



HMCPSI

HM Crown Prosecution
Service Inspectorate

The effective use of agents in the magistrates' court

March 2020

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Who we are

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

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

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

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1. Summary

1.1. The CPS prosecutes about three-quarters of criminal cases in the magistrates' courts using their own lawyers but, for a variety of reasons, have to employ other lawyers to cover court cases. In the magistrates' court, those lawyers who are not directly employed by the CPS are referred to as agents. Agents provide a flexible resource when needed, without employment commitments and are paid at a daily rate.

1.2. Agents play a vital advocacy role for the CPS, enabling 100% coverage of magistrates' court sessions. In 2018-19, over 26% of magistrates' court sessions were covered by agents. Using agents effectively, and agents of the right quality, is key to ensuring value for money in service delivery and the delivery of justice.

1.3. The CPS resourcing strategy is to use agents as a flexible resource, not only for covering a shortfall in the number of lawyers, but also to provide cover for periods of peak demand. This is a sensible and cost-effective approach to resourcing. As a result of a combination of factors, including austerity measures across the public sector and a number of process and structural changes, many CPS Areas have been understaffed. As a result, CPS reliance on agents over the last three years has varied between 26.8% and 37.1%.

1.4. The resourcing position and demands are different for every CPS Area. So, the national position on managing and using agents is to give CPS Areas full autonomy in deciding how to deploy agents to meet their specific needs. As a result, there is no nationally set Area performance target related to the level of agent use. We believe this to be a sensible approach.

1.5. CPS Headquarters provide funding for agents through the allocation of Area funding, determined in an annual bidding process. Spend is assured through established reporting mechanisms. Our inspection found that there were effective controls, although in some instances more could be done to assess if deploying agents provided value for money.

1.6. Agents represent the CPS and so should ensure that CPS policies are adhered to. CPS guidance should be provided to agents, but we found inconsistencies in how Areas assured themselves that agents were aware of their obligations. A positive development is the intended introduction of a national service level agreement (SLA) to be used by individual Areas to make clear the service expectations and relationship between CPS Areas and local agents.

1.7. Compared to the magistrates' court, there were much clearer processes for ensuring the suitability and service expectations for advocates used in the Crown Court. Our findings were that this was not reflected in the systems to assure quality and service standards for agents used in the magistrates' court.

1.8. Inspectors found that there was a clear opportunity for the development of national guidance and tools to assist and support Areas with the effective use of agents. There were gaps, nationally, in the expectations and guidance on training agents and on how quality and performance should be assessed. Greater clarity on how concerns regarding the performance of agents should be investigated would be helpful. This absence of a national approach has resulted in Areas producing different approaches and, in some instances, has led to no guidance. Producing national products, such as a core service level agreement, an agents' pack and a quality monitoring system, suitable for local adaptation, would provide Areas with a consistent approach and clarify the position.

1.9. Areas use a variety of deployment models and systems to determine the gaps that need to be filled by agents. We found that some systems were more effective and gave a clearer understanding of need than others. Those Areas that used electronic resource planners were able to plan and manage agent resources more effectively. A number of Areas set an agreed level of agent use, and had this as a baseline, increasing the level of use where necessary. This seems to be a sensible approach.

1.10. We found that all Areas used agents mainly to cover trial advocacy. Using agents for trials is more effective, as they are not able to make casework decisions and do not have direct access to CPS casework systems. There were generally positive working relationships between CPS and Her Majesty's Courts Service (HMCTS), which supported listing efficiency, although last-minute changes to the court list meant, in some instances, it was difficult for Areas to get best value from the agent.

1.11. Inspectors found variable practices in how Areas selected and trained new agents. All Areas have a cadre of agents that they use regularly. The experience of agents varied, with the CPS using experienced solicitor and barrister agents, together with pupil and newly qualified barristers. The inspection found some evidence of consideration being given to selection of appropriately skilled and experienced agents to cover complex or sensitive cases, but generally found that more focus

was put on securing sufficient cover than thinking through whether there was a need to engage the right agent for the case.

1.12. Given the reliance on agents in some Areas, it is quite common for the agent to become the face of the CPS – the only representative of the CPS that many court users see. Using agents at remote courts can be cost-effective but, to ensure the good reputation of the CPS, it is essential that the agent's performance is of a satisfactory quality. In fact, inspectors found that agent quality was rarely assessed.

