



HMCPSI

HM Crown Prosecution
Service Inspectorate

An inspection of the effectiveness of Crown Prosecution Service policy and guidance for the handling of cases involving the National Referral Mechanism

July 2023

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Who we are

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

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

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

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1. Summary

Introduction and context

What are county lines?

1.1. The illegal drug trading model known as “county lines” has been deployed for many years by criminal gangs. However, in the last decade, it has become better known amongst wider society. The term “county lines” is used to describe the process by which organised criminal gangs, usually from larger cities (called “exporting” cities), move illegal drugs into county towns and other less urban areas. They use dedicated mobile phone lines to sell to local drug users. The gangs often exploit vulnerable individuals, including adults and children to distribute drugs to customers, as well as to move and store drugs and money. In a process known as “cuckooing”, gangs take over the homes of vulnerable adults and use it as their local base, installing drugs and drug runners there. Runaway and/or children in the care system are particularly at risk and are liable to be moved or trafficked away from their home area. The gangs frequently use coercion, intimidation, violence (including sexual violence) and weapons to force the participation of individuals at the frontline of the county lines operation. The government’s guidance page for its County Lines Programme¹ describes it as “the most violent and exploitative distribution model yet seen.”

1.2. The three largest exporting cities fall within the areas covered by the Metropolitan Police Service, Merseyside Police, and West Midlands Police.

1.3. As the practice of establishing county lines networks has become more prevalent, inevitably a growing number of people have become victims of modern slavery and/or exploitation. The rise in county line operations has led to an increase in the number of runaway/looked after children and vulnerable adults who are coerced or exploited. This is evident from the rising number of referrals made for a determination of whether a person is a victim of modern slavery.

1.4. Determination referrals are made through the National Referral Mechanism² (NRM) to the single competent authority (SCA)³, which is part of the Home Office. Based on the referral, the SCA decides whether they consider the individual to be a victim of modern slavery and/or exploitation.

¹ [County lines: criminal exploitation of children and vulnerable adults - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/county-lines-criminal-exploitation-of-children-and-vulnerable-adults)

² [National referral mechanism guidance: adult \(England and Wales\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/national-referral-mechanism-guidance-adult-england-and-wales)

³ The Single Competent Authority (SCA) is part of the Home Office and identifies victims of modern slavery through the National Referral Mechanism.

Given the impact of this serious offending, it is crucial that the right decisions are made by the Crown Prosecution Service (CPS) in cases where there has been a referral and a section 45 defence has been determined.

Additionally, an immigration enforcement competent authority (IECA) which deals primarily with foreign nationals.

1.5. In 2020, there were 10,585 referrals submitted to the SCA⁴. By 2021, referrals to both competent authorities, the SCA and the IECA, increased to 12,706, reflecting a 20.0% rise. In 2022, the number further rose to 16,938, an increase of 33.3% from 2021 and a 60.0% increase from 2020. This also represented the biggest increase since 2009 when the National Referral Mechanism began⁵. The Home Office document *'Devolving child decision-making pilot programme: general guidance'*⁶ prepared in July 2022, highlighted that *"UK National children...{are}...the fastest growing group in the NRM in England and Wales, in part driven by county lines activity"*.

1.6. A vulnerable person who has been forced to commit a crime due to exploitation or slavery may be able to avail themselves of the statutory defence (contained in section 45 of the Modern Slavery Act 2015⁷) and the non-punishment principles⁸. However, the section 45 defence can be open to abuse by unscrupulous individuals and criminal gangs who exploit the existence of the defence to assist them in recruiting and coercing others to commit offences on their behalf.

1.7. Given the impact of this serious offending, it is crucial that the right decisions are made by the Crown Prosecution Service (CPS) in cases where there has been a referral and a section 45 defence has been determined. This is

⁴ The immigration competent authority was not set up until 2021.

⁵ The data is available at [National Referral Mechanism statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/national-referral-mechanism-statistics) and in data tables:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1139166/national-referral-mechanism-statistics-uk-quarter-4-2022-october-to-december-tables.ods

⁶ [Devolving child decision-making pilot programme: general guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/devolving-child-decision-making-pilot-programme-general-guidance)

⁷ [Modern Slavery Act 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2015/31)

⁸ An accused person who has committed an offence due to being groomed, manipulated, or threatened may have a defence to the offence through section 45 of the Modern Slavery Act 2015, the law on duress and public interest considerations. These are referred to as the non-punishment principles.

particularly important when prosecuting defendants who may be victims of modern slavery or exploitation.

1.8. Given the growing nature of county line cases and the rise in referrals to the SCA (and IECA), we outlined in our business plan and inspection programme the intention to undertake an inspection of county lines. We first set out this proposed inspection in the 2020/21 business plan and have subsequently carried this intention forward in each new annual business plan. Our initial proposal in 2020/21 business plan stated:

Gang crime, county lines and knife crime

This inspection will focus on how the CPS is working with the police and the quality of the casework in gang crime cases, with a focus on country line cases and offences involving knives. If these inspections take place this year, a decision will be made about whether the complexity of the subjects will require two separate inspections.

1.9. With the advent of the pandemic and undertakings to carry out a significant programme of inspection of CPS Areas and the Serious Fraud Office we decided that a more narrowly focused inspection of CPS policy and guidance to support cases that include 'county line' victims and the section 45 defence as a starting point.

1.10. Therefore, this inspection is unusual in terms of how HMCPSI would usually assess CPS performance as it does not include a case file examination of legal decision making. The inspection's focus is to assess whether the guidance and policy support prosecutors in effectively making decisions in cases. To ensure that decisions are correct and consistent, it is essential that the policies and guidance documents on which CPS lawyers rely are detailed, up-to-date, and helpful to prosecutors. These considerations formed the basis of this inspection.

Headlines

A great deal of time and attention has been spent by CPS on drafting the key guidance documents for county lines and modern slavery their casework and revising policies.

well as leading across the system, has made sure that the CPS policy and guidance has kept abreast of updates and developments.

1.12. The CPS is aware of the importance of getting county lines casework right, and its commitment is illustrated perhaps most significantly by the podcast presented by the Director of Public Prosecutions emphasising the need for careful handling of these cases.

Whilst our overall view is that guidance is effective and extensive, there are some aspects that could be improved and enhanced.

has been recognised and endorsed by the Court of Appeal in several leading judgments.

1.14. Whilst our overall view is that guidance is effective and extensive, there are some aspects that could be improved and enhanced.

1.11. A great deal of time and attention has been spent by CPS on drafting the key guidance documents for county lines and modern slavery their casework and revising policies. The CPS has worked with others across the criminal justice system and has taken the lead with partners to develop guidance, test, and develop the law in this space. The Strategy and Policy Directorate (SPD)⁹ and the Director of Legal Services Team (DLST)¹⁰ has been proactive and, as

1.13. Large parts of the guidance documents are extremely helpful, particularly the sections on the four-stage approach to applying the Code for Crown Prosecutors where the suspect may have been a victim of slavery or trafficking. The four-stage test was developed by the CPS to enable prosecutors to navigate their responsibilities under domestic and international law and

⁹ The Strategy and Policy Division works on issues impacting the criminal justice system and produces legal and policy frameworks to ensure that CPS staff have the powers and tools to do their job effectively and efficiently.

¹⁰ The Director of Legal Services Team are accountable for casework which are novel, complex, or high profile. They are also responsible for the continual improvement and development of CPS legal guidance. See the glossary for more information.

1.15. The guidance for cases in the pre-charge stage could be improved. While it is clear from the current guidance that prosecutors should have the Code for Crown Prosecutors at the forefront of their mind, a requirement in all cases, some additional practical advice, including how to manage delays in receiving a conclusive grounds assessment, would be helpful. This additional practical guidance would be beneficial for cases dealing specifically with section 45 defences.

1.16. The need for more practical advice was highlighted by the inconsistency we encountered when interviewing prosecutors about cases involving section 45. In addition, our interview findings highlight that magistrates' court prosecutors rely on more than just the legal guidance when working on a case of this type. The legal guidance itself is extremely lengthy which for prosecutors dealing with high volumes of cases may be impractical and daunting. We were told by some prosecutors, the voluminous nature of the guidance often leads them to seek advice from colleagues, managers or use local training and guidance documents prepared by their own Area. Whilst the Areas who have drafted these more 'user friendly' documents should be commended, the lack of reliance on national guidance risks inconsistency in casework.

1.17. Some staff members we spoke to mentioned difficulties in locating and accessing guidance. Some of this may be due to time constraints faced by busy prosecutors, as the guidance is clearly set out on the CPS intranet. We noted that although the section 45 defence is of key relevance to a prosecution of a child, at the time of our inspection field work a link was not contained in the youth guidance. Subsequently, this omission has been rectified in the newly titled 'Children as suspects and Defendants Legal Guidance'¹¹ Legal Guidance, which has replaced the Youth Guidance.

1.18. National training, which was rolled out in 2021, covered county lines and the section 45 defence. Additionally, at the time of writing, a new training programme is being developed for delivery later this year. We also found a positive commitment in the Areas we visited to developing prosecutor understanding as all Areas had undertaken their own training on county lines and modern slavery in the past two years.

1.19. The CPS Strategy and Policy Directorate (SPD) and the office of the Directors of Legal Service Team (DLST) have proactively ensured that the development of national policy and on-going revision, as the law changes, has been fully reflected in guidance and policy. This proactive approach should be commended, as there is a real commitment from the national leads to ensuring

¹¹ [Children as suspects and defendants \(sharepoint.com\)](#)

that all prosecutors understand the topic, which greatly aids in the preparation of these cases.

1.20. In many ways, the CPS have achieved this, but as outlined above some improvement on certain aspects can be made, including correcting some outdated and inaccurate information on the CPS policy hub.

