



HMCPSI

HM Crown Prosecution
Service Inspectorate

Area inspection programme

CPS East Midlands

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.

Contents

1. Summary	6
Added value and grip	9
Casework themes.....	11
2. Context and background	19
Background to the inspection.....	20
The current landscape and the Covid-19 pandemic.....	21
Impact on the Area	23
Performance data.....	26
3. Framework and methodology	27
Inspection framework	28
Methodology	28
4. Key stages in a prosecution case	32
Pre-charge decision-making	33
Post-charge decision-making and reviews	37
Preparation for the Plea and Trial Preparation Hearing	39
Disclosure of unused material.....	42
Victims and witnesses	45
Rape and serious sexual offences.....	47
5. Added value and grip	48
What are added value and grip?	49
Added value and grip scoring.....	52
6. Casework quality: magistrates' court casework themes	57
Introduction to magistrates' court casework	58
Pre-charge decision-making and review.....	60
Post-charge decision-making and reviews	67
Does the Area fully comply with its duty of disclosure?.....	71
Does the Area address victim and witness issues appropriately?	74
7. Casework quality: Crown Court casework themes	77
Introduction to Crown Court casework.....	78
Pre-charge decision-making and reviews.....	80
Post-charge decision-making and reviews	89
Preparation for the Plea and Trial Preparation Hearing in the Crown Court.....	95

Does the Area fully comply with its duty of disclosure?.....	97
Does the Area address victim and witness issues appropriately?	101
8. Casework quality: rape and serious sexual offences casework themes ..	104
Introduction to rape and serious sexual offences casework	105
Pre-charge decision-making and reviews.....	107
Post-charge decision-making and reviews	113
Preparation for the Plea and Trial Preparation Hearing in the Crown Court.....	117
Does the Area fully comply with its duty of disclosure?.....	120
Does the Area address victim and witness issues appropriately?	123
9. Public confidence.....	127
Correspondence with victims	128
Victims' Code and Witness Charter	133
Community engagement	135
10. CPS people.....	136
Recruitment and induction, staff moves and succession planning.....	137
Staff engagement	141
Learning and development.....	142
Quality assurance.....	144
11. Digital capability	146
Data analysis	147
Digital tools and skills	149
12. Strategic partnerships	151
Strategic partnerships with the police	152
Strategic partnerships with the criminal justice system	154
Annexes	
Inspection framework.....	157
File examination findings.....	166
Glossary.....	185
File examination question set	199
File sample composition	206
Scoring methodology	210
Casework themes	216

1. Summary

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

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

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

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

1.4. This report sets out our findings for CPS East Midlands.

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. East Midlands experienced a very significant rise in caseload numbers following the first lockdown in March 2020. In the magistrates' court unit, 10,211 live cases were recorded in Quarter 4 of 2019–20 (January to March 2020); this number had risen by 11.0% to 11,332 cases by Quarter 4 of 2021–22 (January to March 2022), having previously increased by 64.2% to 16,771 cases by Quarter 4 of 2020–21 (January to March 2021).

1.7. The increase in caseload numbers has been especially notable in the Crown Court. Here, 3,706 live cases were recorded in Quarter 4 of 2019–20.

This increased by 40.9% to 5,222 by Quarter 4 of 2020–21, and by a further 7.8% to 5,630 by Quarter 4 of 2021–22.

1.8. The burdens of dealing with higher caseloads came at the same time as substantial resourcing challenges. Around the country, work attendance levels were affected by Covid-19 infection, shielding and isolating, and home-schooling. In CPS East Midlands, the average number of working days lost rose from 7.3 in Quarter 4 of 2019–20 to 7.9 in the quarter ending December 2021.

To the Area's credit, there has been a demonstrable focus on staff wellbeing during this time of unprecedented pressures

1.9. As well as abstractions, the Area experienced significant staff turnover. In the 12 months to March 2022, the Area recorded 11.1% of its staff (including legal staff) leaving. This is much higher than the CPS national figure of 7.9%.

1.10. The pandemic was a significant factor in the decision by a large number of legal staff to take early retirement. A total of 16 Senior Crown Prosecutors (SCPs) with more than 10 years' experience have left the Area since February 2020. This meant the Area lost a considerable number of experienced legal staff (14.0% of its SCPs) all at much the same time. The loss of experience during this period of acute pressure, while staff were working remotely, was an additional issue for the Area to contend with. It is inevitable that the combination of all these factors had an impact on the Area's ability to drive and sustain improvements to casework quality.

1.11. The Area continues to have a significant shortfall in SCPs. There are 20 current vacancies and the Area is struggling to recruit sufficient numbers. Before the pandemic, the Area ran a successful local recruitment campaign, which resulted in it recruiting 15 SCPs to the volume casework teams. By way of contrast, since the pandemic the Area has been part of the national recruitment campaign, the results of which have been far less successful. With the Area struggling to recruit new prosecutors in sufficient numbers, its existing teams continue to be under substantial pressure.

1.12. To the Area's credit, there has been a demonstrable focus on staff wellbeing during this time of unprecedented pressures. The Area has made the conscious decision to prioritise staff welfare over the past two years. That decision has clearly had a positive impact on staff engagement: East Midlands has a 74% employee engagement index score as assessed by the 2021 Civil Service People Survey, which is above the CPS national average.

1.13. The Area has made significant inroads into its backlog. However, the pathway to the Area reducing its Crown Court caseload will be more challenging. Even with an engaged local judiciary, there is no obvious solution to Crown Court backlogs without many more Crown Court sittings. The Area is also struggling to recruit new prosecutors in sufficient numbers, which will mean that its existing teams remain under substantial pressure, alleviated only somewhat as the newer prosecutors gain enough experience to take on higher individual caseloads.

1.14. Throughout the inspection, there were examples of excellent casework across all units. There is scope for optimism that these can be replicated more widely as case numbers fall and staff become more established in their roles. It was also apparent that the Area was already aware of a number of issues we have flagged as being of concern (for example, the quality of case analysis and trial strategy in reviews) and believes that it has put in place measures to address them. The Area is therefore confident that when we conduct our follow up inspection, we will observe a significant improvement in casework quality.

Added value and grip

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

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

Table 1: Baseline assessment of CPS East Midlands

CPS East Midlands	Added value	Grip
s casework	66.2%	72.7%
Crown Court casework	60.9%	79.4%
Rape and serious sexual offences casework	62.3%	80.1%

1.17. Overall, our file examination found that that the Area generally applies the Code for Crown Prosecutors correctly at charge, especially in magistrates’ court and rape and serious sexual offences (RASSO) cases, and selects the correct charges, reflecting the criminality of the alleged conduct and affording the court adequate sentencing powers. After charge, the Area continues to make review decisions that are compliant with the Code for Crown Prosecutors.

1.18. The Area adds value through its work with victims and witnesses:

- by applying for appropriate orders at the conclusion of proceedings to protect the victim, witnesses and members of the public, particularly in magistrates' court and RASSO cases
- by applying for appropriate special measures to make sure victims and witnesses can achieve their best evidence in the majority of applicable cases, especially in Crown Court and RASSO cases.

1.19. Continuing disclosure was done well in Crown Court and RASSO cases, showing that prosecutors are responding to defence statements appropriately and making sure cases are trial ready and will not be derailed by unresolved issues with unused material. The magistrates' court and Crown Court units were both very good at making appropriate decisions about bail and custody.

1.20. However, there were some aspects where improvement is called for, most notably in the overall quality of the case analysis and case strategy in pre-charge and post-charge reviews across all units. It is not surprising that an Area working under increased pressure would find detailed analysis and strategy becoming less of a focus, but it is this analysis and strategy that builds a prosecution to a successful conclusion and supports better care of victims and witnesses. There is also room for improvement when it comes to initial disclosure across all three units.

1.21. Another notable element which reduced the Area's added value scores was the failure to consider applications and ancillary matters to support victims and witnesses at the pre-charge stage.

1.22. Good grip was apparent in much of the work carried out by all three units, especially in the RASSO and Crown Court teams. In particular, measures related to timeliness were generally positive; for example, initial and post-sending reviews were impressively timely across all units, as was the serving of the draft indictment and key evidence in both Crown Court and RASSO cases.

1.23. New material from the police was dealt with well by all teams. The Crown Court and RASSO teams were also very good at handling witness care unit, defence and court correspondence. Those two teams also demonstrated good compliance with Judges' orders.

1.24. It is notable that there were few aspects of grip in either the Crown Court or RASSO teams that caused any concern; but both should try to improve the chasing of counsel's advice when it has not been supplied.

1.25. To build higher ratings for grip, the magistrates' court team needs to make sure it complies with court orders. The team should also focus on improving its preparation for the first hearing.

Casework themes

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

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

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

Pre-charge decisions and reviews

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

¹ See annex F for scoring methodology.

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

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

1.30. In our file sample, we found that 71 of the Area’s 78 charging decisions² (91.0%) complied with the Code for Crown Prosecutors at the pre-charge stage. Within the different teams, the Code compliance rates were:

- magistrates’ court cases: 96.2%
- Crown Court cases: 85.3%
- RASSO cases: 94.4%.

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

1.32. We found that the quality of pre-charge reviews was low across all units. Reviews frequently failed to address the legal points to prove, the strengths and weaknesses of the evidence, witness credibility and any defences raised. This linked directly with a frequent absence of any trial strategy being articulated in the reviews.

1.33. There was often a failure to identify undermining unused material or to consider the impact of disclosure issues on the case. Instructions to court prosecutors must improve, with bail in particular rarely being addressed. Victim and witness issues also require much better consideration.

1.34. In our file examination, the ratings for the theme of pre-charge analysis were 49.3% in magistrates’ court casework, 44.3% in Crown Court casework

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.

and 38.0% in RASSO casework. According to our scoring mechanism, these ratings translate into assessments that all three units are not meeting the required standard for pre-charge reviews.

Post-charge decisions and reviews

1.35. 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 92.2% of the Area's 90 post-charge decisions complied with the Code for Crown Prosecutors. Within the different teams, the Code compliance rates were:

- magistrates' court cases: 96.7%
- Crown Court cases: 87.5%
- RASSO cases: 95.0%.

1.36. In cases that are expected to be concluded in the magistrates' courts, there should usually be a review before the first hearing, which we refer to as the 'initial review'. The standard of initial reviews in the magistrates' court unit was inconsistent. The equivalent review in the Crown Court unit (the 'post-sending review') was even weaker. The RASSO unit's post-sending reviews were marginally the best of the three casework types, but still required considerable improvement. Overall, 31.1% of the Area's cases were assessed as fully meeting the standard for the initial review, 30.0% as partially meeting the standard, and 38.9% as not meeting the standard.

1.37. In all three units, there were examples of the pre-charge review simply being copied and pasted into the post-charge review without the prosecutor considering issues or developments or rectifying any omissions or flaws.

1.38. We did see some good examples of initial and post-sending reviews across all three units, demonstrating that Area prosecutors have the ability to reappraise the case strategy and evidential analysis – but there is a need to make sure this is done consistently.

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 also the deadline for service of initial disclosure (the unused material that, at that stage, is deemed capable of either undermining the prosecution case or assisting the case of the defendant). Also by this point, additional material should have been

submitted by the police to allow the prosecution to review it before it is served on the defence.

1.40. The standard of stage 1 reviews across both Crown Court and RASSO cases was a cause for concern, with over half of Crown Court cases and over two thirds of RASSO cases assessed as not meeting the standard. The most significant issue was such reviews not being carried out at all.

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:

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

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

1.43. There was a stark difference in the scores for significant event reviews in the magistrates' court and Crown Court teams compared to the RASSO team. Half of the relevant magistrates' court cases and 52.6% of the Crown Court cases were assessed as fully meeting the standard for significant event reviews, with 16.7% and 21.1% partially meeting the standard, and 33.3% and 26.3% not meeting the standard respectively. By contrast, 9.1% of RASSO cases requiring a significant event review were assessed as fully meeting the standard, 18.2% as partially meeting it and 72.7% as not meeting the standard. The weak performance of the RASSO team was entirely down to the fact that, on all of the cases assessed as not meeting the standard, no significant event review had taken place where one had been required.

1.44. The magistrates' court and Crown Court teams are very good at making timely and appropriate decisions about bail and custody, with 90.0% of magistrates court and 75.0% of Crown Court cases assessed as fully meeting the standard for this measure. Improvement is needed in the RASSO team, where we assessed 45.0% of cases as fully meeting the standard (with 30.0% partially meeting it). The issue in RASSO cases was a failure to seek conditions on bail when this would have been appropriate.

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. Preparation for the PTPH is done well. Both the Crown Court and RASSO units were assessed as fully meeting the standard, with overall scores of 80.6% and 74.8% respectively.

1.47. The service of the draft indictment and key evidence in good time for the PTPH is a strength for the Area, with 76.7% of all relevant cases assessed as fully meeting the standard. Direct engagement with the defence was also a strength in both units, with 81.7% of relevant cases assessed as fully meeting the standard.

1.48. The quality of indictments was variable: 62.5% of Crown Court cases were assessed as fully meeting the standard, which is relatively positive; but 47.4% of RASSO cases were assessed as fully meeting the standard, which is some way below expectations.

1.49. There is also some room to improve instructions to advocates, mainly because the instructions were often silent on acceptable pleas in both Crown Court and RASSO cases.

Disclosure of unused material

1.50. 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,

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

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'.

1.51. 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'.

1.52. 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.

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

Table 2: Compliance with disclosure duties

Ratings	All cases
Initial disclosure	
Fully meeting the expected standard	28.8%
Partially meeting the expected standard	52.5%
Not meeting the expected standard	18.8%
Continuing disclosure	
Fully meeting the expected standard	66.7%
Partially meeting the expected standard	20.0%
Not meeting the expected standard	13.3%

1.54. As Table 2 shows, there is considerable scope for the Area to improve compliance with its initial disclosure obligations. Initial disclosure was weakest in the RASSO unit, where we assessed 16.7% of cases as fully meeting the expected standard. We rated 35.7% of magistrates' court cases and 29.4% of Crown Court cases as fully meeting the standard.

1.55. The reasons for disclosure decision-making being marked down varied across the three units. In magistrates' court cases, the most prevalent themes were not endorsing any decisions on the police unused material schedule (form MG6Cor streamlined disclosure certificate) and not identifying that other obvious items of unused material, such as forensic reports, were not scheduled. In Crown Court cases, the most common failing was determining incorrectly that unused material was not disclosable. Instances of material not being disclosed included undermining entries on police incident logs, negative viper results and

unscheduled disclosable prison material. In RASSO cases, by far the most common reason for a case partially or not meeting the standard was the prosecutor not endorsing any decisions on a non-blank MG6D form. The inspectors considered the issues to stem from poor quality endorsements and poor quality descriptions on schedules being accepted, as opposed to a lack of judgement in disclosure decision making. Indeed, there were no instances in RASSO cases of unused material being incorrectly determined to be not disclosable at initial disclosure.

1.56. Compliance with continuing disclosure obligations was far more positive in Crown Court cases, with 60.7% of cases assessed as fully meeting the standard. It was a particular strength in RASSO cases, where 81.3% of cases were assessed as fully meeting the standard. This shows prosecutors are properly considering and understanding the defence case and making sure disclosure issues are resolved prior to trial.

Victims and witnesses

1.57. 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.

1.58. 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.

1.59. There were strengths for the Area across all units in respect of the service provided to victims and witnesses after charge. In often difficult circumstances, with trials being moved owing to Covid-19's impact on courts, the timely and appropriate warning of witnesses was an extremely positive aspect of casework, with 91.8% of all cases fully meeting the required standard. The Area really does deserve credit for such strong performance on this important measure; trials can only be effective if the CPS has warned the correct witnesses in a timely manner.

1.60. In 67.4% of cases, the Area was assessed as fully meeting the standard for seeking appropriate orders to protect victims, witnesses and the public. Another 18.6% of cases were assessed as partially meeting this standard. The magistrates' court and RASSO teams were particularly adept at making sure

appropriate orders were sought, with 87.5% and 72.7% of their cases respectively being assessed as fully meeting the standard.

1.61. The Area was generally good at making sure victims and witnesses would achieve their best evidence by making appropriate applications for special measures. Performance was best in the RASSO unit, where making such applications was a real strength, with 82.4% of cases assessed as fully meeting the standard. Crown Court performance was relatively good, with 64.3% of cases fully meeting the standard and 28.6% partially meeting it. Performance was weakest in magistrates' court cases, with 55.6% fully meeting the standard and 11.1% partially meeting it.

1.62. The aspect of most concern, in respect of the Area's service to victims and witnesses, relates to Victim Communication and Liaison scheme (VCL) letters. In half of all the cases in our file sample where a VCL letter was required, the Area did not send one. This was most acute in Crown Court cases, where no letter was sent in 70% of cases which needed one. In 33.3% of magistrates' court cases, no VCL letter was sent when required. In the RASSO unit, this applied to 49.2% of cases which required a VCL letter.

1.63. The quality of the Area's VCL letters varied across teams. It is exceptionally good in RASSO cases, where all the letters sent were assessed as being of a high standard. In Crown Court cases the standard was also good, with 66.7% of sent letters assessed as being of a high standard and the remaining 33.3% assessed as partially meeting this standard. However, the quality of letters was more of a concern in magistrates' court cases, where 33.3% of letters were assessed as being of a high standard and the other 66.7% as not meeting the standard for quality. Some of those letters contained factually inaccurate information.

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 East Midlands, 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.

2.11. In East Midlands, Nightingale courts were not set up until 2021, which made tackling the backlogs even more challenging. A hotel in Nottingham was used to provide two additional Crown Court rooms from March 2021 to March 2022, in which jury trials in bail cases were held. Both Mansfield and Chesterfield magistrates' courts have also been used to provide an additional Crown Court room each since 2021. Loughborough magistrates' court has been revamped into a 'super courtroom' which opened in November 2021, capable of handling serious multi-defendant Crown Court cases, such as a nine-handed murder case.

Nightingale courts were not set up until 2021, which made tackling the backlogs even more challenging

2.12. 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%.

2.13. 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, in particular the staffing issues related to under-resourcing and high staff turnover, which have 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.justiceinspectors.gov.uk/hmcp/inspections/cps-response-to-covid-19-dealing-with-backlogs/

Impact on the Area

Caseloads and backlogs

2.14. CPS East Midlands 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.

2.15. Table 3 shows the changes between Quarter 1 of 2020–21 (April to June 2020) and Quarter 1 of 2022–23 (April to June 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 2020–22

Month	2020	2021	2022	Difference	Difference (%)
Magistrates' courts					
April	7,246	9,651	5,694	-1,552	-21.4%
May	8,386	9,194	5,715	-2,671	-31.9%
June	9,541	8,688	5,555	-3,986	-41.8%
Crown Court					
April	3,569	5,504	5,516	+1,947	+54.6%
May	4,131	5,564	5,634	+1,503	+36.4%
June	4,700	5,617	5,708	+1,008	+21.4%

2.16. The Area remains significantly affected by the substantial increase in caseload over the past two and a half years, especially in the Crown Court.

2.17. In February 2020, before the pandemic, there were 5,139 live cases in the magistrates' courts. This figure peaked at 11,984 in November 2020, but despite falling since then, in June 2022 it was still 8.1% higher than before the pandemic.

2.18. In the Crown Court there were 3,834 live cases before the pandemic. By June 2022 this figure was 48.9% higher, having reached a peak of 5,769 in September 2021 and remained largely static since then.

2.19. The magistrates' court unit has had a considerable degree of success in working through their backlog.

2.20. In April 2020, the Crown Court unit had less than half as many live cases as the magistrates' court unit. By June 2022, the Crown Court unit had 2.8% more live cases than the magistrates' court unit.

Magistrates' courts

2.21. The magistrates' courts' live caseload increased by 11.0% between Quarter 4 of 2019–20 (January to March 2020) and Quarter 4 of 2021–22. Over the same period, receipts decreased by 9.9%.

Crown Court

2.22. The Crown Court's live caseload increased by 51.9% between Quarter 4 of 2019–20 and Quarter 4 of 2021–22. Over the same period, receipts decreased by 10.0%.

Rape and serious sexual offences

2.23. The rape and serious sexual offences (RASSO) live caseload decreased by 2.5% between Quarter 4 of 2019–20 and Quarter 4 of 2021–22. Over the same period, receipts decreased by 41.5%.

Staffing

2.24. The increase in caseload has coincided with an increase in staff turnover. The number of staff leaving, as a percentage of headcount, increased from 7.2% in Quarter 4 of 2020–21 to 11.1% in Quarter 4 of 2021–22 (having also been above 11% in the preceding two quarters). We were told that, since the start of the pandemic, 16 Senior Crown Prosecutors (SCPs) with more than ten years' experience (14% of the total number of SCPs) have left the Area, resulting in a significant shortfall of prosecutors in the Crown Court team; the Area presently has vacancies for 20 SCPs. The loss of so many long serving prosecutors also means a large proportion of the legal workforce has limited experience.

2.25. It is understandable that casework quality will be affected by the loss of staff and units not having enough prosecutors to function at full capacity. This is likely to have been a factor in our finding that a number of Crown Court and RASSO reviews (both at stage 1 and following significant events) had simply not been completed.

Management

2.26. The Area has changed its management composition over the past two years by restructuring the senior management grades. There are now two Deputy Chief Crown Prosecutors (DCCPs), one who covers RASSO and the

magistrates' courts and one who covers the Crown Court and the complex casework unit (CCU). Each DCCP is now supported by two Senior District Crown Prosecutors (SDCPs), where formerly each had only one. The Area considers that this has led to less compartmentalised work and improved interconnection between the SDCPs, to the benefit of the teams they oversee.

Defence

2.27. One of the Area's strengths is its compliance with its duty to directly engage with the defence. The Area has continued to do this throughout the pandemic, which is commendable. However, the Area acknowledges that the effectiveness of this engagement has declined because the defence have often been unable to see their clients and take instructions because of the pandemic, making it very difficult to narrow issues or find an early resolution to cases. This can be seen in the impact on the Crown Court guilty plea rate, which has declined over the past 12 months.

Moving forward

2.28. There remain significant pressures in the East Midlands Area. In particular, the Crown Court caseload remains substantially higher than before the pandemic and has largely plateaued over the past year as opposed to decreasing. The local judiciary are engaged with the Area to try to resolve this, but there is no obvious route which will alleviate the backlog, and strikes by the independent bar tend to exacerbate the issue.