1.13. Both metropolitan and non-metropolitan Areas experience challenges in being able to find enough suitably qualified agents available to employ. In some places, this is especially acute and there is competition to secure agent resources from surrounding CPS Areas. Whilst we found that all Areas were successful in finding enough agents to cover all necessary court sessions, there is some concern that this can affect the quality of agents engaged. In an attempt to secure enough agent resource, some Areas use 'block-booking', offering a level of guaranteed work. Areas told us they do this to ensure they can secure the services of good-quality agents, as there are often difficulties in securing enough high-quality agents.

1.14. We found that CPS Areas were providing case papers to agents in good time and of sufficient quality, but Areas provided variable levels of support to agents on the day at court. Agents cannot make decisions to discontinue a case or take a plea to different charges without authority from a CPS lawyer. All the Areas visited had different approaches for how agents at court could contact the CPS. We saw examples of telephone hotlines, telephone contact numbers being provided with court papers or telephone contact details being displayed in the CPS room at court. In some of the larger court centres, in-house legal managers were available at court. Some Areas were much better than others, especially where the court centres were large enough to have a permanent CPS manager or where the CPS Area had appointed a dedicated advocacy manager. More could be done to improve support, including consideration being given by the CPS to whether funding dedicated advocacy managers in all Areas should be the norm.

1.15. Effective service delivery includes ensuring that agents are of the right quality. It is accepted that agents have a variety of experience, some more experienced in criminal law than others and in presenting cases at court. Solicitor agents and barristers are self-employed and have regulatory obligations on competency from their regulating bodies. These include that a competent standard of work and service should be provided

to each client, along with professional obligations for continuing professional development. The level of training and information provided by CPS Areas to agents is, therefore, a matter for Area discretion. To help ensure that training and support can be provided to those self-employed lawyers representing the CPS, the CPS has developed and designed an IT portal – the External Prosecution College (EPC). This is a significant positive development that provides a single and accessible training resource that all agents can use. However, take-up is very limited. Awareness across the self-employed Bar and with solicitor agents needs to be raised. Area managers responsible for deploying and allocating agents should also make it clear that this resource should be used by those engaged by the CPS. The introduction of national guidelines on induction and training materials that Areas provide to all agents would go some way to promoting quality performance at court, in turn enabling the right outcomes for victims and witnesses.

1.16. Agents represent the CPS in about a quarter of the cases presented in the magistrates' court. Therefore, having effective systems to assess quality and competence is essential. We found that there was very little quality assessment carried out on the standard and performance of agents. Whilst the CPS has established systems to carry out advocacy assessments on its own staff in the magistrates' court, there was no clarity about whether agents should be assessed. Due to resource issues, many Areas found it difficult to find time to assess external agents. The CPS needs to clarify its position on how agents should be assessed and provide general principles to ensure a consistent scheme of assessment. It would also be helpful if, in line with the practice for those who represent the CPS in the Crown Court, the CPS introduced a national register of approved agents. This would ensure that any quality assessment could be recorded and act as a means for all Areas to assess suitability before engagement.

1.17. We make the following recommendations:

Recommendations
Crown Prosecution Service Headquarters should provide key tools needed to manage agents effectively and ensure quality, including a model deployment rota (electronic resource planner), taking account of in-house and agent use, that accurately identifies gaps and enables cost-effective deployment. (3.21)
Crown Prosecution Service Headquarters should develop general principles and produce guidance on processes for the introduction of new agents, including the possibility of a national agent register. (4.6)

Crown Prosecution Service Areas should ensure the right quality of agents is being selected through appropriate introductory checks, strengthened induction processes for agents, and using service level agreements to ensure that expectations are understood and accepted. (4.6)

Crown Prosecution Service Areas need to ensure that all agents are provided with contact details so they can get effective and efficient case support without delays to the case. (6.10)

Crown Prosecution Service Headquarters should set out clear expectations and guiding principles for inducting and training agents to support satisfactory agent quality. They should also develop a national agent pack to support the national service level agreement and related service expectations. (7.15)

Crown Prosecution Service Areas should introduce a clearer planned approach to agent training, taking account of any national principles and guidance, and including use of the External Prosecution College. (7.15)