Recommendations

1.21. We make the following four recommendations.

Recommendations
By 30 September, the CPS should remove any outdated and inaccurate content from the internal CPS hub. [paragraph 4.49]
By 31 October 2023, the CPS should include a link to the guidance on the section 45 defence and the non-punishment principles in the Children as suspects guidance, thereby ensuring that operational support is available across all casework types. [paragraph 5.6]
By 31 December 2023, the CPS to revise, restructure and retitle the current guidance to make it more accessible to volume crime units. [paragraph 5.12]
By 31 December 2023, the CPS to develop a system of assurance that can prove that CPS Areas are taking a consistent approach in the prosecution of cases involving the section 45 defence and the application of the non-punishment principles. [paragraph 6.19]

1.22. As this inspection did not involve a casework examination, we do not identify any compliance issues or strengths in line with our usual methodology.

2. Background and context

County Lines

2.1. In December 2021, HM Government released a report titled *'From Harm to Hope: a 10-year drugs plan to cut crime and save lives'*¹². The report identified breaking drug supply chains as a priority for the government. According to the plan, this would be achieved by: "closing 2,000 county lines gangs and disrupting 6,400 organised crime activities".

2.2. The term "county lines" is described in the Crown Prosecution Service (CPS) document *'County Lines Typology'*¹³ as: "County lines operates by gangs from urban areas, in particular London but also other cities, introducing a telephone number in a new area to sell drugs directly at street level. Potential buyers telephone the number and local runners are dispatched to make deliveries via a telephone 'relay or exchange' system. The 'runners' are almost invariably children, often boys aged 14 to 17 years, who are groomed with the promise of money and gifts and deployed or forced to carry out day to day dealing. Runaway and missing children are also used by gangs to expand inner city drugs operations into county towns."

2.3. Gangs involved in county lines operations exploit not only children but also vulnerable adults. This is especially evident in cases of "cuckooing", where a drug dealer takes control of a vulnerable person's home to use as a storage and distribution hub for drugs.

2.4. Due to the frequent exploitation of vulnerable individuals, when reviewing a county lines drugs case, the prosecutor should consider whether any suspect has entered into the offending voluntarily or has been threatened, manipulated, or groomed. If the suspect fits the criteria, they may have a defence to a criminal charge. Prosecutors should also take into account section 45 of the Modern Slavery Act 2015, which covers the law on duress, as well as public interest considerations (including the non-punishment principles¹⁴ to which the United Kingdom has committed itself in various international treaties).

¹² *From harm to hope: A 10-year drugs plan to cut crime and save lives*; HM Government, December 2021. [From harm to hope: A 10-year drugs plan to cut crime and save lives - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101422/From_harm_to_hope_A_10_year_drugs_plan_to_cut_crime_and_save_lives_-_GOV.UK_(www.gov.uk).pdf)

¹³ https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/County-Lines-typology.docx

¹⁴ [The importance of implementing the non-punishment provision: the obligation to protect victims | OHCHR](https://www.ohchr.org/en/instruments-treaties/the-importance-of-implementing-the-non-punishment-provision-the-obligation-to-protect-victims)

Modern Slavery Act 2015

The statutory defence

2.5. Section 45 of the Modern Slavery Act 2015¹⁵ (“the Act”) introduced a statutory defence to some behaviours carried out by a victim of modern slavery or trafficking, which would otherwise be criminal offences. To avail themselves of the provisions of section 45, a suspect must present enough evidence to make it possible for there to be a finding by the court that the defence applies (this is called the evidential burden). The Crown then has the burden of disproving the defence beyond a reasonable doubt (referred to as the legal burden).

2.6. In the case of a child (under 18 years of age at the time of the commission of the act), the defence is made out if they do the act as a direct consequence of being the victim of slavery or trafficking, and a reasonable person in the same situation and with the same characteristics would do the act. For an adult suspect, it is necessary to show they were compelled to do the act, whereas a child is not required to prove this.

2.7. The statutory defence can only be relied upon for certain offences. Schedule 4 of the Act¹⁶ provides a list of exclusions, which include rape, murder, and other serious offences of violence. If the criminal offence is excluded from Section 45, the prosecutor should still examine whether the suspect has a defence of duress, and whether the prosecution is in the public interest. We discuss this further in paragraph 2.23.

The procedure

2.8. At the point of arrest, the police should consider whether a suspect might be the victim of modern slavery or trafficking. This evaluation should consider not only the suspect’s statements but also any relevant police intelligence and evidence gathered during the investigation. Similarly, the prosecutor is responsible for considering whether the Accused could be a victim of modern slavery, and the issue can be raised later in proceedings at the behest of the defence, the court, or probation and youth offending service.

The National Referral Mechanism

2.9. The National Referral Mechanism (NRM) is “a framework for identifying and referring potential victims of modern slavery and ensuring they receive the appropriate support”.

¹⁵ [Modern Slavery Act 2015 \(legislation.gov.uk\)](https://legislation.gov.uk)

¹⁶ [Modern Slavery Act 2015 \(legislation.gov.uk\)](https://legislation.gov.uk)

2.10. Once the possibility of slavery or trafficking is raised, a referral should be made to one of the two bodies charged with making a formal finding as to whether someone is a victim of slavery or trafficking. The two bodies are the Single Competent Authority (SCA) and, for cases involving foreign nationals, the Immigration Enforcement Competent Authority (ICEA).¹⁷ At the time of writing, the majority of referrals were submitted to the SCA.

2.11. In the case of an adult, their consent is required before any referral can be made, but in the case of a child, consent is not needed.

2.12. Referrals are made to the SCA or ICEA by any organisation defined in the NRM process as a first responder. These include the police, local authorities, UK Border Force, the National Crime Agency and various third sector organisations such as the Salvation Army, Barnardo's, the National Society for the Prevention of Cruelty to Children and the Refugee Council. The CPS is not a first responder and cannot make a referral themselves.

The role of the Single Competent Authority

2.13. The role of the competent authorities is to assess whether the referred person is a victim of modern slavery or exploitation. While the SCA and ICA do not have investigative powers, they can request further information from the first responder that referred the potential victim, the victim themselves, their legal representative, or any other interested stakeholders and agencies.

2.14. There is a two-stage decision-making process:

- the first stage involves making a “reasonable grounds” decision within five working days when the competent authority “suspects but cannot prove” that an individual is a potential victim of modern slavery
- the second stage involves making a “conclusive grounds” decision no later than 30 calendar days after the reasonable grounds decision. This decision determines whether, based on the balance of probabilities, there are sufficient grounds to decide that the individual is a victim of modern slavery

¹⁷ In 2022 a pilot programme began which saw several local authorities be given devolved power to act as a competent authority and make the reasonable and conclusive grounds decision on alleged victims under the age of 18. [Devolving child decision-making pilot programme: general guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/devolving-child-decision-making-pilot-programme-general-guidance) In early 2023 the pilot scheme was extended to several additional local authorities.

2.15. In practice, the reasonable grounds and conclusive grounds determinations take longer than five and 30 days respectively.¹⁸

2.16. While awaiting the outcome of the reasonable or conclusive grounds decisions, the possible victims of slavery or trafficking are entitled to various types of support. This support also runs for a period following the decision being made. In the case of a positive decision, the support will be provided as appropriate to that victim. In the case of a negative decision, the support is provided for nine days. The support can include, but is not limited to, financial support, appropriate accommodation, counselling, medical care, and legal aid. In the case of child victims, they are supported by their local authority.

2.17. The period during which decisions are pending, especially the minimum period of 30 days following the reasonable grounds decision, is referred to as the “recovery period” or the “recovery and reflection period”. Its purpose is to give the victim time to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the authorities. During the recovery period, individuals referred to the competent authority cannot be deported from the United Kingdom.

Facts and Figures

2.18. According to the report *‘Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2022’*¹⁹ there were 16,938 potential victims of modern slavery referred to the Home Office SCA in 2022. This was an increase of 33% compared to 2021 and also represented the highest number of referrals made in a year since the NRM began in 2009. Among the referrals received by the competent authorities, 88% of reasonable grounds decisions and 89% of conclusive grounds decisions were positive.

2.19. Out of the 16,938 referrals made, 41% (7,019) were made on behalf of a child. This was the highest number of referrals made on behalf of a child since the NRM began.

2.20. The most common reason for the referral was criminal exploitation, which represented 43% of referrals. During 2020, the report noted that there was an increase in the “identification of county lines cases...which... partially drove the increase in referrals for children in the criminal exploitation category”. In 2022, 2,281 county lines referrals were flagged, accounting for 13% of all

¹⁸ Part 5 of the Nationality and Borders Act 2022 (NBA) came into force on 30 January 2023 and amended the number of days to 30 days from 45 as it had been previously. [Nationality and Borders Act 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

¹⁹ [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

referrals received in the year. The majority of these referrals (75% or 1,710 referrals) were for male children.

The impact on criminal prosecutions

2.21. When information becomes available indicating that a suspect in a criminal allegation might be a victim of slavery or trafficking, it is important that a referral to the SCA is made as soon as possible. Ideally, the evidence of the referral would be included in the police file presented to the CPS when charges are being requested. This is because a positive conclusive grounds decision may well generate a large amount of relevant unused material that must be shared with the defence. Such material can have significant implications for a prosecution, particularly on the application by the CPS of the Code for Crown Prosecutors.²⁰

2.22. However, suspects who are potential victims of slavery or trafficking frequently withhold information from the police regarding their experiences. They may wait until a court appearance to reveal that information to their representative or to the court. The Court of Appeal and the European Court of Human Rights have confirmed that, wherever possible in post-charge cases, victims of modern slavery should be identified before a plea is taken and in pre charge cases after a SCA decision has been made. Consequently, case management should be paused pending the conclusive grounds decision.