2.29. In addition, the Area still has a significant shortfall in Senior Crown Prosecutors. The CPS national recruitment campaign has yet to deliver the numbers of new prosecutors required.

Police service to the Area

2.30. 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.

2.31. 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.

2.32. CPS East Midlands is serviced by five different police forces: Derbyshire, Leicestershire, Lincolnshire, Northamptonshire and Nottinghamshire. We assessed casework from all force areas.

2.33. We found that the quality of police files was in need of improvement. Three fifths (60.0%) of magistrates' court files and half of Crown Court files complied with the National File Standard. These issues with police file quality clearly have an impact on the Area's ability to deliver high quality casework.

2.34. In RASSO cases the quality was far higher, with 85.0% of cases complying with the National File Standard.

2.35. We saw evidence of CPS East Midlands engaging constructively at a senior level with all five police forces. The Area has been proactive in seeking to address file quality issues with senior police leadership and the issue is a regular topic of discussion in meetings between the Area and the forces.

2.36. One tangible outcome of this focus is the Area's commitment to train detectives to improve their understanding of the role of the CPS and what is required to build a quality file. So far the Area has delivered three training sessions. In return, the police have delivered firearms offences training to CPS lawyers, which demonstrates the benefits of this collaborative approach to working.

Performance data

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

2.38. While we have considered the performance data available, our assessment of the quality of CPS East Midlands' 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.

2.39. 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 East Midlands. 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 we had to go back to the previous quarter to find sufficient cases in a number of instances, all of which were RASSO cases. Within the criteria, cases were chosen at random.

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

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

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

Other inspection activity

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

3.8. We also attended the Area's casework quality assurance board meeting on 18 May 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 East Midlands. 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 East Midlands 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 [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' courts 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 East Midlands as follows.

Table 4: Added value and grip scoring

CPS East Midlands	Added value	Grip
Magistrates’ court casework	66.2%	72.7%
Crown Court casework	60.9%	79.4%
Rape and serious sexual offences casework	62.3%	80.1%

5.12. These findings need to be seen in the context of the substantial increase in caseloads since February 2020, especially in the Crown Court team, and the significant shortfall in the number of Senior Crown Prosecutors in the Area, exacerbated by the high turnover of legal staff.

Magistrates’ court casework added value and grip

5.13. The Area’s score for added value in magistrates’ court casework is 66.2%.

5.14. The vast majority of review decisions applied the Code for Crown Prosecutors correctly and almost all defendants were prosecuted for the correct offences.

5.15. The magistrates’ court team added value by accepting appropriate pleas, with all of the cases in which this occurred assessed as fully meeting the standard. Appropriate decisions about bail and custody were made in most instances, with 90.0% of cases assessed as fully meeting the standard.

5.16. At the conclusion of proceedings, the prosecutor applied for appropriate orders to protect the victim, witnesses and members of the public in almost every applicable case, with 97.5% of relevant cases fully meeting the standard. This was a significant strength and demonstrated considerable added value.

5.17. However, the overall quality of pre-charge and initial reviews, along with some poor disclosure decision-making, had a negative impact on the value added in magistrates' court casework.

5.18. The Area's score for grip of magistrates' court casework is 72.7%.

5.19. The Area showed good grip in magistrates' court cases in a number of ways – in particular the timeliness of initial reviews, where 73.1% of cases were assessed as fully meeting the standard, 26.9% as partially meeting it and no cases as not meeting it.

5.20. The sharing of hard media was generally done well, with 75.0% of cases assessed as fully meeting the standard and 6.3% as partially meeting it.

5.21. The Area proactively reviewed new material from the police, with 70.6% of cases fully meeting the standard and 23.5% partially meeting it.

5.22. The aspects of grip that caused the most concern were compliance with court orders, with 30.8% of cases assessed as fully meeting the standard, 15.4% as partially meeting it and the remaining 53.8% as not meeting the standard. Preparation for the first hearing can also improve, with 26.7% of cases assessed as fully meeting the standard, 60.0% as partially meeting it and 13.3% as not meeting it.

Crown Court casework added value and grip

5.23. The Area's score for added value in Crown Court casework is 60.9%.

5.24. Review decisions usually applied the Code for Crown Prosecutors correctly and, more often than not, defendants were prosecuted for the correct offences.

5.25. The Crown Court team added value by making appropriate special measures applications in the majority of applicable cases, with 64.3% of those cases assessed as fully meeting the standard and 28.6% as partially meeting it. Decisions about bail and custody were usually appropriate, with 75.0% of cases assessed as fully meeting the standard and 17.5% as partially meeting it. Generally, indictments were correctly drafted, with 62.5% assessed as fully meeting the standard and 25.0% as partially meeting it. Continuous disclosure

was also done relatively well, with 60.7% of cases assessed as fully meeting the standard and 21.4% as partially meeting it.

5.26. The overall quality of the case analysis and case strategy in pre-charge and post-charge reviews was poor, with 41.2% of pre-charge reviews, 50.0% of post sending reviews and 51.5% of stage 1 reviews assessed as not meeting the standard. This had a significant negative effect on the added value score. There is also room for improvement when it comes to initial disclosure, with 29.4% of cases assessed as fully meeting the standard, 44.1% as partially meeting it and 26.5% as not meeting it.

5.27. The Area's score for grip of Crown Court casework is 79.4%.

5.28. The Area showed good grip in Crown Court cases in many ways – in particular:

- the timeliness of charging decisions, with 85.3% of cases assessed as fully meeting the standard and 8.8% partially meeting it
- the timeliness of post-sending reviews, with 80.0% assessed as fully meeting the standard and 7.5% as partially meeting it
- serving the draft indictment and key evidence in a timely manner, with 75.0% of cases assessed as fully meeting the standard and 20.0% as partially meeting it.

5.29. There was also generally timely compliance with Judges' orders, with 69.7% of cases fully meeting the standard and 27.3% partially meeting it.

5.30. The handling of witness care unit correspondence and defence and court correspondence was very good (rated as fully meeting the standard in 76.0% and 83.3% of cases respectively). New material from the police was also dealt with well, with 80.6% of cases assessed as fully meeting the standard.

5.31. There were few aspects of grip that caused any concern; but the chasing of counsel's advice can be improved, as 66.7% of relevant cases were assessed as not meeting the standard.

Rape and serious sexual offences casework added value and grip

5.32. The Area's score for added value in RASSO casework is 62.3%.

5.33. The vast majority of review decisions applied the Code for Crown Prosecutors correctly and most defendants were prosecuted for the correct offences.

5.34. The RASSO team added value by making appropriate special measures applications in the substantial majority of applicable cases, with 82.4% of those cases assessed as fully meeting the standard and 5.9% as partially meeting it.

5.35. Continuous disclosure was a real strength, with 81.3% of cases assessed as fully meeting the standard and the remaining 18.8% partially meeting it. This tied in with the defence statement being properly reviewed and good directions being given to the police on further reasonable lines of enquiry, where again, 81.3% of cases were assessed as fully meeting the standard and the remaining 18.8% as partially meeting it.

5.36. The RASSO team also added value by seeking appropriate orders upon conviction to protect victims and witnesses; 72.7% of relevant cases were assessed as fully meeting the standard and 18.2% as partially meeting it. All of the VCL letters sent were assessed as fully meeting the standard for quality, which was positive.

5.37. The added value score was reduced by the overall quality of pre-charge and post-charge reviews. Most significantly, 68.8% of stage 1 reviews and 72.7% of reviews to address significant developments were assessed as not meeting the standard. This was mainly the result of half the cases not having a stage 1 review at all and 72.7% of cases not having a significant event review when one was required. The other notable element which reduced the added value score was the failure to consider applications and ancillary matters to support victims and witnesses at the pre-charge stage; 58.8% of relevant cases were assessed as not meeting the standard.

5.38. The Area's score for grip of RASSO casework is 80.1%.

5.39. The Area demonstrated good grip in RASSO cases across most of the measures assessed. The elements that stood out as particularly good were:

- the timeliness of the post-sending review, with 90.0% of cases assessed as fully meeting the standard and 5.0% of cases assessed as partially meeting it
- making timely and effective decisions to discontinue in appropriate cases, with 85.7% of cases assessed as fully meeting the standard
- the timely service of the indictment and key evidence before the PTPH, with 80.0% of cases assessed as fully meeting the standard and 10.0% as partially meeting it.

5.40. As in the Crown Court team, the handling of witness care unit correspondence and defence and court correspondence was good (rated as fully meeting the standard in 73.3% and 72.2% of cases respectively). New material from the police was also dealt with well; 73.7% of cases were assessed as fully meeting the standard and appropriate requests were made to the police for further material in 76.5% of cases.

5.41. Again, as in Crown Court cases, there were few aspects of grip that caused any concern; but the same issue of chasing counsel's advice should be improved, as all of the relevant cases were assessed as not meeting the standard. The holding of conferences with counsel in relevant cases can also improve, with 50.0% of cases assessed as fully meeting the standard and 50.0% as not meeting the standard.

6. Casework quality: magistrates' court casework themes

Introduction to magistrates' court casework

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

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

6.2. Our findings should be seen in light of the context we set out in chapter 2, concerning the impact on the Area of Covid-19, including the magistrates' courts caseload rising significantly since the pandemic. While the Area has done much to reduce the backlog, the caseload remains higher than it was before the pandemic. In late 2020 the monthly live caseload figure had more than doubled compared to before the pandemic; a number of the cases we examined were ongoing during this period of time.

6.3. In addition, the Area has a significant shortfall in the number of Senior Crown Prosecutors it employs. The main impact this has on the magistrates' court team is that many of its prosecutors are new starters with limited experience. They require more supervision and are less able to carry high caseloads, putting extra pressure on the more experienced team members.

6.4. We have scored CPS East Midlands 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	Not meeting the standard	49.3%
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	Partially meeting the standard	64.5%
Disclosure		
The Area fully complies with its duty of disclosure throughout its magistrates' court casework	Partially meeting the standard	65.6%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its magistrates' court casework	Fully meeting the standard	70.5%

6.5. Our assessment of magistrates' court casework was that there were aspects of casework that were done well, including compliance with the Code for Crown Prosecutors both before and after charge; selecting the most appropriate charges; correctly and promptly warning witnesses for trial; securing appropriate orders on conviction to protect victims, witnesses and the public; and completing the initial review in a timely manner.

6.6. There were other aspects that required more focus, specifically the quality of the case analysis and strategy in pre-charge and post-charge reviews, complying with the duty of initial disclosure and the quality of Victim Communication and Liaison scheme (VCL) letters.

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

Pre-charge decision-making and review

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

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

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

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

6.9. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with 96.2% of the Area’s pre-charged magistrates’ court cases being compliant with the Code for Crown Prosecutors.

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

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

6.10. Inspectors found one wholly unreasonable decision within the 26 Area-charged magistrates’ court cases. In that case, the victim was followed into an alleyway by a group of youths. The defendant demanded that the victim hand over his belongings and then forcibly snatched the victim’s bag from him. He stole all the contents and then further assaulted the victim. Charges of assault by beating (which was out of time) and theft were authorised, despite the evidence very clearly supporting the more serious offence of robbery.

6.11. The prosecutor had erred because they did not think that there was any evidence of force being used or a threat being made, when both these elements were very clearly present. The CPS was forced to withdraw the charge of assault, given it was out of time, and proceeded to trial on the theft matter alone. The defendant was convicted after trial but the theft offence did not properly reflect the gravity of his offending or accord the court sufficient sentencing powers to properly reflect the criminality.

Selecting the most appropriate charges

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

6.13. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for selecting the most appropriate charges at the pre-charge stage is 94.0%. Of the 25 applicable cases, we assessed 23 cases (92.0%) as fully meeting the standard, one case as partially meeting the standard and one case as not meeting the standard (each 4.0%).

6.14. In one case which involved the defendant sending voluminous and incessant emails and documents to his ex-partner following the break-up of their relationship, the CPS added considerable value at charge by rejecting the police's request to charge stalking with violence, which was not supported by the evidence. Instead, the Area prosecutor authorised a charge of section 2 harassment, explaining in their review why this charge was far more appropriate and demonstrating good understanding of the law.

6.15. In another, relatively complicated, case there was a good analysis of possible charges. The defendant had fled from police and was seen to discard items as he ran. Police recovered a set of keys to a stolen van and a knife. The defendant's address was searched and a CS gas canister and cannabis were found. The charging lawyer authorised charges of handling stolen goods, possession of a bladed article, possession of a weapon for the discharge of a noxious gas and possession of cannabis. The court was afforded sufficient sentencing powers and the offences charged fully reflected the criminality. The defendant was convicted of the first three offences after trial (he had pleaded to the cannabis matter).

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

6.16. Our assessment is that the Area is **not meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in magistrates' court cases is 49.3%.

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

Case analysis and strategy

6.18. The quality of the case analysis and strategy in the Area's pre-charge reviews needs to improve. We assessed three of the applicable 26 cases (11.5%) as fully meeting the standard, 14 (53.8%) as partially meeting the standard and nine (34.6%) as not meeting the standard.

6.19. In the cases rated as partially or not meeting the standard, we found several themes emerging.

- The case analysis did not adequately assess the legal points to prove and the strengths and weaknesses of the evidence.
 - This included a case in which the defendant was accused of being in possession of a bladed article which was found inside a car he had been seen in by police. The pre-charge review consisted of a rehearsal of the facts based on the police summary, without considering the strengths and weaknesses of the case. The defendant denied that he had been in possession of the knife. He had been seen getting out of the passenger side of the vehicle. The keys had been in the ignition. The prosecution case was not put on the basis that the defendant was the driver of the vehicle or the owner of it. There was no exploration of how a court could be sure that he had to be the person who had put the knife in the car. The defendant was found not guilty because the magistrates said they were not sure that he had been in possession of the knife.
 - Another example was a case in which the defendant demanded money from the victim and then forcibly took bicycles in lieu of payment. The charging lawyer erred in law, mistakenly believing that in these circumstances it was not possible to prove a robbery had taken place because an intention to permanently deprive could not be established, despite there being caselaw²³ on this exact point which indicates that such conduct does constitute an intention to permanently deprive. While a decision not to charge robbery was legitimate in all the circumstances of the case, it is concerning that the prosecutor had such a poor grasp of the law.

²³ R v Raphael (2008) EWCA Crim 1014

- 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 a breach of a non-molestation order case, the defendant's son provided information to the police that, if correct, indicated that his father could not have committed the offences alleged. While the information was correctly disclosed, its potential impact on the case and the way in which it supported the defence were not assessed. The defendant was found not guilty at trial.
 - In a handling stolen goods and fraud case, the victim's handbag, containing her bank card, had been taken from her home. The defendant had used the card, but claimed she had been given it by a male at the victim's address and believed it had belonged to her friend. A heating engineer had been at the property that day. No consideration was given to the defence raised and no thought to whether the engineer could be involved, or the potential impact his presence could have on the defence. The defendant was convicted at trial.
- Witness credibility was not considered.
 - In a case where the defendant was alleged to have committed assaults, there were discrepancies in the accounts of one of the victims. In his first statement, the victim said the defendant's brother was not present, but in his second statement he said that he was present. This was not addressed in the review. Ultimately the prosecution offered no evidence.

Case study

The suspect, who was with his wife, who was also a suspect, was alleged to have assaulted two people in a public house. The witnesses, a number of whom had been drinking, said that the incident had been triggered by racist comments made by the suspect, yet none of them could say what those comments were or provide any detail to support this element of the case. The suspect (and his wife) gave a very different account of the incident, denied making any racist comments and said that they were the ones who had been assaulted.

There was no consideration of witness credibility in the pre-charge review. The racial element was not charged – quite correctly, given the lack of any detail about it – but this aspect of the case weakened the witnesses' credibility, since their inability to back up their claims with any detail tended to support the suspect's denial of using racial language.

There were also a number of significant disclosure issues in this case. The attending officer had recorded the CCTV footage of the incident onto his body worn video (which was the only record kept of the CCTV) which had then been lost. This was compounded by the fact the police officer in question was related to one of the prosecution witnesses. In addition, the police papers made clear that there were two potential witnesses in the public house who had not provided statements.

This case took place after the publication of the sixth edition of the Director's Guidance on Charging. The police had supplied a streamlined disclosure certificate indicating that there was nothing to disclose. The prosecutor completed this and agreed with the police that there was nothing which met the disclosure test.

It should have been obvious that the loss of the CCTV recording would be an important issue in the case and that proper enquiries needed to be made to explain what had happened. Ultimately this issue led to a section 8 application, in which the court ordered disclosure of certain items. The case collapsed on the day of trial as the CPS had failed to comply with this order.

The failure of the case stemmed back to a poor pre-charge review which failed to adequately consider the issues in the case and, therefore, to realise the significance of the disclosure issues and put measures in place to deal with them at that early stage.

6.20. We saw some good examples of case analysis, including the following.

- In a homophobic assault case, the pre-charge review was a good example of an effective, proportionate review. The available evidence had been carefully considered, identifying the strengths and weaknesses of the case. The hate crime aspect was well covered, with instructions on the sentence uplift. A trial strategy was also set out. This is likely to have contributed to the successful outcome of the case: there was a conviction after trial (albeit the magistrates were unsure about the homophobic aggravation).
- In an assault case where it was alleged the victim had been assaulted by her partner, the pre-charge review set out the strengths and weaknesses of the evidence and considered the prosecution case against the defendant's account. The review referenced relevant CPS policies and applied the charging standards. It covered reasonable lines of enquiry and considered admissibility and credibility in appropriate detail. A trial strategy was set along with a contingency plan should the victim withdraw support. While the case resulted in a not guilty verdict, this should not detract from an extremely good and thorough piece of work that allowed the case to progress effectively and efficiently through to trial.

Pre-charge disclosure

6.21. In some cases, there was inadequate consideration of unused material at the pre-charge stage. Of the 26 applicable cases, we assessed eight cases (30.8%) as fully meeting the standard for the handling of unused material, ten cases (38.5%) as partially meeting the standard and eight cases (30.8%) as not meeting the standard.

6.22. Almost half of the cases examined were subject to the sixth edition of the Director's Guidance on Charging (DG6). While the streamlined disclosure certificates were not always endorsed in those cases, the unused material was generally considered.

6.23. There were varied reasons for cases being assessed as partially meeting or not meeting the standard. One of the most common themes was a failure to identify previous convictions as disclosable. In one case, the police had notified the CPS that the victim gave an account to the interpreter which did not completely accord with his statement. The prosecutor, however, recorded in the pre-charge review that there was no material which undermined the prosecution case or assisted the defence.

Instructions to the court prosecutor

6.24. The guidance given to court advocates in the charging advice needs to improve. It was often brief and did not address all the issues. In particular, bail was not addressed at all in 19 of 26 cases (73.1%). Acceptable pleas were often not addressed, meaning that there may be missed opportunities to resolve cases in a timely manner and without the need for a trial.

6.25. We rated three cases (11.5%) as fully meeting the required standard, 19 cases as partially meeting it (73.1%) with the remaining four cases (15.4%) rated as not meeting the standard.

Reasonable lines of enquiry and action plans

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

6.27. Action plans were of varying quality. Of the 24 cases where an action plan was required, we assessed six cases (25.0%) as fully meeting the standard, 11 cases (45.8%) as partially meeting it and seven cases (29.2%) as not meeting the standard.

6.28. In many of the cases assessed as partially meeting the standard, the prosecutor had embedded the actions in the body of the pre-charge advice and not set them out in the action plan section of the MG3, thereby creating a risk that the actions could be missed. In the cases assessed as not meeting the standard, there tended to be no action plan when there should have been.

Applications and ancillary matters

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

6.30. We assessed the pre-charge consideration of applications and ancillary matters as fully meeting the expected standard in eight of the 23 applicable cases (34.8%). Ten cases (43.5%) were assessed as partially meeting the standard and five cases (21.7%) as not meeting the standard. In some of the cases rated as partially meeting the standard, we noted that the need for applications such as bad character was identified but no further information was requested from the police to enable the application to be drafted and made.

6.31. Applications and ancillary matters to support victims and witnesses were fully considered in eight of 22 applicable cases (36.4%). We assessed nine cases (40.9%) as partially meeting the expected standard and five cases (22.7%) as not meeting the standard. In some of the cases rated as partially meeting the standard, we noted that while the prosecutor had identified the need for an application such as special measures, compensation or a restraining order, no further information had been requested from the police to enable it to be progressed.

Post-charge decision-making and reviews

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

6.32. Our assessment is that the Area is **fully meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for Code compliance in magistrates' court cases is 96.7%. These cases included those that were originally charged by either the police or CPS Direct.

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

Rating	Number of cases	Percentage
Fully meeting the required standard	29	96.7%
Not meeting the required standard	1	3.3%

6.33. 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.

6.34. As Table 7 shows, all but one of the review decisions made after charge were Code compliant. The case which involved the wholly unreasonable decision was the theft matter referred to in paragraph 6.10. As outlined there, the Area did not correct the error made in the case after charge.

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

6.35. Our assessment is that the Area is **partially meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in magistrates' court cases was 64.5%.

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

Case analysis and strategy

6.37. There was a substantial improvement in post-charge reviews compared to the pre-charge stage (64.5% compared to 49.3%) but, as Table 8 demonstrates, in the key area of case analysis and strategy there remains room for improvement.

Table 8: Standard of magistrates' court case analysis and strategy, before and after charge

Question	Magistrates' court cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	11.5%
Partially meeting the required standard	53.8%
Not meeting the required standard	34.6%
Post-charge analysis and strategy	
Fully meeting the required standard	26.7%
Partially meeting the required standard	46.7%
Not meeting the required standard	26.7%

6.38. Of the 30 cases in the magistrates' courts sample, eight cases (26.7%) had an initial pre-first hearing review we assessed as fully meeting the expected standard. We assessed another 14 cases (46.7%) as partially meeting the standard and eight cases (26.7%) as not meeting the standard. In four of those eight cases there was no review at all before the first hearing.

6.39. Some cases that we assessed as partially meeting or not meeting the standard simply copied and pasted the charging review without adding any further value, so deficiencies in the pre-charge advice were not addressed and actions set were not always chased up.

6.40. There was also a theme of failing to either develop a trial strategy or set out the position on acceptable pleas, where these issues had not been addressed in the pre-charge review. In one case of assault, the police had supplied a Police National Computer (PNC) print for the victim at the pre-charge stage, which showed he had only two cautions on his record. After charge, the police supplied a different PNC print which revealed he had 24 convictions, including for offences of violence, dishonesty and perverting the course of justice.

