest warrant, or what that would mean for the case against the remaining defendant.

7.41. We also saw instances where reasonable lines of enquiry had been missed at charging and were not picked up in the post-sending review. In one case, where the defendant was charged with possessing criminal property and drugs with intent to supply, we rated the Area's charging advice as not meeting the expected standard because it did not address how to prove intent to supply or that the money seized was criminal property. The post-sending review also

failed to set out the strategy for proving these aspects. Neither review identified reasonable lines of enquiry to strengthen the prosecution case.

Significant events

7.42. 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 4.24.

7.43. In our sample, there were 17 cases which called for a significant event review. In eight of these cases (47.1%), there was a review which we assessed as fully meeting the required standard. Three cases (17.6%) received a review but it was deficient in some respect, causing us to assess it as partially meeting the standard. The remaining six cases (35.3%) were assessed as not meeting the required standard. This was usually because no significant event review had taken place or one had not been properly recorded. In one instance, there was no review recorded after the victim of a serious assault (a fractured skull caused by a blow with a hammer) decided to withdraw their support for the prosecution.

Stage 1 reviews

7.44. 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.

7.45. In our sample, there were 36 cases where a stage 1 review was required. Of those, we assessed 13 cases (36.1%) as fully meeting the required standard, ten cases (27.8%) as partially meeting it, and 13 cases (36.1%) as not meeting the standard. The most common failing was not recording a stage 1 review, but there were also instances where the stage 1 review failed to address deficiencies in the original charging advice or issues that had arisen at the Plea and Trial Preparation Hearing (PTPH).

Decision on pleas or bases of pleas

7.46. There were eight cases in our Crown Court sample where a basis of plea or lesser pleas were accepted. In seven cases (87.5%), the decision to accept pleas or a basis was appropriate and the reason for the decision was clearly recorded. We assessed the remaining case as partially meeting the standard because of the lack of a proper record; the decision itself (to accept a basis of plea) was correct.

Case study

A drugs warrant was executed at a property where the defendant lived with his family. At the property, approximately 120 grams of cannabis and £8,000 were seized.

At the time of the search, the defendant said that the cannabis was his and the defendant's partner said that some of the money found belonged to her (the money was found in two separate bedrooms). The search of the property found some snap bags but no other evidence of drug dealing. Phones that were seized were examined and there was no evidence of drug dealing on them. The defendant was charged with possession with intent to supply cannabis and possession of criminal property.

There was a lack of analysis of the evidence to show how the offences would be proved, particularly in relation to the possession of criminal property. At the pre-charge stage, there was no consideration of the defendant's partner's evidence that some of the money belonged to her.

Before the PTPH, the defence confirmed that the defendant would plead guilty to possession with intent to supply on the basis that he supplied the cannabis to his friends and did not make a profit from doing so. He provided an explanation for the money, saying that some years ago he had withdrawn a large amount of cash following a house sale and the £8,000 was what was left. He provided evidence confirming the withdrawal of £10,000 some years earlier.

At this stage, the prosecutor instructed counsel to accept the plea for possession with intent to supply and offer no evidence in respect of the possession of criminal property. No review took place as to the reason for this. It transpired that the prosecutor had mistakenly thought that the bank statement showing the cash withdrawal was from the days leading up to the defendant's arrest and not from a number of years earlier. When this error was noticed by counsel, the basis of plea was not accepted and both matters proceeded to trial.

The case was assessed by HMCPSI as a live case, before it went to trial. The matter was resolved with the defendant pleading guilty to possession with intent to supply. The possession of criminal property charge was left to lie on the file.

Feedback on police file quality

7.47. We discuss the 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. However, CPS Mersey-Cheshire made the decision to continue with these formal assessments on the police file quality.

7.48. Since 21 July 2021, the mechanism for feeding back on the quality of police files has been the Director's Guidance on Charging, sixth edition (DG6) Assurance. DG6 Assurance takes into account the changes to the NFS brought about by the introduction of DG6 on 31 December 2021.

7.49. Some of the files we examined in this inspection were subject to the previous feedback mechanism, and some to DG6 Assurance. All were assessed according to the regime that was in place at the appropriate time.

7.50. In our sample of 40 Crown Court cases, the police file submission complied with the NFS in 28 instances (70.0%) and did not in the remaining 12 instances (30.0%). Of the 12 cases that did not comply with the NFS, we assessed the Area's feedback to the police as fully meeting the expected standard in four cases (33.3%), as partially meeting it in two cases (16.7%) and as not meeting the standard in six cases (50.0%).

7.51. It is important that the Area takes every opportunity to give police good quality feedback on the standard of the service they deliver to the Area. Failing to do so means that errors in file submissions are more likely to be repeated. This in turn leads to prosecutors and operational delivery staff needing to spend more time dealing with omissions and contacting the police to make sure the file contains everything the Area needs to progress the prosecution.

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

7.52. Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for preparation for the PTPH in Crown Court cases is 82.5%.

7.53. In assessing the Area's performance when preparing for the PTPH, we considered the key tasks the prosecution are required to complete – including filling in the PTPH form for use by the Judge presiding at the hearing; carrying out direct engagement with the defence; drafting the indictment; making sure the relevant material is uploaded to the Crown Court Digital Case System (DCS) before the hearing; and making sure an advocate is instructed in advance of the hearing, so that they have time to prepare. There is more detail on these tasks in chapter 4 (paragraphs 4.26 to 4.35).

Preparing for the hearing and completing the PTPH form

7.54. The prosecutor prepared the case effectively to ensure progress at the PTPH, including identifying any acceptable pleas and completing PTPH forms, in two thirds of the cases in our Crown Court file sample (24 out of 40 cases, or 60.0%). Just over a third (14 cases, 35.0%) were assessed as partially meeting the expected standard for preparation for the PTPH, and the remaining two cases (5.0%) were rated as not meeting it.

7.55. In most cases, the failure was in not addressing acceptable pleas, which we also identified as an issue at the pre-charge stage. We also noted that applications were not considered or drafted in some instances; again, this relates back to pre-charge issues.

Applications

7.56. We assessed 13 out of 18 cases (72.2%) as fully meeting the standard for the use of applications to strengthen the case, with another three cases (16.7%) partially meeting the standard and the remaining two cases (11.1%) not meeting the standard.

7.57. Most of the necessary applications were to admit bad character evidence. We noted in the weaker cases either that there was no application where one was called for (the two cases assessed as not meeting the required standard), or that the application did not have adequate information about the instances of bad character relied on (the three cases rated as partially meeting the standard).

7.58. We saw that paralegal officers had drafted some of the bad character applications. The development of paralegals in drafting applications is structured: from a simple need for a restraining order, through more straightforward special measures applications, and on to more complex applications for special measures or bad character. Tasks are triaged to make sure they are allocated to the right paralegal, and there is supervision, with guidance and mentoring available. However, the weaknesses we identified at and after charge (not identifying what bad character is to be relied on, and not tasking the police to supply the necessary information) inevitably undermines paralegals' ability to produce a good application.

Indictments

7.59. Indictments were generally of good quality, with 30 cases (75.0%) assessed as fully meeting the required standard, seven cases (17.5%) assessed as partially meeting it, and three cases (7.5%) assessed as not meeting the standard. All lawyers in the Crown Court team have received indictment training from an experienced crown advocate, and this appears to have been effective.

7.60. Where there were errors, they often appeared to result from prioritising speed over accuracy or from carelessness, such as referring to a female complainant as "he", getting dates wrong, or using the wrong name or class for drugs. There were very few substantive failings; two examples were including a wrong burglary count and not adding alternative counts.

Service of the case

7.61. In almost all instances (38 out of 40 cases, or 95.0%), the draft indictment and key evidence were served in good time for the PTPH, by which we mean the documents were uploaded to the DCS seven days before the PTPH. The remaining two cases (5.0%) were assessed as partially meeting the standard.

7.62. The Area monitors compliance with the seven-day target, including a daily check by an operational delivery manager of all cases with a PTPH eight days away. If any have yet to be prepared at that stage, the lawyer and their manager are notified. Any custody cases have additional monitoring by level one legal managers via the custody time limit case log.

Instructions to the court advocate

7.63. We set out the expectations for what should be contained in instructions to the court advocate in paragraph 4.30.

7.64. In nearly three quarters of applicable cases (29 cases or 74.4%), counsel (or the crown advocate where relevant) was 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. We assessed instructions to counsel as partially meeting the standard for timeliness in two cases (5.1%) and as not meeting it in eight cases (20.5%).

7.65. The quality of instructions to the PTPH advocate, however, was a significant weakness. Three quarters of the cases (75.0%) were assessed as not meeting the required standard, usually because no instructions were prepared.

7.66. There is no need for a separate formal set of instructions if the documents supplied to the advocate from the case file contain all the necessary information. However, in our file sample, this approach too often left obvious gaps because of the failings we have already discussed in pre-charge and other reviews. These include the lack of a proper case strategy or instructions on acceptable pleas, and inadequate information about applications such as bad character or special measures. This hampers the ability of the advocate to progress the case effectively at court.

7.67. The lack of proper attention to the instructions to counsel, and the failure in many cases to devise a trial strategy or to consider acceptable pleas, combined to give the impression that the lawyer lacked grip and that the onus was on the trial advocate to make key decisions about the prosecution case.

7.68. The Area accepts this is an issue that its own quality assurance had not identified. We were told that there are established relationships with many of the local counsel, and that some exchanges of information may be conducted by email without making their way onto the CPS case management system (CMS). The Area plans to tackle this.

Hard media

7.69. The police upload hard media (such as CCTV footage or body worn video) to secure online locations and send the links to the CPS. There is scope for the Area to improve the service of such material on the court and defence.

7.70. There were 19 cases in our sample with hard media. In 12 of those (63.2%), we assessed the service of hard media on the court and defence as fully meeting the required standard. We assessed one case (5.3%) as partially meeting the standard and the remaining six cases (31.6%) as not meeting the expected standard.

7.71. One of the cases assessed as not meeting the standard was a sexual assault case. The victim's video-recorded evidence and a transcript of it were both available on the case file before the post-sending review was carried out, but neither was provided to the defence before the PTPH.

Correspondence with partners

7.72. New material received from the police was reviewed appropriately and sufficiently promptly, with timely and effective actions taken, in most cases (26 out of 32 applicable cases, or 81.3%). Three cases (9.4%) were assessed as partially meeting the standard for dealing with new material from the police, and three cases (9.4%) as not meeting the standard.

7.73. Correspondence from the court and defence was dealt with properly in 25 of the 30 relevant Crown Court cases (83.3%). The remaining five cases (16.7%) were assessed as partially meeting the expected standard.

7.74. Requests to the police for additional material or editing of material were timely, and escalated where appropriate, in most of the 54 relevant Crown Court cases. We rated prosecutors as fully meeting the standard for this aspect in 21 cases (70.0%), partially meeting it in a further seven cases (23.3%) and not meeting it in two cases (6.7%). The Area has clear escalation procedures with both its police forces, which our file sample indicates are being used appropriately.

Court directions

7.75. There was timely and appropriate action to comply with court directions or Judges' orders in 31 of the 36 applicable Crown Court cases (83.3%). Four cases (11.1%) were assessed as partially meeting the expected standard, and one case (2.8%) as not meeting the standard.

Direct engagement with the defence

7.76. 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 4.34 and 4.35). 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 CMS and should then share it with the court and defence by uploading it to the DCS.

7.77. Direct engagement with the defence (usually by means of a letter) was carried out fully and promptly in 28 out of the 40 cases (70.0%) in our Crown Court sample. We assessed three cases (7.5%) as partially meeting the standard and nine cases (22.5%) as not meeting the standard. In weaker cases, there was no contact, or the contact that took place did not address the aspects that the better case management principles demanded, such as narrowing the issues and discussing whether resolution of the case was possible. This may result in part from the prosecutor (or the charging lawyer) not having clarified in their own mind what pleas would be acceptable, which we have already noted in this report.

7.78. Undoubtedly, the degree to which the defence can respond effectively to direct engagement approaches from the prosecution has been affected significantly by Covid-19. 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 clearly hampered the Area's efforts to engage with defence practitioners.

7.79. That said, we noted that direct engagement appeared to be something of a 'tick box' exercise and there were no discernible positive impacts on casework. In one instance, the prosecutor noted that direct engagement was unnecessary as the defendant had pleaded not guilty at the first hearing in the magistrates' court.

7.80. There were 30 cases with a log of direct engagement with the defence, and the log was uploaded to DCS in 26 cases (86.7%).

Case study

The defendant was alleged to have attended the home address of another man and tried to enter the rear yard. An independent witness heard arguing and saw the defendant at the gate arguing with the person in the property. The witness said that they saw the defendant produce a knife from a carrier bag he was holding, so the witness contacted the police. One of the people at the property also contacted the police and told them that the defendant had a knife and was making threats.

The defendant was stopped by police a short distance from the property and the independent witness identified him as the male with the knife. No weapon was found on him. One of the men from the property gave officers a carrier bag left at the scene, which contained a knife and a claw hammer.

The men at the property declined to make statements to the police but the independent witness provided a statement. The defendant was charged with possession of a bladed article on the basis of the independent witness's account, which said that they had seen a knife.

There was a clear analysis in the pre-charge decision as to how this could be evidenced on the account of the witness, who, in the immediate aftermath, identified the defendant as the male responsible; and why a charge of possession of an offensive weapon in respect of the hammer could not be proved.

After the case was sent to the Crown Court, there was a clear and concise post-sending review that considered material received since the pre-charge decision. The review considered whether a witness summons would be appropriate for the house occupants, but concluded that it would not be required because of the independent witness's evidence.

The police did not comply with their duty of disclosure and did not identify obvious material. The reviewing lawyer provided feedback to the police and an action plan for the missing material to be provided. Further material provided by the police was dealt with promptly.

The witness was nervous about attending court and the potential for her to be identified by the defendant. An application for special measures was made at the earliest opportunity.

Shortly before trial, there was a difficulty with the witness being able to attend, owing to childcare issues. There was swift and effective communication between the CPS and the witness care unit to try to resolve the issue. When it became apparent it could not be resolved, a prompt application was made to vacate the trial. The Judge agreed to delay the trial by one day to enable the witness to attend.

The defendant was convicted after trial and given a sentence of 12 months' imprisonment, suspended for 12 months. He was also ordered to carry out 120 hours of unpaid work.