The approach to prosecutions

2.23. At the start of a prosecution and at key stages throughout the case (such as when there is a significant change in the evidence) a CPS prosecutor must apply the two-stage test in the Code for Crown Prosecutors²¹. Firstly, the prosecutor must determine whether there is sufficient evidence to provide a realistic prospect of a conviction, and, secondly, whether a prosecution is in the public interest. When the suspect is a potential victim of modern slavery or trafficking, CPS guidance²² sets out the four-stage approach that the prosecutor must take when applying the Code:

1. Is there a reason to believe that the person is a victim of trafficking or slavery?
 - If yes, move to Question 2.

²⁰ [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](#)

²¹ [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](#)

²² [Modern Slavery, Human Trafficking and Smuggling | The Crown Prosecution Service \(cps.gov.uk\)](#)

- If not, the prosecutor does not need to consider this assessment further.
2. Is there clear evidence of a credible common law defence of duress?
 - If yes, then the case should not be charged or should be discontinued on evidential grounds.
 - If not, move to Question 3.
 3. Is there clear evidence of a statutory defence under Section 45 of the 2015 Act?
 - If yes, then the case should not be charged or should be discontinued on evidential grounds
 - If not, move to Question 4.
 4. Is it in the public interest to prosecute? This must be considered even where there is no clear evidence of duress or no clear evidence of all of the elements of a section 45 defence or where section 45 does not apply (because the offence is excluded under Schedule 4).

The status of SCA findings

2.24. The Court of Appeal has determined²³ that decisions made by the SCA are not admissible as evidence in a criminal trial. The court concluded that prosecutors should not agree to allow the admission of a positive conclusive grounds as evidence. However, the court determined that it might be suitable for an admission to be agreed upon during the trial based on a fact contained within the decision. In such case, the prosecution should agree only if it is satisfied with the evidential basis.

The impact of the SCA's conclusive grounds decisions

A positive conclusive grounds decision does not automatically mean the prosecution comes to an end.

2.25. A positive conclusive grounds decision does not automatically mean the prosecution comes to an end. Equally, a negative conclusive grounds decision does not mean a section 45 defence cannot still be advanced or that a prosecution must proceed. The decision is made based on the civil standard of proof and requires

careful examination. Regardless of the outcome, the SCA findings and the case should be thoroughly considered by the prosecutor in accordance with the Code for Crown Prosecutors.

²³ [Brecani v R. \(Rev1\) \[2021\] EWCA Crim 731 \(19 May 2021\) \(baillii.org\)](#)

2.26. If, after a positive conclusive grounds decision, the prosecutor determines that the matter should still proceed to trial, they should set out their reasoning in a legal review. They should include their rationale for concluding that there is a realistic prospect of rebutting any section 45 defence. If the prosecution concludes that the defence is not made out and it is in the public interest to proceed, the matter will proceed to trial (subject to the defendant entering a guilty plea).

2.27. During the trial, there is an evidential burden on the defence to raise the section 45 defence. If they do so, the prosecution must prove beyond a reasonable doubt that the defendant is not the victim of modern slavery or exploitation, or that they did not commit the offence as a consequence.

Case Study

In the early hours, one morning, police officers saw a car being driven poorly and caused it to stop. The passenger, a 16-year-old and the driver, a 19-year-old were not related. Both occupants appeared to be nervous.

During a police search, the passenger was found to be in possession of two knives and bags of cannabis. He was arrested by the police and was later interviewed. In that interview he provided “no comment” responses. The police charged the passenger with offences of possession of cannabis and two offences of possession of a bladed article.

The defendant attended the youth court and was represented by solicitors. They informed the court that the defendant intended to plead not guilty to all the offences because he was the victim of modern slavery, so had a defence under section 45 of the Modern Slavery Act 2015.

The criminal proceedings were correctly paused at this point and a referral to the single competent authority (SCA) was made. Initially, the SCA found that there were reasonable grounds to suspect that the defendant was a victim of modern slavery. They went on to find that there were conclusive grounds to accept that the defendant was a victim of modern slavery. The defendant told the SCA that he was being made to hold the knives and cannabis by another. He had not been able to report this to the police before or when arrested as he had been specifically warned not to and was fearful of repercussions.

The CPS completed a full review of the case, which included additional material supplied to them by the defence. The defence supplied a report by an expert which outlined that the defendant was a vulnerable young person who had a range of speech and learning difficulties, attention deficit hyperactivity disorder, and post-traumatic stress disorder. The CPS also had a statement from the police officer who arrested the defendant. The statement made it clear that the driver of the vehicle became

agitated when the officers spoke to the defendant, and that the officer suspected the defendant was being forced to hold the knives for the driver.

The CPS reached the decision that the defendant was a victim of modern slavery and had committed the offence as a direct consequence of being a victim and that the section 45 defence was made out. The prosecution was stopped.

Crown Prosecution Service policies

2.28. The topics of county lines and modern slavery cover a wide range of offences and case types. This inspection focusses on the narrow area of the section 45 defence and the non-punishment principles often found within county lines cases. The CPS provides three sets of guidance for prosecutors concerning these types of cases, with two of them also available on the CPS's external website:

- County Lines Offending legal guidance²⁴
- Modern Slavery, Human Trafficking and Smuggling legal guidance²⁵
- Modern Slavery operational guidance (this is an internal web page)

County Lines Offending legal guidance

2.29. This guidance was published in February 2022, and the guidance itself indicated that it is intended to be read in conjunction with the Modern Slavery, Human Trafficking and Smuggling legal guidance. The county lines offending guidance explains what county lines means and describes typical county lines activity that prosecutors need to be aware of. It provides an overview of the types of criminal offences that can be associated with county lines such as drugs, weapons, or sexual offences, along with links to the corresponding guidance for those offences.

2.30. The guidance covers available court orders, such as injunctions and Slavery and Trafficking Prevention orders (STPOs), and sentencing provisions that apply to modern slavery or county lines offences such as conspiracy to supply drugs.

2.31. The guidance provides a brief overview of the NRM, outlines the approach to be followed by the police and CPS in these cases, and the section 45 defence. It also includes a section on safeguarding children and vulnerable

²⁴ [County Lines Offending | The Crown Prosecution Service \(cps.gov.uk\)](#)

²⁵ [Modern Slavery, Human Trafficking and Smuggling | The Crown Prosecution Service \(cps.gov.uk\)](#)

people. The guidance highlights that there is multi-agency and partnership working in relation to county lines and NRM cases to ensure the protection of victims and the successful prosecution of the perpetrators.

Modern Slavery, Human Trafficking and Smuggling legal guidance

2.32. This guidance, which dates from December 2021, aims to “provide practical and legal guidance to prosecutors dealing with cases of modern slavery, human trafficking, and smuggling. The guidance also deals with the application of the statutory defence set out in section 45 of the Modern Slavery Act 2015 and its interplay with other non-punishment principles”.

2.33. A significant amount of the document deals with the prosecution of modern slavery type offences, which falls outside the scope of this inspection. The remainder of the document focuses on victims of modern slavery. It provides explanations regarding the SCA, NRM, reasonable and conclusive grounds decision, along with sections on case management in NRM cases and guidance on the disclosure of materials generated when a referral is made.

2.34. The guidance also includes a large section on modern slavery and drugs offences, which are often associated with county lines gangs. The section covering suspects who may be victims of trafficking or slavery includes the four-stage approach outlined in paragraph 2.23, with detailed information for each stage.

Modern Slavery operational guidance

2.35. This guidance, published internally in August 2021, addresses the prosecution of modern slavery offences, which will primarily be handled by the complex casework units in CPS Areas. The guidance includes references to relevant caselaw and provides examples of slavery and trafficking prevention and risk orders that can be made by the courts. Prosecution of modern slavery offenses falls beyond the scope of this inspection.

2.36. There are hyperlinks to other guidance, including the Modern Slavery, Human Trafficking and Smuggling legal guidance. The link to the County Lines legal guidance misdirects to guidance on drugs offences. The operational guidance does not cover the statutory defence in section 45 of the Modern Slavery Act but does link to a flow chart on how to address the possibility in a prosecution, as well as two sets of training material issued in 2019 and 2020.

3. Framework and Methodology

3.1. Our business plans for 2020-21, 2021-22 and 2022-23 included a proposal to conduct an inspection focused on gang-related crimes associated with county lines. During the planning stages for a county lines inspection in late 2021, we were informed by the CPS that the county lines guidance and the modern slavery guidance were undergoing revisions. Both were due to be published towards the end of 2021 or early in 2022.

3.2. Our plan was to assess the quality of CPS decisions in county lines/NRM cases, but it became evident that such an examination was not feasible. There were not enough cases for us to examine to provide a meaningful evidence base which post-dated the December 2021 policy revision produced by the CPS. As a result, we determined that our inspection should focus on the revised CPS policy regarding the handling of cases involving county lines and the National Referral Mechanism (including the quality of the updated guidance).

3.3. The Covid 19 pandemic throughout 2020 and 2021 had a significant impact on the criminal justice system. The most noticeable impact was predominantly seen in the Crown Court, where significant backlogs have occurred. The effect of this situation on the CPS Crown Court units was addressed in the CJII report 'The Impact of the Covid 19 pandemic on the criminal justice system – a progress report'²⁶. Consequently, we wanted to ensure that this inspection did not burden the Crown Court units and therefore focussed our activities on the magistrates' court, particularly the youth court.

3.4. In general, the magistrates and youth court do not handle cases involving the prosecution of modern slavery type offences due to their serious nature. This is not to say that the youth court does not have a great deal of experience in county lines cases. They do, but their experience is specifically related to the NRM, and the section 45 defence being relied upon by alleged child offenders. These factors motivated our decision to involve prosecutors dealing with youth cases when we visited CPS Areas.

Inspection Framework

3.5. The purpose of this inspection is to assess the effectiveness and accessibility of the CPS policy, as well as to determine whether lawyers in Area roles (youth court prosecutors) have a clear understanding of the policy and its application. We did not include an assessment of legal decision-making in individual cases.