6.41. While this new information was considered within the evidential assessment in the initial review, no question was raised about the disparity between the two PNC prints. There was a clear risk that the new print did not

relate to the victim (his name appeared on it as an alias only) and an enquiry should have been raised with the police. The decision to disclose this to the defence without this being checked was not appropriate, especially given the offence arose from a parking dispute between neighbours.

Case study

The suspect, a restaurant manager, was accused of stealing alcohol, tips and money from the till at his workplace, as well as a pair of sunglasses belonging to a customer. CCTV had recorded the suspect's actions.

In interview the suspect had denied theft, claiming that he had noted what he had drunk and intended to pay for it, that he had left a note in the tip box and was intending to repay the money he took, and that he had taken the money from the till solely to make change.

The pre-charge review had not covered all aspects of the offending. By contrast, the initial review was precise and proportionate and contained a coherent analysis of the evidence that proved the offences and also set out a sensible position on acceptable pleas. The prosecutor noticed that one of the charges required amending and wrote to the court and defence to resolve this issue. The prosecutor also identified errors in the police's completion of the streamlined disclosure certificate and sent it back to them for rectification. The national file quality tool was used to feed back the failings in the police file.

The quality of this initial review was high and set the case up for the acceptable guilty pleas which were entered at the trial.

Significant events

6.42. 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.

6.43. In our magistrates' courts sample, there were six cases that required a significant event review. Half of these (three cases or 50%) were assessed as fully meeting the standard, one case (16.7%) as partially meeting the standard and two cases (33.3%) as not meeting the standard.

6.44. In both the cases we assessed as not meeting the standard, there was no review to assess the significant event. One was the assault in the public house case referred to in the case study following paragraph 6.19. The defence served a skeleton argument alleging abuse of process in respect of the lost CCTV footage. While the CPS did respond to this, the response was poorly argued and did not contain a reference to a single legal authority or point of law. Moreover, no further review was conducted when it should have been.

6.45. In the other case, information was provided (admittedly late) that an important prosecution witness was unable to attend the trial because of a bereavement. This should also have generated a further review of the case. The trial proceeded without this witness, who corroborated the victim, and there was a not guilty verdict, with the magistrates stating that they had been unable to choose between the accounts of the victim and the defendant.

Acceptance of pleas

6.46. There were three cases in our magistrates' courts sample where pleas or a basis of plea were offered. The acceptance of pleas was appropriate in all these cases, so we assessed all three as fully meeting the standard.

6.47. In one case, the defendant was charged with theft of a parcel containing clothing. At trial he pleaded guilty to the offence of receiving stolen goods. The CPS had correctly recognised that this offence should be charged in the alternative from the pre-charge stage and there was already a charge before the court. This was appropriate and no doubt encouraged the guilty plea. The court retained the same sentencing power.

Appropriate applications

6.48. The Area often does not make effective use of appropriate applications to strengthen the prosecution case. Of the 14 applicable cases in our magistrates' courts sample, we rated three cases (21.4%) as fully meeting the standard, four cases (28.6%) as partially meeting the standard and seven cases (50.0%) as not meeting the standard.

6.49. None of the cases we assessed as not meeting the standard had appropriate applications (or in one case, section 10 admissions) drafted in advance of the trial date (the relevant applications related to hearsay or bad character). In the cases we assessed as partially meeting the standard, the quality of the notices required improvement.

Feedback on police file quality

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

6.51. Some of the files we examined will have been reviewed after the suspension of the NFQ requirement, and this will account for why there is not a higher rate of feedback in our file sample. Since 21 July 2021, the NFQ

mechanism has been replaced by the DG6 Assurance feedback mechanism, which is very similar but focused on disclosure failings.

6.52. Of the 30 files provided by the police to CPS East Midlands, 12 did not meet the requirements set out in the NFS. We assessed the CPS's feedback to the police as fully meeting the standard in three (25.0%) of those cases, as partially meeting the standard in four cases (33.3%) and as not meeting the standard in five cases (41.7%).

Does the Area fully comply with its duty of disclosure?

6.53. 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 65.6%.

6.54. 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

6.55. There is room for improvement in the standard of the service the Area receives from the police on disclosure. Of the 28 relevant cases, the police complied with their disclosure obligations fully in 12 cases (42.9%). We assessed police compliance as partially meeting the required standard in another 12 cases (42.9%) and as not meeting it in the remaining four cases (14.3%).

6.56. 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.

6.57. Feedback was given more often than not in cases in which the police had not fully complied with their disclosure obligations. In nine of the 16 cases (56.3%) which required feedback to the police, the feedback was rated as fully meeting the standard, with one other case (6.3%) rated as partially meeting the standard and six more (37.5%) as not meeting the standard. These latter cases had no feedback to the police regarding deficiencies.

Initial disclosure

6.58. We assessed initial disclosure in the magistrates' courts as fully meeting the required standard in ten of the 28 applicable cases (35.7%). Another 13 cases (46.4%) were assessed as partially meeting the standard and five cases (17.9%) as not meeting the standard.

6.59. Of the cases we assessed as either partially meeting the standard or not meeting the standard, the most prevalent themes were not endorsing any decisions on the MG6C (or streamlined disclosure certificate) and not identifying that other obvious items of unused material were not scheduled.

6.60. For example in one case, which related to disputed possession of a knife, there was information that the knife had been forensically examined with a negative result. Given that possession of the knife was at issue, this information was clearly disclosable. However, no forensic report was listed on the streamlined disclosure certificate and the prosecution did not draw the defence's attention to the information. The police MG5 did contain a reference to the knife being examined and no fingerprints being found, so the defence were notified of the issue. Nonetheless, the forensic report should have been listed as unused material and considered by the prosecutor (especially given the police MG3 said that the knife had come back as "negative for a print match to [the defendant]", which left a question over whether the MG5 was accurate in stating that there had been no fingerprints found on the knife).

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

6.62. Initial disclosure was timely more often than not, being assessed as fully meeting the standard for timeliness in 17 of 28 cases (60.7%), partially meeting that standard in three cases (10.7%) and not meeting that standard in the remaining eight cases (28.6%).

Sensitive material

6.63. There was one case featuring sensitive material in our magistrates' courts sample. We assessed the handling of this material as not meeting the standard. The sensitive material related to the location of an automatic numberplate recognition camera. There was no endorsement of the MG6D.

Other disclosure matters

6.64. The duty of continuing disclosure does not arise frequently in the magistrates' courts and only occurred once in our file sample.

6.65. We assessed the case as not meeting the standard. This was because despite the prosecutor purporting to complete continuing disclosure (hampered by an ineffective response to the defence statement from the police), the defence made a section 8 application and the court ordered further disclosure. The prosecution did not comply with this order or seek to challenge it. As a result of the failure to properly address disclosure and to comply with a court order for further disclosure, the case collapsed on the day of trial.

6.66. There was one case where there was third party material (medical notes). We assessed the handling of this material as not meeting the expected standard. The medical notes were disclosed in the initial details of the prosecution case without permission and without having been scheduled.

Disclosure records

6.67. The disclosure record on the CPS case management system was completed well in the majority of cases, being assessed as fully meeting the standard in 21 of 28 cases (75.0%), partially meeting it in five cases (17.9%) and not meeting it in two cases (7.1%).

Area training

6.68. Staff in the Area have had mandatory disclosure training on the Attorney General's Guidelines on Disclosure and DG6. Records are kept to make sure all staff have this training.

6.69. The Area detected a lack of compliance with DG6 through dip samples of magistrates' court casework. It acted by scheduling lunch and learn sessions in Quarter 4 of 2021–22 (January to March 2022) and tasking line managers with identifying lawyers who would benefit from refresher disclosure training.

6.70. The Area was also aware that the magistrates' courts lawyers are relatively inexperienced and have disclosure training needs. For example, they will have rarely encountered either sensitive or third-party material. New staff have told the Area that CPS central training on disclosure comes too early on and is not particularly practical. The Area has therefore now developed its own disclosure training based on a case study approach, which is delivered in small face to face interactive training sessions. We would hope to see this proactive approach leading to an improvement in disclosure scores in our follow-up inspection.

Does the Area address victim and witness issues appropriately?

6.71. Our assessment is that the Area is **fully meeting the standard** for this casework theme. Overall, the score for victim and witness issues in magistrates' court cases is 70.5%.

6.72. 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.

Before charge

6.73. At charge, the prosecutor should actively consider relevant applications and ancillary matters to support victims and witnesses. These applications and ancillary matters were fully considered in eight of the 22 applicable cases (36.4%). We assessed nine cases (40.9%) as partially meeting the expected standard and five cases (22.7%) as not meeting the standard.

6.74. In one case, the police had supplied an MG2 making clear that the young victim was autistic and vulnerable and required an intermediary. The charging lawyer did not refer to this document and said that the victim was automatically entitled to special measures because of his age. The CPS never secured an intermediary; in the end, the victim's mother acted as a quasi-intermediary at trial. The pre-charge review was a missed opportunity for the CPS to provide the required victim care in this case.

After charge

Warning witnesses and communicating with witness care units

6.75. In most cases, the Area works well to secure the best evidence possible by warning witnesses correctly and in a timely way. We assessed 21 of the 23 applicable cases (91.3%) as fully meeting the required standard. This is a clear strength for the Area.

6.76. Correspondence from the witness care unit about witness issues was dealt with in an effective and timely manner in seven of the 12 applicable cases (58.3%), with three cases (25.0%) assessed as partially meeting the standard and two (16.7%) as not meeting it.

6.77. There was a good example of proactive witness care in a domestic abuse harassment case. A key witness became ill and was unable to attend court. The prosecutor made an application to vacate in advance of trial. When the court did not respond, the prosecutor chased this up and then escalated with

their legal manager. The prosecutor had notified the defence in advance and secured their agreement to the trial being vacated. After being chased, the court vacated the trial the day before it was listed.

Consulting victims and speaking to witnesses at court

6.78. The Area usually consults victims and witnesses when appropriate, with 11 of the 18 relevant cases (61.1%) assessed as fully meeting the standard, two (11.1%) as partially meeting the standard and five (27.8%) as not meeting the standard.

6.79. In six of the cases assessed as either partially meeting or not meeting the standard, the issue was the lack of any record to confirm compliance with the speaking to witnesses at court (STWAC) initiative at trial. The Area has confirmed that the expectation is that agents covering trials will comply with STWAC, but this is not something the Area monitors and, given the pandemic, no court observations of agents have taken place. Clearly this is something the Area will want to address.

Victim Personal Statements

6.80. Victims are entitled, if they wish, to provide a Victim Personal Statement (VPS) and to express a preference as to whether they would like to read it at sentencing, have it read out in court on their behalf, or for the Judge to read it.

6.81. The victim's wishes regarding their VPS were fully complied with in 16 of the 24 applicable cases (66.7%). Compliance was assessed as partially meeting the required standard in another four cases (16.7%), with the remaining four cases (16.7%) assessed as not meeting the standard.

6.82. In the majority of cases, the CPS prosecutors did address the issue of a VPS; in four of the 24 cases the CPS did not consider a VPS at all. Three of the cases were assessed as partially meeting the standard because the hearing record sheet did not note whether the VPS was presented to the court upon sentence.

Orders at sentencing

6.83. Appropriate orders were sought at sentencing to protect victims, witnesses and the public in 14 of the 16 relevant cases (87.5%). This is good performance and a clear strength for the Area.

6.84. The cases handled well included applying for compensation to recompense victims for their losses and securing a sentence uplift on a racially aggravated matter. In one case, in which the defendant had assaulted two police officers, the Area secured a five year Criminal Behaviour Order, which included terms to protect those working for the emergency services in future by

prohibiting the defendant from calling the emergency services (other than in a genuine emergency) and from abusing members of the emergency services. The CPS had advised the police on the drafting of the order in advance of the sentencing hearing, and their input ensured it was appropriately focused and that it was granted.

Victim Communication and Liaison scheme letters

6.85. The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge. There were nine cases in our magistrates' courts sample where a VCL letter was required. In six of those cases a letter was sent; in the other three a letter was never sent.

6.86. Two of the nine cases (22.2%) were assessed as fully meeting the standard for timeliness of VCL letters. We assessed three cases (33.3%) as partially meeting the standard and four cases (44.4%) as not meeting the standard. These four cases include the three in which no letter was sent.

6.87. Of the six letters sent, two (33.3%) were assessed as fully meeting the standard for the quality of the letter. The remaining four (66.7%) were assessed as not meeting the standard.

6.88. Of particular concern was that two of the letters assessed as not meeting the standard contained factually inaccurate information. One related to an assault charge which the CPS had wrongly authorised when it was already out of time. The letter laid the blame for the expiry of the limitation period entirely at the door of the police, indicating that the police's delay in charging the defendant is what caused the issue. This was disingenuous because the CPS had made a mistake in authorising charge for an offence for which the time limit had already expired (and the police had not sought authority to charge an offence of assault by beating, only one of robbery, to which no time limit applied).

6.89. In the other case, the prosecution correctly accepted pleas to three of four offences of theft as being sufficient to reflect the defendant's criminality. However, the letter told the victim that it was because there was insufficient evidence to prove the fourth offence; this was factually incorrect.

6.90. We have noted that the Area has already done considerable work to improve VCL performance and anticipate concern at these findings.

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, including the Crown Court caseload rising substantially since the pandemic began and remaining almost 50% higher than it was in February 2020.

7.3. In addition, the Area has a significant shortfall in the number of Senior Crown Prosecutors it employs. The shortfall is most acute in the Crown Court team, so prosecutors on the team inevitably carry high caseloads and are correspondingly able to devote less time to each individual case.

7.4. We have scored CPS East Midlands 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 ²⁴ at pre-charge decision stage	Fully meeting the standard	85.3%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	75.9%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	44.3%
Quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	87.5%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	56.8%
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	80.6%
Disclosure		
The Area fully complies with its duty of disclosure throughout its Crown Court casework	Partially meeting the standard	66.7%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its Crown Court casework	Partially meeting the standard	69.2%

7.5. Our assessment of Crown Court casework was that there were aspects that were done well, particularly in relation to timeliness and correspondence handling, including the correct and timely warning of witnesses, providing timely pre-charge advice to the police, timely completion of post-sending reviews, timely service of key evidence and initial disclosure, promptly and appropriately reviewing new material from police, and defence engagement.

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

7.6. There were other aspects that required more focus, specifically the quality of the case analysis and strategy in both pre-charge and post-charge reviews, reviews to coincide with service of the prosecution case, considering applications and ancillary matters at the pre-charge stage, sending Victim Communication and Liaison scheme (VCL) letters when required and providing feedback to the police when they have supplied an inadequate file or not complied with their disclosure obligations.

Pre-charge decision-making and reviews

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

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

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

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

7.9. We rated the Area as **fully meeting the standard** for this sub-theme of pre-charge decision-making, with prosecutors correctly applying the evidential and public interest stages of the Code test in 29 of the 34 Area-charged Crown Court cases.

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

Rating	Number of cases	Percentage
Fully meeting the required standard	29	85.3%
Not meeting the required standard	5	14.7%

7.10. The Code for Crown Prosecutors was correctly applied in the majority of cases. However, in five cases the Code decision made was incorrect and therefore wholly unreasonable. Four of these cases involved the Area prosecutor making a legal error. The other involved a decision to charge offences when there was a manifest lack of evidence.

7.11. One case involved an allegation of arson by a group of youths. Two offenders admitted their role in the offence but the defendant made no comment in interview. His co-accused had named him in their interviews, but this was not admissible evidence against him. The officer in the case made a statement identifying the defendant in the CCTV footage of the scene (which did not show the actual offence in any event), but this was very clearly tainted by his role in the investigation and was not compliant with the Police and Criminal Evidence Act 1984. There was no admissible evidence to prove the defendant was involved in the offence. Nonetheless an Area prosecutor authorised the police to charge the defendant with arson. The case proceeded as far as the Plea and Trial Preparation Hearing (PTPH), when no evidence was offered, as was correct.

7.12. In another case, the defendant was wrongly charged with an offence of robbery. The defendant had placed an order on Amazon. The delivery driver (the victim) refused to hand the parcel over to the defendant because he was not convinced he was the actual recipient. The defendant used force to take the parcel from the victim.

7.13. The CPS authorised a charge of robbery (on counsel's advice). A key element of robbery which must be proved is dishonesty. Under section 2(1)(a) of the Theft Act 1968, a person's appropriation of property is not to be regarded as dishonest if they believed they had the right in law to deprive the other of that property. It should have been obvious that this section would apply, since the evidence showed that the defendant clearly (and in the event, correctly) believed the package to be his. Indeed, the Crown's case was that the defendant had assaulted the victim in order to obtain his parcel. While it was apparent that an assault had taken place, the offence of robbery should never have been charged since dishonesty could not be established.

7.14. For this reason, the prosecution offered no evidence on the robbery after service of the case. At the time of writing the case was proceeding to trial with an assault by beating charge.

7.15. Another case involved the defendant being correctly charged with sexual assault and incorrectly charged with harassment without violence, because the last act of harassment had taken place on 21 October 2019. Charge was authorised on 22 May 2020, after the expiration of the six-month statutory time, which meant that there was a legal bar to the prosecution of the defendant for the offence of harassment. The prosecution does not appear to have recognised this error at any stage. The case was correctly discontinued in the Crown Court because of issues with the defendant's health.

7.16. Another case related to an allegation of perverting the course of justice. The defendant, a serving prisoner, had given instructions to his stepmother in telephone calls (covertly recorded by the prison) to contact his ex-partner, who was the victim of the offences for which the defendant was remanded into custody. The only evidence against the defendant consisted of the transcripts of those telephone calls. CPS guidance is clear that such evidence cannot be used without the permission of the prison governor; this was never obtained. Because of the lack of such permission, the CPS discontinued the case at the PTPH.

7.17. The final case involved a defendant who was charged with possession with intent to supply Class A and Class B drugs. The offences arose from the arrest of the defendant at his home address by armed police. He had been seen to throw an object when outside, but no officer had seen what this actually was. A package of Class A drugs was recovered from a neighbouring driveway and an assumption was made that this was what the defendant had thrown. There was no forensic link to him. The police's body worn video footage of the incident had been deleted by mistake.

7.18. A package of Class B drugs was recovered from inside the address where the defendant lived with three other people. An assumption was made that these were his drugs despite no forensic link to him.

7.19. In addition to the lack of evidence to link the defendant to either package of drugs, a considerable number of witness statements from police officers who had attended the scene were missing. Despite the police revealing that relevant intelligence existed, no information had been supplied about its nature. However, the CPS authorised charges of possession of Class A and B drugs with intent to supply.

7.20. The CPS offered no evidence on both counts after service of the prosecution case, owing to the lack of evidence.

Selecting the most appropriate charges

7.21. 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).

7.22. We found that, in most cases in our file sample, prosecutors were selecting the correct charges, fully meeting the required standard in 18 out of 29 relevant cases (62.1%). We rated another eight cases (27.6%) as partially meeting the standard and three cases (10.3%) as not meeting the standard.

7.23. Many of the cases we examined displayed quality decisions about which charge(s) were appropriate across a range of types of cases, including serious

assaults and dishonesty offences (including blackmail), kidnapping, weapons and firearms offences, and drugs offences.

7.24. One of the cases we assessed as fully meeting the standard was a robbery in which the defendant threatened the victim with a knife, took money from him and then stabbed him. The charging lawyer authorised charges of section 18 wounding, robbery and a bladed article offence. This was good practice. It was proper to charge the separate assault offence (and indeed this attracted the highest sentence, six and a half years' custody). Charging a separate offence for the knife complied with CPS policy. The defendant was convicted of all three offences after trial.

7.25. However, there were a number of cases in which the charges selected were either inappropriate or did not properly reflect the criminality.

Case study

The suspect was alleged to have assaulted the victim, his ex-partner, by grabbing her by the back of the neck with one hand and forcing her head down onto a kitchen counter. The victim suffered a small bruise and a scratch. In interview, the suspect had admitted grabbing the victim but said this was only on her upper arms/shoulders.

The police sought a charge of assault by beating. The CPS prosecutor authorised charge for an assault occasioning actual bodily harm (ABH). The review contained no justification for the level of charge. Assault by beating would have been a far better charge, as this is what the level of injury supported. Moreover, given the suspect's limited admissions, he would likely have pleaded guilty to the offence and a Newton hearing could have been held to determine the mechanism of assault. Instead, the defendant elected Crown Court trial.

The prosecutor continued with the ABH charge in the Crown Court (correctly, as to change the level of charge at that stage would have been a potential abuse of process). During the Crown Court proceedings, the prosecutor made unsuccessful attempts to secure a guilty plea to assault by beating, recognising that a conviction for this offence would provide the court with ample sentencing powers. In the end a trial was held a year after the first magistrates' court hearing and the suspect was found not guilty.

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

7.26. Our assessment is that the Area is **not meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in Crown Court cases is 44.3%.

7.27. 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

7.28. We found that a significant number of Crown Court pre-charge decisions 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. Five of the 34 Area-charged cases (14.7%) were assessed as fully meeting the standard for case analysis and strategy, 15 (44.1%) as partially meeting the standard and the remaining 14 (41.2%) as not meeting the standard. We found a number of common themes.

- Case analyses did not adequately assess the legal points to prove and the strengths and weaknesses of the evidence. A number of pre-charge decisions consisted of little more than a rehearsal of the facts of the case.
 - In one case the defendant, a serving prisoner, was accused of assaulting a prison officer by spitting in her face. This had occurred as he had been forced back into his cell and the door was being closed; there was a possibility that the defendant had spat at the door rather than the victim. The review consisted of little more than a recitation of the facts, with no consideration of whether a deliberate assault could be proved, and some speculation about the CCTV. The charging lawyer had misread the police manual of guidance form 3 (MG3), which indicated that the CCTV had not been saved (which fact may assist the defence). The charging lawyer took this to mean that the lost contents of the CCTV itself undermined the prosecution case and therefore the accounts of the victim and witness. The charging lawyer considered that, if this was the case, the prosecution could not proceed. Nonetheless the lawyer authorised charge without confirmation of the position.
 - In another case involving an allegation of drug supply, the case against the defendant relied upon phone downloads. No downloads were supplied, not even in extract form. The drug expert referred to them and essentially the pre-charge advice did nothing more than quote a few lines from the drug expert's report and indicate that this meant the evidence

was conclusive. There was no case analysis and no recognition that the key evidence had not been provided, which meant that charge was authorised without the key evidence being requested.