Does the Area fully comply with its duty of disclosure?

7.81. Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for disclosure in Crown Court cases is 74.8%.

7.82. The duties of the police and CPS in relation to the disclosure of unused material are set out in chapter 4, paragraphs 4.36 to 4.51. 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 CMS and feeding back to the police where necessary.

7.83. Disclosure in Crown Court cases is generally a strength for the Area, but there is room for improvement, particularly in the quality of initial disclosure, but also in the quality of continuing disclosure and the handling of sensitive unused material.

Police service on disclosure

7.84. The standard of the service the police provide to the Area on disclosure shows room for improvement. Of the 40 relevant cases, the police complied with their disclosure obligations fully in 13 cases (32.5%). We assessed the police's compliance as partially meeting the required standard in another 19 cases (47.5%) and as not meeting it in the remaining eight cases (20.0%).

7.85. 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. There were 27 cases where police compliance was marked as partially meeting or not meeting the expected standard. In nine of those 27 cases (33.3%), the Area provided full and proper feedback to the police

regarding the deficiencies. There was feedback that we rated as partially meeting the standard (usually because it was incomplete) in five cases (18.5%), and the remaining 13 cases (48.1%) were assessed as not meeting the standard, most often because failings were not identified and no feedback was given.

7.86. When the Attorney General's guidelines on disclosure and DG6 were introduced on 1 January 2021, all the Crown Court lawyers attended the mandatory training and refresher training on disclosure management document (DMD) completion. Representatives of the local police forces were invited to the CPS training and provided with training materials, and the legal manager presenting the training also presented it at various police training events. This training was recorded and now forms part of a mandatory police training package on disclosure for all Merseyside Police officers.

7.87. The Area has also put a great deal of effort into the joint CPS–police disclosure working group. This included jointly monitoring compliance with the disclosure requirements under DG6 before national DG6 compliance data was made available. The results of the monitoring exercises were fed back into the disclosure working group. A number of steps were taken to improve performance, such as:

- amending the manual of guidance form for unused material (MG6) to incorporate elements of the police's investigation management document
- amending the manual of guidance form 6E (MG6E), which sets out what the police disclosure officer considered was disclosable material, to include a checklist of material where there is a rebuttable presumption that it is disclosable.

7.88. We were told that both of these steps have improved the quality of disclosure submissions by police officers. The cases in our Crown Court file sample were finalised between October and December 2021, however, so it may be that disclosure was carried out before the impact of training and other improvement activity was apparent in the police and Area's casework.

Initial disclosure

7.89. There were 36 cases in our Crown Court file sample where initial disclosure was required. Of these, we assessed 14 cases as fully meeting the expected standard and 14 cases as partially meeting it (38.9% each), with the remaining eight cases (22.2%) assessed as not meeting the standard.

7.90. The most common failings were not identifying that other obvious items of unused material were not scheduled, and determining incorrectly that unused material was not disclosable. Instances of material not being disclosed included entries on a police storm log, a negative result from a house search, and a victim's previous convictions.

7.91. In one instance, a record of an interview with someone who was arrested but not charged was listed on the MG6C. The prosecutor marked it as an exhibit when it was unused, and should have been disclosed. We have already noted not identifying the key issues in the case as a failing of case analysis and strategy, and this may hamper the prosecutor's ability to recognise what material may undermine the prosecution case or assist the defence.

7.92. Our process for reporting on potential miscarriages of justice identified by inspectors during file examinations was not invoked in any of the cases where we assessed unused material had incorrectly been withheld.

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

Continuing disclosure

Defence statements

7.94. Generally, the Area's handling of defence statements was good, especially where the defence statement was not served on time. A significant number of cases (19 of the 29 relevant cases) featured a late defence statement. In all but one of these (94.7%), the prosecutor chased service of the statement with the defence and/or made the court aware of the delay.

7.95. There were two inadequate defence statements, one of which was challenged. This led to a more detailed statement being served, which in turn enabled the prosecution to obtain further evidence to strengthen the case.

7.96. The defence statement was sent to the police with appropriate guidance on further reasonable lines of enquiry in 19 of the 29 cases (65.5%). In another six cases (20.7%), we assessed the guidance on the defence statement as

partially meeting the expected standard. In weaker cases, either no guidance was provided to the police, or the prosecutor's comments did not make the link between the prosecution case strategy and the contents of the defence statement.

Compliance with continuing disclosure duties

7.97. Continuing disclosure was better than initial disclosure, with 18 out of 32 cases (56.3%) assessed as fully meeting the standard. This suggests that Area prosecutors are able to adopt a more considered approach to disclosure when they have a defence statement which sets out the issues in the case, than when they have to adopt a wider overview of the disclosure position at an earlier stage. We rated continuing disclosure as partially meeting the standard in nine cases (28.1%) and not meeting the standard in five cases (15.6%).

7.98. Again, the main reasons for marking down continuing disclosure were failure to identify additional items of unused material that were missing from the schedules and incorrectly marking items as not disclosable. Most of these were repeats in the same cases of the errors or omissions at the initial disclosure stage. There were also three cases where reasonable lines of enquiry relating to unused material were not pursued.

Timeliness

7.99. The timeliness of disclosure of unused material is a strength for the Area. Initial disclosure was timely in 32 out of 36 cases (88.9%) and continuing disclosure was timely in 28 out of 32 cases (87.5%). Another two cases (5.6%) were assessed as partially meeting the expected standard for timeliness of initial disclosure, meaning that the delay did not have a material impact on case progression.

Sensitive and third-party material

7.100. There was relevant sensitive unused material, or the potential for there to be sensitive material, in 11 of the Crown Court cases we examined. Of these, we assessed five cases (45.5%) as fully meeting the standard for handling this material, one case (9.1%) as partially meeting the standard and five cases (45.5%) not meeting the standard.

7.101. One issue we noted was not exploring the possibility of sensitive material in a case where it was likely to exist, such as where an intelligence-led drugs search warrant had been executed. This accounted for four of the five cases we assessed as not meeting the standard. In the fifth, also a drugs case, the schedule of sensitive material was not endorsed.

7.102. Third-party material was correctly dealt with in all five cases (100%) where it was relevant. The material concerned was either medical records or Social Services information. In a domestic abuse case involving Social Services records, the issue arose as a result of the contents of the defence statement. The police obtained the material and the prosecutor correctly identified the limited parts of it that met the test for disclosure.

Disclosure records

Disclosure management documents

7.103. DMDs were not mandated in routine Crown Court cases until 1 January 2021, a change brought about by the release of DG6. The CPS Mersey-Cheshire Crown Court unit piloted the completion of DMDs across all Crown Court cases for six months from October 2019, so the relevant staff received a great deal of training, guidance and input in relation to disclosure in general and the purpose and content of DMDs specifically. The Area also had in place a robust feedback mechanism for lawyers and crown advocates to inform the national pilot.

7.104. As the cases in our file sample predated the national requirement for a DMD, we marked them as not applicable in accordance with our own guidance. We did note that the quality of the DMD improved after they became mandatory, which would suggest that the Area's training and guidance on DMD completion has been successful in delivering improvement.

7.105. There were ten cases requiring a DMD. One was started in six cases, but there was no DMD in the other four. Five of the six DMDs were completed accurately and fully.

Disclosure records

7.106. There were four cases (10.3%) where the disclosure record on Modern CMS was assessed as not meeting the required standard. In the rest of the cases, the disclosure records were assessed as fully meeting the standard (74.4%) or partially meeting it (15.4%). We noted that the weaker cases often lacked an entry on the disclosure record indicating the prosecutor's views on the defence statement and/or reasoning for why additional disclosure was made as a result. This is despite the otherwise strong handling of defence statements which we have noted.

Does the Area address victim and witness issues appropriately?

7.107. 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 84.0%.

7.108. The duties owed by the CPS to victims and witnesses are set out in paragraphs 4.52 to 4.61. 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.

7.109. Some aspects of the service provided to victims and witnesses in Crown Court cases are strengths for the Area, including witness warnings and queries, speaking to witnesses at court (STWAC), orders at sentencing, and dealing with Victim Personal Statements (VPSs). Work is needed on consideration of victim and witness issues at charge and the standard of Victim Communication and Liaison scheme (VCL) letters.

Pre-charge

7.110. 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.

7.111. In our Crown Court file sample, there were 17 cases which called for consideration at charge of relevant applications and ancillary matters to support victims and witnesses. In seven cases (41.2%), the charging advice was rated as fully meeting the expected standard for this aspect, and the remaining ten cases were split evenly between those partially meeting and not meeting the expected standard (five cases or 29.4% each).

7.112. Most commonly, in those cases not meeting the standard, the charging lawyers failed to consider special measures where they could assist witnesses to give their best evidence, restraining orders where they were appropriate, or compensation for victims where they had suffered loss. In one case, an allegation of modern slavery, the victim was clearly vulnerable but there was no discussion across several charging advices as to what support he might need. There was no reference to any potential special measures, the need for a VPS, or details of any orders at sentencing that might be appropriate.

After charge

Warning witnesses and communicating with witness care units

7.113. Consideration of special measures is better after charge than before. We assessed 11 of 19 cases (57.9%) as fully meeting the required standard, five cases (26.3%) as partially meeting it, and three cases (15.8%) as not meeting the standard. A common failing in the weaker cases was not progressing special measures expeditiously after charge, including not making the application until the day of trial in one domestic abuse (stalking) case.

7.114. In most cases, the Area works well to secure the best evidence possible by warning witnesses correctly and in a timely way. We assessed 31 of the 35 applicable cases (88.6%) as fully meeting the required standard.

7.115. Correspondence from the witness care unit (WCU) regarding witness issues was dealt with in an effective and timely manner in 22 of the 24 applicable cases (91.7%). There appeared to be a good working relationship between the WCU and the paralegal officers who were largely responsible for the responses to witness queries. For a number of years, until March 2022, there were Area staff in the WCU, and the Area still holds monthly meetings with the WCU to discuss any issues either team may have. Both these factors are likely to have assisted in developing and maintaining good communication.

7.116. One case where witness issues were handled well was an aggravated burglary. The already vulnerable victim was hospitalised with an aneurysm and the witness withdrew support for the prosecution. The issue was identification of the assailant, who was masked. The prosecutor made a successful application (supported by medical evidence) for the victim's evidence to be admitted as hearsay, and sought and served a witness summons on the reluctant witness, who attended the trial. The defendant was convicted and received a lengthy custodial sentence.

Consulting victims and speaking to witnesses at court

7.117. In the Crown Court team, the Area mandates the use of a separate form for recording when conversations take place under the STWAC initiative. This form is completed by paralegal staff. This appears to be delivering good results, with 15 of the 18 relevant cases (83.3%) assessed as fully meeting the expected standard for recording consultations and discussions with victims and witnesses.

Victim Personal Statements and orders at sentencing

7.118. The victim's wishes regarding their VPS were fully complied with in 14 of the 20 applicable cases (70.0%). Compliance was assessed as partially meeting the required standard in another four cases (20.0%), with the remaining two cases (10.0%) assessed as not meeting the standard. In weaker cases, either the victim's views were not ascertained, or there was no record on the hearing record sheet of how the VPS had been dealt with at sentencing.

7.119. Appropriate orders were sought at sentencing to protect victims, witnesses and the public (thus fully meeting the standard) in all but one of the 16 relevant cases (93.8%). This is a real strength for the Area.

Victim Communication and Liaison scheme letters

7.120. The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge. In our Crown Court sample, there were five cases calling for a VCL letter. A letter was sent in all five instances, but the standard of the letters showed room for improvement. We assessed one as fully meeting the required standard, three as partially meeting it, and one as not meeting the standard. The weaker letters included a lack of empathy or comments that could be taken as victim-blaming, and failed to explain decisions in a way that was readily understandable to a lay reader.

7.121. All five of the VCL letters were sent in a timely manner, including those to victims entitled to an enhanced service. In paragraphs 9.8 to 9.17, we discuss the quality assurance work the Area has done to make sure that letters are timely and to monitor the standard of letters.

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, particularly the increased caseloads, changes in legal managers, and need for more experienced prosecutors to support and mentor those with less experience.

8.3. We have scored CPS Mersey-Cheshire for its RASSO casework as follows.

Table 13: Scoring for RASSO casework

Question	Rating	%
Pre-charge decision-making and review		
The Area complies with the Code for Crown Prosecutors ²⁴ at pre-charge decision stage	Fully meeting the standard	94.7%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	100%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Partially meeting the standard	69.3%
Quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	100.0%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Partially meeting the standard	67.4%
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	Fully meeting the standard	88.8%
Disclosure		
The Area fully complies with its duty of disclosure throughout its RASSO casework	Fully meeting the standard	85.5%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its RASSO casework	Fully meeting the standard	83.9%

8.4. Our assessment of RASSO casework was that there were aspects that were done very well, including preparing for the Plea and Trial Preparation Hearing (PTPH), disclosure, and addressing victim and witness issues. There were other aspects that required more focus, specifically the quality of case analysis and trial strategies in pre-and post-charge reviews.

8.5. There are factors relating specifically to RASSO casework, which we cover in paragraphs 4.62 to 4.65.

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

Pre-charge decision-making and reviews

8.6. 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

8.7. 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).

8.8. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with 18 of the 19 Area-charged RASSO cases being compliant with the Code for Crown Prosecutors.

8.9. In one case (5.3%), the decision to charge was wholly unreasonable because there was clearly insufficient evidence for there to be a realistic prospect of conviction.

8.10. The case concerned an allegation that a care worker had engaged in sexual activity with a mentally disordered patient. It was an unusual case; the complainant was detained under the Mental Health Act in a low security ward where the suspect, a clinical support worker, was employed. The complainant, who alleged there had been various incidents of sexual activity with the suspect, was widely regarded as being difficult, intimidating and manipulative, and he had convictions for very serious violence. He had previously been on, and was afterwards moved back to, a high security ward.

8.11. The suspect accepted that there had been one incident of sexual activity, but claimed that it had taken place as a result of duress and threats made towards her by the complainant. A detail of one of the complainant's previous convictions supported the suspect's claims; she said that the complainant had threatened a particular type of unusual physical assault on her, and one of his convictions was for an assault in exactly that manner. There was also extensive unused material which undermined the prosecution case to such an extent that it was not possible to rebut the defence to the required standard. Shortly before

trial, and some two years after the case was first submitted to the Area, the prosecution offered no evidence.