²⁶ May 2022. The impact of the Covid-19 pandemic on the criminal justice system – a progress report (justiceinspectorates.gov.uk)

3.6. The primary inspection questions were:

- does the revised CPS policy support the prosecution of county line cases, leading to effective management and decision-making?
- is there a clear awareness at operational level of the revised policy?

3.7. To address these questions, we established three criteria, each consisting of three to four sub-criteria.

3.8. The complete inspection framework is outlined in annex A.

Methodology

Case file examination

3.9. The CPS case management system (CMS) has a built-in flagging system. This flagging system is used to identify certain case types, allowing for electronic sorting and data collection for the CPS management information system. As a result, cases with specific flags can be conveniently grouped together, cases can be monitored and assessed, and data can be extracted to demonstrate performance levels.

3.10. Currently, there is no flag available to identify county lines cases, cases involving referrals made in accordance with the NRM, or cases in which a section 45 defence has been considered or raised. Therefore, in order to determine whether a file examination would be possible for this inspection, we carried out an extensive case triage.

3.11. We conducted a triage of all youth court cases from the 14 CPS Areas in which the suspect was charged with possession with intent to supply or supply of a controlled drug. We established parameters to ensure the cases were recent enough and post-dated the latest of the revised policies being published in February 2022. We then checked the pool of remaining potential cases on CMS to see if they were county lines and/or NRM cases. Only 14 cases remained, so we concluded that a file examination would not be feasible. It is important to note that there are additional county lines cases involving different offences, but due to resource limitations, we had to focus our triage process on a small number of drug offences.

3.12. We discuss the impact of lack of ready identification of these cases from CMS in chapter 6.

Inspection activity

3.13. The inspection commenced by reviewing the revised policies (which we set out in paragraphs 2.28 to 2.36). Additionally, there are many other guidance and reference documents on these topics on the CPS intranet. A full reading list of the documents we considered can be found in Annex C. Two legal inspectors independently examined the guidance and other documents, creating an evaluation note of their findings. The inspectors then held a consistency meeting to discuss their findings. If both inspectors reached the same judgement regarding a particular section of a document, their findings were taken forward to be discussed in interviews and focus groups.

3.14. During our case file triage, we saw that certain CPS Areas had more county lines and NRM cases than others. We therefore used this data to select five CPS Areas for fieldwork. These Areas were –

- East Midlands
- East of England
- Mersey/Cheshire
- London North
- London South

3.15. Within each of the five selected Areas, we conducted focus groups with Senior Crown Prosecutor. Some of these prosecutors specialised in youth cases involving the NRM while others represented the magistrates' courts and Crown Court teams. Additionally, we conducted interviews with the youth lead District Crown Prosecutor (DCP) and the DCPs from the magistrates' courts and Crown Court units.

3.16. We conducted interviews with the CPS SPD policy leads responsible for county lines and modern slavery. These individuals, who collectively drafted the three guidance documents outlined in paragraph 2.28, were interviewed along with the CPS national lead for modern slavery.

3.17. Finally, we conducted an interview with two representatives from the National County Lines Coordination Centre (NCLCC)²⁷, which is a multi-agency team, funded by the Home Office, and made up of experts from the National Crime Agency, police forces and regional organised crime units.

²⁷ [National County Lines Coordination Centre to crack down on drug gangs - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/national-county-lines-coordination-centre-to-crack-down-on-drug-gangs)

County Lines and the National Referral Mechanism

3.18. We are grateful to the staff from the CPS Areas and Headquarters, and the NCLCC for their assistance with this inspection, and for sparing the time to speak to us.

4. Frontline application of policy and guidance

4.1. We considered whether the CPS revised policy²⁸ and guidance are assisting frontline prosecutors to make appropriate and effective decisions when a referral to the single competent authority is made on behalf of the suspect. We considered:

- legal decision-making: do the policy and guidance adequately cover the law and appropriate caselaw in dealing with pre-charge decisions and post-charge reviews?
- case management: do the policy and guidance assist lawyers in ensuring cases are effectively managed to prevent unnecessary delay?
- ease of use: are the policy and guidance drafted in a straightforward manner enabling ease of understanding and comprehension?
- updating the policy: does the policy reflect the current issues observed in these cases and advise the lawyers accordingly?

4.2. In this chapter, we refer to the national referral mechanism (NRM), the role within that of the single competent authority (SCA), the authority's reasonable and conclusive grounds decisions, and the defence contained in section 45 of the Modern Slavery Act 2015 (the Act). We explain these in more detail in chapter 2.

Legal decision-making

4.3. We assessed whether the policy and guidance adequately covered the law and appropriate caselaw when addressing pre-charge decisions and post-charge reviews.

4.4. The contents of the three guidance documents are summarised in paragraphs 2.28 – 2.36.

²⁸ At the end of 2021 and the beginning of 2022, the policy covering county lines and modern slavery was revised by the SPD and the office of the DLS and published on the CPS intranet.

County Lines Offending Legal Guidance

We found the County Lines Offending (CLO) legal guidance to be a valuable and informative introduction for prosecutors new to this subject and gives a general overview of the topic.

4.5. We found the County Lines Offending (CLO) legal guidance to be a valuable and informative introduction for prosecutors new to this subject and gives a general overview of the topic. The guidance effectively addresses the wide range of criminal activity found in county lines models. The most common offences are listed, with links to the specific guidance for the offence types (such as drug possession and supply), and this assists prosecutors in finding other relevant information quickly. There are also useful links to recent caselaw and legislation to assist prosecutors as they navigate through the guidance.

4.6. During our interviews with Area frontline staff, we heard that most prosecutors find the CLO legal guidance is widely regarded as a useful starting point, particularly for prosecutors without prior knowledge of county lines. The author of the guidance stated that their intention was to create a document directs users to other relevant policies and guidance on the CPS intranet, and this objective has been successfully fulfilled.

4.7. Area staff told us that the CLO legal guidance is not a document they use in their day-to-day practice. They find, as intended by SPD and DLST, that the guidance dealing specifically with modern slavery, including the Modern Slavery, Human Trafficking and Smuggling (MSHTS) legal guidance, is more applicable to their role. The CLO legal guidance highlights the importance of the MSHTS legal guidance, and contains several prominently placed links to it, so a prosecutor using the CLO legal guidance to address a casework query would be directed to more relevant information. Moreover, the CLO legal guidance appropriately refers to and briefly sets out the four-stage approach to applying the Code for Crown Prosecutors, which should be followed in all cases where a suspect may be a victim of slavery and/or exploitation.

Modern Slavery, Human Trafficking and Smuggling legal guidance

4.8. We found that the Modern Slavery, Human Trafficking and Smuggling (MSHTS) legal guidance contains several helpful sections which would assist a frontline prosecutor when completing a pre-charge and post-charge review. The positive aspects include:

Some prosecutors we spoke to also said that the guidance was more like an academic text than a practitioner's guide and that they would welcome more practical assistance in the preparation of these cases.

- a clear explanation of the different tests for adults and youths in section 45 of the Modern Slavery Act 2015.
- a detailed analysis of the four-stage approach to applying the Code which the prosecutor should adopt in any case where there is a possibility that the suspect has been a victim of slavery or trafficking. Area staff spoke highly of this section during our focus groups and interviews.
- a good outline of the relevant caselaw that prosecutors may consult when determining whether to proceed with a prosecution following a positive conclusive grounds decision. The section also reinforces the need for a reasoned review to be recorded.

- an informative section on the disclosure of unused material that outlines what the prosecutor should do with the material generated by the SCA.

4.9. Not all the feedback we received in interviews and focus groups about the MSHTS guidance was positive. Some staff told us that they thought the guidance paid insufficient attention to how the defence in section 45 of the Act could be rebutted, or what evidence could be admitted to do so.

4.10. Some prosecutors we spoke to also said that the guidance was more like an academic text than a practitioner's guide and that they would welcome more practical assistance in the preparation of these cases.

4.11. As a result of the issues identified, we were told that lawyers often rely on guidance documents prepared by their own Area or seek advice from colleagues or managers, instead of referring to the MSHTS legal guidance.

4.12. In CPS London, a local guidance document has been developed. Both magistrates' units in CPS Areas London North and London South, use this guidance document for cases where there is a NRM referral. This local guidance document was based on the flowchart included in the national Modern Slavery operational guidance which we discuss below (paragraph 4.17). The local guidance document explains the types of material that can be used to rebut the section 45 defence and how to adduce that evidence. It also covers the caselaw and explains the relevance of those cases in short summary form.

Lawyers working in these units highly commend this document, stating that it is their first point of reference for cases of this nature.

4.13. Two of the other Areas we visited also have resource packs that have been prepared locally by District Crown Prosecutors. These cover everything a youth court practitioner dealing with a case of this type would need to know. Staff in these two Areas were very positive about the local packs. In one Area, an evidential checklist has been implemented, allowing lawyers to refer to and include it in a request for further evidence from the police when considering how to rebut the section 45 defence. In another Area, a template letter has been introduced to be sent to the defence when the prosecution decides to proceed following a positive conclusive grounds decision by the SCA. The template requires the prosecutor to outline the reasons for the decision and include relevant information in the standard sections while excluding irrelevant ones. The template also serves to remind the prosecutor of the relevant considerations when making their decision. It notifies the defence of the decision and the rationale for the prosecution proceeding, and should, if completed properly, convey that the case has been considered in accordance with the Code and relevant CPS policy.

4.14. We do not criticise the Areas that use local documents. However, we note that if some Areas are using local reference documents instead of the national guidance, it may lead to inconsistencies in approaches across different CPS Areas.