- There was a lack of trial strategy.
 - In a blackmail case, in which the victim was kidnapped from a party and money demanded for his safe release, the evidence included various different sources of hard media and bad character. The victim was reluctant. Despite the complexity of the case, the pre-charge review consisted of little more than two paragraphs, which were silent about trial strategy and contained no real analysis of the material in the case.
 - In a section 20 grievous bodily harm case, the defendant was accused of assaulting his ex-partner at her home. This had followed an encounter the victim had with the defendant earlier that evening in a public house when she had been with friends. The defendant denied he had been at the public house. There was no consideration of this point or how it would develop at trial. Clearly, obtaining statements from the victim's friends or seeking other evidence to prove that the defendant had lied about that aspect would have strengthened the case.
- 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 robbery case, the defendant raised alibi in interview. This was not referred to at all in the pre-charge decision.
 - In a fraud case, a salary was dishonestly diverted into an account in the name of the defendant. The money was then immediately paid from that account to two other individuals. The defendant denied involvement in the fraud and claimed that her ex-partner had set up the account. There was no consideration of investigating the ex-partner or the two individuals to whom the money was paid. Instead, the defendant was charged alone and was, perhaps unsurprisingly, found not guilty at trial.

7.29. We saw some good examples of case analysis, including an assault occasioning actual bodily harm case in which the defendant, a serving prisoner, assaulted another prisoner with a weapon. The defendant stated that he had acted in self-defence. The charging decision dealt with all the requisite elements well. Self-defence was properly considered, reasonable lines of enquiry were set and followed up (including prison adjudication paperwork) and there was a clear rationale for the charge authorised.

Case study

The victim, who was elderly and vulnerable, was contacted by a person purporting to be a police officer who convinced him that £8,000 had been withdrawn from his bank account and replaced with counterfeit money. He was persuaded to withdraw £5,000 in cash from his bank and to hand that money over, along with any other cash he had, to a police officer who would come to his home and give him a code word. This person was the suspect.

The suspect attended the victim's address wearing a yellow high-visibility jacket and gave the code word. The victim handed him a stapled envelope containing £9,240. In interview the suspect answered mostly no comment.

The pre-charge review contained a thorough analysis of the case with a really careful consideration of the evidence against the suspect and, in particular, what role he could be proved to have played, leading to an extremely coherent case theory being set out.

It was clear from this that the CPS had recognised that the suspect could only be proved to have had a relatively limited role in the fraud. It was impressive that the prosecution anticipated that the suspect may raise the defence that he was a simple courier and had no idea a fraud was being perpetrated. The case was therefore built to take this into account and used evidence in the form of incriminating photographs on the suspect's mobile phone, which showed him with large amounts of cash. The pre-charge decision in this case was extremely good, covering everything necessary in good detail and in particular setting out a well-reasoned and cogent trial strategy.

The suspect did raise the defence that he had simply been acting as a courier in good faith and had no idea what the victim had given him. The fact that the prosecution had anticipated this meant that they were able to deal with this suggestion robustly with the trial strategy they already had in place. The defendant was convicted after trial and is awaiting sentence.

Disclosure

7.30. The handling of unused material at charge needs to improve, with 11 of 34 cases (32.4%) assessed as fully meeting the standard, ten (29.4%) as partially meeting the standard and 13 (38.2%) as not meeting the standard.

7.31. In many of the weaker cases, there was no discussion of unused material at all. In others, there was no strategy for dealing with undermining material and no recognition that it needed to be disclosed.

7.32. In the blackmail and kidnapping case referred to at paragraph 7.28, there was a variety of clearly disclosable material, including negative forensic

examinations, failed attempts to download telephone data and a reluctance to cooperate by victims. However, the prosecutor recorded in the pre-charge review that no undermining material had been identified.

7.33. In another case involving an allegation that the victim had been assaulted by the defendant and threatened by him with a knife, the incident report (which had been requested by the first charging lawyer in an action plan) was inconsistent in key respects with the statements of the victim and eye-witness. However, the prosecutor who authorised charge failed to notice the inconsistencies and instead described it as consistent with the evidence.

7.34. In a number of cases charged after the introduction of the sixth edition of the Director's Guidance on Charging (DG6), the prosecutor did not challenge the police on their failure to supply schedules. However, in one DG6 case, an assault emergency worker matter, the prosecutor rigorously applied the DG6 procedures and did not complete the pre-charge decision until they had secured the unused material schedules, despite police delays. This was commendable.

Instructions to the court prosecutor

7.35. There were proper instructions to court prosecutors in eight of the 34 Area-charged cases (23.5%), with 19 cases (55.9%) partially meeting the standard and seven (20.6%) not meeting it.

7.36. Many of the cases assessed as partially or not meeting the standard did not address acceptable pleas, meaning that opportunities to resolve matters at an early stage may have been lost. We also noted few references to bail or custody, and allocation guidance 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.

7.37. Conversely, in an actual bodily harm case, there were thorough instructions. The pre-charge review contained a clear reference to the fact that the defendant was a serving prisoner, good guidance on venue with reference to sentencing guidelines, what plea was acceptable, instructions on a section 36/38 application, what witnesses to call and the need for a Home Office Production Order.

Reasonable lines of enquiry and action plans

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

7.39. We assessed ten of the relevant 32 cases (31.3%) as fully meeting the standard for action plans, 11 cases (34.4%) as partially meeting it, and a further 11 (34.4%) as not meeting it.

7.40. The issues we noted included not tasking the police with obvious lines of enquiry (including relating to potentially disclosable unused material). In some cases, lack of consideration of possible defences or the suspect's account (which we noted as an issue with the case analysis) led directly to failures to include in action plans reasonable lines of enquiry that could rebut or support those defences or accounts.

Applications and ancillary matters

7.41. 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.

7.42. Consideration of applications and ancillary matters can be improved. We assessed six cases out of 27 (22.2%) as fully meeting the standard and the same number as partially meeting the standard. Applications and ancillary matters were not addressed properly in 15 cases (55.6%). Bad character was not addressed in several cases (even if just to rule it out). In a number of instances, the need for a forfeiture and destruction order or the scope for a financial investigation under the Proceeds of Crime Act 2002 was not considered.

7.43. We assessed eight of the 23 applicable cases (34.8%) as fully meeting the standard for considering relevant applications and ancillary matters to support victims and witnesses before charge, six cases (26.1%) as partially meeting this standard and nine cases (39.1%) as not meeting it.

7.44. 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, compensation for victims where they had suffered loss, or the need for a Victim Personal Statement (VPS).

7.45. In one case, the defendant had attempted to burgle the elderly victim's home, who lived in the same village as him, and caused damage in the process. 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, such as compensation or a potential restraining order (given the proximity of the defendant's home to the victim's).

7.46. We also found that external counsel provided the charging advice in a number of cases (which was understandable given the pressures on Crown Court resources). We found a pattern of prosecutors generating an MG3 from these advices and not dealing with victim or witness issues (which counsel had routinely missed).

Post-charge decision-making and reviews

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

7.47. 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 87.5%. These cases included those that were originally charged by either the police or CPS Direct.

7.48. The rating includes post-sending reviews, reviews conducted when the prosecution case was served, and any significant event reviews.

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

Rating	Number of cases	Percentage
Fully meeting the required standard	35	87.5%
Not meeting the required standard	5	12.5%

7.49. 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.

7.50. As Table 11 shows, the Area gets the majority of Code decisions right. There were five cases that we determined were wholly unreasonable decisions after charge. These were the same five cases that were recorded as wholly unreasonable decisions at charge, which we have detailed from paragraph 7.10. Two of these cases were discontinued at the PTPH and one after the PTPH. No evidence was offered on the other two after service of the prosecution case.

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

7.51. Our assessment is that the Area is **not meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in Crown Court cases is 56.8%.

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

Case analysis and strategy

7.53. We found a marginal improvement in the quality of case analysis and strategy at the post-charge stage compared to the pre-charge stage, but there remains a need for substantial improvement.

Table 12: Standard of Crown Court case analysis and strategy, before and after charge

Question	Crown Court cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	14.7%
Partially meeting the required standard	44.1%
Not meeting the required standard	41.2%
Post-sending review analysis and strategy	
Fully meeting the required standard	30.0%
Partially meeting the required standard	20.0%
Not meeting the required standard	50.0%

7.54. We found a number of common issues within the cases rated as partially or not meeting the standard for the quality of post-sending reviews.

- The post-sending review amounted to cutting and pasting the pre-charge review, with no further review. Therefore there was no added value in cases where key aspects had not previously been addressed or where the pre-charge advice had not been of sufficient quality.
 - For example, in a robbery case the pre-charge review had not contained an analysis of the evidence, any reference to strengths and weaknesses, any analysis of the CCTV or an assessment of the credibility of the victims and witness, even though two of them had previous convictions. The post-sending review rectified none of these issues and essentially consisted of an import of the deficient pre-charge advice.

- Reasonable lines of enquiry were missed at the pre-charge stage and were not picked up in the post-sending review.
 - In one case, where the defendant was charged with possession of Class A and Class B drugs with intent to supply, the pre-charge advice had been particularly poor and had missed some highly significant reasonable lines of enquiry including those relating to intelligence, attribution of the drugs and the considerable number of missing police witness statements. The post-sending review covered none of these issues and no case action plan was sent to the police to address the outstanding enquiries. It also contained no proper case analysis or a trial strategy to remedy the shortcomings of the pre-charge decision.
 - In another case, an assault on a prison officer by a serving prisoner, the pre-charge advice had failed to set an action for the police to obtain clearly relevant prison adjudication paperwork. The post-sending review also failed to address this essential reasonable line of enquiry. The reviewing lawyer also did not notice that the case had been wrongly sent, which led to an ineffective PTPH. Finally, the prosecutor also deferred making a decision on the public interest in prosecuting to counsel.
- Post-sending reviews failed to address developments since the charging advice.
 - In one example, the post-sending review did not address the fact that the police had charged the defendant with a racially aggravated section 4 Public Order Act offence rather than the racially aggravated section 4A offence authorised by the charging lawyer. The review referred to the charge in the review as section 4A and stated that there had been no change evidentially

7.55. We found some examples of cases where prosecutors had carefully considered the case afresh, where this was required, and addressed relevant issues within the review, clearly adding value. These were cases where it was clear from the review that the case had been properly checked for new evidence, not just accepted because it had already been reviewed, and that issues overlooked at the pre-charge stage had been addressed. Relevant outstanding issues were identified and either dealt with or appropriate actions put in place.

7.56. One strong example was a case where charging advice had been provided by counsel in respect of a possession with intent to supply Class A drugs charge involving cuckooed premises. The evidence came from the two victims who were both vulnerable. The pre-charge advice had lacked legal

analysis and, while it set out a trial strategy, this was limited and did not actually address the particular difficulties of this case. The post-sending review was extremely thorough. It contained a detailed and careful analysis of the evidence and set out how the offence could be proved. There was recognition of the weaknesses of the case and a strategy set out for how to deal with them, with a bespoke action plan sent to the police to properly build the case. At the time of writing this matter remains listed for trial.

Significant events

7.57. 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.

7.58. In our sample, there were 19 cases which called for a significant event review. In ten of these cases (52.6%) there was a review which we assessed as fully meeting the required standard. Four cases (21.1%) received a review, but it was deficient in some respect, and we assessed these as partially meeting the standard.

7.59. The remaining five cases (26.3%) were assessed as not meeting the required standard. This was often because no significant event review had taken place or one had not been properly recorded.

7.60. A number of the significant event reviews added substantial value to the case. For example, in a case involving conspiracy to rob in which the victims were both shot, a number of additional defendants were charged as the case progressed. Further reviews were then completed which reflected the impact on the case of charging these additional defendants. As well as this, a due diligence review was completed in respect of a custody time limit (CTL) extension.

7.61. In one case, the reviewing lawyer regularly completed a review on the CPS case management system (CMS) to reflect case developments, which meant the reviews effectively became a case progression log. The inspector was impressed by this and considered it to be good practice.

Acceptance of pleas

7.62. There were five cases in our Crown Court sample where a basis of plea or lesser pleas were accepted. In two cases (40.0%), the decision to accept pleas or a basis was appropriate and the reason for the decision was clearly recorded; these were assessed as fully meeting the standard.

7.63. Two cases (40.0%) were assessed as partially meeting the standard because of the lack of a proper record of the rationale for accepting the lesser pleas; the decision to accept the pleas was correct.

7.64. One case (20.0%) was assessed as not meeting the standard because a bladed article count was dropped, contrary to CPS guidance, when the plea to actual bodily harm on a full facts basis meant that the defendant must have accepted using the knife.

Stage 1 reviews

7.65. 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.

7.66. In our sample, we assessed ten of the 33 applicable cases (30.3%) as fully meeting the standard for a high-quality stage 1 review, six cases (18.2%) as partially meeting it and over half of the cases (17, or 51.5%) as not meeting the standard.

7.67. In six of the cases assessed as not meeting the standard, no review was conducted at all. In another six cases the review consisted of little more than a previous review being copied and pasted. While this may potentially have been acceptable where there were no outstanding issues or any new material, in the cases we assessed as partially or not meeting the standard, this was not the case.

7.68. The remaining five reviews we assessed as not meeting the standard failed to address deficiencies in the original charging advice or issues that had arisen subsequently.

Threshold test cases

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

7.70. 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 CTLs.

7.71. One of the cases which did not receive a stage 1 review, a production of cannabis offence, had been charged by CPS Direct under the threshold test.

The post-sending review consisted of a copy and paste of the pre-charge review with no additional comment. The lack of a stage 1 review meant that the CPS never actually applied the full Code test to the case.

Appropriate applications

7.72. In 18 cases, applications such as bad character or hearsay were appropriate. We assessed six of these cases (33.3%) as fully meeting the standard for these applications. Nine cases (50.0%) were rated as partially meeting the standard and three cases (16.7%) as not meeting the standard.

7.73. In one case, a robbery matter, good applications were drafted at stage 1 to admit bad character evidence and hearsay evidence explaining how police had located stolen property. This case resulted in a guilty plea. Most of the necessary applications were to admit bad character evidence.

Feedback on police file quality

7.74. 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. Since 21 July 2021, the NFQ mechanism has been replaced by the DG6 Assurance feedback mechanism, which is very similar but focused on disclosure failings.

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

7.76. In our sample, 23 out of the 40 Crown Court police files delivered to the Area (57.5%) were found not to meet the NFS. We assessed the CPS's feedback to the police as fully meeting the standard in six of those 23 cases (30.0%), partially meeting the standard in five cases (25.0%) and not meeting the standard in nine cases (45.0%).

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

7.77. 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 80.6%.

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

7.79. Preparation for the PTPH hearing – including completing plea and trial preparation forms, making sure actions have been completed by the police and setting out acceptable pleas – was found to be fully meeting the standard in 17 out of 40 cases (42.5%). We rated another 21 cases (52.5%) as partially meeting the standard, with two cases (5.0%) not meeting the standard.

7.80. In most cases, the failure was in not addressing acceptable pleas, which we also identified as an issue at the pre-charge stage. In one case involving the production of cannabis (referred to at paragraph 7.71 as never having had a full Code test review), had acceptable pleas been considered at an early stage, the case is likely to have been resolved with acceptable pleas far sooner, rather than on the day of trial, which would have been a significant saving of resources for all concerned.

7.81. The police upload hard media (such as CCTV footage or body worn video) to secure online locations and send the links to the CPS. There is some scope to improve the sharing of hard media before the PTPH. We assessed 16 of the 27 relevant cases (59.3%) as fully meeting the expected standard, four cases (14.8%) as partially meeting the standard and seven cases (25.9%) as not meeting it. We saw examples in the casework of the defence being unable to open supplied links to hard media.

Direct engagement with the defence

7.82. 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.

7.83. 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. This hampered Areas' efforts to engage with defence practitioners.

7.84. Direct engagement with the defence (usually by means of a letter) was a strength for the Area, having been carried out fully and promptly in 35 out of the 40 cases (87.5%). Four cases (10%) were assessed as partially meeting the standard and a single case (2.5%) as not meeting the standard.

7.85. There were 36 cases with a DDE log and the log was uploaded to the DCS in almost all of these cases (33 cases or 91.7%).

The indictment

7.86. Indictments were of mostly of good quality, with 25 cases (62.5%) assessed as fully meeting the required standard, ten cases (25.0%) as partially meeting it and five cases (12.5%) as not meeting the standard.

7.87. Where there were errors, they often appeared to be a result of rushing or carelessness, such as spelling a victim's name incorrectly, referring to the victim as a business rather than a person, or getting the name of the defendant wrong.

7.88. However, there were also some substantive failings, including incorrectly drafting a count jointly and missing counts that should have been on the indictment.

7.89. The draft indictment and key evidence were served in good time for the PTPH (that is, uploaded to the DCS seven days before the PTPH) in most cases, with 30 out of 40 cases (75.0%) assessed as fully meeting the standard, eight cases (20%) as partially meeting the standard and two (5.0%) as not meeting the standard.

Instructing the advocate

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

7.91. The quality of instructions to the PTPH advocate can be improved, with 20 cases (51.3%) assessed as fully meeting the standard, 13 (33.3%) as partially meeting the standard and six (15.4%) as not meeting it.

7.92. The reason for cases being assessed as partially or not meeting the standard was usually that the instructions consisted of not much more than a template document with no bespoke details, particularly on aspects like acceptable pleas – which is critical information to make sure cases are resolved as early as possible.

7.93. The timeliness of instructions to PTPH advocates was good. In 35 of the 39 applicable cases (89.7%), the advocate was instructed at least seven days before the PTPH – or was instructed less than seven days before the PTPH, but the case was not complex, and the delay did not prevent the advocate from being able to prepare for the hearing. The remaining four cases (10.3%) were assessed as not meeting the standard.

Does the Area fully comply with its duty of disclosure?

7.94. Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for disclosure in Crown Court cases is 66.7%.

7.95. 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.

Police service on disclosure

7.96. The police's compliance with their disclosure obligations was assessed as fully meeting the standard in ten out of 34 cases (29.4%) and partially meeting the standard in another 13 cases (38.2%). The remaining 11 cases (32.4%) were assessed as not meeting the standard.

7.97. The Area is seeking to address this inadequate level of service at both strategic and operational levels through its Disclosure Board and Joint Operational Improvement Meetings with its local police forces. These have a significant focus on improving the quality of the police's approach to disclosure.

7.98. 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 24 cases where we concluded that the police fell short of their disclosure obligations, we rated feedback to the police on those deficiencies as fully meeting the standard in ten cases (40.0%). Another four cases (16.0%) were assessed as partially meeting the standard and 11 cases (44.0%) were rated as not meeting the standard.

7.99. Improved police compliance is unlikely to be achieved without proper feedback.

Initial disclosure

7.100. We assessed initial disclosure in the Crown Court as fully meeting the required standard in ten of the 34 applicable cases (29.4%). Another 15 cases (44.1%) were assessed as partially meeting the standard and nine cases (26.5%) as not meeting the standard.

7.101. The most common failing was determining incorrectly that unused material was not disclosable. Instances of material not being disclosed included undermining entries on police incident logs, negative viper results and unscheduled disclosable prison material.

7.102. In a section 20 grievous bodily harm case, the police had listed an MG3 and a crime report on the MG6C and MG6E. These contained details that the victim had fabricated an account of being pepper-sprayed by the defendant. The reviewing lawyer marked both items as "CND" – clearly not disclosable. The crime report was disclosed at the continuing disclosure stage when specifically requested by the defence.

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

Continuing disclosure

7.104. Continuing disclosure was handled better than initial disclosure, with 17 out of 28 cases (60.7%) assessed as fully meeting the standard. This suggests that Area prosecutors are adopting more of a 'thinking approach' to disclosure when they have a defence statement than when they have to adopt a wider overview of the disclosure position at an earlier stage. We rated continuing disclosure as partially meeting the standard in six cases (21.4%) and not meeting the standard in five cases (17.9%).

7.105. Not carrying out continuing disclosure, failing to endorse decisions on newly revealed items of unused material and incorrectly marking items as not disclosable were the main reasons for assessing cases as partially or not meeting the standard.

7.106. In one case involving an allegation that the defendant had assaulted a fellow prisoner, the continuing disclosure letter contained inaccurate information; it asserted that the victim's prison adjudication records had already been disclosed. In fact, they had not; the police had requested them but never actually obtained them and this had not been chased up. The case proceeded to trial without the prosecution rectifying this error. The defendant was found not guilty.

7.107. In a significant number of cases (28) the defence statement was not supplied on time. In 20 of these cases (71.4%), the prosecutor chased service of the statement with the defence and/or made the court aware of the delay.

7.108. There were four inadequate defence statements, one of which was challenged appropriately. In another instance, the prosecutor asked for clarification from the defence but did not challenge all issues.

7.109. The defence statement was sent to the police with appropriate guidance on further reasonable lines of enquiry in 16 of the 28 cases in which one was supplied (57.1%).

7.110. In another eight cases (28.6%), we assessed the review of the defence statement and guidance to the police as partially meeting the expected standard. It should be noted that in six of those cases, the defence statement was sent to the police with no specific guidance relating to the case.

7.111. Four cases (14.3%) were assessed as not meeting the standard. In three of those cases, the defence statement had been sent to the police with no guidance and had not been reviewed. In one case the defence statement was neither reviewed nor sent to the police.

Timeliness

7.112. The timeliness of the completion of initial disclosure is a strength for the Area. Initial disclosure was timely in 30 out of 33 cases (90.9%); we assessed one case as partially meeting the standard (3.0%) and two cases (6.1%) as not meeting it.

7.113. At continuing disclosure, the picture is not quite as positive; we assessed the timeliness of continuing disclosure as fully meeting the standard in 15 of 27 cases (55.6%), partially meeting the standard in six cases (22.2%) and not meeting the standard in the the same number of cases.

Sensitive and third-party material

7.114. There were eight cases featuring sensitive material in our Crown Court sample. Of these, we assessed five cases (62.5%) as fully meeting the standard and three cases (37.5%) not meeting the standard.