Crown Prosecution Service Headquarters should develop general principles and produce guidance on individual quality assessment expectations for agents, as a minimum as part of induction. Crown Prosecution Service Headquarters should make it clear how concerns should be investigated and relevant information shared between Areas. (8.19)

Crown Prosecution Service Areas should ensure the right quality of agents is being selected by using individual quality assessments, and by dealing with concerns effectively and consistently. Information also needs to be shared effectively between Areas. (8.19)

1.18. We set out in the report a number of issues to address. Whilst the impact of these issues is not as great as our recommendations, the CPS will need to consider how it changes and improves its processes to address our concerns.

Issues to address

Crown Prosecution Service Areas need to be clear that all agents have suitable guidance or training on digital working, and have access so they can share information digitally, in particular access to Egress. (6.14)

Crown Prosecution Service Headquarters should promote the use of the External Prosecution College to encourage greater use, and consider introducing further courses. (7.4)

Crown Prosecution Service Areas should consider the full breadth of value for money when using agents, in terms of the cost-effectiveness of when agents are used (scale of payments) and travel. (9.10)

1.19. HMCPST defines good practice as an aspect of performance or activity that demonstrates an innovative or creative approach and that leads to a positive change, improved quality, better performance, or is value for money. We found the following good practice:

Crown Prosecution Service London North, West Midlands, and Yorkshire and Humberside had resource planners or rotas that were very effective models for identifying gaps. These tools considered a number of different factors, including expected leave hotspots, seasonal court listing matrices, absences for training, levels of in-house lawyer use and agent use etc.

Crown Prosecution Service East Midlands only instructed agents who were on an Area approved list, which set a required level of experience. Approval is provided following a meeting with the Deputy Chief Crown Prosecutor (DCCP), authorisation by the DCCP and completion of new agent training.

Ahead of every new block-booking session, Crown Prosecution Service London North sends out the terms and conditions, service level agreement (SLA) and guidance. The SLA includes a clear cancellation clause.

Crown Prosecution Service London North had advocacy managers available at court to provide support to agents. This has made it possible to undertake regular quality assessments of agents, and to include agents in team briefing sessions at court.

Crown Prosecution Service South East gave agents contact numbers for the lawyer in the case and an assigned 'buddy' if the lawyer in the case was not available. Failing this, the advocacy manager's details were also provided.

Crown Prosecution Service West Midlands had an established process where a sensitive case register was used to ensure the right agent selection. This was scrutinised by the District Crown Prosecutors.

Crown Prosecution Service London North, West Midlands, and Yorkshire and Humberside had comprehensive agent packs.

Crown Prosecution Service London South recently updated their service level agreement to include the requirement for individual quality assessments. The Area has introduced an approach whereby advocacy assessments are conducted on appointment and then periodically after.

2. Context and methodology

Context

1.20. The CPS prosecutes the vast majority of criminal cases in the magistrates' courts, and needs to provide advocates to cover the cases they present in the magistrates' court. Nationally, In 2018-19, the CPS covered 180,572 sessions¹ in the magistrates' court. The CPS ensures it is able to cover all magistrates' courts through a flexible resource model that includes deploying permanent legal staff and engaging magistrates' court prosecutor agents.

1.21. Agents are qualified lawyers who act on behalf of the CPS in the magistrates' and youth courts. Agents are either solicitors or barristers, including some pupil barristers, and are used by the CPS to prosecute cases at the magistrates' court, enabling all court sessions to be covered. For 2018-19, 26.8% of magistrates' court sessions were covered by agents. This is the lowest figure since 2016-17, when the national average was 30.7%. The level of agent use sits against a background of a reduction in in-house prosecutors, but also a significant reduction in the number of magistrates' court sessions. Annex A sets out use, coverage and session numbers.

1.22. Agents cannot review cases or make significant decisions on cases, for example amending charges or discontinuing the case. When such decisions need to be made, the agent at court must contact a CPS lawyer who will make the decision. This affects how agents can be deployed in the magistrates' courts. Using agents in trial courts is, therefore, the preferred national policy for managing the limited decision-making remit of agents. Agents do not have access to the CPS electronic case management system, and have to be provided with the relevant case papers as electronic advocacy bundles. This too can limit how deployment.