Table 14: Pre-charge Code compliance in RASSO cases

Rating	Number of cases	Percentage
Fully meeting the required standard	18	94.7%
Not meeting the required standard	1	5.3%

Selecting the most appropriate charges

8.12. 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).

8.13. 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.

8.14. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making with an overall score of 100%. This is a real strength given the complexities around charge selection in sexual offences cases.

8.15. One example of the careful selection of charges was a case where the defendant had been communicating with a child over social media. At first, the messages were not overtly sexual. The child's parent became aware of the communication and took over from the child without telling the defendant, who thought they were still engaging in contact with a child. The messages became more explicitly sexual. The prosecutor carefully and correctly ruled out a charge of communicating with a child sexually because of the difficulties proving that the messages were sexual at the stage the child was involved. The prosecutor correctly advised charging attempting to communicate sexually with a child after the parent had taken over the contact.

8.16. The defendant pleaded guilty on the day of trial, and received a suspended sentence of imprisonment with related community and notification orders. The court also imposed a ten-year sexual harm prevention order.

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

8.17. Our assessment is that the Area is **partially meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in RASSO cases is 69.3%.

8.18. 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).

8.19. Unlike in the other categories of casework, we found the timeliness of the pre-charge decisions we examined to be mixed, with seven out of the 19 Area-charged cases (36.8%) assessed as fully meeting the standard, another seven (36.8%) assessed as partially meeting it and the remaining five cases (26.3%) not meeting the standard. This is a weakness in relation to RASSO casework, where delays can have a significant impact on victims and witnesses, but may be partly explained by the shift from more to less experience in the RASSO unit and the other pressures caused by the pandemic, including increased caseloads and backlogs.

8.20. The Area told us that the timeliness of pre-charge advice is a key focus in the RASSO unit, with clear expectations being set. Managers scrutinise both the quality and timeliness of reviews.

8.21. The Area told us that some of the more experienced and long-standing prosecutors who retired earlier than expected were previously in the RASSO unit, and this had an impact on the level of experience in the team. In addition, the increase in caseloads and backlogs has been particularly difficult for what is a relatively small RASSO team, and has had an impact on the Area's timeliness in charging RASSO cases. The caseload has started to fall again; the most recent data shows a caseload of 13.8% above pre-pandemic levels.

8.22. The Area has been endeavouring to address the delays in providing RASSO charging advice, including producing weekly workload reports with notes from the charging manager as to what action is being taken to deliver advice on late cases. These emails are copied to the Chief Crown Prosecutor.

8.23. A weekly charging meeting discusses priority charging cases (those which are close to the target date), and legal managers discuss cases with their lawyers to make sure they are prioritised correctly. We were told that an escalation policy was being drafted to deal with any delay on the part of the police in replying to charging action plans. These discussions also take place at the monthly police–Area performance meetings.

Case analysis and strategy

8.24. We assessed 11 out of 19 cases (57.9%) as fully meeting the expected standard for case strategy and analysis at the pre-charge stage, five (26.3%) as partially meeting the standard and three (15.8%) as not meeting the standard. This was stronger than in the other types of casework, but still leaves much room for improvement.

8.25. In weaker cases, we found that the charging advice did not include a cogent case strategy clearly recording the lawyer's assessment of the evidence, their reasoning, and/or on what basis the case would be prosecuted.

8.26. In particular, in weaker cases we found that defences raised or likely to be raised were not addressed. In one case there was no analysis as to why the suspect would not reasonably believe that the complainant was consenting.

8.27. In another example, there was no analysis as to how the prosecution would prove the suspect did not have reasonable belief that the complainant was over 16 years old; there were conflicting accounts as to whether the suspect had been told that the complainant was 15, 16 to 17, or 18 years old. The prosecution offered no evidence at the close of the prosecution case, although it was incorrectly finalised on the CPS case management system (CMS) as a discontinuance rather than a judge-directed acquittal.

8.28. We saw some better examples of case analysis, including the following.

- In a case involving an allegation of engaging in sexual communication with a child, the defendant sent text messages to the victim (a friend of his daughter), who was 15 years old at the time. The case was factually straightforward as the defendant admitted sending the texts. The defendant, who was of good character, said his interest in the victim was platonic and fatherly. The texts were not explicitly sexual, so whether they amounted to an offence was not straightforward. The charging lawyer set out a detailed and comprehensive explanation of their thinking, which included putting the texts in the context of all the other factors, such as the defendant buying the victim alcohol, giving her money, and having inappropriate conversations with her. The charging advice, which was excellent, set a clear path for the prosecution's route to a conviction. The defendant pleaded guilty at trial. He was made the subject of a suspended sentence of imprisonment with a curfew and rehabilitation activity requirement and the court also imposed a ten-year sexual harm prevention order.
- In a case involving an allegation of rape of the complainant by her male cousin, the charging advice discussed the strengths and weaknesses of the case and considered the defence of consent raised by the suspect. The

charging lawyer addressed the evidence to show the complainant was believable, and supported their conclusion that the suspect's account was not credible with a sound rationale. They set out a trial strategy with consideration of which witnesses to call and how to present the case to rebut the defence of consent. There was also consideration of whether the medical expert should be called to deal with a strangulation injury, which supported the complainant's account. Clear reasoning was set out regarding the appropriate charges. The suspect was acquitted at trial; the acquittal report from the prosecution advocate indicated that they considered the verdict to be against the strength of the evidence.

Unused material at charge

8.29. Unused material can be of great importance when deciding whether to charge or not. The handling of unused material at charge in the RASSO cases in our sample was assessed as fully meeting the expected standard in just over half the 19 applicable cases (11 cases or 57.9%), as partially meeting the standard in five cases (26.3%) and as not meeting it in three cases (15.8%).

8.30. In one of the three cases assessed as not meeting the standard, there was no discussion about unused material. In the other two cases, the disclosure section in the police manual of guidance 3 form (MG3) said "see above", but the earlier analysis was either inadequate or was not sufficiently clear because it was lost among other aspects of the case discussion.

8.31. In the stronger cases, there was proper consideration of the unused material already supplied, with analysis of its impact on the prosecution case. Where proportionate, the police were asked to carry out reasonable lines of enquiry to explore the possibility of there being other items of potentially disclosable unused material.

Instructions to the court prosecutor

8.32. There were proper instructions to court prosecutors in 12 of the 19 Area-charged cases (63.2%). We assessed five cases (26.3%) as partially meeting the standard and two cases (10.5%) as not meeting the standard.

8.33. As with the magistrates' court and Crown Court cases, we noted that weaker cases did not address acceptable pleas. We also found that guidance on allocation was not sufficiently precise; reference to the Sentencing Council guidelines would assist in those cases that are borderline as to whether they are heard in the magistrates' courts or Crown Court.

Reasonable lines of enquiry and action plans

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

8.35. Action plans were stronger in the RASSO cases in our sample than in the Crown Court or magistrates' courts. We assessed 12 of the 19 relevant cases (63.2%) as fully meeting the standard for action plans, and the remaining seven cases (36.8%) were assessed as partially meeting the standard.

8.36. The issues we noted in the cases partially meeting the standard were process-related rather than substantive: primarily listing the actions in the body of the MG3 rather than the specific action plan section, which might lead to actions being missed. There were occasions where various actions were set but they were not given different timescales or prioritisation as appropriate.

Applications and ancillary matters

8.37. 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.

8.38. We found a mixed approach to ancillary matters and applications to strengthen the prosecution case, such as bad character or hearsay evidence. We assessed seven out of the 16 applicable cases (43.8%) as fully meeting the standard, four cases (25.0%) as partially meeting the standard and five cases (31.3%) as not meeting the standard. We found that prosecutors often failed to recognise or adequately consider the relevance of bad character evidence and to use it to support the trial strategy. This included a case where the suspect in an allegation of sexual communication with a child had previously been served with a child abduction notice.

8.39. The approach to applications and ancillary matters to support victims and witnesses before charge was also inconsistent. We assessed seven out of 17 applicable cases (41.2%) as fully meeting the standard, five cases (29.4%) as partially meeting the standard and five cases (29.4%) as not meeting the standard. Of those cases assessed as not meeting the standard, we found that the charging lawyers failed to consider special measures where they could help witnesses to give their best evidence, including in one case with a number of young witnesses, only one of whom had been video-interviewed.

8.40. In the cases we assessed as fully meeting the standard, there were examples of the charging lawyer using the information provided by the police to identify appropriate special measures and support the application, and of considering the terms of restraining orders to protect victims.

Post-charge decision-making and reviews

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

8.41. 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 100%. These cases included those that were originally charged by either the police or CPS Direct.

8.42. 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 15: Post-charge Code compliance in RASSO cases

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

8.43. 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.

8.44. As Table 15 shows, there were no cases where the post-charge decision to proceed did not comply with the Code.

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

8.45. 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 67.4%.

8.46. We discuss the standards expected of a post-charge review at paragraphs 4.21 and 4.22.

Case analysis and strategy

8.47. Reviews carried out in RASSO cases after they had been sent to the Crown Court, and in advance of the PTPH, were assessed as fully meeting the standard for case analysis and strategy more often than those conducted at the pre-charge stage.

8.48. Of the 20 RASSO cases in our sample, 13 cases (65.0%) had an initial post-sending review that we assessed as fully meeting the expected standard, five cases (25.0%) were assessed as partially meeting the standard and two cases (10.0%) were assessed as not meeting the standard. In the two cases we assessed as not meeting the standard, one did not have a post-sending review and the other added nothing to the pre-charge advice, which we had also assessed as not meeting the standard.

8.49. There were a number of good examples of post-sending reviews, including one case that had been charged by CPS Direct on the threshold test. The reviewing lawyer was unable to apply the full Code test but followed up on issues identified in the CPS Direct charging advice without repeating that advice, discussed the relevant issues and set a comprehensive list of actions for the police, divided into those that were urgent and those that were less so.

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 and 4.24.

8.51. We found that significant event reviews were not always completed when they should be. Of the seven cases in which a significant event necessitated a review, five cases (71.4%) were assessed as not meeting the required standard; in all but one of these it was because no review took place.

8.52. This included one case where extensive undermining material was received, and two cases where developments necessitated changes to the prosecution trial strategy. In one of those cases, an explanation by the defendant in their defence statement was akin to an alibi. The defendant said that he was away on holiday without electronic devices or access to the internet when sexual communications were sent to a child. No review took place to consider whether any further enquiries could be made to confirm or discredit the defendant's explanation and the impact of their account on the trial strategy.

8.53. The Area has set specific objectives in staff performance and development reviews for completion of significant event reviews. A case where the victim exercised their right to have the Area's decision reviewed led to the identification and dissemination of a learning point on significant event reviews.

The Area has also emphasised the importance of addressing the impact of new material on the case, and the decisions taken thereafter, through recent individual quality assessments carried out by legal managers on prosecutors' casework.

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. We found that stage 1 reviews showed room for improvement in RASSO cases. We assessed three of the 17 applicable cases (17.6%) as fully meeting the standard, five cases (29.4%) as partially meeting it and nine cases (52.9%) as not meeting the standard.

8.56. We found that the most common failings were either not recording a review at all or referring to the pre-charge advice without reflecting new material or changes in the case. In one case, the defence stance shifted significantly, requiring a full re-evaluation of the trial strategy. We noted that the need for a strong stage 1 review was greater in RASSO cases which had received weak charging advice and no, or a superficial, post-sending review, but this remedial action often did not happen.

Threshold test cases

8.57. 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.

8.58. 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). The Area invests significant time and energy in monitoring custody cases, which we discuss in paragraphs 2.36 to 2.40. The assurance includes maintaining a tracker and having frequent discussions about prioritising custody cases.

8.59. Of the 20 RASSO cases we assessed, one was charged by CPS Direct under the threshold test. In that case, the Area prosecutor carried out a thorough and comprehensive post-sending review, still applying the threshold test. The case received another comprehensive review when the full Code test could be applied.

Acceptance of pleas

8.60. There was one case in our RASSO sample where a plea was accepted; the decision was appropriate, with the reasoning clearly recorded. The defendant was charged with assault by penetration, and controlling and coercive behaviour. A plea was accepted to the latter charge and no evidence was offered on the former. This was unavoidable, owing to the complainant's understandable reluctance to be cross-examined on video footage of the incident, which showed the penetration but went on to record activity that supported the defence of consent.

Feedback on police file quality

8.61. 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 CMS. However, CPS Mersey-Cheshire took the decision to continue with these formal assessments on the police file quality.

8.62. Since 21 July 2021, the mechanism for feeding back on the quality of police files has been the Director's Guidance on Charging, sixth edition (DG6) Assurance. DG6 Assurance takes into account the changes to the NFS brought about by the introduction of DG6 on 31 December 2021.

8.63. Some of the files we examined in this inspection were subject to the previous feedback mechanism, and some to DG6 Assurance. All were assessed according to the regime that was in place at the appropriate time.

8.64. Within our sample of 20 RASSO cases, 15 (75.0%) of the police files submitted were assessed as fully meeting the requirements set out in the NFS. The other five cases (25.0%) were assessed as not meeting the standard.

8.65. Of the five files that had not met the NFS, the Area provided feedback which we assessed as fully meeting the required standard in one case. There was feedback which we assessed as partially meeting the standard in another case, and in the remaining three cases (60.0%), no feedback was provided.

8.66. The Area has now introduced a more rigorous feedback regime with the police. This includes monthly meetings with minutes taken and actions noted. The Area has also introduced a dedicated joint operational improvement meeting with the police for RASSO cases.

Conferences with counsel and counsel's advice

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. There were 11 cases in our RASSO file sample where a conference with trial counsel was mandated. The conference was held promptly, with proper records kept of what had been discussed, in seven cases (63.6%), which we rated as fully meeting the expected standard. In the remaining four cases (36.4%), no conference was held.

8.70. There is an expectation that counsel will read their instructions promptly and advise or confer with the Area lawyer within five days of receiving their instructions. In our RASSO sample, there were nine cases where counsel did not give advice on time. In five of those nine instances (55.6%) the Area chased the advice; we assessed these as fully meeting the expectation. We assessed two cases (22.2%) as partially meeting the expectation that the advice would be chased, and two (22.2%) as not meeting it. In the latter cases, there was no advice, and it was not chased.