7.115. In one case there was a failure to explore the nature of sensitive material where it was known to exist. The police had made clear from the first line of their MG3 that there was intelligence relevant to the case, yet the MG6D was blank. The prosecutor did not challenge this.

7.116. Third-party material was correctly dealt with in one of the four cases where it was relevant. We assessed one case as partially meeting the standard and the remaining two as not meeting the standard.

7.117. In one case assessed as not meeting the standard, the material concerned was prison records. In the other it was information held by a bank.

Disclosure records

Disclosure management documents

7.118. Disclosure management documents (DMDs) were not mandated in routine Crown Court cases until 1 January 2021, a change brought about by the release of DG6. Of the Crown Court cases in our sample, 28 were governed by the guidance which preceded the change, so DMDs were not obligatory in those cases.

7.119. In the 12 cases requiring a DMD, one was started in five of them. In four of those cases, it was completed accurately and fully. In seven cases – over half the cases in which one was required – the prosecutor did not complete a DMD at all.

Disclosure record sheets

7.120. The disclosure record on CMS was assessed as fully meeting the standard in 18 cases (52.9%), partially meeting it in ten cases (29.4%) and not meeting it in six cases (17.6%).

7.121. We noted that the weaker cases often lacked an entry on the disclosure record indicating the prosecutor's thinking on disclosure, making it simply a log of actions taken.

7.122. One case involving an allegation of robbery was highlighted by the inspector as a model example of how a disclosure record should be completed. It contained succinct entries explaining what material the prosecutor considered should be disclosed and explaining concisely why each item met the disclosure test.

Does the Area address victim and witness issues appropriately?

7.123. Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for victim and witness issues in Crown Court cases is 69.2%.

7.124. 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.

Before charge

7.125. 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.

7.126. The level of care given to the consideration of relevant applications and ancillary matters to support victims and witnesses at the pre-charge stage can improve (as previously outlined at paragraph 7.42). We assessed eight of the 23 applicable cases (34.8%) as fully meeting the standard, six cases (26.1%) as partially meeting it and nine cases (39.1%) as not meeting the standard.

7.127. In one case that was handled well, involving a vulnerable elderly victim, the prosecutor drew the advocate's attention to the completed VPS, requested an MG2 so that special measures could be progressed and gave instructions on compensation.

After charge

Special measures applications

7.128. Special measures were usually sought to support victims and witnesses. Nine of the 14 relevant cases (64.3%) were assessed as fully meeting the standard, with four cases (28.6%) partially meeting the standard and one case (7.1%) not meeting it.

Warning witnesses and communicating with witness care units

7.129. In most cases, the Area works well to secure the best evidence possible by warning witnesses correctly and in a timely way. We assessed 30 of the 32 applicable cases (93.8%) as fully meeting the required standard, with the remaining two cases (6.3%) partially meeting the standard. This aspect of casework is a real strength for the Area.

7.130. Correspondence from the witness care unit about witness issues was also dealt with in an effective and timely manner in the majority of cases. We rated 19 of the 25 applicable cases (76.0%) as fully meeting the standard, five cases (13.9%) as partially meeting the standard and one case (4.0%) as not meeting the standard.

7.131. One case where the witness issues were handled well was a racially aggravated section 4 Public Order Act offence, where there were several issues related to police officers' availability and the victim was due to give birth around one of the trial dates. There was a prompt, proactive and effective response to each witness issue and applications to vacate were made in a timely manner when required.

Consulting victims and speaking to witnesses at court

7.132. The Area needs to improve its consultation with victims and witnesses, when this is appropriate. We rated eight of the 21 relevant cases (38.1%) as fully meeting the standard, six (28.6%) as partially meeting the standard and seven (33.3%) as not meeting the standard.

7.133. In ten of the cases we assessed as partially or not meeting the standard, the issue was the lack of any record to confirm compliance with the speaking to witnesses at court (STWAC) initiative at the trial listing.

Victim Personal Statements and orders at sentencing

7.134. The victim's wishes regarding their VPS were fully complied with in 16 of the 28 applicable cases (57.1%). Compliance was assessed as partially meeting the required standard in another six cases (21.4%), with the remaining six cases (21.4%) assessed as not meeting the standard.

7.135. 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.

7.136. Appropriate orders were sought at sentencing to protect victims, witnesses and the public in seven of the 16 relevant cases (43.8%). We assessed five cases (31.3%) as partially meeting the standard and four (25.0%) as not meeting the standard.

7.137. In one case, the defendant was convicted of two offences of robbery. The first victim, a taxi driver, had a money bag stolen containing his earnings for the evening. His car was also damaged by the defendant, costing him personally over £1,000 to repair. The second victim was robbed of £100 cash. No application for compensation was made.

Victim Communication and Liaison scheme letters

7.138. The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge. There were ten cases calling for a VCL letter in the Crown Court cases we examined. In three of those cases (30.0%) a letter was sent. In seven cases (70.0%) no letter was sent at all. This is a cause for considerable concern.

7.139. We have seen from the documents supplied by the Area that a number of training sessions have already been delivered on VCL letters and we discussed the issue of letters being missed with the Area. The Area acknowledged that there had been a problem with hearing record sheets not being supplied by counsel, which caused delays in letters being sent. We were told this has led to the implementation of a new system for chasing hearing record sheets with chambers.

7.140. Of the three letters that were sent, two were rated as fully meeting the standard for timeliness, with one partially meeting the standard.

7.141. We assessed two letters as fully meeting the required standard for quality and the other as partially meeting it.

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. Unlike in the other two units, the RASSO caseload has fallen slightly since February 2020. There have nonetheless been considerable delays in cases coming to trial, as shown by the fact that a number of the RASSO files we examined were charged before the start of the pandemic. The RASSO team is also affected by the Area's shortfall in Senior Crown Prosecutors.

8.3. We have scored CPS East Midlands 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 ²⁵ at pre-charge decision stage	Fully meeting the standard	94.4%
The Area selects the most appropriate charge(s) at pre-charge decision stage	Fully meeting the standard	82.4%
The Area's pre-charge decisions contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	38.0%
Quality of post-charge reviews and decision-making		
The Area complies with the Code for Crown Prosecutors post-charge	Fully meeting the standard	95.0%
The Area's post-charge reviews contain a clear analysis of the case and set out a cogent case strategy	Not meeting the standard	42.1%
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	74.8%
Disclosure		
The Area fully complies with its duty of disclosure throughout its RASSO casework	Partially meeting the standard	69.6%
Victims and witnesses		
The Area addresses victim and witness issues appropriately throughout its RASSO casework	Fully meeting the standard	70.2%

8.4. Our assessment of RASSO casework was that there were aspects that were done well, including compliance with the Code for Crown Prosecutors both before and after charge, selecting the most appropriate charges, the correct and timely warning of witnesses for trial, making appropriate applications for special measures, reviewing the defence statement and completing continuous disclosure.

8.5. There were other aspects that required more focus, specifically the quality of the case analysis and strategy in pre-charge and post-charge reviews,

²⁵ *Code for Crown Prosecutors, 8th edition*; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

reviews to coincide with service of the prosecution case, considering applications and ancillary matters (including those to support victims and witnesses at the pre-charge stage), sending Victim Communication and Liaison scheme (VCL) letters when required and providing feedback in cases where the police have not met their disclosure obligations.

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

Pre-charge decision-making and reviews

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

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

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

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

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

Table 14: Pre-charge Code compliance in RASSO cases

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

8.10. The Code for Crown Prosecutors was correctly applied in all but one case. In that case, which involved historic allegations of sexual abuse dating back to the 1990s, the Area lawyer authorised seven charges of indecent assault, contrary to section 14 of the Sexual Offences Act 1956. Three of these related to (consensual) vaginal intercourse with a girl under the age of 16. Under the Act, such conduct would have been prosecuted as unlawful sexual

intercourse contrary to section 6; however, that offence was subject to a 12-month time limit which had clearly expired. The House of Lords ruled in 2004²⁶ that to charge an indecent assault in such circumstances is an abuse of process.

8.11. Accordingly, the decision to charge those three offences alleging vaginal intercourse was wholly unreasonable. (This did not apply to other indecent assault charges authorised, which alleged kissing and touching and oral sex.) The Area did not realise it had made this error until shortly before trial.

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 found that this was a strength for the Area, with prosecutors selecting the correct charges in the majority of RASSO cases. We rated the Area as **fully meeting the expected standard** for this sub-theme of pre-charge decision-making, with an overall score of 82.4%.

8.15. In a case in which the victim had been sexually abused by her uncle over a number of years, the selection of charges was done well. The case was not straightforward because the victim had drawn conclusions about what her uncle had done to her with the benefit of hindsight. The charging lawyer acknowledged this and was very careful to only charge offences which the victim could remember. Four charges of indecent assault and four charges of gross indecency with a child were authorised. These covered the allegations appropriately and were allied to a discernible case strategy.

²⁶ R v J [2004] UKHL 42

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

8.16. Our assessment is that the Area is **not meeting the standard** for this sub-theme of pre-charge decision-making. Overall, the score for pre-charge review in RASSO cases is 38.0%.

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

8.18. RASSO cases scored poorly for case analysis and strategy, and there remains considerable room to improve. A significant number of the RASSO pre-charge reviews 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 six of the 18 Area-charged cases (33.3%) as fully meeting the standard for case analysis and strategy, 11 (61.1%) as partially meeting the standard and one (5.6%) as not meeting the standard.

8.19. In the weaker cases, we found that the most frequent issue was the lack of a trial strategy. This was an issue in eight of the 11 cases assessed as partially meeting the standard and in the case assessed as not meeting the standard.

8.20. In a rape case in which the defendant claimed the intercourse was consensual, there was no real analysis of consent within the context of the evidence of the case or of how the available evidence might be presented to overcome this defence argument.

8.21. In one case the pre-charge review was essentially just a direct import of the text from the police manual of guidance form 3 (MG3). This case was the wholly unreasonable decision referred to from paragraph 8.10. It is unsurprising to see legal errors being made when there is no attempt to analyse the evidence or the legal elements of the offences to be charged.

Case study

The suspect was a teacher at the school attended by the victims, who were in the sixth form. On a night out, the suspect approached the victims and suggested they share a taxi home. He got into the rear middle seat with the two victims either side of him.

The first victim said that before her friend got into the taxi, the suspect put his hand down the front of her knickers and touched her vagina. She pushed his hand away but he did it again. The second victim got into the taxi and the suspect tried to do the same to her but she held her legs together. He touched her vagina. After the victims had arrived home and gone into their property, the suspect knocked on their door and told them that they must not tell anyone about what had happened.

In interview, the suspect accepted that he had shared a taxi with the victims but said that he did not know they were students. He denied touching either victim inappropriately.

There was no consideration in the pre-charge review (or subsequently) of obtaining evidence to show that the defendant taught the victims. This would have been important evidence to strengthen the case and demonstrate that the suspect was lying. Furthermore, there was no consideration of seeking to use cross-admissible bad character. Both of these elements may well have changed the outcome in the case (a jury acquittal) into a successful one.

8.22. We saw some good examples of case analysis, including in an allegation of historic indecent assaults by the victim's uncle. The prosecutor drafted a thorough and well-balanced assessment of the evidence and precisely weighed the public interest in prosecuting an offender just as he was released from prison for crimes committed before he received the custodial sentence. It also calculated the strengths and weaknesses of the complainant's evidence set against her difficult history and the family dynamics. The defendant was found guilty on all counts after trial and he was sentenced to a further term of imprisonment of a total of four years and six months.

8.23. The Area's own internal assurance processes have identified a need for an improvement in the quality of reviews in RASSO cases, particularly at the pre-charge stage, which is consistent with our findings. This has given the Area's RASSO training plan a particular focus on casework quality and the production of a robust trial strategy in pre-charge advices.

8.24. It is important to note that because of the pandemic, cases take a long time to proceed from charge to conclusion. Therefore a significant number of the RASSO files we inspected were charged before the pandemic, and the pre-

charge reviews in those cases will have been completed before this RASSO training plan was implemented.

8.25. The Area is confident that this training should put it in a strong position to deliver improvements when we conduct our follow-up inspection.

Pre-charge disclosure

8.26. The handling of unused material at charge was assessed as fully meeting the expected standard in four of the applicable 18 cases (22.2%), partially meeting the standard in eight cases (44.4%) and not meeting it in six cases (33.3%).

8.27. In four of the six cases assessed as not meeting the standard, there was no consideration at all of unused material. In a number of cases assessed as partially meeting the standard, there was no disclosure strategy when one was required (owing to a wealth of third party material, for example) and reasonable lines of enquiry were consequently missed. The lack of a trial strategy appeared to have contributed to the issue in these cases.

Instructions to the court prosecutor

8.28. Instructions to court prosecutors at the pre-charge stage require improvement. We assessed two cases out of 18 (11.1%) as fully meeting the standard, six cases (33.3%) as partially meeting the standard and the remaining ten cases (55.6%) as not meeting the standard.

8.29. Allocation was usually covered but almost none of the cases addressed bail or acceptable pleas. We found this to be a theme in pre-charge reviews across all casework strands in CPS East Midlands.

Reasonable lines of enquiry and action plans

8.30. 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 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.

8.31. There is room for improvement in setting pre-charge action plans. We assessed three of the relevant 13 cases as fully meeting the standard (23.1%), seven cases (53.8%) as partially meeting the standard and three cases (23.1%) as not meeting it.

8.32. In some cases, there was a failure to set an action plan to deal with reasonable lines of enquiry. In a number of cases the action plan was set out in

the body of the advice and not in the action plan section of the pre-charge review, which creates a risk that actions are missed by investigators.

Applications and ancillary matters

8.33. 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.

8.34. The consideration of applications and ancillary matters needs to improve. One out of 16 relevant cases (6.3%) was assessed as fully meeting the required standard, four cases (25.0%) were assessed as partially meeting the standard and 11 cases (68.8%) as not meeting the standard.

8.35. It is worth noting that eight of the cases assessed as not meeting the standard were entirely silent about ancillary orders when either a Sexual Harm Prevention Order (SHPO), hearsay or bad character should have been addressed.

8.36. The consideration of relevant applications and ancillary matters to support victims and witnesses before charge can also improve. Again, one out of 17 relevant cases (5.9%) was assessed as fully meeting the standard, six cases (35.3%) as partially meeting the standard and the remaining ten cases (58.8%) as not meeting the standard. This is something that the Area will no doubt want to focus on, given the need to support vulnerable victims in sensitive cases and to provide assurance at the earliest stage that appropriate measures will be in place to support them to give evidence at trial.

8.37. In seven of the cases assessed as not meeting the standard, the charging advice failed to address victim and witness issues at all. In another case the pre-charge review said no more than “special measures will need to be considered.” In the cases assessed as partially meeting the standard, there was often some consideration of special measures, but it was not specific enough, with no request for an MG2. In addition, Victim Personal Statements (VPSs) and restraining orders were not always addressed.

Post-charge decision-making and reviews

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

8.38. Our assessment is that the Area is **fully meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for Code compliance in RASSO cases is 95.0%. These cases included those that were originally charged by either the police or CPS Direct.

8.39. 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	19	95.0%
Not meeting the required standard	1	5.0%

8.40. 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.

8.41. As Table 15 shows, one of the Area's strengths is compliance with the Code for Crown Prosecutors after charge. The one case which was not Code compliant was the same case referred to in paragraph 8.10. The Area did allow the indecent assault counts alleging vaginal intercourse to proceed beyond service of the prosecution case, finally serving a fresh indictment without these counts upon counsel's advice less than two weeks before the trial.

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

8.42. Our assessment is that the Area is **not meeting the standard** for this sub-theme of post-charge decision-making. Overall, the score for post-charge reviews in RASSO cases is 42.1%.

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

Case analysis and strategy

8.44. The quality of case analysis and strategy in post-charge reviews in RASSO cases remained as much a cause for concern as it was in pre-charge reviews.

Table 16: Standard of RASSO case analysis and strategy, before and after charge

Question	RASSO cases
Pre-charge case analysis and strategy	
Fully meeting the required standard	33.3%
Partially meeting the required standard	61.1%
Not meeting the required standard	5.6%
Post-sending review analysis and strategy	
Fully meeting the required standard	40.0%
Partially meeting the required standard	25.0%
Not meeting the required standard	35.0%

8.45. Eight cases out of 20 (40.0%) had an initial post-sending review that we assessed as fully meeting the expected standard. We assessed the review as partially meeting the standard in five cases (25.0%) and as not meeting the standard in seven cases (35.0%).

8.46. Six of the seven cases assessed as not meeting the required standard consisted of either copy and pasted imports of the pre-charge review with no further comment, or a line which added no value, such as a note that the prosecutor would review the file at a later date. All required a proper initial review.

8.47. In one case, the pre-charge decision had been to incorrectly charge the defendant with a sexual assault by touching instead of an assault by penetration. The indictment was correctly drafted for an assault by penetration offence, yet the initial review did not mention this at all. It said nothing more than “case has not changed since charge”, which was clearly incorrect. It was essential for this review to make it clear that the change made to the charge was deliberate and to clarify the prosecution’s position on pleas.

8.48. There were good examples of post-sending reviews that showed the Area adding value to cases where the pre-charge reviews were weak. In one case in which the five-year-old victim had been sexually assaulted by an elderly neighbour, CPS Direct had authorised charge on the threshold test. There were problems with the CPS Direct charging decision: in particular, a penetrative assault had been charged when the evidence (which effectively came entirely

from admissions) did not support this. The Area lawyer conducted a very thorough initial review which recognised that the section 6 charge authorised by CPS Direct could not be sustained, contained a detailed and careful assessment of the victim's video recorded interview and recognised that the victim was eligible for section 28 pre-recorded cross-examination. The CPS secured a guilty plea in this case at the Plea and Trial Preparation Hearing (PTPH).

Significant events

8.49. 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.

8.50. In our sample, there were 11 cases which called for a significant event review. In one case (9.1%) we assessed the review as fully meeting the required standard. Two cases (18.2%) had reviews we assessed as partially meeting the standard. The remaining eight cases (72.7%) were assessed as not meeting the required standard.

8.51. In all eight of the latter cases, this was because no significant event review had taken place. This included two cases where the CPS had offered no evidence because the victim had withdrawn support (these decisions were authorised by prosecutors not counsel), two cases in which counts on the indictment were dropped, a case in which the single count on the indictment was changed to a different offence and a case in which the victim had retracted her support for a rape allegation.

Acceptance of pleas

8.52. There was one case in our RASSO sample where a basis of plea was accepted at trial. This was the case involving the wholly unreasonable decision. We rated it as partially meeting the standard for acceptance of pleas. The decision to accept the basis was not inappropriate, but no rationale for doing so was recorded and it was clear that the defendant had been able to exploit the prosecution's error over the counts alleging penetrative activity to secure an agreement to a plea on a lesser basis. The victim did agree with the prosecution accepting the plea.

Stage 1 reviews

8.53. 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.

8.54. In the RASSO cases in our sample, we found that the stage 1 reviews were not routinely being completed. Of the 16 applicable instances, we assessed two cases (12.5%) as fully meeting the required standard, three cases (18.8%) as partially meeting it and 11 cases (68.8%) as not meeting the standard.

8.55. The most common failing was simply not conducting a stage 1 review. This applied to eight of the 11 cases assessed as not meeting the standard. We noted that there was a greater need for a strong stage 1 review in RASSO cases which had received poor charging advice and no (or a superficial) post-sending review, but this did not happen.

Appropriate applications

8.56. We assessed the Area's use of appropriate applications to strengthen the Crown's case as fully meeting the required standard in three out of eight relevant cases (37.5%), partially meeting the standard in one case (12.5%) and not meeting it in the remaining four cases (50.0%). All of the necessary applications were to admit bad character evidence.

8.57. In three of the four cases assessed as not meeting the standard, no bad character notice was served. In the other case it was served only days before trial (over seven months after it was due).

Feedback on police file quality

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

8.59. Police file quality was assessed as fully meeting the standard in 17 of 20 cases (85.0%), with the remaining three cases (15.0%) assessed as not meeting the standard.

8.60. Feedback to police was good, with two of the three cases (66.7%) assessed as fully meeting the standard and the other one (33.3%) assessed as not meeting the standard (because the police were not challenged on an initial defective file submission).

Conferences with counsel

8.61. 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.

8.62. 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.

8.63. There were eight cases where a conference with trial counsel was mandated, and in half these cases (four) one took place. In the other four cases (50.0%), no conference was held; we assessed these as not meeting the standard.

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

8.64. 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 74.8%.

8.65. 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).

8.66. Preparation for the first hearing was generally good, with 13 cases out of 20 (65.0%) assessed as fully meeting the standard, six cases (30.0%) as partially meeting the standard and the remaining case (5.0%) as not meeting the standard.

8.67. The police upload hard media (such as CCTV footage or body worn video) to secure online locations and send the links to the CPS. Given the prevalence of digitally recorded interviews with complainants in RASSO cases, the provision of hard media to the defence before the PTPH (or the not guilty anticipated plea hearing in youth cases) is particularly important. There is some

room to improve here, with 11 out of 19 cases (57.9%) assessed as fully meeting the standard, five cases (26.3%) as partially meeting it and three cases (15.8%) as not meeting the standard.

Direct engagement with the defence

8.68. 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 the CPS case management system and should then share it with the court and defence by uploading it to the DCS.

8.69. 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. This hampered Areas' efforts to engage with defence practitioners.

8.70. Direct engagement with the defence was carried out fully and promptly in 14 out of the 20 applicable cases (70%). We assessed six cases (30.0%) as not meeting the standard. Attention to defence engagement was not as strong in RASSO cases as in Crown Court cases, but the performance was nonetheless good.

8.71. Of the 14 cases with a DDE log, the log was uploaded to the DCS in 13 cases (92.9%) and not uploaded in the other case (7.1%).

The indictment

8.72. RASSO cases present specific challenges when drafting indictments, particularly where the victim is a child, or the allegations are not recent.

8.73. The quality of the Area's indictments can be improved. Nine out of 19 (47.4%) were rated as fully meeting the required standard, seven (36.8%) as partially meeting it and three (15.8%) as not meeting the standard.

8.74. Indictments that fell short sometimes did so because of fundamental legal errors, such as:

- the failure to include the wording “for the purpose of sexual gratification” in the particulars of section 15A counts; this error subsequently required a ruling by the trial Judge in relation to whether it could be amended
- getting the dates of the offences wrong
- getting the age of a child victim wrong.