1.23. Agents are self-employed and are paid at a daily rate. At the time of the inspection, the negotiated and agreed standard sliding daily rate was from £200 minimum to £250, with some level of discretion. The rates payable have recently been increased following a review in 2019. New rates came into force in February 2020.

1.24. The level of agent use is determined by the CPS Areas as a way of effectively resourcing known commitments. Agent use is an accepted part

¹ A magistrates' court session is the period of time used by the court to conduct its business. This can be a morning or afternoon. There are two potential sessions in each working court day.

of the overall CPS resourcing strategy. Legal staffing levels are based on the CPS resourcing strategy and the related national resourcing model (NRM). CPS resources are calculated using eight elements detailed in annex B. The NRM does not resource to cover all peaks in demand and Areas therefore determine the extra resources needed to meet demand on top of permanent staffing levels.

1.25. Solicitor agents and barristers used in the magistrates' court have clear regulatory obligations from their own regulating bodies: the Solicitor Regulation Authority and Bar Standards Board. These include that a competent standard of work and service should be provided to each client. Agents also come with a variety of experience, from the very experienced to pupil barristers new to criminal prosecution. It is accepted practice that pupils will develop criminal advocacy experience in the magistrates' court to prepare them for more serious offences in the Crown Court.

1.26. This is the first time that HMCPsi has specifically looked at the effective use of agents as a resource.

Methodology

The team

1.27. The team consisted of five business management inspectors. To inform this inspection, we used the framework shown in annex C.

File examination

1.28. We examined 90 magistrates' court files to determine the quality of information being provided by the CPS to agents in advance of the court they were expected to cover. These files covered June 2019 to September 2019. The file examination consisted of a mix of successful and unsuccessful magistrates' court trial cases prosecuted by agents in the magistrates' courts, for nine CPS Areas. These nine Areas were Cymru Wales, London North, Merseyside and Cheshire, North West, South East, Thames and Chiltern, Wessex, West Midlands, and Yorkshire and Humberside (pilot Area). The key results of our file examination and related questions can be found in annex D and E.

Analysis

1.29. The inspection team reviewed a number of documents provided by CPS Areas and CPS Headquarters, which related to key sections of the inspection framework. Inspectors assessed key information relating to

(amongst other things) guidance and plans relating to agents; agent budget and deployment information; training materials for agents; information on quality checks, and information on concerns relating to agents.

1.30. Inspectors also issued a questionnaire to the five CPS Areas not visited as part of the fieldwork: East of England, East Midlands, London South, North East and South West. Some documentary information was also requested, where relevant.

Fieldwork

1.31. The inspection included visits to nine Areas where inspectors spoke with a number of CPS staff with responsibilities for deploying and supporting agents. Inspectors also spoke with HMCTS senior legal advisers and senior managers at CPS Headquarters.

Court observations

1.32. Inspectors visited a number of magistrates' court centres in the nine Areas visited, and observed whether agents were supplied with all the information needed, whether agents had support and whether there were any deployment issues. In total, 34 court observations were conducted. The findings are in annex F.

Survey of agents

1.33. We invited agents used by the CPS Areas we visited to complete a digital survey of how they viewed the performance of their local CPS Area. The nine CPS Areas were asked to provide contact details for the ten most recently used agents. 64 agents replied to our survey. The survey outcome is in annex G.

3. Managing resources

Resourcing strategy

1.34. The CPS national strategy is that agents are used to bridge the lawyer resourcing gap, and ensure that all magistrates' courts hearings are covered. This approach provides the CPS Areas with the much needed flexibility to ensure sufficient coverage. Nationally, for 2017-18 and 2018-19, agent use was 37.1% and 26.8% respectively. All CPS Areas use agents to a lesser or greater degree as set out in annex A.

1.35. CPS Headquarters uses a national resource model (NRM) to calculate Area staffing levels and allocate the related budget. Areas determine their resourcing needs in line with the national resource model (NRM). Agents are generally used as a flexible resource to cover lawyer shortfalls against the allocation of Area resource generated by the NRM. Areas may also use agents to cover any further shortfalls, for example, additional training, peak leave periods and unexpected absence.