4.15. Prosecutors we interviewed indicated that they would appreciate more practical guidance and case scenarios to be included in the legal guidance. Whilst we understand that this may appear to be a solution to busy prosecutors, it is important to recognise that every case must be judged on its own merits. Case scenarios and practical examples mean there is an increased risk of prosecutors overlooking the specifics in their cases. After discussing this matter with the Director of Legal Services and CPS lead, we can understand the reluctance to include such material. All cases are different, it is therefore necessary to individually consider them and develop a tailored case strategy. However, considering the positive feedback received from prosecutors about local packs and resources, we recommend that the national lead for modern slavery should consider whether there are aspects that can be adjusted to provide more practical guidance for prosecutors in the magistrates' court (specifically youth court prosecutors).

Modern Slavery operational guidance

4.16. The Modern Slavery (MS) operational guidance primarily deals with factors relevant to prosecutions for human trafficking and slavery, servitude and

forced labour. These cases, which are often complex, fall outside the scope of this inspection. Within scope, however, are the hyperlinks the operational guidance contains to guidance on the NRM and the section 45 defence which are available to prosecutors on the CPS intranet.

Modern Slavery Guide

4.17. This guide provides instructions on preparing prosecutions when a referral under the NRM has been made. It is a step-by-step guide written in a succinct and clear way which shows the prosecutor the steps to take in an efficient way enabling a busy lawyer to focus on the key issues quickly.

4.18. However, the flowchart specifically covers post-charge cases and does not deal with the four-stage approach to applying the Code, which all prosecutors should follow. Consequently, prosecutors would need to refer to additional guidance during their case preparation.

County Lines and the section 45 defence

4.19. This is a Microsoft PowerPoint presentation published internally in 2020, parts of which are relevant and helpful. It provides a clear explanation of the section 45 defence and the NRM process, outlining the types of material that can be requested from the police and relied upon when attempting to rebut the section 45 defence. The evidence used to counter the defence can include materials commonly found in cases prosecuted on a complex casework unit but not as frequently seen in cases on a magistrates' court unit. However, the presentation does not explain how to present this evidence at trial. The feedback we received in our focus groups and interviews with prosecutors indicated that the guidance lacked practical assistance regarding the admissibility of material to rebut the defence. Based on our findings from our Area Inspection Programme, where we had identified weaknesses in the quality of case analysis and strategy, the CPS has developed a programme to improve the skills of prosecutors in developing case strategies. This programme will cover evidence and admissibility, this should address the need prosecutors outlined to inspectors. Part of the presentation is outdated and inaccurate. One of the slides states that a positive conclusive grounds decision is admissible at trial, which the Court of Appeal has since determined is not the case. The CPS Headquarters Strategy and Policy Directorate are aware that this aspect is no longer accurate.

4.20. As with the modern slavery flowchart discussed in paragraphs 4.17 to 4.18, the presentation covers post-charge cases only and does not deal with the four-stage approach to applying the Code.

CPS County Lines and the section 45 defence

4.21. Issued within the CPS in March 2019, this training document covers some aspects of the NRM, county lines and modern slavery, including the section 45 defence. Our findings regarding the Microsoft PowerPoint presentation prepared in 2020 apply equally here: whilst the document covers

The operational guidance provides practical assistance to lawyers working at the frontline and supplements the legal guidance.

the section 45 defence, the non-punishment principles, and the NRM process, it does not address pre-charge cases. Additionally, it was also prepared prior to the change in law regarding the admissibility of conclusive grounds decisions, meaning it is out of date. Finally, it does not give guidance on rebutting the defence once raised.

The Modern Slavery legal guidance and operational guidance

4.22. We interviewed the SPD lead for Modern Slavery, who is also a co-author of the Modern Slavery, Human Trafficking and Smuggling legal guidance and the Modern Slavery operational guidance. Their view was that to fully understand the policy, the legal guidance and operational guidance should be read together. The operational guidance provides practical assistance to lawyers working at the frontline and supplements the legal guidance. However, we found that neither document makes it clear that they should be read in conjunction to gain a full understanding. The legal guidance does not refer to or link the operational guidance. The operational guidance links to the legal guidance, but the hyperlink is towards the end of the document and does not explain why the reader ought to also use the legal guidance. Although the SPD lead believed in reading both documents together, the DLST was clear that prosecutors should be able to consider cases against the legal guidance alone and that the principles that relate to the rules of evidence from other guidance should be at the forefront of decision-making in all cases.

4.23. As both documents predominantly focus on prosecutions of traffickers and those exploiting victims, prosecutors in the Crown Court units we spoke expressed a more positive opinion about the usefulness of the legal and operational guidance than prosecutors in the magistrates' courts units.

Case management and delay

4.24. We assessed whether the policy and guidance assist lawyers in ensuring cases are effectively managed to prevent unnecessary delay.

4.25. We found that the MSHTS legal guidance for prosecutors is clear about case management after charge, where the suspect may be a victim of slavery or trafficking and a referral has been made to the SCA. The guidance summarises the relevant principles and caselaw, it also clearly states that case progression ought to pause until there is a conclusive grounds decision.

4.26. However, we found that the guidance does not provide clear instructions regarding pre-charge cases. This finding was supported by some of the prosecutors we spoke to who expressed the need for pre-charge guidance to be clearer.

4.27. According to the Code for Crown Prosecutors²⁹ and the Director's Guidance on Charging, 6th edition³⁰, the full Code test should be applied "when all outstanding reasonable lines of inquiry have been pursued; or prior to 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."

4.28. In 2019, the national CPS lead for modern slavery wrote to all CPS Areas regarding the large increase in referrals to the SCA and its impact on receiving timely conclusive grounds decisions. The letter advised that: "where a case is awaiting a charging decision and an NRM referral has been made then, unless there is clear pre-existing evidence to support a section 45 statutory defence or the police have indicated that such evidence is likely to be forthcoming, the case should be charged if it passes the full Code Test. However, the case should then be kept under close review." In two Areas this letter was uploaded to the local Area intranet and communicated. The letter being loaded onto the local intranet also meant that prosecutors nationally could see it, but only if an intranet search was done. The position set out in the letter, whilst correct at the time, is no longer correct due to the Directors Guidance 6th edition and the presence of this letter could lead to confusion.

4.29. The MSHTS legal guidance tells prosecutors that: "If an SCA decision on a suspected VOT/VOS [victim of trafficking or slavery] is pending they should apply paragraph 4.3 of the Code and consider if this is a reasonable line of enquiry likely to affect the application of the Full Code Test whether in favour or against prosecution. Each case must be considered on its merits".

4.30. Prosecutors we interviewed found it difficult to imagine a scenario where the outcome of a conclusive grounds decision would not be considered a reasonable line of enquiry. They indicated that they would not charge an alleged

²⁹ [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](#)

³⁰ [Charging \(The Director's Guidance\) - sixth edition, December 2020 | The Crown Prosecution Service \(cps.gov.uk\)](#)

offender without having access to the conclusive grounds decision. One prosecutor stated quite firmly that it was their understanding that they were not allowed to charge an alleged offender until the conclusive grounds decision had been received. When we asked Area lawyers if they would stop a prosecution in cases where a referral had been made but the conclusive grounds decision had not been obtained, we received different answers. Some prosecutors would end the prosecution if they concluded that the section 45 defence was made out, even without a conclusive grounds decision, whilst others would wait for the decision before considering the possible defence. Lawyers agreed that the guidance was not clear enough on this point.

4.31. The DLST state that there may be some limited scenarios where an alleged offender can be charged whilst the conclusive grounds decision is outstanding. We agree that there may be some cases where charging prior to the conclusive grounds would be appropriate, but the lack of clarity we experienced when speaking with prosecutors indicates the need for clearer guidance and must provide likely example scenarios to assist on this point.

4.32. Clear guidance is particularly important given that there is a real likelihood of delay in receiving a decision. Whilst the SCA prioritise referrals when a possible victim of slavery or trafficking has been charged with a criminal offence and is being held in custody or when a possible victim has been charged with a criminal offence and is awaiting a scheduled trial date on bail, no other scenarios are prioritised. Consequently, referrals related to children, for example, are not expedited.

The delay in cases involving child suspects/defendants, especially, raised concerns amongst the youth specialist lawyers we spoke to.

4.33. At the time of writing, the average time taken from referral to the receipt of the conclusive grounds decision was 642 days³¹.

4.34. The wait for a decision from the SCA can have a significant impact on pre-charge decisions. Since the potential victim has not been charged, and in many cases, the conclusive grounds decision will not be prioritised, the delay may be for a considerable amount of time. This often means the prosecutor will either have to make a charging decision without knowledge of the suspect's status or to postpone a final decision, possibly for more than a year from the date the offence was allegedly committed.

4.35. The delay in cases involving child suspects/defendants, especially, raised concerns amongst the youth specialist lawyers we spoke to. Some believed that guidance was to clarify how delays can affect the public interest

³¹ [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, Quarter 4 2022 – October to December - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk)

when a child suspect is also a possible victim of slavery or trafficking. All cases are different and should be treated as such. We understand therefore that giving examples of delays and their impact on the public interest could be problematic. However, the CPS may wish to ensure the guidance references the youth policy and delay considerations to ensure new or inexperienced lawyers are aware this is an important consideration in cases of this type.

4.36. Some lawyers expressed concerns that they fear child offenders nearing their eighteenth birthday may be motivated to enter a guilty plea to avoid becoming adults while waiting for a conclusive grounds decision. Passing this milestone would remove sentencing options which are only available to children and require the court to consider the purpose of sentencing adult offenders³².

4.37. Another impact of delay is the additional work it creates. When a suspect is in custody awaiting trial, lawyers may need to prepare applications to extend the custody time limit. This additional work has the impact of increasing the lawyer's caseloads.