8.71. The Area has been reviewing the use of counsel. It is generally satisfied with the service it receives, but found there were resilience issues during the pandemic. Local counsel and prosecutors have built up good working relationships, which presents benefits but also risks, and the Area is keen to make sure it challenges the service where appropriate and does not become complacent.

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

8.72. Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for preparation for the PTPH in RASSO cases is 88.8%.

8.73. In assessing the Area's performance when preparing for the PTPH, we considered the key tasks the prosecution are required to complete – including filling in the PTPH form for use by the Judge presiding at the hearing; carrying out direct engagement with the defence; drafting the indictment; making sure the relevant material is uploaded to the Crown Court Digital Case System (DCS) before the hearing; and making sure an advocate is instructed in advance of the hearing, so that they have time to prepare. There is more detail about these tasks in chapter 4 (paragraphs 4.26 to 4.35).

8.74. We found that preparation for the PTPH was a strength for the Area, with 15 out of 20 cases (75.0%) assessed as fully meeting the standard and the remaining five cases (25.0%) assessed as partially meeting the standard. No cases were assessed as not meeting the standard. The most common failing in those cases assessed as partially meeting the standard was not addressing acceptable pleas, which we also identified as an issue at the pre-charge stage.

Applications

8.75. There were seven cases in our RASSO sample where applications such as bad character or hearsay were appropriate. In four cases (57.1%), applications were used appropriately to strengthen the prosecution case; we rated these as fully meeting the standard. The remaining three cases (42.9%) were assessed as partially meeting the standard.

8.76. As with Crown Court cases, most of the necessary applications were to admit bad character evidence. In two of the three cases assessed as partially meeting the standard, the bad character material was sent to counsel without the lawyer reaching a decision about an application.

The indictment

8.77. RASSO cases present specific challenges when drafting indictments, particularly where the victim is a child, or the allegations are not recent. In our sample, we found that indictments were well drafted, with 14 out of 18 cases (77.8%) assessed as fully meeting the standard, three cases (16.7%) as partially meeting the standard and the remaining case (5.6%) as not meeting the standard.

8.78. All the indictments were legally correct, which is commendable given the complexities that these cases can present. Where we assessed indictments as partially meeting or not meeting the standard, it was most often because there was insufficient particularisation of the details of the count.

Service of the case

8.79. The timeliness with which the Area serves RASSO cases is a real strength. In all but one case (94.4%), the draft indictment and key evidence were uploaded to DCS seven days before the PTPH.

8.80. As with Crown Court cases, the Area monitors compliance with the seven-day target closely, including checks by an operational delivery manager, notification of priority cases to the lawyer and their manager, and additional monitoring by level one legal managers of any cases with a custody time limit.

Instructing the advocate

8.81. We set out the expectations for what should be contained in instructions to the court advocate in paragraph 4.30. It is particularly important that good quality instructions are provided to counsel in RASSO cases, where there are often vulnerable victims and witnesses, complex indictments, additional applications, and important factors to be considered in relation to bail.

8.82. We found that the quality of instructions to the PTPH advocates is an area where improvement is needed. We assessed over half the cases (ten cases out of 18, or 55.6%) as not meeting the required standard. This was usually because no instructions had been prepared. The advocate was provided with documents from the case file, but this left gaps, particularly where there had been failings in pre-charge and other reviews, such as a lack of proper case strategy or instructions on acceptable pleas.

8.83. The Area told us that prosecutors are held accountable for all key decisions on their cases and that instructions to counsel are expected to be clear, specific and capable of addressing any changes in circumstances. Instructions are reviewed by lawyer managers and any issues are addressed with the prosecutors. Still, the Area will need to make sure that the records made of reviews at key stages are completed to a high standard, to provide the information counsel will need.

8.84. The Area's expectation from counsel in return is that they will deliver good quality and timely advice. The Area acknowledges that while the relationship is good, it is in need of some challenge where appropriate. The Area is developing an escalation policy with its sets of barristers.

8.85. Timeliness in instructing counsel (or an Area crown advocate) is a strength for the Area; Counsel was instructed at least seven days before the PTPH in 15 out of the 18 applicable cases (83.3%); we assessed these as fully meeting the standard. Two cases (11.1%) were assessed as partially meeting the standard and one case (5.6%) as not meeting the standard. Often, counsel was instructed a matter of days after the case was sent to the Crown Court.

Hard media

8.86. The police upload hard media (such as CCTV footage or body worn video) to secure online locations and send the links to the CPS. Hard media was correctly shared by the prosecutor before the PTPH in 12 out of the relevant 17 cases in our sample (70.6%), with three cases (17.6%) partially meeting the standard and the remaining two cases (11.8%) not meeting the standard. This is better compliance than in the magistrates' courts or the Crown Court cases in our sample.

Correspondence with partners

8.87. New material received from the police was reviewed appropriately and sufficiently promptly, with timely and effective actions taken, in most RASSO cases (15 out of 17 applicable cases, or 88.2%). The remaining two cases (11.8%) were assessed as partially meeting the standard for dealing with additional police submissions.

8.88. Correspondence from the court and defence was dealt with properly in all but one of the 16 relevant RASSO cases (93.8%). The remaining case (6.3%) was assessed as partially meeting the expected standard.

8.89. Requests to the police for additional material or editing of material were timely, and escalated where appropriate, in most of the 17 relevant RASSO cases; we rated prosecutors as fully meeting the standard for this aspect in 14 cases (82.4%) and partially meeting it in the other three cases (17.6%). The Area has clear escalation procedures with both its police forces, which our file sample indicates are being used appropriately.

Court directions

8.90. There was timely and appropriate action to comply with court directions or Judges' orders in 15 of the 18 applicable RASSO cases (83.3%). The remaining three cases (16.7%) were assessed as partially meeting the required standard.

Direct engagement with the defence

8.91. 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 4.34 and 4.35). 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 CMS and should then share it with the court and defence by uploading it to DCS.

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

8.93. Direct engagement with the defence was carried out fully and promptly in 15 out of the applicable 18 cases (83.3%), usually by means of a letter. We assessed two cases (11.1%) as partially meeting the standard, and one case (5.6%) as not meeting the standard.

8.94. While defence engagement received more attention in RASSO cases compared to Crown Court cases, we noted again that engagement did not result in tangible benefits, such as narrowing the issues and resolving the case where possible. However, as discussed, this may have been affected by the difficulties faced by the defence during the pandemic.

Case study

The defendant and victim had been in a long-term relationship and had children together. When the relationship ended, the defendant moved out of the family home, but they remained in contact so that the defendant could spend time with the children.

The victim reported a burglary, believing the defendant had broken into her house, caused damage and made threats. She also alleged that the defendant had been controlling during their relationship. She said he had caused damage to her property and, since the relationship had ended, had come to her house unannounced and tried to initiate sex.

The victim would on occasion have consensual sex with him to avoid further repercussions. On one occasion when she said no and pushed him away, the defendant punched and kicked her. Following this, the defendant sent text messages to the victim threatening to post sexual images and videos online. He sent the victim a video of him touching her sexually while she was asleep.

The initial pre-charge action plan requested significant additional work to be undertaken by the police, not all of which was necessary. This included a video interview of the victim, although she had provided a full statement and confirmed that she did not want special measures, and a request for any unused material in medical records, although there was no rationale for this request, or direction as to what to look for. There was no rationale as to why the police were being tasked with carrying out the extra enquiries.

There were three reviews before charge, none of which involved the prosecutor viewing the video of the alleged sexual assault. They instead relied on a description from the police. The defendant was charged with coercive and controlling behaviour and sexual assault by penetration.

No advice was received from counsel, nor was it chased, and there was no conference. These steps may have helped to make sure the evidence was strong and to deal with any issues that arose.

At the PTPH, the defendant entered a guilty plea to the charge of coercive and controlling behaviour. The trial for the sexual assault was listed some nine months later.

The defendant said that the sexual activity was consensual. The police had told the prosecutor that the recording showed consensual intercourse after the digital penetration, but this was not addressed in reviews.

The victim did not wish to view the video, and had not done so other than to watch a short part at the outset so she could confirm it was her in the footage and that she was asleep at the time of the digital penetration. She could therefore not be cross-examined on the contents of the video and the potentially undermining material. This difficulty was not addressed in the reviews either.

On the day of trial, the prosecution offered no evidence because of the issues that had been apparent from the earliest stages. This decision could have been made much earlier, avoiding unnecessary distress for the victim and additional work.

Does the Area fully comply with its duty of disclosure?

8.95. Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for disclosure in RASSO cases is 85.5%.

8.96. The duties of the police and CPS in relation to the disclosure of unused material are set out in paragraphs 4.36 to 4.51. 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 CMS and feeding back to the police where necessary.

Police service on disclosure

8.97. We found the police's compliance with their disclosure obligations to be fully meeting the expected standard in eight out of 20 applicable RASSO cases (40.0%). We assessed police compliance as partially meeting the standard in another 11 cases (55.5%) and not meeting the standard in the remaining case (5.0%).

8.98. While this is better than in the magistrates' court and Crown Court cases, it still leaves room for improvement. The Area has been working closely with the police to improve the quality of disclosure, including through the auspices of the joint disclosure working group. We discuss this in more detail in chapter 12.

8.99. Feedback to the police is an important part of driving improvement, and should occur despite the pressures on CPS Areas, so that the Area receives a better service in future. Of the 12 cases where feedback to the police was required, we assessed seven instances (58.3%) as fully meeting the standard. We assessed two cases (16.7%) as partially meeting the standard and the remaining three cases (25.0%) as not meeting the standard. Again, this is better than the feedback provided in the other types of casework.

Initial disclosure

8.100. We assessed initial disclosure in RASSO cases as fully meeting the required standard in 13 of the 18 applicable cases (72.2%). Another three cases (16.7%) were assessed as partially meeting the standard and the remaining two cases (11.1%) as not meeting the standard.

8.101. Two common failings were not endorsing the unused material schedules at all and not identifying that other obvious items of unused material were not scheduled. There were two cases where obvious items of unused material were missing; in both cases, the missing item was a prosecution witness's previous convictions. There were no instances of unused material being incorrectly identified as not disclosable at initial disclosure.

Continuing disclosure

Defence statements

8.102. Where a defence statement was late in RASSO cases, it was often not chased. There were nine RASSO cases featuring a late defence statement. In two of these, there was evidence that the Area chased service of the statement with the defence and/or made the court aware of the delay; we rated these cases as fully meeting the expected standard.

8.103. In four cases (44.4%), we assessed the challenge to late defence statements as partially meeting the required standard. In two of these cases, the Area chased the defence when the date initially passed without service of the defence statement, but took no further action to follow up or alert the court when the statement was still not served after several months. In the third case, the Area took no steps to chase until the lack of a defence statement was remarked upon at a court hearing.

8.104. We assessed the remaining three cases (33.3%) as not meeting the standard. In all three, no action was taken to chase the defence when the stage date passed. This is in contrast to the better performance in Crown Court casework.

8.105. Our file sample indicated that the RASSO team were generally good at monitoring stage dates. We were told that paralegal officers check due dates for defence statements and contact the defence when they are late. The paralegal officer will agree revised dates for service with the defence, but the court is not made aware of these, removing their opportunity to become properly engaged in this aspect of case management.

8.106. There was one inadequate defence statement, which was properly challenged because it was incomplete and unsigned. The revised version was signed, but lacked any defence requests regarding unused material.

8.107. The defence statement was sent to the police with appropriate guidance on further reasonable lines of enquiry in 12 of the 18 applicable cases (65.5%). In another five cases (27.8%), we assessed the guidance on the defence statement as partially meeting the expected standard. In weaker cases, as in Crown Court cases, either no guidance was provided to the police, or the prosecutor's comments did not make the link between the prosecution case strategy and the contents of the defence statement.

8.108. In one of the cases marked as partially meeting the required standard, the prosecutor drafted a letter to the police with appropriate guidance on the defence statement, but it was not actually sent.

Compliance with continuing disclosure duties

8.109. Continuing disclosure was a particular strength for Area, with 17 out of the 18 applicable cases (94.4%) assessed as fully meeting the expected standard, and the remaining case (5.6%) as partially meeting the standard. In that case, the decisions were correct, but the endorsement of the decisions and reasoning was not adequate. As with Crown Court continuing disclosure, this suggests that Area prosecutors are better able to assess unused material when they have a clear indication from the defence as to the issues in dispute.

Timeliness

8.110. The timeliness of the disclosure of unused material in RASSO cases is a strength. Initial disclosure was timely in 16 out of 18 cases (88.9%) and the remaining two cases (11.1%) were assessed as partially meeting the standard, meaning that the delay did not have a material impact on case progression. Continuing disclosure was timely in all relevant cases (100%).

Sensitive and third-party material

8.111. This is another strong aspect for the Area.

8.112. There were seven cases featuring sensitive unused material in our RASSO sample. Of those, we assessed all but one case (85.7%) as fully meeting the standard. The remaining case (14.3%) was assessed as not meeting the standard because the undermining material on the sensitive material schedule was not properly considered by the lawyer. No material was withheld incorrectly in this case.

8.113. Third-party material was dealt with very well, with all ten applicable cases (100%) assessed as fully meeting the standard. It is a challenge to maintain compliance with the new Attorney General's guidance on disclosure and to balance victims' privacy expectations with the need to pursue reasonable lines of enquiry. At the time of writing, the Area was aware of the issues and was setting a clear focus on managing them.

Disclosure records

8.114. Recording disclosure decisions in RASSO cases is another strength for the Area.

Disclosure management document

8.115. A disclosure management document (DMD) was started in 18 out of the 20 cases in our sample (90.0%). The remaining two cases (10.0%) had no DMD. Of the 18 cases where DMDs were started, 13 (72.2%) were completed accurately and fully throughout the life of the case. The remaining five cases (27.8%) were assessed as partially meeting the standard, usually because the DMD was not updated as the case progressed.

Disclosure records

8.116. The completion of disclosure records on CMS was good, with 16 out of 19 applicable cases (84.2%) being assessed as fully meeting the standard. This means that in most cases, actions taken and the reasoning for disclosure decisions were clearly set out in the disclosure record.

8.117. Two cases (10.5%) were assessed as partially meeting the standard. Neither had an entry relating to the reasons for initial disclosure decisions, but they were otherwise of a satisfactory standard. The remaining case (5.3%) was assessed as not meeting the standard.