8.75. There were also indictments which could have been a lot clearer in the way the counts were drafted. It should be noted that in one case, the indictment was drafted by counsel at the PTPH, which had been brought forward at the last minute by the court. We have not marked the Area down for not preparing it in these circumstances, but equally have not credited the Area for counsel’s work. Accordingly, we marked the question as not applicable in this case.

8.76. The service of the draft indictment and key evidence in good time for the PTPH was a strength for the Area (that is, it was uploaded to the DCS seven days before the PTPH). We assessed 16 of 20 cases (80.0%) as fully meeting the standard, two as partially meeting it and two as not meeting it (each 10%).

Instructing the advocate

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

8.78. 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 in 18 out of the 20 cases (90%). We assessed six of these cases (30.0%) as fully meeting the standard and 12 cases (60%) as partially meeting it. Two cases (10.0%) were assessed as not meeting the standard.

8.79. As in Crown Court cases, the quality of instructions to the PTPH advocate can be improved, with nine cases (45.0%) assessed as fully meeting the standard, eight (40.0%) as partially meeting the standard and three (15.0%) as not meeting it.

8.80. The reason for instructions partially and not meeting the standard was usually, again as in Crown Court cases, because the instructions consisted of not much more than a template document with no bespoke details, particularly on things like acceptable pleas or special measures. The Area will no doubt look to improve this aspect, as clear instructions to advocates can reduce future work

demands on prosecutors – as well as providing reassurance to victims and witnesses, if appropriate special measures are applied for and obtained. (It should be noted that the Area does well in applying for special measures after charge).

Does the Area fully comply with its duty of disclosure?

8.81. Our assessment is that the Area is **partially meeting the standard** for this casework theme. Overall, the score for disclosure in RASSO cases is 69.6%.

8.82. 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 the CPS case management system and feeding back to the police where necessary.

Police service on disclosure

8.83. Of the 18 applicable RASSO cases, the police complied with their disclosure obligations fully in four cases (22.2%). We assessed police compliance as partially meeting the required standard in another ten cases (55.6%) and as not meeting it in the remaining four cases (22.2%).

8.84. 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. Prosecutors did not provide any feedback to the police in nine of the 14 cases (64.3%) in which the police had not fully complied with their disclosure obligations. This is something the Area will want to improve, since police compliance is unlikely to get better without proper feedback.

Initial disclosure

8.85. We assessed initial disclosure in RASSO cases as fully meeting the required standard in three of the 18 applicable cases (16.7%). Another 14 cases (77.8%) were assessed as partially meeting the standard and one case (5.6%) as not meeting the standard.

8.86. By far the most common failing in the cases assessed as partially or not meeting the standard was not endorsing any decisions on a non-blank MG6D.

This applied to 40% of the cases assessed as partially meeting the standard, with another marked down for the non-endorsement of a blank MG6D.

8.87. Inspectors considered the issues to stem from poor-quality endorsements and poor-quality descriptions on schedules being accepted, as opposed to a lack of judgement in disclosure decision-making. Indeed, there were no instances at initial disclosure of unused material being incorrectly determined to be not disclosable. This is positive and indicative of prosecutors understanding their cases, notwithstanding the lack of analysis and strategy in the majority of the cases we examined.

Continuing disclosure

8.88. Continuing disclosure was a particular strength, with 13 out of the 16 applicable cases (81.3%) being assessed as fully meeting the standard and the remaining three (18.8%) as partially meeting the standard. This is significantly better performance than at initial disclosure stage. 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.

8.89. Late defence statements were usually chased. Eight cases featured a late defence statement, and it was chased promptly, with the defence and the court made aware of the delay, in five cases (62.5%). In one case (12.5%), we assessed the challenge to late defence statements as partially meeting the required standard, and in the other two cases (25%) the late statements were never chased. There were no inadequate defence statements which required challenge.

8.90. Reviewing and sending the defence statement to the police with appropriate guidance on further reasonable lines of enquiry was a real strength. We assessed 13 of the 16 cases in which a defence statement was served (81.3%) as fully meeting the standard and the remaining three cases (18.8%) as partially meeting the expected standard.

Timeliness

8.91. Timely disclosure of unused material is a strength.

8.92. Initial disclosure was timely in 15 out of 18 cases (83.3%). One of the remaining three cases (5.6%) was assessed as partially meeting the standard, meaning that the delay did not materially impact on case progression. Two cases (11.1%) were assessed as not meeting the standard.

8.93. Continuing disclosure was timely in 75% of cases, with the remaining 25% not meeting the standard.

Sensitive and third-party material

8.94. There was relevant sensitive unused material, or the potential for there to be sensitive material, in ten of the 20 RASSO cases we examined. Of these, we assessed six (60%) as fully meeting the standard, one (10%) as partially meeting the standard and the remaining three (30%) as not meeting the standard.

8.95. In one of the cases assessed as not meeting the standard, sensitive details were revealed on the MG6C, including names of individuals who had made previous complaints about the defendant but wished to remain anonymous. These details should not have been disclosed. Had they been correctly entered on the MG6D, there would have been no need for a public interest immunity application, since the information was capable neither of undermining the prosecution case nor of assisting the defence.

8.96. We found a mixed picture when it came to handling third-party material. It was correctly dealt with in seven of the 14 cases where it was relevant (50.0%), with six cases (42.9%) assessed as partially meeting the standard and the remaining case (7.1%) assessed as not meeting the standard.

8.97. In one case, the prosecutor challenged the police practice of securing third-party material directly from a social worker, thereby bypassing the local protocol. The prosecutor rectified this and ensured compliance with the protocol. This was commendable.

Disclosure records

Disclosure management document

8.98. Most cases had a disclosure management document (DMD). One was started in 17 of the 19 relevant cases.

8.99. Ten cases (52.6%) featured a DMD with contributions from both the police and the CPS. These were assessed as fully meeting the standard.

8.100. The DMDs in seven cases (36.8%) had no input from the police and so were assessed as partially meeting the standard. Two cases (10.5%) had no DMD.

8.101. Of the 17 DMDs, six (35.3%) were completed accurately and fully throughout the life of the case, nine (52.9%) were assessed as partially meeting this standard and two (11.8%) were assessed as not meeting it. The issue with weaker DMDs was most often that they were not updated as the case progressed.

Disclosure record sheets

8.102. There is room for improvement in the completion of the disclosure record on CMS. It was assessed as fully meeting the required standard in eight of the 18 applicable cases (44.4%), as partially meeting it in nine cases (50.0%) and as not meeting it in one case (5.6%).

8.103. The issues in the weaker cases were the lack of explanation for decisions and the failure to record some disclosure actions. This made the DMD a record of documents sent and received rather than a record of the rationale for the decisions made about unused material.

Does the Area address victim and witness issues appropriately?

8.104. 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 70.2%.

8.105. 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.

Before charge

8.106. 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.

8.107. As we outlined at paragraph 8.34, the level of care given when considering relevant applications and ancillary matters to support victims and witnesses at the pre-charge stage requires improvement. One out of 17 relevant cases (5.9%) was assessed as fully meeting the standard, six cases (35.3%) as partially meeting the standard and the remaining ten cases (58.8%) as not meeting the standard.

After charge

Special measures applications

8.108. Special measures were properly sought to support victims and witnesses in almost all RASSO cases, which is a real strength for the Area. Fourteen of the 17 relevant cases (82.4%) were assessed as fully meeting the standard, with one case (5.9%) assessed as partially meeting the standard and two cases

(11.8%) as not meeting it. This is better than the standard achieved in either of the other casework units.

8.109. We recognise that there is a disparity between the poor performance at the pre-charge stage and the very good performance after charge for this aspect of casework, from which it is evident that prosecutors must be alive to the issue of special measures.

8.110. We have noted a considerable focus on special measures after charge, with the Area mandating offering special measures meetings to victims in RASSO cases, which is extremely positive. The Area has confirmed that there is an expectation that special measures will be addressed in pre-charge reviews. Inevitably the pre-charge reviews on many of the cases we examined were conducted some time ago. We anticipate that this focus on special measures should lead to significant improvement in the pre-charge scores in our follow up inspection.

Case study

The suspect had subjected the victim, his partner, to a number of violent rapes as well as assaulting her and imprisoning her against her will. The victim was vulnerable and had naturally been greatly affected by the suspect's behaviour.

In interview, the suspect denied raping the victim and said that everything had been consensual, and that the victim liked rough sex.

We observed really good focus on the victim in this case, with a clear emphasis on what the victim wanted. The victim was offered a special measures meeting at an early stage and the prosecution made a number of proactive attempts to arrange this meeting. The Victim Personal Statement was regularly updated and the victim's views obtained on its presentation.

The defendant was convicted at trial and received a significant sentence of 18 years custody, but the prosecution still sought a restraining order, which was good practice.

Warning witnesses and communications with witness care units

8.111. In most cases, the Area works well to secure the best evidence possible by warning witnesses correctly and in a timely way. We assessed 16 of the 18 applicable cases (88.9%) as fully meeting the required standard, one case as partially meeting the standard and one as not meeting it (5.6% each).

8.112. Correspondence from the witness care unit about witness issues was dealt with in an effective and timely manner in 11 of the 15 applicable cases

(73.3%), with three cases (20.0%) assessed as partially meeting the standard and a single case (6.7%) assessed as not meeting the standard.

8.113. The relationship between the CPS and the witness care unit appeared healthy and productive, which was beneficial to victims and witnesses.

Consulting victims and speaking to witnesses at court

8.114. The Area usually consults with victims and witnesses when appropriate, We assessed nine of the 17 relevant cases (52.9%) as fully meeting the standard, six (35.3%) as partially meeting the standard and two (11.8%) as not meeting the standard. This was substantially better than Crown Court performance. Consulting victims about their cases was generally done well.

8.115. The Area uses a form for recording compliance with the speaking to witnesses at court (STWAC) initiative. Where it was used, this tended to be extremely useful.

8.116. For example, in one sexual assault case, there were excellent STWAC notes on this form on CMS. It recorded discussions with the victim and several other prosecution witnesses, from which it was evident that the trial process had been fully explained and special measures options properly outlined.

8.117. However, the STWAC form was not consistently used, and there was no record sufficient to infer compliance with STWAC in four of the cases. The STWAC note was insufficiently detailed in another two cases, which were assessed as partially meeting the standard.

Victim Personal Statements and orders at sentencing

8.118. The victim's wishes regarding their VPS were fully complied with in ten of the 18 applicable cases (55.6%) and partially in another six cases (33.3%). The remaining two cases (11.1%) were assessed as not meeting the standard.

8.119. We found that the wishes of the victim were not often supplied by the police as part of the VPS and that the hearing record sheet at sentencing hearings does not always specify whether the VPS was read or by whom.

8.120. Appropriate orders were sought at sentencing to protect victims, witnesses and the public in most cases. Eight of 11 relevant cases (72.7%) were assessed as fully meeting the standard, two (18.2%) as partially meeting the standard and one (9.1%) as not meeting the standard.

8.121. In most cases, the relevant orders were SHPOs or restraining orders. In the case assessed as not meeting the standard, an application for a SHPO was not made when it should have been. In this case, the defendant was convicted of several counts of rape and assault by penetration against his then partner.

8.122. In one of the cases assessed as partially meeting the standard, there was no application for a restraining order upon acquittal. In the other, no application was made for forfeiture and destruction of computer equipment used to facilitate attempted sexual communication with a child.

Victim Communication and Liaison scheme letters

8.123. The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge. There were seven RASSO cases calling for a VCL letter. In four of those cases a letter was sent.

8.124. In one case the victim received a timely letter; this case was assessed as fully meeting the standard. In one case the victim received two letters at different stages of the case; one was timely and the other was 72 hours after the decision. This case was assessed as partially meeting the standard to reflect the earlier timely letter.

8.125. The remaining five cases were assessed as not meeting the standard. In three of those cases no letter was sent at all and in two of them the letters were late: one six days after the decision to discontinue the case and the other almost a month after the decision, and then only after the victim had contacted the CPS to ask whether she would be receiving a VCL letter.

8.126. We assessed all four of the sent letters as fully meeting the required standard for quality, which is a notable strength. The letter sent in a case in which a sexual assault charge had been dropped after the victim was charged with perverting the course of justice would clearly have been difficult to write. The letter sent was extremely well phrased and empathetic, giving an accurate and comprehensible explanation for why the case had been discontinued without any hint of victim blaming.

8.127. It is clear from the documentation we have seen and from our observation of the casework quality assurance board (CQAB) that the Area has paid a significant amount of attention to the quality of its VCL letters. This is especially evident in the context of the RASSO team and is borne out by our file examination results. At the CQAB there was a presentation on VCL letters; one East Midlands RASSO letter discussed there had been identified nationally as being a model example of a VCL letter.

9. Public confidence

9.1. One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy²⁷ 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.

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

Sending Victim Communication and Liaison scheme letters

Compliance with the Victim Communication and Liaison scheme

9.7. In our sample of 90 cases, a VCL letter was sent in 13: six in magistrates' court cases, three in Crown Court cases and four in rape and serious sexual offence (RASSO) cases. There were another 13 cases where letters should have been sent, but were not: three magistrates' court cases, seven Crown Court cases and three RASSO cases.

9.8. Five of the 13 letters that were sent were assessed as fully meeting the standard for timeliness. Another five letters were rated as partially meeting the standard, meaning that they missed the timeliness target set by the scheme, but the delay was minimal. The remaining three letters were assessed as not meeting the standard, because they were late and the delay was more than minimal.

9.9. We saw evidence that the Area has discussed issues with the timeliness of VCL letters in multiple reports and meetings. Legal managers have been reminding prosecutors of the importance of timeliness. We were told that the Area has delivered training on the Code of Practice for Victims of Crime ('the Victims' Code') and its impact across all teams, with additional training provided to the Crown Court team; and that as a result, the timeliness of letters has significantly improved.

9.10. In cases where VCL letters should be sent within one working day, the Area has identified an issue connected to the receipt of the hearing record sheet (HRS) from counsel. It is the HRS that explains how the case concluded and whether a letter to the victim is required. The Area has written to all chambers that regularly provide advocates to work on the Area's behalf to stress the importance of the HRS and documenting conversations with witnesses around the speaking to witnesses at court (STWAC) protocol, pleas and conversations at court. The Area has also implemented a new process where if the HRS is not with the Victim Liaison Unit (VLU), the Crown Court Paralegal Business Manager will contact chambers to obtain the HRS.

9.11. The Area has also set up a combined VLU and complaints team where each member has clear responsibilities around compliance. The team produces 'Late VCL' reports that are disseminated to the legal managers. A member of the team completes checks, which include identifying VCL requests and labelling them in date order, to make sure that letters are sent out on time.

9.12. The Area also tracks the timeliness of VCL letters in a VLU report prepared for the Area Strategy Board and in a weekly report prepared for the

Executive Group. The issues affecting timeliness are analysed in the report and solutions that would mitigate the delays in future are recorded.

9.13. For example, it was identified that most of the late letters were for victims who were entitled to the enhanced service, where the letter is sent within one working day. Some of the issues reported as causing delays included Covid-19, large backlogs and long-term sickness. Plans for further recruitment appear to have been in place in order to mitigate the staffing related issues. We were told by the Area that the recruitment campaign was successful and that, generally, there is a clear focus and an action plan already in place that will improve the timeliness of VCL letters.

9.14. However, despite the above work, our file examination revealed that a significant number of VCL letters were missed: no letter was sent in half of the cases where one was due. The Area will want to consider how it can make sure that letters are sent in all necessary cases.

Quality of Victim Communication and Liaison scheme letters

9.15. We assessed the quality of the 13 letters sent as set out in Table 17. Our findings showed that the quality of sent letters was varied, with five of the 13 letters assessed as partially meeting or not meeting the expected standard. Performance in the RASSO unit was very strong, with all letters assessed as fully meeting the standard.

Table 17: Quality of Victim Communication and Liaison scheme letters

Casework type	Magist-rates' courts	Crown Court	RASSO	All cases
Number of letters sent	6	3	4	13
Fully meeting the standard	2 (33.3%)	2 (66.7%)	4 (100%)	8 (61.5%)
Partially meeting the standard		1 (33.3%)		1 (7.7%)
Not meeting the standard	4 (66.7%)			4 (30.8%)

9.16. In RASSO cases, we assessed all four sent letters as fully meeting the required standard for quality. The letter in a case in which a sexual assault charge had been dropped after the victim was charged with perverting the course of justice would clearly have been difficult to write. The letter was extremely well phrased and empathetic, giving an accurate and comprehensible explanation for why the case had been discontinued, without any hint of victim blaming. This was a real positive and the quality of RASSO VCL letters is a strength.

9.17. In magistrates' court cases, of the six letters sent, two (33.3%) were assessed as fully meeting the standard for the quality of the letter. The remaining four (66.7%) were assessed as not meeting the standard. Of particular concern was that two of the letters assessed as not meeting the standard contained factually inaccurate information.

9.18. In Crown Court cases, of the three letters sent, two (66.7%) were assessed as fully meeting the standard for quality and one (33.3%) as partially meeting the standard.

9.19. The Area has recognised VCL letter quality as something it needs to improve. It has put in place a range of mechanisms to support its interactions with victims and witnesses and has carried out work to quality-assure the standard of VCL letters.

9.20. The Area carried out a quality review of VCL letters prepared by the magistrates' court and RASSO teams. The review was completed by the Senior District Crown Prosecutor (SDCP) and the Deputy Chief Crown Prosecutor. There was evidence that the results were discussed in team meetings and by relevant managers. We were also told that feedback had been provided directly to individuals.

9.21. For example, we saw reference to a meeting where the outcomes, recommendations to the VLU, and VLU requirements from lawyers regarding the completion of the VCLs were discussed. The VLU manager also shared the results in a team meeting so feedback could be provided to the SDCP on exactly what the VLU needs from prosecutors.

9.22. The exercise resulted in guidance, prepared by the VLU manager, that aims to help prosecutors understand their responsibilities regarding the VCL process. The guidance clearly explains:

- the requirements for the paragraph prosecutors need to provide
- the process for requesting a VCL letter to be sent
- the enhanced and standard service.

9.23. The guidance was disseminated to staff via newsletters and an email. We were told that legal managers are now also checking the letters before they are sent out, which has also led to a noticeable improvement in quality.

9.24. The legal managers in the Crown Court unit dip-sampled VCL letters. The results were used to inform further training. Themes were identified and we were told that feedback was provided to individuals.

9.25. The Area has produced guides and delivered training to support staff in their interactions with victim and witnesses. For example, a proof-reading guide was created as a result of a discussion during a VLU team meeting. A 'Victim Communication and Liaison scheme letters for magistrates' court cases – lawyer and VLU process map' was disseminated by the legal managers; this clearly shows the process and requirements for the paragraph produced by lawyers. The document emphasises that the paragraph should be empathetic, written in plain English and explain what has happened in the case, giving reasons for the decision made.

9.26. The RASSO team delivered 'Victim Focus' training with a spotlight on what good communication looks like. From the documents we saw, it appears that victim-focused top tips came out of the training, which are relevant to anyone who wants to improve their communication skills, both written and oral. The input of survivors of sexual abuse was used to create this advice. We considered this to be a beneficial aide memoire and were told that it was so successful that it was shared not only locally but nationally.

9.27. To help improve and maintain the quality of VCL letters, an individual quality assessment (IQA) process was introduced by the VLU manager. According to the documents we saw, the practice led to significant improvements in the month after the feedback was provided, with an additional 14% of letters assessed as being of good quality. We were told that the IQA is not completed routinely, but the Area uses legal trainees to review letters with the VLU manager, so more feedback is provided when necessary.

Complaint and Victims' Right to Review responses

9.28. The Area uses the Contact app, which allows members of the public to upload feedback, VRR requests and complaints directly via the CPS website and email. The Area then produces quarterly complaints reports based on the data from the app.

9.29. From the documents we saw, it appears when there are issues with timescales for complaints, they are escalated. The reports analyse whether the reported issue was legal, service or both. We were told that themes for the complaints are identified and picked up at the business board meetings, and used to drive improvements.

9.30. VRR requests and complaints are also covered in the magistrates' courts, Crown Court and RASSO performance reports. We were told that teams receive feedback through the various newsletters produced by the Area.

9.31. The Area also communicates with staff via legal updates when cases are escalated to the Appeals and Review Unit. Overtaken cases are communicated

so staff understand the unit's decision-making process and receive useful information that can help improve their own future decision-making. We were told that this practice began in the RASSO team and saw evidence that it is replicated across the magistrates' court and Crown Court teams. We consider this to be good practice.

Victims' Code and Witness Charter

Expectations

9.32. The expectation is that the Area complies with its responsibilities defined in the the Victims' Code and the Witness Charter in respect of Victim Personal Statements, Victim Communication and Liaison scheme letters, offering meetings, and the STWAC protocol.

9.33. 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.

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

9.35. 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.

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

Consulting victims and speaking to witnesses at court

9.37. Victims and witnesses were generally consulted about a case where necessary. 61.1% of the applicable magistrates' court cases were assessed as fully meeting the standard and 11.1% as partially meeting it; 38.1% of Crown Court cases were assessed as fully meeting the standard and 28.6% as partially meeting it; and 52.9% of RASSO cases were assessed as fully meeting the standard and 35.3% as partially meeting it.

9.38. We were told that there are two reasons for the divergence of the performance of the Crown Court team.

- The Area has identified that external advocates have not been recording STWAC conversations correctly. To resolve the issue, chambers have been contacted by senior managers and reminded that the HRS must deal with discussions that have taken place at court with witnesses.
- There has also been an issue with late pleas or pleas suddenly being entered at the Plea and Trial Preparation Hearing (PTPH). On those occasions, especially with the increased caseloads caused by the pandemic, it has not always been possible to seek victims' views about the pleas being offered.

9.39. Counsel appears to be provided with comprehensive guidance to support them in their handling of RASSO cases, in order to ensure public confidence. STWAC guidance was included alongside links to the CPS VCL scheme, VRR, VPS and Victims' Code. In addition, the Area uses a form that is completed by counsel to provide assurance regarding STWAC compliance in RASSO trials. This form is comprehensive and we found its use to be good practice.

9.40. The Area utilises partnership arrangements to support delivery to victims and witnesses. There is a local protocol in place for witnesses giving evidence from home or other venues for reasons of public safety, not as a form of special measures. The protocol is clear, describing each agency's involvement and who is responsible for what. STWAC is managed on the day of the trial via a telephone call.