4.38. One of the CPS Areas we visited has introduced a process to reduce the impact of delay. As soon as a referral is submitted to the SCA, the prosecutor sends a request to the police for key material, which essentially includes the same material the SCA considers when making their conclusive grounds decision. The Area has a standardised checklist to ensure a consistent approach is taken by the lawyers. The lawyer then reviews this material and determines whether the section 45 defence is likely to be made out or not. If the defence is made out, the Area halts the prosecution without waiting for the conclusive grounds decision. If they believe the defence is not made out, they will wait for the decision. Upon receiving the decision, the prosecution can proceed to trial without further delay because the section 45 defence and how to rebut it has already taken place.

4.39. A pilot scheme is currently underway³³ in which some Local Authorities prepare the reasonable and conclusive grounds decisions instead of a referral being made to the SCA. The pilot, introduced in 2022 and extended in 2023, only applies to possible victims under the age of 18. The rationale was that the Local Authority was responsible for the care and support of possible victims, so were well-placed to prepare the decisions. The pilot was trialled by several Local Authority areas throughout the UK during 2022 and has been extended further in 2023. Two of the Areas we spoke to during the inspection had experience of the

³² [Sentencing Act 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

³³ [Devolving child decision-making pilot programme: general guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

pilot and reported that the decisions had been more prompt than those from the SCA.

Ease of use

4.40. We assessed whether the policy and guidance were drafted in a clear and concise manner to facilitate understanding and comprehension.

4.41. Our conclusions were not the same for the different guidance documents. We found that the CLO legal guidance is very easy to follow and understand. The SPD Lead for County Lines and co-author told us their intention had been to provide an introduction to the topic which then signposted the reader to other relevant guidance. They also intended to reduce the length of the document to ensure it was as helpful as possible to a frontline prosecutor. We determined that the guidance achieved these aims. It is concise, and all the relevant documents that should be referenced are clearly presented with appropriate links provided.

4.42. The legal guidance is an extremely lengthy document, spanning nearly 20,000 words, with approximately half of it dedicated to county lines, the NRM and the non-punishment principles. The remainder of the document covers modern slavery offences and smuggling, which are not part of this inspection. The length of the document risks making it more difficult for a busy prosecutor to find the information they need, as it not easily found within the document and not presented where expected. The feedback from the Area staff we spoke with supported our conclusions. They told us they could not always find the relevant parts for their practice due to the length of the guidance and its alternating focus between dealing with potential victims of modern slavery or trafficking and the prosecution of the perpetrators of those offences.

Updating the policy

4.43. We assessed whether the policy reflects the current issues observed in these cases and provides the appropriate guidance to the lawyers.

4.44. Since this is an area of law that rapidly evolves, it is important that the CPS ensures its lawyers are kept up to date. The Directors of Legal Services Team (DLST)³⁴ and the Strategy and Policy Directorate (SPD) work hard to stay informed about the latest developments in caselaw, legislation and policy. The office of the DLS have quarterly meetings with the Appeals Review Unit

³⁴ The Director of Legal Services are accountable for casework which are novel, complex, or high profile. They are also responsible for the continual improvement and development of CPS legal guidance. See the glossary for more information.

(ARU), who will keep them informed of the latest cases in the Appeal Courts. The ARU also has a modern slavery lead who attends the national leads meetings and provides direct feedback on judgments, particularly around s45. This collaborative approach ensures the sharing of knowledge and insights among all parties.

4.45. During the drafting process of the guidance, SPD leads have developed good cross-agency relationships and are in contact with relevant stakeholders. They remained in contact with the stakeholders after the guidance was completed to ensure they stayed aware of any developments and issues experienced in the Areas. Throughout this inspection, we spoke to the SPD, modern slavery and county lines leads, as well as representatives from the National County Lines Coordination Centre. They all spoke very positively of their working relationships.

4.46. Updates from the DLST or SPD are mostly shared with CPS staff via the national Gateway system, which involves emails and posts on the CPS intranet. Area leads told us they check that any significant updates have been disseminated in team briefings by unit managers.

4.47. Given the changing nature of the law, certain factors can affect the accuracy of existing guidance and how cases are prosecuted. One example was the judgment of the Court of Appeal in 2021 on the admissibility of the conclusive grounds decision at trial³⁵. Although we observed that this judgment had been incorporated into the guidance, a search of the CPS intranet using the search term “NRM” brought up previous and outdated guidance³⁶ stating that a conclusive grounds decision was admissible as expert evidence in a trial. While we acknowledge the need in some instances to maintain case law at the point of offence, it would be helpful if the guidance is marked in such a way to identify it is previous guidance and as such may be out of date or inaccurate. The existence of previous versions of guidance and out of date policies is unhelpful for busy prosecutors.

4.48. The MSHTS guidance has been amended and clearly reflects the position post-Court of Appeal judgment regarding the admissibility of the conclusive grounds decision at trial. However, during our discussions with prosecutors, it became evident that there was a lack of awareness about the change in various Areas, resulting in noticeable inconsistencies in approach and understanding.

³⁵ [Brecani v R. \(Rev1\) \[2021\] EWCA Crim 731 \(19 May 2021\) \(baillii.org\)](#)

³⁶ [Director of Public Prosecutions v M \[2020\] EWHC 3422 \(Admin\) \(15 December 2020\) \(baillii.org\)](#)

4.49. The outdated documents contained in the Operational Guidance should in, our judgement, be removed from the internal CPS hub to prevent prosecutors accessing previous and out of date versions of the guidance.

Recommendation 1

By 30 September 2023 the CPS should remove outdated and inaccurate content from the internal CPS hub.

Other issues

4.50. Due to the nature of county lines offending, it often involves crossing boundaries between different police force areas. As a result, there can be multiple referrals of the same individual by different police forces into the NRM process. However, we have been told that the police are not always aware of the existence of other referrals, and sometimes the information is not shared with the prosecutors. During our discussion, prosecutors explained that they sometimes did not find out about them until the SCA notified them of the intention to merge the multiple referrals.

4.51. In certain cases, the details of any other referrals could be important material for a prosecutor to review as part of their application of the Code. As with all cases, the evidence should be judged on its own merits, if considering the circumstances of the case. If, the prosecutor deems it appropriate, specific enquiries should be made regarding the existence of referrals by other police forces.

4.52. The sharing of information by police forces is of crucial importance in these cases. We have been told that the sharing of information is limited. However, we understand that work is being done to improve this. Each month the National County Lines Co-ordination Centre distribute a list of all high-risk children to each police force. The presence of an alleged offender on this list is no doubt something that would be of interest to a prosecutor when considering whether a prosecution ought to continue against a child who claims to be a victim of modern slavery/exploitation. However, we believe that this list will not be seen by non-specialist officers as it is specifically sent to force child protection units.

4.53. At the time of writing, an information-sharing pilot was due to start in three police forces. These forces will document the referral to the SCA on the suspect's PNC print, which will enable that information to be more widely known. If the pilot is successful, it is anticipated all forces will adopt this approach. The NCLCC told us they are hopeful that this will be a significant development in the sharing of information and will in turn reduce the number of multiple referrals.

County Lines and the National Referral Mechanism

5. Awareness and training

5.1. In this part of the inspection, we considered whether there was a good level of awareness of the revised policy amongst the lawyers at the front line. We considered:

- awareness and accessibility: are lawyers and frontline staff aware of the revised policy and how to find it?
- training: is the policy covered in training by the CPS and if so, how is the effectiveness of this training monitored?

5.2. In this chapter, we refer to the national referral mechanism (NRM), the role within that of the single competent authority (SCA), the authority's reasonable and conclusive grounds decisions, and the defence contained in section 45 of the Modern Slavery Act 2015 (the Act). We explain these in more detail in chapter 2.

Awareness and accessibility

5.3. We assessed whether the lawyers and frontline staff were aware of the revised policy and how to find it. We also asked for prosecutors' views on the way in which the policy was presented, and whether they find it easy to understand and effective to use.

5.4. Most of the prosecutors we spoke to were aware there were guidance documents on the CPS intranet, but we received conflicting evidence regarding their ease of access. Some prosecutors mentioned difficulties in finding them, whilst others reported having no issues. We tested the accessibility of the guidance documents by carrying out our own searches of the CPS intranet. We found that the three relevant guidance documents (described in paragraphs 2.28 to 2.36 and in chapter 4) are prominently displayed when using the search box in the 'Legal Guidance' section of the intranet. However, we did notice some barriers that prosecutors may encounter when attempting to locate them:

- When using the general search box and entering the term "Modern Slavery", the operational guidance is the first document to be listed. However, the legal guidance, which is more relevant for prosecutors, is listed further down.
- County lines prosecutions frequently involve child suspects. However, at the time of the inspection, the Youth Offenders guidance did not provide any references or links to county lines, nor did it include the three sets of guidance we discussed on county lines offending and modern slavery. The CPS has addressed this omission since the inspection.

- We tested the search function based on the alphabet to locate topics under each letter. However, the NRM is not an option under the letter “N”, and modern slavery is not an option under the letter M. Instead, it can be found under the letter “S” for Slavery. Additionally, in the section under “C”, for county lines, there are no links to the modern slavery legal or operational guidance.

5.5. These findings could help explain why some staff believed that the guidance documents were difficult to find, and why one legal manager we interviewed was only aware of the operational guidance and not the legal guidance.

Recommendation 2

By 31 October 2023, the CPS should include a link to the guidance on the section 45 defence and the non-punishment principles in the Children as suspects guidance, thereby ensuring that operational support is available across all casework types.

5.6. In chapter 4, we address the absence of a single guidance document that the magistrates’ court lawyers can refer to when prosecuting cases involving the section 45 defence and non-punishment principles. We also highlight several

missing or out of date aspects to the existing guidance. The sheer size of the material available through the various documents is also a barrier to its effective use.

They want to make the guidance more visual as they recognise that this often enhances the learning experience.

5.7. During our research, we observed that certain links to court judgments did not work. We are aware that the CPS Directors of Legal

Services Team (DLST) have recently hired two legal service officers who have been employed to ensure that legal links are working, and documents are in the correct format.