Does the Area address victim and witness issues appropriately?

8.118. 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 83.9%.

8.119. The duties owed by the CPS to victims and witnesses are set out in paragraphs 4.52 to 4.61. 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.

8.120. Some aspects of the service provided to victims and witnesses are a strength for the Area, including witness warnings and queries, special measures applications after charge, speaking to witnesses at court (STWAC), orders at sentencing, and dealing with Victim Personal Statements (VPSs). As with Crown Court cases, there is room to improve the consideration of victim and witness issues at charge and the standard of Victim Communication and Liaison scheme (VCL) letters, although this latter finding derives from a very small sample of relevant cases.

Pre-charge

8.121. 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.

8.122. The consideration at charge of relevant applications and ancillary matters to support victims and witnesses, most commonly with special measures and restraining orders, was assessed as fully meeting the standard in seven of the 17 relevant cases (41.2%), partially meeting the standard in five cases (29.4%), and not meeting the standard in five cases (29.4%). For more detail about these findings, see paragraphs 8.37 to 8.40.

After charge

8.123. Special measures were properly sought to support witnesses in almost all cases, leading to an assessment that the RASSO unit was fully meeting the standard in 15 of the 16 relevant cases (93.8%). This is better than the standard achieved in either of the other casework units.

8.124. Special measures applications were often dealt with orally at the PTPH rather than by way of a written application, as agreed with the judiciary in the Area. We also noted that in RASSO cases, the team were effective and efficient in arranging remote links where they were needed.

Warning witnesses and communications with witness care units

8.125. In 17 out of 18 cases (94.4%), the Area made sure that the best evidence was presented by warning witnesses correctly and in a timely manner. The one remaining case (5.6%) was assessed as partially meeting the standard because the officer in the case had not been warned. All victims and civilian witnesses were warned appropriately and in a timely manner.

8.126. Correspondence from the witness care unit (WCU) regarding witness issues was dealt with in an effective and timely manner in 13 of the 16 applicable cases (81.3%). The remaining three cases (18.8%) were assessed as partially meeting the standard.

8.127. We noted that the WCU were not always told by the officer in the case where a witness was not required for trial, although the Area had told the police. This led to the WCU unnecessarily asking the Area for dates to avoid.

Case study

The complainant made allegations of non-recent rape and indecent assault by his uncle when the complainant was 15 years old.

The complainant was a transgender male and had a number of health issues including mental health issues, and was vulnerable. He had a social worker with him during his witness video-interview by the police. The Area lawyer considered at charging whether an intermediary would be required and if pre-recorded cross-examination would be appropriate.

In their first advice, the charging lawyer checked with the police what the complainant's preferred pronouns were, and used them in their final charging decision.

An intermediary was engaged when, at the first hearing for the recording of the complainant's cross-examination in accordance with section 28 of the Youth Justice and Criminal Evidence Act 1999, it became apparent that his deafness was preventing the hearing from being effective. The intermediary provided a report and was involved in development of the draft cross-examination questions.

The complainant was unwell on the second date scheduled for the section 28 pre-recorded cross examination hearing, and afterwards withdrew his support for the prosecution, based on his fears for his health and wellbeing. There was then a careful review as to whether the case should proceed, and the decision was made to offer no evidence. The letter to the complainant explaining the decision was thoughtful and empathetic.

Consulting victims and speaking to witnesses at court

8.128. The Area complied fully with the requirements to consult victims, and with the STWAC initiative, in ten out of 14 relevant cases (71.4%). Two cases (14.3%) were assessed as partially meeting the standard and two cases (14.3%) as not meeting the standard. While this is a high level of compliance, it is not quite as strong as in the other casework teams in the Area.

Victim Personal Statements and orders at sentencing

8.129. The victim's wishes regarding their VPS were fully complied with in 11 of the 15 applicable cases (73.3%). Compliance was assessed as partially meeting the required standard in another two cases (13.3%), with the remaining two cases (13.3%) assessed as not meeting the standard. This is better than our findings in the other casework teams.

8.130. We noted that the VPS was routinely chased if not originally supplied by the police, and that updated VPSs were sought after conviction where applicable.

8.131. Seeking appropriate orders at sentencing to protect victims, witnesses and the public is a strength of the Area, with appropriate orders being sought in all but one of the 12 relevant cases (91.7%). All the casework teams display real commitment to making sure the right orders are sought when cases reach the sentencing stage.

Victim Communication and Liaison scheme letters

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

8.133. There were two cases where a VCL letter was required, and both victims received a timely letter.

8.134. We assessed one letter as fully meeting the required standard, and the other as not meeting it. In the latter case, the letter was confusing in its explanation of how the case came to end and whose responsibility the decision was. It also told the complainant (a violent and dangerous man) that someone had recently given the police information which undermined his account. This may have been sufficient to allow the source of the new evidence to be identified.

8.135. The other letter, which was assessed as fully meeting the expected standard, was very good. It did not rely on template paragraphs, instead using a bespoke approach and plain English. It displayed considerable empathy and support for the complainant, who had complex needs and vulnerabilities.

9. Public confidence

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

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

Correspondence with victims

Expectations

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

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

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

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

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

Sending Victim Communication and Liaison scheme letters

Compliance with the Victim Communication and Liaison scheme

9.7. In our examination of 90 cases, the Area sent 13 VCL letters: six in magistrates' court cases, five in Crown Court cases and two in rape and serious sexual offence (RASSO) cases.

9.8. The Area has put effort into making sure that letters are sent when they ought to be, including checking the types of cases and outcomes that trigger the need for a letter, and feedback to managers about any instances where an Area prosecutor has not told the Victim Liaison Unit (VLU) that a letter is needed.

9.9. The Area uses agents to represent the prosecution at many magistrates' court trials, and noted that there were delays in agents' submission of hearing record sheets (HRSs). These explain how the case concluded and whether a letter to a victim is required. The Area contacted those chambers that regularly provide agents and fed back to individual agents about the importance of returning HRSs promptly. Agents are now required to send a copy of the HRS to the VLU in all cases, and the VLU deletes any HRS where the record shows no letter is required. The magistrates' court team also chases the HRS and has an escalation process in place if it is not sent in promptly.

9.10. Our file sample indicates that this work has been effective. There was one case, a magistrates' court case, where a letter was not sent when it should have been. In that instance, the victim was spoken to on the telephone about the decision, but the follow up letter required by the scheme was not sent.

9.11. The letters sent all met the scheme's prescribed timescales, whether for victims entitled to a standard or enhanced service. Early notifications to the VLU when letters are needed and chasing up HRSs, which appear to have become embedded by the Area's focus, no doubt help facilitate this level of timeliness.

Quality of Victim Communication and Liaison scheme letters

9.12. We assessed the quality of the 13 letters sent as set out in Table 16. Our findings showed that the quality of letters was varied, with eight of the letters assessed as partially meeting or not meeting the expected standard. The issues identified in these weaker letters included lack of empathy, too much legal jargon, and not adequately explaining the decision.

Table 16: Quality of Victim Communication and Liaison scheme letters

Casework type	Magistrates' courts	Crown Court	RASSO	All cases
Number of letters sent	6	5	2	13
Fully meeting the standard	3	1	1	5
Partially meeting the standard	2	3	-	5
Not meeting the standard	1	1	1	3

9.13. There was a very good example of a letter sent to a complainant who had complex needs and vulnerabilities. The letter did not rely on template paragraphs, instead using a bespoke approach and plain English. It displayed considerable empathy and support for the complainant.

9.14. The Area completes quality assurance monitoring of VCL letters. Letters to victims are proofread to make sure spelling, grammar and house style are followed, peer-reviewed by the VLU and, for those in the RASSO team, quality assured by a manager. Each month, 12 letters are dip-sampled as part of the Area's checks. The VLU manager has monthly meetings with managers where any issues with the timeliness or quality of VCL letters are raised and fed back. The VLU manager also attends some team meetings to feed back to prosecutors on findings from the quality assurance of VCL letters. This includes good practice and feedback where the letter is of high quality.

9.15. Victim panels, consisting of legal and operational delivery staff, review letters from all the casework teams and feed back about where improvements can be made. The panels were suspended during the Covid-19 pandemic but recommenced in February 2022.

9.16. When new templates were introduced for VCL letters, the VLU manager worked with a legal manager to draft written guidance on completing them. This has been implemented in the magistrates' court and Crown Court teams.

9.17. As part of the induction process, new prosecutors have a session with the VLU, which includes a focus on the importance of writing high quality letters.

Complaints and Victims' Right to Review responses

9.18. The Area has processes in place to manage the timeliness of responses to complaints and requests made under the VRR scheme. An up-to-date schedule is provided to lawyers on a weekly basis to maintain the timeliness of responses.

9.19. All VRR and complaint letters are quality assured by a senior legal manager before being submitted to the VLU. The VLU also proofreads the letters before they are sent to check for typographical or other errors. A sample of letters is considered at each of the victim panel's meetings and feedback on the quality of letters is provided.

Victims' Code and Witness Charter

Expectations

9.20. 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, VCL letters, offering meetings, and the speaking to witnesses at court (STWAC) protocol.

9.21. 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.

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

9.23. 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.

9.24. The HRS 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

9.25. In our file sample, we assessed consultation with victims and STWAC as fully meeting the expected standard in 82.7% of applicable cases, partially meeting the standard in 9.6% of cases, and not meeting the standard in 7.7% of cases. This is a strength for the Area.

9.26. In the Crown Court team, the Area mandates the use of a separate form for recording when conversations have taken place in accordance with STWAC. These are completed by paralegal staff, who make sure that counsel complies with the protocol.

9.27. All but three of the Crown Court cases in our sample (83.3%) had a record which we assessed as fully meeting the standard for consultation with victims and STWAC. Performance in RASSO cases was slightly weaker, with 71.4% of relevant cases fully meeting the standard. While this performance is good, the Area may wish to explore why it is not as strong as the finding for Crown Court cases, given that RASSO cases are usually tried at the Crown Court and should therefore follow the same process.

9.28. In the magistrates' court team, the HRS should include an endorsement that the STWAC protocol has been followed. The Area sent guidance to local sets of barristers who appear as agents for the prosecution to improve the quality of HRSs. The Area carries out internal checks to make sure that STWAC conversations take place, and we were told that where they do not, feedback is provided as part of individual quality assessment – the national scheme whereby prosecutors' case handling is formally assessed.

9.29. In our file sample, all but two of the magistrates' court cases (90.0%) had a record of the STWAC conversation that we assessed as fully meeting the expected standard.

Victim Personal Statements

9.30. In our file sample, 51 cases in our file sample had a VPS. In two thirds of those cases (34 cases, 67.7%), the victim's wishes regarding their VPS were complied with, fully meeting the standard expected. In eight cases (15.7%), we rated the handling of the VPS as partially meeting the standard, and in nine cases (17.6%) as not meeting it.

9.31. The VPS was dealt with according to the victim's wishes least often in magistrates' court cases, with 56.3% rated as fully meeting the standard, compared to 70.0% in the Crown Court (70%) and 73.3% in RASSO cases. This finding reflected the more frequent failure in magistrates' court cases to record how the VPS was used during the sentencing hearing.

9.32. As well as a lack of a note in the HRS, we also saw instances where the prosecutor had not sought an updated VPS for the sentencing hearing in appropriate cases. This is particularly important when significant time may have passed between the VPS being provided at the time the offence is reported, and the case being finalised at court.

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). The Area monitors compliance with the scheme and makes sure that contact is made with RASSO victims and bereaved families within the mandated timescales.

Community engagement

9.34. The Area has regular local scrutiny and involvement panels (LSIPs) for hate crime and domestic abuse. The panels' meetings were suspended during the pandemic, but restarted in February 2022. The panels involve key interested parties from the community, and are designed to help the Area identify local concerns and scrutinise casework. The feedback from the panels goes to relevant teams and individuals, and is used to help drive improvement.

9.35. The Area also uses partnership arrangements to support delivery to victims and witnesses. There is a multi-agency Victim and Witness Strategy Group (VWSG) that meets every quarter, which is a sub-group of the local criminal justice board. These meetings are attended by the Area, including VLU staff, both the Area's police forces, the Probation Service, and the Witness Service. There is regular discussion of victim and witness attendance rates, which are good in the Area. The group noted that there did not appear to be an impact on attendance rates when the Omicron variant of Covid-19 emerged.

9.36. The VWSG meetings appear to provide an effective forum for the participating agencies to raise any issues and determine appropriate actions to resolve them. We noted an example of this where the meetings identified that special measures applications were sometimes being declined at court. Analysis led to feedback that sometimes the standard of the application was poor, and that police officers may have assumed that applications would be granted if requested under the Victims' Code. An action was set to see if there were other possible reasons for applications being declined. The Area is working with the police to help officers understand the new automatic rights to special measures for victims of domestic abuse, and that the correct information is provided to support all special measures applications. As we discuss in the casework

chapters (6–8), our file sample indicated that there is scope to improve the consideration of special measures at and after charge.

9.37. There are monthly meetings where the Area and the police witness care unit (WCU) assess performance and discuss any issues. Witness attendance rates are discussed here as well as at the VWSG.

9.38. One issue raised by the WCU was a difficulty in finding out on a Friday afternoon what had happened at court in domestic abuse cases, meaning that victims might not receive the right support over the weekend following a hearing. This was to be raised with prosecutors to remind them to inform the WCU of results in a timely manner.

9.39. The WCU was staffed jointly by police and the Area for many years. The last two Area colleagues worked in the WCU until March 2022, and one was kept in a witness support role by being allocated to the VLU when they returned to the Area. We noted in our file sample that in almost all cases, correspondence from the WCU was dealt with efficiently, which is a good indicator of effective working relationships with the WCU to support victims and witnesses.

9.40. The Deputy Chief Crown Prosecutor regularly met with Victim Support during the pandemic, at first weekly, then scaling back the frequency as the immediate Covid-19 crisis passed. The liaison is now undertaken by a senior business manager, who meets the head of Victim Support monthly. Issues identified are fed back to the relevant staff in Area.

9.41. The head of the RASSO team held a meeting in the Spring of 2022 with local independent sexual violence advisors (ISVAs), to build relationships and explore the low level of receipts of RASSO cases from the police, along with any other issues the ISVAs may have identified. The information was very useful for the Area in identifying further work with partners, and there are now regular bi-monthly meetings between ISVAs and legal managers.