9.41. The protocol was a product of a working group attended by representatives of the CPS, the witness care unit and HM Courts and Tribunals Service (HMCTS). The protocol also appears to have been discussed in Transforming Summary Justice meetings, attended by representatives from the police, CPS, magistracy, HMCTS, Derbyshire Criminal Justice Board, Probation, Youth Offending Service, Local Authority Accommodation, defence and Witness Services.

Victim Personal Statements

9.42. In our file examination, almost half of the applicable cases were assessed as partially meeting or not meeting the required standard for complying with the victim's wishes regarding their VPS. It was notable that many cases lacked any clear evidence as to whether the VPS was read at sentence.

Offering meetings in all appropriate cases

9.43. 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). To keep victims on board, the Area told us that Crown Court and RASSO lawyers have been holding several meetings with individual victims owing to listings issues and the number of adjournments in cases.

Community engagement

9.44. The RASSO SDCP sits on the regional Sexual Violence Action Network, which also manages and coordinates Nottinghamshire's Consent Coalition. This is a collective of statutory and non-statutory agencies (victim support, mental and physical healthcare, specialist Black and minority ethnic support, police and council) who meet quarterly to discuss barriers to victims reporting sexual abuse and having confidence in the criminal justice system. We were told that many of the group members have been co-opted onto national task and finish groups such as the national framework group for independent sexual violence advocates (ISVAs) and children's and young people's ISVAs, and the review of VCL letters.

9.45. The group has finished updating the 'Your Journey' booklet – a guide for survivors of sexual abuse – to include updates on digital evidence and the digital walkthrough, section 28 and section 25. The group is also writing a children's and young people's version of the booklet. The adults' version already has support from the Director of Public Prosecutions and is being used by the Home Office to create a national document for victims of sexual abuse.

10. CPS people

10.1. One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy²⁸ 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.

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

Staff induction

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

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

	LM1	LM2	SCP	CP	Total
At 31 March 2019	14.49	2.00	88.40	2.00	130.25
At 31 December 2020	18.08	3.00	101.11	5.00	159.36
At 31 December 2021	19.38	2.81	108.64	13.86	172.80

10.5. Table 18 shows that staff numbers in the Area have increased since 2019 across all legal grades, with an overall increase of 32.7%.

10.6. Even with this increase, however, the Area is still under complement for prosecutors at the Senior Crown Prosecutor (SCP) grade compared to the national resourcing model, which sets the number of prosecutors needed to deal with the amount of cases on each unit. The national resourcing model shows that by the end of the year 2022–23 the Area should have 148.1 SCPs in post. It currently has 112.8 SCPs: a shortfall of 19.7, taking into account the additional 15.6 Crown Prosecutors the Area has against that resourcing model. The shortage of SCPs is most acute in the Crown Court unit.

10.7. As our findings show, the challenges of increased caseloads and staff levels have not unsurprisingly had an impact on the Area's ability to focus on quality and deliver high quality casework.

10.8. Over the past two years, the Area has restructured the senior management grades. There are now two Deputy Chief Crown Prosecutors (DCCPs), one who covers rape and serious sexual offences (RASSO) and the magistrates' courts and one who covers the Crown Court and the complex casework unit (CCU). Before this, one DCCP covered RASSO and Crown Court work and one covered magistrates' court work. Given the cross-over of casework related to violence against women and girls in magistrates' court and RASSO cases, this change makes logical sense. Each DCCP is now supported by two Senior District Crown Prosecutors (SDCPs), where formerly each had only one.

10.9. The Area views this as a constructive change, which has resulted in more evenly balanced, less compartmentalised work and an improved interconnection between the SDCPs. For example, there have been agreements between them to move prosecutors from the Crown Court unit to the RASSO

unit when the RASSO unit's need was the most critical, despite the Crown Court unit also being under-resourced.

10.10. During the financial year 2021–22, a large number of staff left the Area. The figure for leavers as a percentage of headcount was above 11% for the last three quarters of the financial year. This was well above the CPS national average of 7.9% and the highest figure of any CPS Area.

10.11. In the Area's view, the most significant contributor to this high figure has been the fact that a substantial number of its staff over the age of 50 have unexpectedly chosen to take early retirement as a result of the pandemic. The greatest proportion of those retirees has been amongst SCPs. In fact, the Area has lost 16 of its SCPs (14% of the total) since February 2020, all of whom had over ten years' experience.

10.12. Staff turnover has inevitably meant that, despite recruitment, not only has the Area been unable to attain staff in post figures to match the national resourcing model, many of its current legal staff also have limited experience (25% of legal staff have less than two years' experience). The result is considerable pressure on the Area's casework teams, as less experienced prosecutors require training and mentoring while being unable to carry an equal caseload to more experienced prosecutors. This has an adverse effect on casework quality.

10.13. Shortly before the pandemic, the Area had recruited 15 SCPs during a successful local campaign. A number of them started after lockdown began and the restrictions imposed by remote working presented significant challenges to their induction, training and development. The Area decided that it would prove more beneficial to place them in a single team with a single dedicated legal line manager, a District Crown Prosecutor (DCP), who would be responsible for their induction over their first six months.

10.14. The DCP was relieved of all other duties for that period, so that they could focus exclusively on the induction and performance of the new recruits. Each new SCP was given a bespoke induction plan tailored to their level of experience and their work was quality assured by the DCP. The bespoke induction focused on case strategy, reviews, the Code of Practice for Victims of Crime and ancillary orders.

10.15. Once the induction had been completed, the new prosecutors were able to assume more complex work sooner than might otherwise have been possible, and to deliver work the Area considers to be of a high quality. By adopting a dedicated manager, whose priority was induction and supervision, the vast majority of the new lawyers have been retained in post, which is a real positive.

10.16. The Area saw the benefits of mentoring at this level and has chosen to replicate this structure in the magistrates' court unit in future, albeit using an experienced SCP to carry out the mentoring as a development opportunity.

10.17. The Area has been part of the national rolling campaign for prosecutor recruitment since the pandemic began, but this has not provided the number of prosecutors the Area needs, owing to challenges in the labour market and the fact that remote working means local lawyers can now work across a much broader geographical area. The Area presently has vacancies for 20 SCPs. Coupled with high staff turnover, this inevitably puts pressure on workloads.

10.18. At the height of the pandemic, with far fewer Crown Court sessions taking place, many crown advocates were redeployed to carry out pre-charge reviews. While this was successful in helping teams to handle rising caseloads, the crown advocates needed support and training to be able to deliver this role, which fell to existing prosecutors and legal managers.

10.19. The Area has endeavoured to meet its operational staffing challenges using targeted recruitment campaigns and restructuring measures. The Area took on fixed term paralegal officers and recruited graduates from ten universities to one-year fixed term employment contracts. It also recruited graduates into non-legal roles and trained them. This is a time intensive exercise and the Area recognises the need to balance timeliness with longer term resource planning.

Succession planning

10.20. The Area recognises the importance of addressing succession planning, particularly the need to develop first level legal manager grade staff (DCPs), which has been made pressing with the ongoing recruitment of prosecutors.

10.21. A number of SCPs who only have casework experience in the magistrates' courts have been promoted to DCP grades on Crown Court teams. Before they start such management work, the Area places them on Crown Court teams as prosecutors, to make sure they have relevant casework experience and can manage more effectively.

10.22. The Area has afforded several Crown Court legal managers a development opportunity to move to the RASSO unit. Before they do so, the Area requires them to be trained in RASSO casework. The Area considers that this has given such DCPs enhanced credibility among the RASSO team.

Staff engagement

10.23. The staff engagement score for the Area in the most recent Civil Service People Survey, in 2021, was 74%. This was higher than the CPS national average of 69% and is a real credit to the Area, demonstrating that there has been a real focus on engagement during an extremely challenging period of time.

10.24. Engagement was strongest in the magistrates' court teams, with 85% reporting positive engagement in work. The Crown Court team's positive engagement score was 73% and the RASSO team's was 77%.

10.25. The scores for resourcing and workload reflect the difficulties associated with staffing levels and the problems that persist with reducing the backlog of trials in the court system.

10.26. The magistrates' court teams report the most satisfaction with resourcing and workload, with a score of 82% in 2021. The Crown Court team was the least satisfied with its workload: 56% of staff stated that they were satisfied with resourcing and workload, and when asked if they had an acceptable workload, 60% responded that they did not. The RASSO team's score for resourcing and workload was 61% in 2021, a decrease from 68% in 2020.

10.27. The lower scores in the two teams that deal with Crown Court casework reflect the higher volume of cases that continue to form part of the recovery plan. The Area has reported that it is difficult to reduce the larger and more complex cases that sit within the jurisdiction of the Crown Court, simply because of the time required for trials to be heard.

10.28. The Area's senior management team recognise concerns regarding workloads, the need to cover court sittings and the resulting impact on casework. The Area has attempted to resolve the conflict by deploying paralegal officers to deal with aspects of casework and by using the crown advocate cadre to deal with charging cases.

10.29. The Area acknowledges that the pressure on new lawyers in the magistrates' court team is not the same as the pressure on the more experienced lawyers in the Crown Court and RASSO teams. Senior managers recognise that high caseloads would cause much less pressure if all lawyers were similarly experienced, but recruiting new staff inevitably means that new, less experienced lawyers must carry a lighter caseload.

10.30. The Area is aware of the need to maintain the wellbeing of staff when there is more legal work than lawyers, and managers are instructed to prioritise supporting their teams. Managers in all teams hold meetings every Monday to

look at caseloads and tasks. Often a decision will be made to suspend the allocation of new cases to prosecutors with particularly heavy caseloads or urgent tasks for one to two weeks, which allows them to focus on progressing existing casework.

10.31. It is clear from the survey results, however, that the increases in caseloads and trial backlogs are having the biggest impact on the balance of work in the Crown Court unit.

Learning and development

Expectations

10.32. 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

10.33. We were provided with evidence of the training plans for the magistrates' court, Crown Court and RASSO teams. It is apparent that the Area carefully gathers evidence of training needs from several sources, using both data and staff feedback.

10.34. Training in 2021 and 2022 has covered a wide range of subjects that align with the Area's need and national objectives. These have included the Director's Guidance on Charging, the Attorney General's Guidelines on Disclosure, casework quality and victims. We noted that the Area has plans to deliver domestic abuse prosecution training in 2022, focusing on evidence led strategy and better use of the coercive and controlling behaviour legislation.

10.35. The Area has identified a need to improve the quality of reviews in RASSO cases. It has devised and implemented a RASSO training plan with a particular focus on casework quality and producing a robust trial strategy in pre-charge advices. Our findings are consistent with the Area's, as can be seen from our ratings for case analysis and trial strategy in RASSO cases. As we have acknowledged, the pandemic has meant that cases take a long time to proceed from charge to conclusion, so a significant number of the RASSO files we inspected were charged before the pandemic, meaning that the pre-charge

reviews in those cases were completed before the Area implemented this training plan.

10.36. The Area uses the nationally devised induction plan for new staff across all grades. The document lists the tasks and actions specific to the role and the date of completion. The document is signed off by the line manager and sent to the Area's Human Resources manager. It concludes with an assessment of the individual's future development needs and sets out an agreed development plan. There is scope to adapt the plan to fit the needs of the individual, which ensures consistency of standards while accommodating different learning styles and rates of development. The plan is detailed and clearly sets out what is expected. The document is used for new staff and those moving to new teams.

Coaching and mentoring

10.37. The Area shares good casework outcomes through its recognition strategy. Every two weeks the Area conducts an all staff dial-in where success stories and positive outcomes are discussed. This has been received positively.

10.38. The limitations of remote working during the pandemic have made individual mentoring more difficult to achieve. The senior management team have seen the fortnightly calls as an opportunity to focus on specific issues and gain valuable insight directly from staff, who are encouraged to raise areas of concern. The Area views this as a useful way of supporting staff.

10.39. The Area has handled mentoring by resourcing the dedicated legal manager role for new lawyers and by placing prospective new managers in a casework lawyer role as part of management training, as outlined from paragraph 10.13. The new system of individual quality assessment (IQA) has led to regular one-to-one conversations between managers and lawyers, which reflect a needs-led approach to training and development.

Quality assurance

Expectations

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

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

10.41. 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

10.42. We were provided with evidence that the Area communicates good practice, as well as the need for improvement, via various newsletters and team updates. Each team prepares their own monthly newsletters, which are shared with all other teams. Thematic results from IQAs are shared, as are casework successes.

10.43. We saw that IQAs were being conducted across all the teams. Issues that arise are discussed in one-to-ones between line managers and prosecutors. The Area considers that line managers are having productive conversations with lawyers, which are run along similar lines to case management panels (CMPs). If necessary, the manager will then set an action plan for the prosecutor to update the file, which will be followed by another meeting to make sure the case has been progressed. The Area has mandated that every case subject to a formal CMP must also have an IQA, which ensures that the CMP is as effective as possible.

10.44. IQAs are quality assured by senior legal managers and their feedback is shared with the individual by the line manager. Any necessary remedial action is taken on an individual level. We saw evidence that managers have been

reminded of the importance of selecting cases for IQA assessment to add value, and that dip samples are being conducted.

10.45. At the casework quality assurance board we observed, the Area demonstrated that its senior leadership place high risk and media interest cases under considerable scrutiny. We found that volume cases are not treated to the same intense degree of case management.

10.46. We saw a presentation on protest cases and the approach the Area takes, which showed a good awareness of the need for proportionality and attention to the practicalities of managing often challenging, multi-handed cases.

10.47. We also saw a presentation on Victim Communication and Liaison (VCL) scheme letters, which showed that the Area has a real focus on the quality of such letters; one very high quality RASSO letter discussed had been identified nationally as an example of good practice. Additionally, the RASSO team has conducted an event on VCL letter writing which was subsequently used at a national CPS/police conference, which is a real positive.

11. Digital capability

11.1. One of the five aims of the of the Crown Prosecution Service’s (CPS’s) 2025 strategy²⁹ 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 Deputy Chief Crown Prosecutor (DCCP) and the Area Performance Manager provide a performance report template to the District Crown Prosecutors (DCPs), who complete these before the performance reviews that take place quarterly during Board meetings. The completed reports include an analysis of performance and actions taken to improve it.

11.5. There are also monthly team meetings where performance is discussed. Comprehensive minutes are produced, and a record of any outstanding actions is kept. This practice appears to be consistent across the magistrates’ court, Crown Court and RASSO teams.

11.6. The reports and discussions cover the high weighted measures identified by CPS Headquarters and other key aspects of casework quality, such as individual quality assessments (IQAs) and communications with victims. Success stories detailing good performance are also shared.

11.7. In the documents we saw, there was evidence that discussions taking place during the performance reviews are fed back to relevant stakeholders or forums where remedial action can be taken. For example, an issue was raised

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

around security breaches owing to unauthorised disclosure in one of the magistrates' court performance reports we saw. This was taken forward by the business board, who commissioned a report into the issue.

11.8. National performance issues, upcoming presentations to support staff and updates about digital tools are communicated to staff via newsletters produced quarterly by the national CPS Compliance and Assurance team.

11.9. Local updates, shared learning, areas for improvement and good news stories are circulated via the annual casework quality assurance board (CQAB) newsletter. Inspectors considered this document to be good practice, as it also provides information on annual priorities and gives insights into how the CQAB operates.

11.10. We also saw an example of the Area's rape and serious sexual offences (RASSO) newsletter, which covers legal updates, shared learning and success stories. It also provides a link to the national RASSO newsletter created especially for RASSO lawyers and paralegal officers.

11.11. The Area's performance against the high weighted measures is communicated via legal updates in the magistrates' court and Crown Court teams. Performance is also discussed during team meetings. For example, we saw minutes from a Crown Court team meeting in which the team was congratulated for performing very well on guilty pleas at first hearing.

11.12. The Area has subject leads in place whose details are published to all staff. We were told that this network was very beneficial, as it allows more specialist information to be shared among staff when necessary. For example, we were told that all changes resulting from the UK's exit from the European Union were fed back to lawyers to build confidence and resilience.

11.13. A joint magistrates' court and RASSO managers' reconnection event took place in December 2021. The event appeared to be an opportunity for managers to reconnect and listen to experiences outside their own team, share successes and challenges and discuss performance. It was also an opportunity for the DCCP to recognise the contribution each individual manager had made during the pandemic. The Crown Court team held a similar reconnection event at around the same time.

Digital tools and skills

Expectations

11.14. The Area makes sure that its people have the tools and skills they need to operate effectively in an increasingly digital environment. The Area includes digital skills audits within the training plan and delivers general and bespoke training to staff to enable them to effectively use the CPS case management system (CMS), Egress, digital case lines, the court store and the cloud video platform (CVP)³⁰.

Our findings

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

11.16. There is evidence that the Area is creating bespoke training and guidance to enable staff to effectively use various digital platforms. From the documents we received, relevant guidance and supporting training was available to staff on the two-way interface with police and the professional check-in functionality that forms part of the common platform initiative. A training session was held in November 2021 on how to operate the charging dashboard. We were told that a series of meetings with operational and legal managers were also held in May 2022 to discuss the principles of hybrid working.

11.17. The Area tracks the completion of training on Oracle. In terms of digital training, there were records for case management system (CMS) and Modern CMS training, Crown Court Digital Case System (DCS) training and Oracle training. The record tracks completion date against assigned learning.

11.18. Existing training and guidance are also communicated to staff in team meetings. An example was a magistrates' court team meeting, where staff were updated on the redaction log app and given a link to guidance on the redaction hub on the Intranet.

³⁰ Egress, digital case lines, the court store and the cloud video platform are digital tools to store case material or host remote hearings. They are explained further in the glossary in annex C.

11.19. The CPS reviewed its digital capability to ascertain how the CPS has engaged with colleagues in relation to digital working. The results of the review showed that staff were confident in using digital tools, but felt that they did not have sufficient time to learn new digital skills. The business board considered these results and decided to launch a local digital survey linked to the People Survey, in order to obtain more specific information. We were told that the results of this local digital survey were used to develop a training plan that will further support employees.

12. Strategic partnerships

12.1. One of the five aims of the of the Crown Prosecution Service's (CPS's) 2025 strategy³¹ is to make sure that "the CPS is a leading voice in cross-government strategies and international cooperation to transform the criminal justice system".

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

Strategic partnerships with the police

Expectations

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

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

Our findings

12.4. The Area has constructive relationships at a strategic level with all five of its local police forces (Derbyshire, Leicestershire, Lincolnshire, Northamptonshire and Nottinghamshire). We saw evidence of a clear understanding, at a senior level, of performance standards and the need for joint working to drive improvement.

12.5. Until the end of 2021, prosecution team performance management (PTPM) meetings were held between the Area and each of the five police forces. The aim of the PTPM meetings was to oversee performance by regularly reviewing performance data, identifying trends and issues, and agreeing actions required in relation to key areas where the CPS and the police interact.

³¹ *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

12.6. Nationally, PTPM meetings were replaced at the end of 2021 by Joint Operational Improvement Meetings (JOIMs). The purpose of the new JOIMs is to identify joint priority areas for focused activity to drive improvement in disclosure, effective case progression and other areas. It is also anticipated that the JOIMs will share good practice and adapt to local casework trends and issues.

12.7. We were provided with minutes of PTPM meetings and JOIMs, which included evidence of operational agreements around casework quality, training activities with all five police forces and reports from scrutiny panels. These meetings showed positive dialogue between the Area and police. Levels of engagement varied between the five forces, but were generally good across the board. The evidence we saw shows a consistent approach to casework quality by senior management when engaging with the police.

12.8. During the period covered by our file sample, PTPM meetings and JOIMs were held regularly with each force. We could see that key aspects of casework and performance were discussed, such as compliance with the Director's Guidance on Charging, charging and action plans, disclosure and redaction, casefile quality and triage, and early guilty plea rates.

12.9. The Area recognises that there are issues with casework quality, specifically with action plans and reasonable lines of enquiry. We saw in Quarter 3 of 2021–22 (October to December 2021), from the Crown Court performance report, an agreed action that the Area would train the detectives of several police forces to address these issues. The Area acknowledges that it is not resourced to train police officers to an intensive degree, but this training has provided an opportunity for the Area to raise awareness of the role of the CPS among investigative police officers and to help them understand what is required to build a quality file.

12.10. The first session was held in January 2022. Three training sessions have been completed and there are plans to do one more. The Area has used the training to ask the police to put in place improved supervision and to roll out in-house training by way of a follow-up. The Area has also invited officers to attend CPS training courses locally.

12.11. In the Area's view, the training has had positive benefits and led to enhanced collaborative working. Furthermore, in return the police have provided firearms offences training to prosecutors.

12.12. The District Crown Prosecutor who manages CPS East Midlands' dedicated domestic abuse team holds monthly meetings with the five police forces to drive improvement in performance on domestic abuse casework. In

one such meeting, a number of cases referred to the CPS and an investigation on which the police took no further action were discussed to identify any themes and establish whether a case could have been built and charged.

12.13. These meetings began two years ago and the Area reports an increase in referrals of evidence-led domestic abuse cases in that time. The Area believes there has been an observable shift in focus from the police towards domestic abuse cases. By way of example, the Area cited Leicestershire police's production of a newsletter that includes lessons learned on domestic abuse cases.

12.14. We were provided with a Memorandum of Understanding between the CPS and all five police forces around early investigative advice in RASSO cases. The memorandum sets out when the police ought to seek such advice, the standard of file submission expected and the level of service the police can expect from the CPS.

12.15. The Area reported that it has seen a steady increase in volumes of file referrals. The Area has endeavoured to raise awareness of early investigative advice and has made a joint training video with the police that looks at the use of the process and the standard required of file submissions. However, as we note in chapter 2, there has been a significant decrease in overall RASSO receipts since February 2021.

Strategic partnerships with the criminal justice system

Expectations

12.16. 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

12.17. We saw evidence of constructive discussions with criminal justice partners. This included evidence of meetings with the Regional Disclosure Board, the Criminal Justice Board (CJB) and the Transforming Summary Justice (TSJ) Task Force Group.

12.18. The Chief Crown Prosecutor (CCP) attends the CJB meetings with other criminal justice system partners including senior police officers, members of HM Courts and Tribunals Service (HMCTS) and the National Probation Service. The

CJB also hosts the TSJ Task Force Group, which is attended by the CPS, HMCTS and the police. The CCP also attends the Crown Court Senior Leaders Meeting, attended by senior counsel and Resident Judges.