5.8. The DLST intends to do more to publicise the guidance documents through Instagram and podcasts and are encouraging Chief Crown Prosecutors to promote national guidance. They are also planning a large piece of work to streamline and standardise all CPS guidance. They want to make the guidance more visual as they recognise that this often enhances the learning experience.

5.9. There is also a useful podcast presented by the Director of Public Prosecutions (DPP). The podcast is a good starting point to this area as it sets out the basic principles and refers the viewer to the key parts of the guidance.

The fact that it is presented by the DPP demonstrates a strong commitment to this topic. We have been told that the podcast is played to all prosecutors when they join the CPS during the Induction to Prosecuting training carried out by the Central Legal Learning Team. However, at the present time, the guidance documents do not contain a link to the podcast.

5.10. The work of the DLST office to streamline guidance documents will assist with the issues we have highlighted in this report. However, based on our findings, we conclude that the NRM and the non-punishment principles, as they apply to county lines cases in the magistrates' court, may warrant their own guidance document. The office of the DLS and SPD take the view that section 45 and the non-punishment principles should be placed into context, and that where a prosecutor believes a defendant may be a victim of modern slavery there is an exploiter who needs to be investigated. We agree that this is important, but it could be presented in a simpler and more concise format, without detailed guidance on modern slavery and smuggling prosecutions in the same document.

5.11. We conclude that a prosecutor dealing with cases in the youth courts, magistrates' courts and Crown Court would not have sufficient time to refer to the guidance documents in their current format and that they provide limited assistance to a busy lawyer.

Recommendation 3

By 31 December 2023 the CPS to revise, restructure and retitle the current guidance to make it more accessible to volume crime units.

Training

5.12. We assessed whether the policy is covered in training by the CPS and if so, how is the effectiveness of this training monitored?

5.13. County lines and the NRM are covered in the CPS's national specialist youth training package, so all lawyers who prosecute youth cases have had some training on this aspect of their work. It is also covered in the national prosecutor induction programme.

5.14. In 2020/21, the National Modern Slavery Lead and the Strategy and Policy Directorate (SPD) in CPS Headquarters created a training package for all lawyers. It included information on:

- the non-punishment principles
- the NRM and the role of the SCA

County Lines and the National Referral Mechanism.

- the four-stage approach that prosecutors should follow when applying the Code in cases where the suspect might be a victim of slavery or trafficking

5.15. The training was delivered by the National Modern Slavery Lead and the SPD's lead on modern slavery. They provided training to a group of legal trainers from each CPS Area, who subsequently delivered the training to the lawyers in their Area. The training package included the Microsoft PowerPoint presentation which we discuss in paragraphs 4.19 – 4.21.

5.16. The training was rolled out before some significant developments in this area, and before the County Lines Offending legal guidance and the Modern Slavery, Human Trafficking and Smuggling legal guidance were revised in late 2021 and early 2022. The Areas we spoke to said that, as a result, they have undertaken their own training over the last 12 to 18 months.

5.17. Other training and learning activities that we were told about included:

- one Area commissioned a barrister specialising in the field of modern slavery to devise and deliver a training course tailored to their needs, because they considered that other courses did not adequately address the youth court. The Area reported that the course they created was particularly helpful
- some Areas have completed joint training with the police. Others have arranged for external experts to deliver training courses for them, which have included a talk from a police officer with a specialism in slavery and exploitation. Several lawyers combined their individual learning accounts³⁷ to fund these courses
- the SPD's lead on modern slavery attended many of the Areas to conduct training jointly with other agencies and has delivered training to police officers and magistrates. Several Areas have forums to discuss developments and significant cases. In these forums, lawyers are also invited to raise their own cases for guidance and to share best practices
- the two London Areas hold a bi-monthly pan-London forum, which is an effective way to share experiences and improve performance

³⁷ An allowance of £350 per person, per year, which CPS employees can access for professional development.

Based on the evidence we gathered, it is evident that both the CPS at a national level and the Areas demonstrate a commitment to keeping up to date with the latest developments in county lines and modern slavery

5.18. Based on the evidence we gathered, it is evident that both the CPS at a national level and the Areas demonstrate a commitment to keeping up to date with the latest developments in county lines and modern slavery, despite certain issues regarding the adaptation of guidance when changes occur. Lawyers we spoke to generally agreed that refresher training on this topic would be helpful, as some lawyers had joined the CPS after delivery of the NRM training course. A refresher training brief was in

development at the time of writing. SPD, in conjunction with the DLST, are drafting a new training programme to address all recent developments. It is anticipated that this will be rolled out later in 2023.

5.19. It was clear from the lawyers we spoke to that they found practical examples useful to aid their learning. It may be that the new centralised training programme will be the most appropriate forum to include this.

6. Monitoring and assessment of casework

6.1. In this part of the inspection, we considered whether there is monitoring of cases by the CPS Areas or the CPS Strategy and Policy Directorate to assess the effectiveness of the policy and prosecutions involving the NRM. We considered:

- are lawyers using the policy when prosecuting a case involving the National Referral Mechanism?
- is there monitoring of the use and effectiveness of the policy by the Strategy and Policy Directorate (SPD)?
- how are cases monitored to ensure they are being managed effectively and the right decisions made?

6.2. In this chapter, we reference the National Referral Mechanism (NRM), the role within that of the Single Competent Authority (SCA), the authority's reasonable and conclusive grounds decisions, and the defence contained in section 45 of the Modern Slavery Act 2015 (the Act). We explain these in more detail in chapter 2.

Policy usage in casework

6.3. As set out previously, we found inconsistency in the use of the policy and guidance across Areas. However, most Areas told us, they complied with instructions in the guidance and found some sections of it helpful, particularly the four-stage approach to making a decision on the Code for Crown Prosecutors when a suspect was a possible victim of slavery or trafficking.

6.4. Lawyers who worked in Areas where local guidance had been prepared said they used it in preference to national guidance because they found it to be more practical and helpful. The pan-London document we discuss in paragraph 4.12 is useful and practical, and the lawyers in the two London Areas told us it is their first port of reference when prosecuting a case of this type.

6.5. In Areas where local guidance has not been prepared, the consensus amongst the lawyers we spoke to was that they would seek advice from a more experienced colleague or their manager.

6.6. All the Areas we visited told us about regular meetings for discussing their county lines cases. These included:

- informal discussions with managers and colleagues face-to-face or over the telephone

- a designated Microsoft Teams chat room for all youth casework queries
- a weekly drop-in session with the legal manager who leads on youth casework for the Area
- in two Areas, case management panels take place on all cases where a referral has been made to the SCA. The panels review and discuss the management of the case and develop strategies for its effective preparation and presentation. The panel consists of the lawyer, and two legal managers.

6.7. In paragraph 5.9, we discuss the work that the Directors of Legal Services (DLSs) and their team are planning to undertake to improve national guidance. They may wish to review the various items of local guidance to ensure that the national guidance reflects the aspects that prosecutors find most helpful.

Monitoring the use and effectiveness of policy

6.8. It was apparent from our interviews with the SPD and the office of the DLST that neither had sought formal feedback from frontline prosecutors on the guidance documents.

6.9. Area leads for modern slavery are asked to provide feedback if they become aware of issues with the guidance. However, as we have noted in previous chapters, there are inaccuracies in the national guidance or parts that are out of date that appear not to have been reported.

6.10. There is a feedback mechanism on the Legal Hub on the CPS intranet where anyone can fill in the form to report issues with the guidance documents. This includes commenting on the guidance itself and reporting links that may not be working, amongst other issues. Prosecutors told us that they had not used this to provide feedback for these guidance documents.

Casework monitoring

6.11. As we discuss in paragraphs 3.9 to 3.10, there is no flag on the CPS case management system (CMS) for county lines cases. This hampers the CPS's ability to identify and monitor these cases and to produce management data or other performance reports relating to them. It also means we were unable to carry out a file examination.

6.12. We were told by the National County Lines Coordination Centre (NCLCC) that the police also do not have a formal system of flagging and monitoring county lines cases. The NCLCC has asked the SCA to share referral details. Their intent in obtaining this information is to assess and evaluate the data to better understand the types of people who are falling victim to modern slavery/exploitation. This would identify safeguarding issues and improve the service given to the victims of slavery and trafficking. The NCLCC told us that the SCA has data protection concerns about sharing the referral information.

6.13. As there is no formal case monitoring and data sharing, the police and CPS cannot identify the number of criminal prosecutions which involve use of the NRM. It follows, therefore, that there is no information on how many cases proceed to trial and how many are not charged or stopped after charge because the section 45 defence is made out, the defendant was under duress, or it is not in the public interest to proceed. It is also not possible for the CPS to monitor whether Areas challenge the section 45 defence (proceed to trial when they should not) or whether Areas do not challenge the section 45 defence (drop prosecutions when they should not).

6.14. Four of the five CPS Areas where we conducted fieldwork were able to provide examples of cases where the section 45 defence was being relied upon by a defendant, but they had decided the defence was not made out and that the matter should proceed to trial. These Areas were also able to discuss case examples where the defendant had been convicted following a contested trial. However, a legal manager and senior crown prosecutors from the fifth Area told us that during their time on the magistrates' courts unit, none of the numerous cases they worked on involving the section 45 defence had proceeded to trial. We have not been able to examine these cases and do not make any criticism of the decisions. However, without the case monitoring, we and the CPS cannot say whether Areas work in a consistent manner, and this is a concern.

6.15. Due to the absence of a flag on CMS, the youth leads in all the Areas we visited maintain individual spreadsheets of cases where the section 45 defence is being deployed. In most of the Areas, the lawyers are asked to send the details to the manager who adds them to their spreadsheet. In one Area, the spreadsheet is kept on the shared public drive and the lawyers are responsible for updating it themselves.