10. CPS people

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

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

Recruitment and induction, staff moves and succession planning

Expectations

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

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

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

Staff induction

10.4. Table 17 shows the increase in legal staff since March 2019, when the additional funding for prosecutors was announced.

Table 17: Legal staff in post (full-time equivalent)

	LM1	LM2	SCP	CP	Total
At 31 March 2019	10.00	4.00	67.06	10.22	110.36
At 31 December 2020	14.31	3.00	68.61	21.61	123.60

10.5. The Area's staffing levels have increased by the full-time equivalent (FTE) of 43.5 people since the beginning of the pandemic. In March 2020, the FTE staffing level was 233.6, and in May 2022, it was 277.1. Staff in post data shows that in the 12 months to December 2021, the Area had about 130 operational delivery staff and about 124 prosecutors in the grades up to and including level two legal manager.

10.6. The Area has experienced significant changes in its senior management team in the past few years, including having three Chief Crown Prosecutors. At the time of writing, the Chief Crown Prosecutor, one of the two Deputy Chief Crown Prosecutors and one of the Senior District Crown Prosecutors have all been in post for less than a year, with the newest member of the team joining in March 2022. On the operational delivery side of the business, the Area Business Manager and one of the senior business managers are currently in post on a temporary basis.

10.7. Recruitment and other changes in staffing during the pandemic have resulted in additional pressure on the Area, primarily to induct new members of staff while maintaining casework quality. We were told that some of the people who started this year had no previous criminal justice experience.

10.8. Some legal managers were also new in post, so had to be equipped and supported to oversee the new starters. The number of level two legal managers decreased from four to three, so those remaining had more level one managers to support, with less experience, and this added to the challenges faced by the level two managers. More recently, there has been a temporary increase to four level two managers again, which has reduced the number of level one managers reporting to each level two manager in the rape and serious sexual offences (RASSO) team and the Complex Casework Unit. However, the number of level one managers reporting to level two managers has increased in the Crown Court and magistrates' court teams.

10.9. The Area did not underestimate the challenge of remote induction and it put in work to mitigate the risks. Training was delivered primarily online, allowing greater flexibility for delegates and trainers to attend, but is now moving more to face-to-face delivery. Since the Covid-19 restrictions were lifted, new starters have been asked to attend the office on their first day to meet their manager and other colleagues.

the Area has no difficulty, despite work pressures, in finding experienced staff who will volunteer to be mentors

10.10. The Area has clear induction plans for new joiners. It uses the nationally designed 12-week induction plan for new starters, which is comprehensive. It is signed off by the line manager and inductee on completion, and a copy of the document is sent to the Area's human resources advisor. The evidence we have seen demonstrates a clear and detailed plan to make sure key points are covered when

a person joins the organisation.

10.11. As part of their induction, new starters are informed about the wider organisation as well as their immediate responsibilities. E-learning courses are mandatory for new legal and operational delivery staff, and the Area uses a buddy system to provide further support to new members of staff.

10.12. To equip existing staff for a move to a new role or team, the Area has an eight-week team change programme, which includes all the topics that appear necessary for a successful transition. In comparison to the induction plans for new starters, the Area does not require the movers' programme record to be shared with its human resources advisor; the Area has recognised this as a gap in its process, and has taken steps to remedy this.

10.13. People moving into a new role are also provided with a mentor to support them. The mentoring role also provides a development opportunity for those who undertake it, and the Area has had no difficulty, despite work pressures, in finding experienced staff who will volunteer to be mentors.

Succession planning

10.14. The Area has benefited from relatively stable staffing in the past. The Area's caseload per prosecutor and caseload per Senior Crown Prosecutor (SCP) have been consistently better than the national average for some time. This may have played a part in the largely positive findings in our casework examination.

10.15. The proportion of staff leaving the Area in the last quarter of 2021–22 was lower than the national figure (6.8% of the Area's headcount compared to 7.9% nationally), but the rate of departures has increased from 4.9% the same time the previous year.

10.16. We were told that during the pandemic, some members of staff reassessed their priorities and this resulted in some staff choosing to retire earlier than expected. The Area recognises its age profile as a risk; 39% of staff are over the age of 50. The work the Area is doing to assess staff capabilities and develop people to take on more challenging roles and more serious casework (see below) is in part aimed at addressing this risk.

10.17. The Area Strategy Board minutes we have seen show that regular discussions take place regarding staff moves, the skills of the movers, and potential developmental opportunities for staff in the magistrates' court, Crown Court and RASSO teams. The rationale for decisions is recorded and the discussions also include risks and future aspirations. When required, actions are raised and progress updates noted. The Area appears to be well informed of the strengths and weaknesses of its staff.

10.18. We were told that the magistrates' court team keeps a record of career conversations between staff and their line managers, and this includes development needs. It is focused on the magistrates' court team as the first port of call, because staff are usually transferred from there to the Crown Court and RASSO units.

10.19. The Area also carries out a formal annual audit with the senior human resources business partner. During this exercise, key roles within the Area are identified, and staff abilities and their readiness to take on new roles are discussed. The individuals are assessed for their ability to take on new roles now, in one to two years, and in two to five years. Individuals are then given the opportunity to shadow colleagues and to access training that will develop their potential. We were told that the most recent exercise took place in March 2022 and a few gaps at operational delivery grades were identified. To mitigate the risks, the Area has now recruited more operational delivery staff.

10.20. For the most part, new staff start in the magistrates' court team and move into the Crown Court and RASSO units as they develop. The magistrates' court review team includes some 20 lawyers, at least half of whom joined the Area in the last 12 to 18 months. This lack of experience may well have had an impact on the weaker results we found in relation to case reviews.

10.21. Legal trainees move between the teams to gain the maximum possible experience. The Area is keen to nourish talent for its own sake and to tackle the risks inherent in the Area's age profile and its difficulties in recruiting at the Senior Crown Prosecutor grade. The approach appears to have brought success, with trainees who qualified as lawyers in November 2021 being promoted to Senior Crown Prosecutor very shortly thereafter.

10.22. The Area is also involved in the Apprentice Solicitor Programme. This enables paralegals and associate prosecutors to qualify as a solicitor over a six-year period. It involves placements within the magistrates' court, Crown Court and RASSO teams, and attendance at the magistrates' courts. Apprentices are supported by operational delivery and legal mentors throughout the duration of the course.

Staff engagement

10.23. Staff engagement in the Area, as recorded in the most recent Civil Service People Survey in 2021, was 73%, which was better than the CPS and Civil Service national averages of 69% and 66% respectively.

10.24. The work the Area has done to focus on staff wellbeing at a time of unprecedented difficulty has allowed the Area to maintain its overall engagement scores at almost the same level as in 2020, when it was 1% higher than the 2021 engagement score.

10.25. Engagement was stronger in the RASSO and magistrates' court teams than in the Crown Court team. The RASSO team reported the least satisfaction of the three casework teams with their resourcing and workload.

10.26. The Area has a people delivery plan which, for 2021–22, set out actions and how success would be measured for four key aspects:

- empowerment
- leadership and accountability
- wellbeing and inclusivity
- recognition.

10.27. The plan indicated that it was devised as a response to the feedback received from the 2020 Civil Service People Survey, lessons learned from the new ways of working during Covid-19 and the future ways of working. We were told that the plan is to be reviewed and that results from the 2021 Civil Service People Survey will be reflected in the updated plan.

10.28. It is apparent that staff are given positive feedback in various ways and good casework is recognised. This includes feedback to individuals as well as successes being shared in staff updates and on the Area's intranet. The Area makes use of the national 'simply thanks' initiative, staff awards and Director's commendations. Good work is disseminated in team meetings and staff newsletters.

10.29. From the outset of the pandemic, all-staff dial-in meetings were hosted by the most senior managers, which any member of staff could attend virtually. Their purpose was to engage with staff and support wellbeing at a time when the impacts of the pandemic were first being felt. The initiative was to be discontinued, but feedback from staff was that they would like the weekly calls to continue, so the decision was reversed, and the dial-ins continue. Senior managers also attend team meetings to increase their visibility.

10.30. The Area seeks out feedback from staff to make sure that initiatives are aligned to staff needs. The Area has introduced the role of unit ambassador in each of the teams. Ambassadors represent a range of grades and roles and make up a consultation panel. The panel meets about every six weeks. The Area has found the ambassadors' input very useful, and consults the panel on a range of activities and policies such as the business plan, training plan, people delivery plan and how best to evaluate the national introduction of hybrid working.

10.31. In 2021, the Area was affected by two key bereavements, including notably the Area Business Manager. The loss of two very well-respected colleagues had a significant impact on staff. The Area liaised with those providing the national specialist wellbeing support to make sure that anyone in the Area who wanted to access the service would be fast-tracked through the system. In memory of one of their late colleagues, the Area has introduced an annual award that recognises connecting with staff of all grades, showing appreciation and understanding, and encouraging others to do their best.

Average working days lost

10.32. The Area's rate of average working days lost (AWDL) is worse than the national average, and has been since Quarter 2 of 2020–21 (July to September 2020), which was the second quarter of the pandemic. In August 2021, the AWDL rate was 8.05 days, compared to 5.87 days nationally. Data supplied by the Area for May 2022 showed an AWDL rate of 8.46 days, compared to national average of 7.66. Excluding Covid-related absences reduced the AWDL in May 2022 to 6.84 days against a national average of 6.22 days.

10.33. Absences and key trigger points are monitored. Managing attendance formed the basis of a training package for managers, who then reported more confidence in dealing with staff absences. The Area told us that there have been more formal reviews and attendance meetings since the training, and absences are now starting to decline.

10.34. The Area has been carrying a number of long-term absences, many of which have now been resolved but which continue to have an impact on the data, which is based on the 12 months to date. As those longer absences fall out of the AWDL calculation, the Area expects to see a significant improvement.

Learning and development

Expectations

10.35. 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

10.36. The Area has a people delivery plan and a training plan. Between them, these cover a wide range of actions for learning and development, including tutor-led training, on the job learning, and self-managed learning – such as the increased use of individual learning accounts. The Area's learning and development manager (LDM) works with CPS North West training managers to maximise efficiencies that can be gained from shared training. Induction training for new starters and new managers has been delivered jointly.

10.37. Information about available training is communicated via staff update newsletters. We were also told that the LDM promotes available events from the central training teams.

10.38. The LDM seeks feedback from staff and their managers on any other training identified, so it can be arranged if there is sufficient demand. In the Area operational board meeting in November 2021, we noted, managers and staff were encouraged to discuss training needs that could further the Area's plans. Training needs have also been identified during team meetings, and the Area also provides training to respond to business needs and staff movement between units.

10.39. The quarterly training plan for November 2021 to January 2022 included training on diverse subjects for legal and operational delivery staff and managers, such as new legal requirements for data protection, firearms offences, and success profiles for members of recruitment panels. Induction and mentoring have been arranged for new starters and people in new roles, and digital training, which we discuss in more detail in chapter 11.

10.40. One of the programmes delivered was human resources training (badged as the 'curious leader') which was mandatory for line managers. The package covered performance and attendance, and was well-received.

10.41. A domestic abuse training event in November 2021 also landed well with staff. It included presentations on a survivor's perspective and from a senior Merseyside Police officer on learning from domestic homicides. There were also sessions on non-fatal strangulation, and on CPS policy on compelling witnesses and the risks attendant on doing so. New prosecutors attended, and the Area plans to repeat the event to the next batch of incoming lawyers to build their experience of this aspect of practice.

10.42. Most training was delivered via Microsoft Teams before the national introduction of hybrid working. Feedback on hybrid working from staff indicated the value they attached to face-to-face training, so the Area is now moving to deliver more training this way.

Training records and feedback

10.43. Nationally in the CPS, there has been a shift from local-led training to training being carried out remotely by the central operational and legal training teams and external providers. The Oracle platform is used to host and manage training. We note that this does not allow the Area to view staff feedback on nationally delivered training.

10.44. The Area keeps quarterly records listing the courses delivered locally and the staff grades or roles to which they were delivered. For sessions which are registered on Oracle, attendance has to be recorded by the tutor, and the LDM is tasked with maintaining and updating Area training records.

10.45. The impact of in-house training programmes on staff attendance and performance management is analysed using evaluation forms, which ask delegates to provide a rating for the training and any areas for improvement. For other types of in-house training, there is no formalised evaluation process; attendees are asked to submit feedback if they wish to.

Coaching and mentoring

10.46. The Area uses a buddy system to provide additional support to new members of staff, and all staff who are changing roles are allocated a mentor. This includes using more experienced lawyers to support newer members of the team. The mentors do not have their caseload reduced but despite this they are keen to volunteer, as they understand how it benefits the Area overall.

10.47. Legal trainees also have mentors, who change as the trainees move around the various casework units. The Area told us that this initiative has been very successful.

10.48. Staff on the Apprentice Solicitor programme have the support of operational delivery and legal mentors to assist with placements and training throughout the six years of the apprenticeship.

10.49. It takes time for mentors, buddies and legal managers to support and develop colleagues. While it is vital, and delivers benefits, it undoubtedly adds to the pressure on staff who are already dealing with the challenges brought about by the pandemic.

Quality assurance

Expectations

10.50. 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 committee (CQC) meetings 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.

10.51. 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

10.52. The Area has a range of internal assurance processes which provide a good understanding of issues with casework quality. Examples include:

- IQAs of lawyers' casework by their managers, which are dip-sampled by senior managers
- IQA reports prepared by each unit
- one-to-one meetings between managers and staff
- dip-sampling of Victim Communication and Liaison scheme letters, reviews by the Victim Liaison Unit manager of the quality of bespoke paragraphs drafted by lawyers for these letters, and feedback from victim panels
- case management panels
- monthly CQC meetings (formerly called casework quality boards).

10.53. The Area told us that the outcomes of its assurance work generally align with the findings of our file examination. The documents we have seen, the observation we conducted at the CQC and the discussions we have had with the

Area confirm this; there were very few aspects of performance we identified of which the Area appeared to be unaware.

10.54. During the pandemic, the CPS nationally decided 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 Mersey-Cheshire decided to continue carrying out IQAs.

10.55. The Area keeps a record of the IQAs completed each month. There is a clear expectation as to how often a manager is required to complete the assessment for each individual on their team, depending on their role. Reports are prepared by each unit on the IQAs conducted and themes for improvement identified.