12.19. The Area is also present at monthly communications meetings with HMCTS. The purpose of these meetings is to discuss listing, caseloads and specific issues arising out of case management.

12.20. We also saw notes of telephone meetings with agent prosecutors and with local chambers.

12.21. In the TSJ Task Force Group minutes from November 2021 and January 2022, we saw evidence that the Area conducts detailed discussions on quarterly performance data with its criminal justice partners, focusing on the number of hearings per case, the effective trial rate, cracked and ineffective trials and trial recovery. It was apparent from these minutes that the Area challenges misconceptions where they arise and has been proactive in focusing the agenda of the meetings on the issues that most affect casework performance.

12.22. Minutes from the CJB meetings demonstrate that there is a productive working relationship between the Area and HMCTS at a senior level. The CCP meets weekly with her HMCTS counterpart to discuss case management, listing and the management of custody time limits (CTLs). The Area is aware of the pressure on casework from the increase in CTL cases. The Area assumes a strong negotiating position in its discussions by providing key performance data and selecting cases illustrative of high-risk areas of work.

Self-employed barristers (counsel)

12.23. We were provided with evidence that showed the Area engages productively with agent prosecutors and counsel. Since August 2021, the Area has used regular dial-ins with agents. The Area uses these calls to convey relevant information about case management directly to agents. The agents report directly back to Area managers on matters that have arisen at court. This appears to be a constructive method of communication that facilitates the exchange of accurate information in a timely manner.

12.24. Notes from these dial-ins reveal that the Area has seen an improvement in the quality and timeliness of reviews as a result of agents requesting more accurate and detailed information from prosecutors. It was also evident that these conversations have led the Area to focus on grip in cases. The Area has raised with agents the need for more consistent service of statements at court, timelier returns of hearing record sheets and improved adherence to the Code of Practice for Victims of Crime, with heavy emphasis on the importance of

notifying the Victim Liaison Unit immediately after court if there is need to write to victims.

12.25. The Area acknowledged that it has no assurance process in place to monitor compliance with the speaking to witnesses at court (STWAC) initiative. Given the issues revealed in our file examination around the lack of evidence that STWAC had taken place in a number of magistrates' court and Crown Court cases, this is something the Area will likely want to address.

12.26. We saw evidence of good working relationships with local sets of chambers, with regular meetings held with them at senior level. The Area has reported that it has experienced difficulties with the availability of counsel; locally, there is a shortage of appropriately experienced counsel, particularly those suitable for certain high-risk cases.

12.27. The Area sees the expansion of the crown advocate cadre as a partial solution, but it does not have sufficient funding to meet the need for additional advocates. This shortage also has a direct impact on the Area's ability to make sure it obtains quality work from counsel.

12.28. The Area is aware that there are several aspects of the service it receives from counsel which require improvement, including the timeliness of advices, preparation for hearings and the effective use of the Disclosure Management Document to avoid unnecessary court directions. All these issues have been raised with chambers.

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.

Area inspection programme CPS East Midlands

- 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	69.2% 30.8%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	92.0% 4.0% 4.0%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	11.5% 53.8% 34.6%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	30.8% 38.5% 30.8%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	34.8% 43.5% 21.7%
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	11.5% 73.1% 15.4%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	25.0% 45.8% 29.2%
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	60.0% 40.0%
10	The police file submission was timely.	Fully met Not met	90.0% 10.0%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	25.0% 33.3% 41.7%

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	26.7% 46.7% 26.7%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	73.1% 26.9%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	40.0% 40.0% 20.0%
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	55.6% 11.1% 33.3%
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	50.0% 16.7% 33.3%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	90.0% 10.0%
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	26.7% 60.0% 13.3%

No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	75.0% 6.3% 18.8%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	30.8% 15.4% 53.8%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	21.4% 28.6% 50.0%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	91.3% 4.3% 4.3%
34	Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.	Fully met Partially met Not met	58.3% 25.0% 16.7%
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	70.6% 23.5% 5.9%
36	Correspondence from the court and defence was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	40.9% 45.5% 13.6%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	57.1% 23.8% 19.0%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	80.0% 10.0% 10.0%
Disclosure of unused material			
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	42.9% 42.9% 14.3%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	35.7% 46.4% 17.9%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not carry out initial disclosure at all	5.6%
		Did not endorse any decisions on the MG6C	22.2%
		Did not identify reasonable lines of enquiry	11.1%
		Failed to identify that other obvious items of unused material were not scheduled	22.2%
		Other	5.6%
		Said DUM was not disclosable	11.1%
		Said NDUM was disclosable	5.6%
		Used the wrong endorsements	16.7%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	60.7%
		Partially met	10.7%
		Not met	28.6%
45	The prosecutor complied with the duty of continuous disclosure (but not including timeliness of disclosure).	Fully met	100%
		Partially met	
		Not met	
46	If Q45 is PM or NM, the most significant failing was:	Other	100%
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	100%
		Partially met	
		Not met	
49	Third-party material was dealt with appropriately.	Fully met	100%
		Partially met	
		Not met	
51	Inadequate defence statements were challenged.	Fully met	100%
		Partially met	
		Not met	

No.	Question	Answers	Result
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	100%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	75.0% 17.9% 7.1%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	56.3% 6.3% 37.5%
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	61.1% 11.1% 27.8%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	66.7% 16.7% 16.7%
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	87.5% 6.3% 6.3%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	22.2% 33.3% 44.4%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	33.3% 66.7%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	36.4% 40.9% 22.7%

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	85.3% 14.7%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	85.3% 8.8% 5.9%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully met Partially met Not met	62.1% 27.6% 10.3%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	14.7% 44.1% 41.2%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	32.4% 29.4% 38.2%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	22.2% 22.2% 55.6%
7	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the PET/PTPH form created with the MG3.	Fully met Partially met Not met	23.5% 55.9% 20.6%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	31.3% 34.4% 34.4%
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	50.0% 50.0%
10	The police file submission was timely.	Fully met Not met	82.5% 17.5%
11	The CPS used the NFQ assessment tool in the review document to identify and feed back to the police on any failings in the file submission.	Fully met Partially met Not met	30.0% 25.0% 45.0%
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	87.5% 12.5%

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	30.0% 20.0% 50.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	80.0% 7.5% 12.5%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	58.3% 25.0% 16.7%
16	Any pleas accepted were appropriate, with a clear basis of plea.	Fully met Partially met Not met	40.0% 40.0% 20.0%
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	64.3% 28.6% 7.1%
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	30.3% 18.2% 51.5%
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	52.6% 21.1% 26.3%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	75.0% 17.5% 7.5%

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	42.5% 52.5% 5.0%
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No.	Question	Answers	Result
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	59.3% 14.8% 25.9%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	62.5% 25.0% 12.5%
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	75.0% 20.0% 5.0%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	51.3% 33.3% 15.4%
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	53.8% 35.9% 10.3%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	87.5% 10.0% 2.5%
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	91.7% 8.3%
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	27.8% 5.6% 66.7%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	69.7% 27.3% 3.0%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	33.3% 50.0% 16.7%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	93.8% 6.3%
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	76.0% 20.0% 4.0%

No.	Question	Answers	Result
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	80.6% 13.9% 5.6%
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% 10.0% 6.7%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	58.3% 27.8% 13.9%
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	85.0% 10.0% 5.0%
Disclosure of unused material			
39	In relevant cases a DMD was completed.	Fully met Partially met Not met	41.7% 58.3%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	80.0% 20.0%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	29.4% 38.2% 32.4%
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	29.4% 44.1% 26.5%

No.	Question	Answers	Result
43	If Q42 is PM or NM, the most significant failing was:	Did not carry out initial disclosure at all	8.3%
		Did not endorse any decisions on a non-blank MG6D	4.2%
		Did not endorse any decisions on the MG6C	12.5%
		Did not endorse any decisions on the MG6C	4.2%
		Did not identify reasonable lines of enquiry	12.5%
		Failed to endorse or sign a blank MG6D	12.5%
		Failed to identify that other obvious items of unused material were not scheduled	16.7%
		Other	20.8%
		Said DUM was not disclosable	4.2%
		Said NDUM was disclosable	4.2%
		Set out the wrong test for disclosure (eg courtesy disclosure)	
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met	90.9%
		Partially met	3.0%
		Not met	6.1%
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met	60.7%
		Partially met	21.4%
		Not met	17.9%

No.	Question	Answers	Result
46	If Q44 is PM or NM, the most significant failing was:	Did not carry out continuous disclosure at all Did not endorse any decisions on newly revealed items Other Said DUM was not disclosable	18.2% 18.2% 45.5% 18.2%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met Partially met Not met	55.6% 22.2% 22.2%
48	Sensitive unused material was dealt with appropriately.	Fully met Partially met Not met	62.5% 37.5%
49	Third-party material was dealt with appropriately.	Fully met Partially met Not met	25.0% 25.0% 50.0%
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met Partially met Not met	71.4% 14.3% 14.3%
51	Inadequate defence statements were challenged.	Fully met Partially met Not met	25.0% 25.0% 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	57.1% 28.6% 14.3%
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met Partially met Not met	52.9% 29.4% 17.6%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met Partially met Not met	40.0% 16.0% 44.0%
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met Partially met Not met	38.1% 28.6% 33.3%
56	The victim's wishes regarding VPS were complied with.	Fully met Partially met Not met	57.1% 21.4% 21.4%

No.	Question	Answers	Result
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	43.8% 31.3% 25.0%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	20.0% 10.0% 70.0%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	66.7% 33.3%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	34.8% 26.1% 39.1%

RASSO

No.	Question	Answers	Result
Pre-charge decision			
1	The CPS decision to charge was compliant with the Code Test.	Fully met Not met	94.4% 5.6%
2	The CPS decision to charge was timely.	Fully met Partially met Not met	61.1% 22.2% 16.7%
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% 11.8% 11.8%
4	The CPS MG3 included proper case analysis and case strategy.	Fully met Partially met Not met	33.3% 61.1% 5.6%
5	The CPS MG3 dealt appropriately with unused material.	Fully met Partially met Not met	22.2% 44.4% 33.3%
6	The CPS MG3 referred to relevant applications and ancillary matters.	Fully met Partially met Not met	6.3% 25.0% 68.8%
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	11.1% 33.3% 55.6%
8	The action plan was proportionate and met a satisfactory standard.	Fully met Partially met Not met	23.1% 53.8% 23.1%

No.	Question	Answers	Result
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	85.0% 15.0%
10	The police file submission was timely.	Fully met Not met	100%
11	The CPS used the NFAQ 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	66.7% 33.3%
Post-charge reviews and decisions			
12	All review decisions post-charge applied the Code correctly.	Fully met Not met	95.0% 5.0%
13	The case received a proportionate initial or post-charge review including a proper case analysis and case strategy.	Fully met Partially met Not met	40.0% 25.0% 35.0%
14	The initial or post-charge review was carried out in a timely manner.	Fully met Partially met Not met	90.0% 5.0% 5.0%
15	Any decision to discontinue was made and put into effect in a timely manner.	Fully met Partially met Not met	85.7% 14.3%
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	82.4% 5.9% 11.8%
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	12.5% 18.8% 68.8%

No.	Question	Answers	Result
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	9.1% 18.2% 72.7%
20	The CPS made appropriate and timely decisions about custody and bail throughout the life of the case.	Fully met Partially met Not met	45.0% 30.0% 25.0%
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	65.0% 30.0% 5.0%
22	Any hard media was shared via Egress with all parties before the NGAP hearing or PTPH.	Fully met Partially met Not met	57.9% 26.3% 15.8%
23	In CC cases (including RASSO cases before the CC), a properly drafted indictment was prepared.	Fully met Partially met Not met	47.4% 36.8% 15.8%
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	80.0% 10.0% 10.0%
25	In CC and RASSO cases, a clear instruction to advocate document was prepared.	Fully met Partially met Not met	45.0% 40.0% 15.0%
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	30.0% 60.0% 10.0%
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Fully met Partially met Not met	70.0% 30.0%

No.	Question	Answers	Result
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Fully met Partially met Not met	92.9% 7.1%
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	Fully met Partially met Not met	100%
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	Fully met Partially met Not met	50.0% 50.0%
31	There was timely compliance with court directions or Judges' Orders.	Fully met Partially met Not met	72.2% 16.7% 11.1%
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Fully met Partially met Not met	37.5% 12.5% 50.0%
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Fully met Partially met Not met	88.9% 5.6% 5.6%
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	73.3% 20.0% 6.7%
35	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully met Partially met Not met	73.7% 21.1% 5.3%
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	72.2% 27.8%
37	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully met Partially met Not met	76.5% 23.5%
38	There was a clear audit trail on CMS of key events, decisions and actions, with correct labelling of documents and appropriate use of notes.	Fully met Partially met Not met	80.0% 20.0%

Disclosure of unused material

No.	Question	Answers	Result
39	In relevant cases, a DMD was completed.	Fully met Partially met Not met	52.6% 36.8% 10.5%
40	The DMD was completed accurately and fully in accordance with the guidance.	Fully met Partially met Not met	35.3% 52.9% 11.8%
41	The police complied with their disclosure obligations.	Fully met Partially met Not met	22.2% 55.6% 22.2%
42	The prosecutor complied with the duty of initial disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully met Partially met Not met	16.7% 77.8% 5.6%
43	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on a non-blank MG6D Did not endorse any decisions on the MG6C Did not identify reasonable lines of enquiry Failed to endorse or sign a blank MG6D Failed to identify that other obvious items of unused material were not scheduled Said NDUM was disclosable Set out the wrong test for disclosure (eg courtesy disclosure) Used the wrong endorsements	40.0% 6.7% 13.3% 6.7% 6.7% 6.7% 13.3% 6.7%
44	The prosecution complied with its duty of initial disclosure in a timely manner.	Fully met Partially met Not met	83.3% 5.6% 11.1%
45	The prosecutor complied with the duty of continuing disclosure (but not including timeliness of disclosure).	Fully met Partially met Not met	81.3% 18.8% -

No.	Question	Answers	Result
46	If Q42 is PM or NM, the most significant failing was:	Did not endorse any decisions on newly revealed items	33.3%
		Did not identify reasonable lines of enquiry	33.3%
		Failed to identify that other obvious items of unused material were not scheduled	33.3%
47	The prosecution complied with its duty of continuing disclosure in a timely manner.	Fully met	75.0%
		Partially met	
		Not met	25.0%
48	Sensitive unused material was dealt with appropriately.	Fully met	60.0%
		Partially met	10.0%
		Not met	30.0%
49	Third-party material was dealt with appropriately.	Fully met	50.0%
		Partially met	42.9%
		Not met	7.1%
50	In CC cases (including RASSO cases before the CC), late defence statements were chased.	Fully met	62.5%
		Partially met	12.5%
		Not met	25.0%
52	The defence statement was reviewed by the prosecutor and direction given to the police about further reasonable lines of enquiry.	Fully met	81.3%
		Partially met	18.8%
		Not met	
53	The disclosure record on Modern CMS was properly completed with actions and decisions taken on disclosure.	Fully met	44.4%
		Partially met	50.0%
		Not met	5.6%
54	The CPS fed back to the police where there were failings in the police service regarding disclosure.	Fully met	7.1%
		Partially met	28.6%
		Not met	64.3%
Victims and witnesses			
55	The prosecutor consulted victims and witnesses where appropriate (includes STWAC).	Fully met	52.9%
		Partially met	35.3%
		Not met	11.8%
56	The victim's wishes regarding VPS were complied with.	Fully met	55.6%
		Partially met	33.3%
		Not met	11.1%

Area inspection programme CPS East Midlands

No.	Question	Answers	Result
57	The prosecution sought appropriate orders to protect the victim, witnesses and the public.	Fully met Partially met Not met	72.7% 18.2% 9.1%
58	There was a timely VCL letter when required.	Fully met Partially met Not met	14.3% 14.3% 71.4%
59	The VCL letter was of a high standard.	Fully met Partially met Not met	100%
60	The CPS MG3 actively considered relevant applications and ancillary matters to support victims and witnesses.	Fully met Partially met Not met	5.9% 35.3% 58.8%

Annex C

Glossary

Achieving Best Evidence (ABE)

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

Agent

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

Ancillary order

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

Area Business Manager (ABM)

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

Area Champion

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

Associate Prosecutor (AP)

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

Attorney General (AG)

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

Bad character

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

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

Barrister/Counsel

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

Basis of plea

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

Better Case Management (BCM)

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

Case management system (CMS)

The IT system used by the CPS for case management.

Casework Quality Standards (CQS)

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

Charging decision

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

Chief Crown Prosecutor (CCP)

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

Cloud video platform (CVP)

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

Code for Crown Prosecutors (the Code)

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

Common platform

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

Complex Casework Unit (CCU)

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

Contested case

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

Court order/direction

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

CPS Direct (CPSD)

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

Cracked trial

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

Criminal Procedure Rules (CPR)

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

Crown advocate (CA)

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

Crown Court

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

Crown prosecutor (CP)

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

Custody time limit (CTL)

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

Custody time limit failure

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

Defendant

Someone accused of and charged with a criminal offence.

Defence statement

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

Deputy Chief Crown Prosecutor (DCCP)

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

Digital Case System (DCS)

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

Direct defence engagement log (DDE)

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

Director's Guidance on Charging

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

Director of Public Prosecutions (DPP)

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

Disclosure/unused material

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

Disclosure management document (DMD)

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

Disclosure record sheet (DRS)

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

Discontinuance

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

District Crown Prosecutor (DCP)

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

Domestic abuse

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

Effective trial

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

Either-way offence

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

Full Code test

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

Graduated fee scheme (GFS)

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

Guilty anticipated plea (GAP)

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

Hate crime

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

Hearing record sheet (HRS)

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

Her Majesty's Courts and Tribunals Service (HMCTS)

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

Honour based violence (HBV)

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

Inclusion and community engagement strategy

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

Indictable-only offence

An offence triable only in the Crown Court.

Indictment

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

Individual Learning Account (ILA)

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

Individual quality assessment (IQA)

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

Ineffective trial

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

Initial details of the prosecution case (IDPC)

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

Intermediary

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

Local Criminal Justice Boards (LCJBs)

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

Local Scrutiny 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' courts sample included three youth cases; the remainder were adult cases. Minor motoring cases were excluded from the magistrates' courts file sample.

All Crown Court files were chosen from those set down for trial or that had had a PTPH, to capture the post-sending review and pre-PTPH preparation (save for discontinuances, where the decision to discontinue may have been made before the PTPH). Homicide cases were excluded for two reasons: first, because they are frequently investigated by specialist police teams so are not representative of an Area's volume work; second, because they are harder for HMCPSI to assess, as some of the information in the case is often stored off the case management system and not accessible to inspectors. Fatal road traffic collision cases were not excluded.

RASSO files included offences involving child victims, but all domestic abuse RASSO cases had adult victims. No more than two cases were possession of indecent images, and no more than two cases were ones involving a non-police decoy or child sex abuse vigilante in child-grooming or meeting cases.

Table 19: File sample structure

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' courts 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' courts and Crown Court samples. As far as possible, they were evenly split between successful and unsuccessful outcomes. Occasionally, it may have been necessary to exceed the minimum numbers in certain categories of sensitive casework to avoid selecting older cases, but this was at the discretion of the lead inspector.

Table 20: Minimum sensitive case types in sample

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

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

Annex F

Scoring methodology

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

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

We used our file examination data to give scores for added value and grip, which are set out as percentages. They were obtained by taking the questions that feed into each aspect³² 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

³² See annex G for which questions contributed to each of the casework themes.

- disclosure
- victims and witnesses.

The scores for these themes were obtained by taking the answers for the questions that feed into the theme. We allocated:

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

We then expressed the total points awarded as a percentage of the maximum possible points. Not applicable answers were excluded.

For the casework themes and sub-themes, we have reported the percentages, but have also used a range of percentages (see Table 22) to convert the percentage into a finding of fully, partially, or not meeting the expected standard for the theme or sub-theme overall.

Table 21: Conversion of percentages into ratings

Rating	Range
Fully meeting the standard	70% or more
Partially meeting the standard	60% to 69.99%
Not meeting the standard	59.99% or less

A worked example

Relevant questions

For the victims and witnesses aspect of casework in the magistrates' courts, we took the answers from the following nine questions:

- Q17: Steps were taken to achieve best evidence by making appropriate applications for special measures (including drafting where a written application is required).
- Q33: Steps were taken to secure best evidence by correct and timely warning of witnesses.
- Q34: Steps were taken to secure best evidence by addressing correspondence from the WCU and any witness issues in a timely manner with effective actions.
- Q55: The prosecutor consulted victims and witnesses where appropriate (includes STWAC).
- Q56: The victim's wishes regarding VPS were complied with.
- Q57: The prosecution sought appropriate orders to protect the victim, witnesses and the public.
- Q58: There was a timely VCL letter when required.
- Q59: The VCL letter was of a high standard.
- Q60: The CPS MG3 actively considered relevant applications and ancillary matters designed to support victims and/or witnesses.

File examination results

This data is fictitious and used only to demonstrate the scoring mechanism. For the 30 magistrates' court files, we scored the relevant questions as set out in Table 21.

Table 22: Worked example scores

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

Area inspection programme CPS East Midlands

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

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
14	The initial or post-sending review was carried out in a timely manner.	NA	Grip

No.	Question	Casework theme	Included in added value or 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 ³³	No
26	In CC cases (including RASSO cases before the CC), the advocate was instructed at least seven days before the PTPH.	Preparation for PTPH	No
27	In CC cases (including RASSO cases before the CC), the duty of direct engagement was carried out.	Preparation for PTPH	No
28	In CC cases (including RASSO cases before the CC), the DDE was uploaded to DCS.	Preparation for PTPH	No
29	In CC cases (including RASSO cases before the CC) and the youth court where counsel is instructed, if there was no advice on evidence covering all necessary issues, this was chased.	NA	Grip
30	In RASSO cases, a conference with the trial advocate, OIC and any expert witnesses took place.	NA	Grip
31	There was timely compliance with court directions or Judges' Orders.	NA	Grip
32	Appropriate applications (eg BCE, hearsay) were used effectively to strengthen the prosecution case.	Post-charge: Case strategy	Added value
33	Steps were taken to secure best evidence by correct and timely warning of witnesses.	Victims and witnesses	No

³³ 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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