6.16. The purpose of tracking the cases was, we were told, to fulfil several monitoring needs. This includes allowing managers to maintain a grip on the cases, escalating outstanding conclusive grounds decisions to the police as and when necessary, and monitoring cases that go to trial and record the outcome.

6.17. The Area modern slavery leads attend monthly meetings chaired by the National Modern Slavery Lead. The modern slavery lead for the SPD also attends. This group has suggested that all CPS Areas keep spreadsheets of their cases as good practice.

6.18. During the monthly meeting, one of the leads presents a case study, to enable learning and good practice to be shared across all Areas. Some of the cases presented will be the prosecution of modern slavery offences and others will be cases involving youths relying on the section 45 defence. Hence, this serves as a form of case monitoring.

6.19. However, based on our findings in this inspection, we conclude that there is some inconsistency in the use of guidance and prosecution of these offences. With the current limited monitoring comes a missed opportunity to identify and tackle a lack of consistent application of policy and guidance and embed a standardised approach.

Recommendation 4

By 31 December 2023, the CPS to develop a system of assurance that can prove that CPS Areas are taking a consistent approach in the prosecution of cases involving the section 45 defence and the application of the non-punishment principles.

Annex A

Inspection Framework

Inspection framework

The framework for this inspection consists of an overarching inspection question and three criteria. There are several sub-criteria for each criterion.

Inspection question

Does the revised CPS policy support the prosecution of county line cases resulting in effective management and decision making? Is there a clear awareness at operational level of the revised policy?

Criteria and sub-criteria

1. Is the revised policy assisting lawyers at the front line to make appropriate and effective decisions in cases where a referral to the single competent authority (SCA) has been made on behalf of the suspect?
 - a. Does the policy adequately cover the law and appropriate case law in dealing with pre-charge decisions and post-charge reviews?
 - b. Does the policy assist lawyers in ensuring cases are effectively managed so as to avoid unnecessary delay?
 - c. Is the policy drafted in a straightforward manner enabling ease of understanding and comprehension?
 - d. Does the policy reflect the current issues observed in these cases and advise the lawyers accordingly?

2. Is there a good level of awareness of the revised policy amongst the lawyers at the front line?
 - a. Are the lawyers and frontline staff aware of the revised policy and how to find it?
 - b. Is the policy covered in training by the CPS and if so, how is the effectiveness of that training monitored?
 - c. What is the view of the frontline staff on the way in which the policy is presented? Do they find it simple to understand and effective to use?

County Lines and the National Referral Mechanism

3. Is there any monitoring of cases by the CPS Areas or the CPS Strategy and Policy Division to assess the effectiveness of the policy and prosecutions involving the NRM?
 - a. Are the lawyers using the policy when prosecuting a case involving the National Referral Mechanism (NRM)?
 - b. Is there monitoring of the use and effectiveness of the policy by the Strategy and Policy Directorate?
 - c. How are cases monitored to ensure they are being managed effectively and the right decisions are being made?

Annex B

Glossary

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.

Case management system (CMS)

The IT system used by the CPS for case management.

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.

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.

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.

County Lines

County Lines are operated by gangs from urban areas, in particular London but also other cities, who introduce a telephone number into a new area to sell drugs directly at street level. Potential buyers phone the number and local runners are dispatched to make deliveries via a telephone 'relay or exchange' system. The runners are often boys between 14 and 17 years old, who are groomed with the promise of money and gifts and deployed or forced to carry out day to day

dealings. Runaway and missing children are also used by gangs to expand inner city drug operations into county towns and other less urban areas.

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. Crown Prosecutors can progress to become senior CPs.

Cuckooing

A criminal takes over the home of a vulnerable person to conduct their criminal activity from. This can include storing and supplying drugs or other illegal property from that residence.

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.

Defendant

Someone accused of and charged with a criminal offence.

Director of Legal Services Team

The senior legal roles in the CPS who are accountable for casework delivered in CPS Areas, Central Casework Divisions and Proceeds of Crime services. The DLSs and their team have day to day oversight of cases which meet the referral criteria, invariably cases which are novel, complex and/or high profile. The DLSs and the team research and provide casework advice on the most serious cases within the CPS, as well as legal and operational advice on new initiatives. The DLS team is also responsible for the continual improvement and development of the legal guidance.

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 on 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.

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.

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.

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.

Individual Learning Account (ILA)

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

National Referral Mechanism (NRM)

The National Referral Mechanism (NRM) is a framework for identifying and referring potential victims of modern slavery and ensuring they receive the appropriate support.

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.

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.

Single Competent Authority (SCA)

Part of the Home Office. It is responsible for identifying and supporting potential and confirmed victims of modern slavery through the National Referral Mechanism.

Strategy and Policy Directorate (SPD)

The SPD works within the CPS to strategically work at the heart of government for the CPS to enable them to be forward-looking, outward facing, and influential across Whitehall and the Criminal Justice System. The Division also produces legal and policy frameworks to ensure that CPS staff have the powers and tools to do their job effectively and efficiently.

Uncontested case

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

Annex C

Reading List

Reading List

- Modern Slavery Operational Guidance (CPS intranet)
 - Checklist of Evidence
 - Modern Slavery Guidance – A Guide to Modern Slavery in the Youth Court – Post Charge (flow chart)
 - County Lines and section 45 defence June 2020
 - CPS County Lines and S45 defence 2019
- Drugs Offences Legal Guidance (CPS Intranet) [Drug Offences | The Crown Prosecution Service \(cps.gov.uk\)](#)
- County lines Typology
https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/County-Lines-typology.docx
- DPP Modern Slavery 2 2019 DPP podcast (CPS Intranet)
- Gateway: Modern Slavery, Human Trafficking and Smuggling (CPS Intranet)
- Modern Slavery, Human Trafficking and Smuggling Legal Guidance [Modern Slavery, Human Trafficking and Smuggling | The Crown Prosecution Service \(cps.gov.uk\)](#)
- Youth Offenders Guidance [Youth Offenders | The Crown Prosecution Service \(cps.gov.uk\)](#)
- [Children as suspects and defendants \(sharepoint.com\)](#)
- Gang related offences – Decision making in [Gang related offences - Decision making in | The Crown Prosecution Service \(cps.gov.uk\)](#)
- YOT – County Lines Presentation (CPS Training exercise developed by the Strategy and Policy Directorate presented at some training events nationally.)
- County Lines Offending Legal Guidance [County Lines Offending | The Crown Prosecution Service \(cps.gov.uk\)](#)
- Gateway – Modern Slavery (CPS Intranet)

- Letter from CPS National Modern Slavery Lead to all Modern Slavery Leads 17.12.19 (CPS Intranet)
- Modern Slavery Guidance (same letter as above but uploaded as guidance (CPS Intranet)
- Gateway: Section 45 Modern Slavery Act 2015 and abuse of process (CPS Intranet)
- Code for Crown Prosecutors 2018 [Code for Crown Prosecutors 2018 - downloadable version and translations | The Crown Prosecution Service \(cps.gov.uk\)](#)
- From Harm to Hope: A 10-year drugs plan to cut crime and save lives. December 2021 [From harm to hope: A 10-year drugs plan to cut crime and save lives - GOV.UK \(www.gov.uk\)](#)
- Modern Slavery Act 2015 [Modern Slavery Act 2015 \(legislation.gov.uk\)](#)
- National Referral Mechanism Guidance: Adult (England and Wales) [National referral mechanism guidance: adult \(England and Wales\) - GOV.UK \(www.gov.uk\)](#)
- Devolving child decision-making pilot programme: general guidance [Devolving child decision-making pilot programme: general guidance - GOV.UK \(www.gov.uk\)](#)
- Nationality and Borders Act 2022, part 5 [Nationality and Borders Act 2022 \(legislation.gov.uk\)](#)
- Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2022 - GOV.UK \(www.gov.uk\)](#)
- Modern Slavery: National Referral Mechanism and Duty to Notify Statistics [national-referral-mechanism-statistics-uk-quarter-4-2022-october-to-december-tables.ods \(live.com\)](#)
- R v. Breani [2021] [Breani v R. \(Rev1\) \[2021\] EWCA Crim 731 \(19 May 2021\) \(bailii.org\)](#)
- R v. MK [2018] [MK v R \[2018\] EWCA Crim 667 \(28 March 2018\) \(bailii.org\)](#)

- The impact of the Covid-19 pandemic on the criminal justice system – a progress report [The impact of the Covid-19 pandemic on the criminal justice system – a progress report \(justiceinspectorates.gov.uk\)](#)
- Serious Crime Act 2015 [Serious Crime Act 2015 \(legislation.gov.uk\)](#)
- DPP v. M [Director of Public Prosecutions v M \[2020\] EWHC 3422 \(Admin\) \(15 December 2020\) \(bailii.org\)](#)
- Charging (The Director's Guidance) 6th edition [Charging \(The Director's Guidance\) - sixth edition, December 2020 | The Crown Prosecution Service \(cps.gov.uk\)](#)
- Both sides of the coin: An inspection of how the police and National Crime Agency consider vulnerable people who are both victims and offenders in 'county lines' offending. [Both sides of the coin: An inspection of how the police and National Crime Agency consider vulnerable people who are both victims and offenders in 'county lines' drug offending - His Majesty's Inspectorate of Constabulary and Fire & Rescue Services \(HMICFRS\) – Home \(justiceinspectorates.gov.uk\)](#)
- The importance of implementing the non-punishment provision: the obligation to protect victims [The importance of implementing the non-punishment provision: the obligation to protect victims | OHCHR](#)
- National County Lines Coordination Centre to crack down on drugs gangs [National County Lines Coordination Centre to crack down on drug gangs - GOV.UK \(www.gov.uk\)](#)
- The Sentencing Act 2020 [Sentencing Act 2020 \(legislation.gov.uk\)](#)

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