At the CQB in February 2022, we found those in attendance to be well prepared

10.56. Senior managers (Deputy Chief Crown Prosecutors and Senior District Crown Prosecutors) quality assure 10% of the IQAs to develop consistency and robustness.

10.57. Since October 2021, IQAs have become a standard agenda item at the casework quality board (CQB) and CQC. At the CQB we observed in February 2022, the committee identified the themes to be looked at in the next round of IQAs.

10.58. The CQB was chaired by the Chief Crown Prosecutor (CCP) and attended by the Deputy Chief Crown Prosecutor (DCCP), Senior District Crown Prosecutors (SDCPs) and District Crown Prosecutors (DCPs) from the casework teams. Prepared reports were circulated before the meeting with the agenda, and there was a clear and up-to-date action log. The meeting discussed a range of casework issues including adverse outcomes, IQAs, case progression, disclosure, complaints and victims' requests for reviews, and any legal or policy developments.

10.59. At the CQB in February 2022, we found those in attendance to be well prepared, having considered the documents circulated and provided reports where necessary. We observed respectful and supportive relationships between those in attendance, and they displayed interest and knowledge across the Area which was not limited to the teams in which they worked. The meeting was well structured and allowed for focused discussions. Appropriate and defined actions were set where needed.

10.60. The meeting discussed the changing structure of casework quality assurance. The CQB has now been replaced by a CQC which is attended by the

DCCP and SDCPs; the DCPs no longer attend. The Area has launched a legal leadership forum sitting under the CQC which is attended by the DCPs, making sure that their voice is not lost. The legal forum usually takes place before the CQC, on the same day, so the attendance of the more senior managers at both meetings is consistent.

10.61. A member of the national compliance and assurance team (CAT) now also attends the CQC to share national initiatives. The Area is keen to develop the CAT's involvement so that it delivers greater awareness and understanding of best practice from around the CPS.

The Area strongly encourages panels for any case where a lawyer or manager thinks it would be beneficial

10.62. The CQC includes an agenda item entitled 'bring your risk' where managers tell the committee what the risks are on their unit and what they intend to do to mitigate them. The committee then makes suggestions and supports the managers in dealing with their concerns. The committee also discusses lessons learned from casework.

10.63. The Area has a two-tier approach to case management panels (CMPs), which was introduced to strengthen casework governance. Previously, the DCCP conducted all the CMPs. The Area now has unit CMPs chaired by the unit heads, and panels above that chaired by the DCCPs. The Area strongly encourages panels for any case where a lawyer or manager thinks it would be beneficial, so they are held for a wider range of cases than mandated by national guidance. We were told the Area finds the panels effective in supporting lawyers and managers who may be dealing with new legal issues.

10.64. The Area reviews adverse case outcomes, but does not produce a formal report of any trends, although the reports are discussed at CQC meetings. We were told that if issues are identified with wider application, they will be acted upon. We saw evidence that adverse cases and discussions at the CQC had identified concerns around the handling of knife crime. Prosecutors were not making sufficient enquiries with the police into possible defences of reasonable excuse for having a bladed article. The magistrates' court and Crown Court teams worked together to provide examples of problem cases, which were then taken back to the police in prosecution team performance management meetings to discuss how reasonable lines of enquiry could be carried out. The Area reports better understanding of the reasonable excuse defence among officers, and improved charging advices in knife crime allegations.

10.65. We were provided with evidence of issues with casework quality that have been identified and escalated to the appropriate managers so individual and team feedback can be provided. One such example was the standard of bespoke paragraphs drafted by lawyers for inclusion in letters to victims. We discuss the work done to improve the standard of victim letters in more detail in chapter 9.

10.66. Learning from casework quality assurance is shared with staff via team meetings, staff newsletters and the regular all-staff dial-ins. Where necessary, guidance may be recirculated. Aspects of good work identified in quality assurance are also disseminated.

11. Digital capability

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

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

Data analysis

Expectations

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

Our findings

11.4. The Area produces and considers a range of performance data related to casework quality. It was apparent from the evidence supplied and our discussions with the Area that senior managers are well acquainted with what data tells them about the Area’s performance across a range of measures. Key performance messages are shared with staff.

11.5. The Area Performance Manager provides managers with detailed reports covering magistrates’ courts, Crown Court, and rape and serious sexual offences (RASSO) casework. The reports are produced monthly for the Area Strategic Board (ASB) and at the end of each quarter, monthly data is compiled into a quarterly report. These reports share key performance information with visuals in the form of tables and there is a concise analysis for each entry. The executive summary at the top of the report provides a useful overview.

11.6. The reports cover the high weighted measures identified by CPS Headquarters and other key aspects of casework quality, such as individual quality assessments (IQAs), communications with victims, use of disclosure management documents, witness attendance rates and non-conviction

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

outcomes owing to victim issues. Data is given for the preceding months and for many of the measures a direction of travel is provided.

11.7. The compliance and assurance manager provides the ASB with a separate report on outstanding tasks, with recommendations for actions to improve.

11.8. The ASB performance report includes a matrix of the high weighted measures, showing which measures are below and above benchmark, and which are deteriorating and improving, in one table. It is a quick and clear way to communicate the Area's current performance and highlight where the focus should be. The matrix was devised by the former Area Performance Manager and we were told that the Area is planning to include it in the staff updates.

11.9. The Area restructured its performance meetings in January 2022, in part to give legal managers the time to deal more effectively with performance data and reports. The Area now has a quarterly Area Operational Board (AOB) and a monthly Area Performance Board (APB). The APB meetings were designed to be more streamlined, with each casework team bringing three key themes for discussion. Legal and operational delivery managers attend the monthly APB, at which the Deputy Chief Crown Prosecutors and Area Business Manager drill down into the casework teams' themed reports. The Chief Crown Prosecutor attends the AOB but not the APBs. AOBs are timetabled so that one takes place before the Area's quarterly performance reviews with CPS Headquarters.

11.10. Performance data is a standing item on the AOB and APB's agendas. During the discussions, issues are identified and actions are set to address them. Management performance meetings take place in the magistrates' court, Crown Court and RASSO teams. These meetings discuss performance and highlight issues identified and suggestions for improvement.

11.11. We saw a good example of data being used to identify a weakness, with action taken to resolve it and improvement as a result. The Area Business Manager noticed charging data showed delays in giving charging advice in fatal road traffic incidents. The issue was discussed at the APB and with the police and, in collaboration with the relevant legal manager, improvements to the process were identified. The Area has been monitoring compliance, and the most recent cases have received a faster response from the police to requests for further material and more timely charging advice.

11.12. From the documents we were sent, it is apparent that performance data is regularly communicated on the Area's intranet hub in the form of a tasks databank covering all units and a combined performance dashboard. Prosecution caseload reports for each casework unit are also available for all

staff to access. Performance is also discussed on all-staff dial-ins, where the top priorities are communicated.

11.13. The performance packs the Area produces do not specifically benchmark against other Areas, although the Area's standing compared to other Areas is included in some of the national data. We were told that the Area seeks to identify good practice from other Areas via established networks, such as those for CPS change and assurance managers and security and information managers. Any good practice identified in the Area is also shared via these channels.

11.14. The Area also uses specialist roles to glean what is working well in other Areas. For example, in January 2022, the Area introduced a domestic abuse lead whose role includes understanding the national agenda and bringing in best practice from their liaison with other domestic abuse leads. The Area acknowledged that this initiative is still in its infancy.

Digital tools and skills

Expectations

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

Our findings

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

11.17. Training has been delivered on the usage of new IT systems, including the common platform initiative, the two-way interface with police (TWIF) and the digital evidence management system that allows the Area to share evidence and unused material with criminal justice partners. Staff were supported with online training sessions on Microsoft Teams, and there was a designated point of contact for any queries both before and after roll-out. Materials were provided in

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

the form of online videos, guides with visuals and training documents. The support for staff on Merseyside Police's introduction of a new evidence sharing system included group and one-to-one training.

11.18. We were sent a training programme for November 2021 to January 2022 which showed scheduled training, including on the General Data Protection Regulation and the Microsoft applications OneDrive and OneNote. The Area has Digital Transformation Leads in each of the casework teams, who also deliver training and provide support to colleagues. The Area has a regular cycle of digital training which is included in its training plan for 2022–23.

11.19. IT training is included in the standard induction packages for new starters to make sure they have access to all the applications and systems they will need to use, and can become familiar with them. The induction covers the CPS case and witness management systems and also provides for mentoring and the support of a buddy.

11.20. We saw good evidence that the Area creates bespoke guidance to enable staff to effectively use the various digital platforms and to help them work better with partners. Relevant guidance available to staff includes what is required from CPS staff in each court when using the common platform, and a Correct Digital Comms guide that explains how to communicate with police forces using 'structured data'. This term relates to mechanisms by which the police and Area send material to each other that automatically generates a task in the recipient's system. An example is the use of an action plan in a specific section of the police manual of guidance form 3 (MG3), which creates a task for the officer; this does not happen when the actions are set out in the body of the MG3.

11.21. In 2021, the CPS surveyed about 10% of its staff to find out how CPS staff have engaged with colleagues in relation to digital working. The results for CPS Mersey-Cheshire showed that staff were confident in using digital tools, but that respondents wanted more time to train and gain experience. An issue for many lawyers nationally (particularly Senior Crown Prosecutors), and which also featured as one of the main aspects from respondents in CPS Mersey-Cheshire, was not being able to dedicate enough time to learning new digital skills. Despite this, the Area scored very well on staff using digital skills to be more productive at work.

12. Strategic partnerships

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

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

Strategic partnerships with the police

Expectations

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

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

Our findings

12.4. There is evidence that the Area has mature relationships at a senior level with the police and other criminal justice system partners.

12.5. The Area has a number of service level agreements and protocols in place with one or both of its police forces. For example, there is a service level agreement in place between Area and its two police forces for handling highly sensitive material. The document is clear and includes sensible guidance as to how this material will be handled, with clear distinctions between the parties' responsibilities.

12.6. The Area also has agreements with both police forces about escalation procedures for requests to the police for additional material and for police

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

charging advice submissions, and a memorandum of understanding with Cheshire Constabulary for early advice in RASSO cases.

12.7. We were provided with examples of these agreements, and noted that while some are very recent, such as the escalation protocols and RASSO early advice memorandum of understanding, many are of some age. The older agreements do not reflect more recent changes, such as to the Code for Crown Prosecutors, charging arrangements, the sixth edition of the Director's Guidance on Charging (DG6) and the Attorney General's guidance on disclosure. For example, the service delivery agreement covering the operation of the statutory charging scheme in Merseyside and Cheshire took effect in June 2012. It refers to an older edition of the Director's Guidance on Charging so is of little practical use now.

The Area and the police worked together to prepare for the implementation of DG6

12.8. Many of the protocols make provision for regular reviews, but do not show indications of those reviews having been conducted. The Area accepts that some of the documents need reviewing to make sure that they are fit for purpose and include the most up-to-date procedures.

12.9. The Area and its two police forces run a disclosure working group, which meets monthly. The disclosure working group maintains a joint improvement plan, which brigades actions under the National Disclosure Improvement Plan's themes. It is updated every one or two months with activities carried out and/or the latest position.

12.10. Under the working group's auspices, training has been provided to the police, for example to address the new guidance on charging arrangements in DG6 and the material the police need to provide at charging (called 'rebuttable presumption' material). The Area and the police worked together to prepare for the implementation of DG6, and are now working together to monitor compliance and highlight any issues arising.

12.11. The documents we were supplied with included evidence of the Area working with the police on the provision of rebuttable presumption material. The documents also indicate police concerns that unrealistic timescales were placed on them in Area action plans; in our file sample, we assessed half the charging action plans as fully meeting the expected standard, and discuss this further in the casework chapters (6–8).

12.12. Joint Operational Improvement Meetings (JOIMs) have recently been established, with one for the magistrates' courts and Crown Court, and another

for rape and serious sexual offences (RASSO) for each police force. These replace the previous prosecution team performance management (PTPM) meetings. The JOIMs are each co-chaired by the head of the Area's team and a representative of the police. The chairs of the JOIMs communicate regularly to make sure that common issues are discussed and progress is made across all the casework types.

12.13. At the time of writing, the Area and its local police forces were planning to set up a strategic JOIM which will meet quarterly. The strategic JOIM will cover all three casework areas in one meeting, and will be attended by both forces' Assistant Chief Constables and both the Area's District Chief Crown Prosecutors.

12.14. Before this, there has been no strategic performance meeting across both police forces. We were told that strategic issues with the police and other partners would be dealt with on a more reactive basis, but that existing good relationships enabled these issues to be dealt with quickly and positively. The Area was holding regular PTPMs with each police force separately, which involved discussions of a range of issues such as charging, disclosure, Transforming Summary Justice and court listings. It was envisaged that these would continue in the JOIM process, thus addressing most of the priorities set by the national joint operational improvement board.

12.15. Our file examination considered issues with police file quality, which are discussed regularly at strategic meetings. We assessed police file submissions as fully meeting the NFS in two thirds of cases (60 out of 90 cases or 66.7%), and police compliance with their disclosure obligations as fully meeting the standard in 32 out of 89 cases (36.0%). This is a better service from the police than is enjoyed by many other CPS Areas.

Before this, there has been no strategic performance meeting across both police forces

12.16. While there is evidence that issues with police compliance are discussed at a strategic level, the findings from our file sample show there is too often a lack of feedback on individual cases. At the stage of initial file submission, feedback fully meeting the required standard was provided in a third (33.3%) of the cases that required it and at the stage of initial

disclosure, feedback fully meeting the required standard was provided just over a third of the time (37.9%).

12.17. File standards and the quality and quantity of feedback are discussed regularly at police–Area performance meetings and disclosure working group meetings. The first priority has been to increase the amount of feedback

provided. The Area has also worked with the police to enhance their quality assurance work on files before they reach the Area. This has led to the police introducing new checklists and quality assurance mechanisms.

12.18. The Area maintained monitoring of police file submission standards throughout the pandemic, although it was not suspended nationally. The Area has continued to monitor compliance under the new process, DG6 Assurance, following its introduction in March 2022. Lawyers were trained on DG6 Assurance at the same time. Unit managers now check that prosecutors are completing the DG6 Assurance feedback on the case management system, and individual and team feedback is given where necessary. In the Crown Court team, monthly dip samples are being carried out to make sure DG6 Assurance is done. There is also a spreadsheet where lawyers can record more narrative than DG6 Assurance allows for.

12.19. The cases in our file sample would have had file submission compliance checks that predated the more recent work by the Area, so we hope to find improvement when we follow up this Area inspection.

Strategic partnerships with the criminal justice system

Expectations

12.20. 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

12.21. The Area has protocols and agreements to promote effective work with other partner agencies. These cover aspects of casework (such as domestic abuse, looked-after children and offences against NHS staff) and case management (such as prosecution of breaches of orders, obtaining third-party unused material for local authorities, and the attendance of police officers at trials). Again, we noted that some of the agreements are older and do not appear to have been reviewed or updated to take account of more recent developments.

12.22. The Area is closely involved in the two Local Criminal Justice Boards for Cheshire and Merseyside which bring together many of the Area's significant partners, including the Police and Crime Commissioner, the police, courts, prisons, probation, youth justice practitioners and the witness service. Senior

leaders in the Area attend the Local Criminal Justice Boards and other managers attend subgroups dealing with more operational issues. Actions are set, with clear responsibility allocated, and are followed up appropriately.

12.23. The pandemic has clearly had an impact and the minutes we have seen reflected the need for discussions around recovering from it, especially addressing court backlogs. The minutes of meetings, however, provide strong evidence of trusted partnerships at all levels to improve casework quality.

12.24. The Area has a good relationship with HM Courts and Tribunals Service (HMCTS), which has improved further during the pandemic. Despite a number of staffing and management changes, this relationship has continued and there is an embedded culture of the Area and HMCTS working together to resolve shared challenges. This includes regular monthly meetings, previously with the Deputy Chief Crown Prosecutor and now with one of the Area's senior business managers.

12.25. The strength of this relationship is demonstrated by effective joint work in the magistrates' courts to reduce backlogs using trial blitzes. There was thorough preparation by all concerned ahead of the blitzes, and a full evaluation afterwards which identified the benefits achieved and some aspects for improvement. There is also a strategic meeting every six weeks between Deputy Chief Crown Prosecutors and HMCTS, which is separate to the listings meeting.

12.26. The Area participates in Crown Court user group meetings, chaired by the judiciary and attended by HMCTS, the probation and prison services, local barristers and witness support. The focus for some time was on dealing with the pandemic, and we have seen comprehensive update documents which supported the court user groups, with information on trials listed at the Crown Court and staff, victim and witness issues. The group also discusses new developments, such as use of the cloud video platform and progress on the common platform IT initiative.

12.27. The Area attends joint meetings for the Transforming Summary Justice (TSJ) initiative in the magistrates' courts with representatives from HMCTS, the Probation Service and the police. During the pandemic, these meetings focused on dealing with the impact of Covid-19 on the agencies, particularly on court listing.

12.28. There is a domestic abuse best practice forum supported by regular meetings involving the Area, both police forces and HMCTS, and by a detailed delivery plan. The delivery plan identifies relevant workstreams and how each component will be delivered. Updates are recorded, but the lead responsibilities and target dates have not been completed.

12.29. The documents we reviewed indicate a positive relationship between the Area and the local judiciary. One example we noted was where a concern was raised regarding committals for sentence from the magistrates' courts to the Crown Court. The Area and the Recorder of Chester reviewed data for the cases, and it was concluded that the committals were largely correct decisions. The Recorder raised concerns about Crown Court preparation, which is an issue we have also identified, and also provided positive feedback concerning the conscientiousness and strong work ethic of the Area's advocates.

12.30. The Area also meets with its various criminal justice partners in other venues, for example at Local Criminal Justice Boards and court user groups. One of the Police and Crime Commissioners attended a local scrutiny and involvement panel.

12.31. There are formal diarised meetings with other criminal justice partners, including Chief Constables, Police and Crime Commissioners and Resident Judges in the Crown Court. In addition, issues are raised on an informal basis and ad hoc meetings are held. While we have seen documentary evidence that these ad hoc meetings occur, and emails setting out some of the issues raised, no formal minutes are kept nor action plans generated. The emails identify feedback given (including positive comments) and actions that need to be taken, and these are shared with the appropriate Area team or management group. However, there is still scope to formalise the records to make sure that efforts to address the issues raised can be monitored and improvement noted.

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 ensuring 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 ensure 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 ensure 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	96.2% 3.8%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	100%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	88.0% 12.0%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	34.6% 42.3% 23.1%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	53.8% 19.2% 26.9%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	47.6% 47.6% 4.8%
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	50.0% 46.2% 3.8%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	59.1% 13.6% 27.3%
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	56.7% 43.3%
10	The police file submission was timely.	Fully met Not met	86.7% 13.3%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	38.5% 7.7% 53.8%

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	50.0% 13.3% 36.7%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	76.0% 12.0% 12.0%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	88.9% 11.1%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	100%
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	83.3% 8.3% 8.3%
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	25.0% 50.0% 25.0%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	100%
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	53.3% 26.7% 20.0%

No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	46.7% 53.3%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	55.6% 11.1% 33.3%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	33.3% 11.1% 55.6%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	91.7% 8.3%
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	83.3% 5.6% 11.1%
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	78.6% 7.1% 14.3%
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	75.0% 10.0% 15.0%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	71.4% 28.6%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	93.3% 6.7%
Disclosure of unused material			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	37.9% 37.9% 24.1%
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	48.3% 13.8% 37.9%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not carry out initial disclosure at all	13.3%
		Did not identify reasonable lines of enquiry	6.7%
		Failed to identify that other obvious items of unused material were not scheduled	20.0%
		Other	6.7%
		Said DUM was not disclosable	33.3%
		Used the wrong endorsements	20.0%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	72.4%
		Partially met	6.9%
		Not met	20.7%
45	The prosecutor complied with the duty of continuous disclosure (but not including timeliness of disclosure).	Fully met	100%
		Partially met	
		Not met	
47	The prosecution complied with its duty of continuous disclosure in a timely manner.	Fully met	100%
		Partially met	
		Not met	
48	Sensitive unused material was dealt with appropriately.	Fully met	
		Partially met	
		Not met	100%
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%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met	73.3%
		Partially met	16.7%
		Not met	10.0%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met	27.8%
		Partially met	11.1%
		Not met	61.1%

No.	Question	Answers	Result
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	90.0% 10.0%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	56.3% 12.5% 31.3%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	91.7% 8.3%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	85.7% 14.3%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	50.0% 33.3% 16.7%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	52.2% 34.8% 13.0%

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	100%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	91.2% 5.9% 2.9%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	76.5% 14.7% 8.8%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	35.3% 32.4% 32.4%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	35.3% 17.6% 47.1%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	53.6% 10.7% 35.7%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	52.9% 29.4% 17.6%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	50.0% 16.7% 33.3%
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	70.0% 30.0%
10	The police file submission was timely.	Fully met Not met	85.0% 15.0%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	33.3% 16.7% 50.0%
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	100%

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	62.5% 22.5% 15.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	80.0% 12.5% 7.5%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	77.8% 11.1% 11.1%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	87.5% 12.5% 0.0%
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	57.9% 26.3% 15.8%
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	36.1% 27.8% 36.1%
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	47.1% 17.6% 35.3%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	82.5% 15.0% 2.5%
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	60.0% 35.0% 5.0%

No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	63.2% 5.3% 31.6%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	75.0% 17.5% 7.5%
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence were served in a timely manner for the PTPH.	Fully met Partially met Not met	95.0% 5.0%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	21.4% 3.6% 75.0%
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	74.4% 5.1% 20.5%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	70.0% 7.5% 22.5%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	86.7% 13.3%
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	88.2% 11.8%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	86.1% 11.1% 2.8%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	72.2% 16.7% 11.1%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	88.6% 8.6% 2.9%
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	91.7% 4.2% 4.2%

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	81.3% 9.4% 9.4%
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	83.3% 16.7%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	70.0% 23.3% 6.7%
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% 17.5% 12.5%
Disclosure of unused material			
39	In relevant cases a DMD was completed.	Fully met Partially met Not met	60.0% 40.0%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	60.0% 30.0% 10.0%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	32.5% 47.5% 20.0%
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	38.9% 38.9% 22.2%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on the MG6C	4.5%
		Did not identify reasonable lines of enquiry	9.1%
		Failed to identify that other obvious items of unused material were not scheduled	36.4%
		Other	18.2%
		Said DUM was not disclosable	27.3%
		Used the wrong endorsements	4.5%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	88.9%
		Partially met	5.6%
		Not met	5.6%
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met	56.3%
		Partially met	28.1%
		Not met	15.6%
46	If Q44 is PM or NM, the most significant failing was:	Did not endorse any decisions on newly revealed items	7.1%
		Did not identify reasonable lines of enquiry	21.4%
		Failed to identify that other obvious items of unused material were not scheduled	28.6%
		Other	14.3%
		Said DUM was not disclosable	21.4%
		Used the wrong endorsements	7.1%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met	87.5%
		Partially met	3.1%
		Not met	9.4%
48	Sensitive unused material was dealt with appropriately.	Fully met	45.5%
		Partially met	9.1%
		Not met	45.5%

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	94.7% 5.3%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	50.0% 50.0%
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Fully met Partially met Not met	65.5% 20.7% 13.8%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	74.4% 15.4% 10.3%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	33.3% 18.5% 48.1%

Victims and witnesses

55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	83.3% 5.6% 11.1%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	70.0% 20.0% 10.0%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	93.8% 6.3%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	100%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	20.0% 60.0% 20.0%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	41.2% 29.4% 29.4%

RASSO

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	94.7% 5.3%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	36.8% 36.8% 26.3%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	100%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	57.9% 26.3% 15.8%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	57.9% 26.3% 15.8%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	43.8% 25.0% 31.3%
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	63.2% 26.3% 10.5%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	63.2% 36.8%
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	75.0% 25.0%
10	The police file submission was timely.	Fully met Not met	85.0% 15.0%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	20.0% 20.0% 60.0%
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	100%

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	65.0% 25.0% 10.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	89.5% 5.3% 5.3%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	50.0% 50.0%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	100%
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	93.8% 6.3%
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	17.6% 29.4% 52.9%
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	14.3% 14.3% 71.4%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	95.0% 5.0%
Post-charge case progression			
21	The prosecutor prepared the case effectively to ensure progress at court at the first hearing(s) – which in the MC is the NGAP hearing for bail cases and the second hearing in custody cases, and in the CC the PTPH – to include, as a minimum, any acceptable pleas or that there are no acceptable pleas, and completed the PET/PTPH forms.	Fully met Partially met Not met	75.0% 25.0%

Area inspection programme CPS Mersey-Cheshire

No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	70.6% 17.6% 11.8%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	77.8% 16.7% 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	94.4% 5.6%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	27.8% 16.7% 55.6%
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	83.3% 11.1% 5.6%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	83.3% 5.6% 11.1%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	86.7% 13.3%
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	55.6% 22.2% 22.2%
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met	63.6% 36.4%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	83.3% 16.7%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	57.1% 42.9%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	94.4% 5.6%

No.	Question	Answers	Result
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	81.3% 18.8%
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	88.2% 11.8%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	93.8% 6.3%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	82.4% 17.6%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	75.0% 15.0% 10.0%
Disclosure of unused material			
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met	80.0% 10.0% 10.0%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	72.2% 27.8%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	40.0% 55.0% 5.0%
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	72.2% 16.7% 11.1%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on the MG6C	40.0%
		Failed to identify that other obvious items of unused material were not scheduled	40.0%
		Other	20.0%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	88.9% 11.1%
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met Partially met Not met	94.4% 5.6%
46	If Q42 is PM or NM, the most significant failing was:	Other	100%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	100%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	85.7% 14.3%
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	22.2% 44.4% 33.3%
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	66.7% 27.8% 5.6%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	84.2% 10.5% 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	58.3% 16.7% 25.0%

No.	Question	Answers	Result
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	71.4% 14.3% 14.3%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	73.3% 13.3% 13.3%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	91.7% 8.3%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	100%
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	41.2% 29.4% 29.4%

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 and 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 18: 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 18 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 19: Minimum sensitive case types in sample

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

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

Annex F

Scoring methodology

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

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

We used our file examination data to give scores for added value and grip, which are set out as percentages. They were obtained by taking the questions that feed into each aspect³⁰ and allocating:

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

We then expressed the total points awarded as a percentage of the maximum possible points. Not applicable answers were excluded.

To help evaluate added value and grip, we also scored the five casework themes and sub-themes in each of the three casework types (magistrates' court cases, Crown Court cases, and RASSO cases):

- pre-charge decisions and reviews
 - compliance with the Code at pre-charge
 - selection of charge(s)
 - case analysis and strategy
- post-charge decisions and reviews
 - compliance with the Code post-charge
 - case analysis and strategy
- preparation for the Plea and Trial Preparation Hearing in the Crown Court

³⁰ See annex G for which questions contributed to each of the casework themes.

- disclosure
- victims and witnesses.

The scores for these themes were obtained by taking the answers for the questions that feed into the theme. We allocated:

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

We then expressed the total points awarded as a percentage of the maximum possible points. Not applicable answers were excluded.

For the casework themes and sub-themes, we have reported the percentages, but have also used a range of percentages (see Table 22) to convert the percentage into a finding of fully, partially, or not meeting the expected standard for the theme or sub-theme overall.

Table 20: 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 21.

Table 21: 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 22: 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 prior to the NGAP hearing or PTPH.	NA	Grip

No.	Question	Casework theme	Included in added value or grip?
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Preparation for PTPH	Added value
24	In CC cases (including RASSO cases before the CC), the draft indictment and key evidence was served in a timely manner for the PTPH.	Preparation for PTPH	Grip
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	NA ³¹	No
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Preparation for PTPH	No
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Preparation for PTPH	No
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Preparation for PTPH	No
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	NA	Grip
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	NA	Grip
31	There was timely compliance with court directions or Judges' Orders.	NA	Grip
32	Appropriate applications (e.g. BCE, hearsay) were used effectively to strengthen the prosecution case.	Post-charge: Case strategy	Added value
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Victims and witnesses	No

³¹ We are not able to differentiate between crown advocates and Counsel in many casefiles.

No.	Question	Casework theme	Included in added value or grip?
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Victims and witnesses	Grip
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	NA	Grip
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions undertaken 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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