1.36. Senior managers in all Areas saw the continued use of agents as a necessary part of any CPS resourcing strategy as it brings a level of flexibility that allows Areas to react to need. Inspectors view this level of flexibility as a sensible and cost-effective approach to resourcing, where there are fluctuations in demand and resourcing levels.

1.37. The resourcing position is particularly difficult at the moment – a point recognised in the recent comprehensive spending review that will allow the CPS to recruit 390 lawyers. The need for further lawyers has also been created as a result of a number of process and structural changes, such as the strengthened approach to disclosure, and the re-introduction of Area charging responsibility. These shortfalls have meant that the reliance on agents has been extensive and necessary.

1.38. All Areas we visited had gaps in their legal resources. For all the Areas visited, we found the following issue or combination of issues requiring the use of agents:

- Areas had a lawyer resource shortfall against the NRM.
- Areas had new lawyers who were yet to be fully deployed, as they were currently going through employment checks or were participating in the CPS induction programme.
- Not all lawyers were able to be deployed due to workplace adjustments.

1.39. All Areas use agents to address the shortfall, but some Areas have had to react to the shortfall by increasing their use of agents. In CPS North West, where agent use, has traditionally been low (12.8% for 2018-19), the level in 2019 increased to 21%. Higher agent use has a knock-on effect, potentially affecting the ability of Areas to engage enough agents and increasing the burden of support required. This rapid increase in agent use may also have a consequence on the quality of agents that Areas can secure, resulting in an approach that prioritises having enough cover.

1.40. Nationally the CPS has also responded to the lawyer shortfall through creating remote teams. CPS West Midlands has lawyers who undertake legal case reviews sited in Merseyside and Cheshire and a further remote team in Wales. CPS London North has a remote team in Wales. This is a pragmatic approach for sharing resources across the organisation. It means that Areas that struggle the most get support and can deliver their services. However, the use of remote teams does create some challenges. Lawyers located remotely cannot be deployed to court either in the Area they have been seconded from or in the Area they are working for. This impacts on court coverage for both Areas. Overall, this is the right approach to enable service delivery by the CPS as a whole, but brings extra challenges that add pressure locally.

1.41. There is no optimum level of agent use set by CPS Headquarters as part of the national CPS resourcing strategy. Given the local variations in resource gaps, this would be difficult to do. During our inspection, Area managers considered that this approach was right as it permits Areas to consider individual Area needs. Inspectors agree that this approach is sensible. However, we explain later that this may make it difficult for the CPS to be sure the approach results in value for money.

Managing the budget

1.42. The number of agents an Area is able to use is determined by the annual budget allocation. As stated, Area budget allocations for legal staff numbers are mainly based on the national resource model. Separate to this is a specific budget allocation for agents. The final budget allocation is decided following a bidding process between the Areas and CPS Headquarters.

1.43. As part of the 2018-19 Area budget allocations, CPS Headquarters conducted detailed analysis of Area agent resourcing bids. For 2019-20, CPS Headquarters focused detailed analysis on other priority budget matters. Inspectors were informed by some Areas that, for 2019-20, they

understood their agent bid needed to be based on the previous year's bid. Every year, Area circumstances and the resourcing position are likely to change. So, basing the bid solely on a previous year's allocation could lead to an inaccurate agent budget allocation, and potentially affect the Area's ability to use agents when needed. Headquarters told inspectors that the bidding process enabled Areas to amend agent allocations to meet the 2019-20 Area need. In addition, if the Area needs to request further funds throughout the year, a business case can be submitted. There seems to have been some misunderstanding by Areas about the bidding process and it would be helpful for the process to be clarified ahead of future rounds. Securing the right budget allocation for agents is the first step towards sufficient court coverage in the Area, as well as achieving cost-effectiveness and value for money.

1.44. There is a clear expectation from CPS Headquarters that Areas manage spend on their allocated budgets, which includes the agent budget. There is monthly reporting via Anaplan, the CPS accounting system, on actual spend against forecast spend. In eight of the nine Areas visited, there were generally effective systems of overall budget control with effective probity controls, and demonstration of a good understanding of their agent budget and current position against projected spend.

1.45. Areas recognise the importance of considering the number of agents being booked against the overall projected budget, and this results in a more cost-effective approach in agent spend. We saw evidence of Areas introducing strengthened deployment teams and agent management processes to support this – for example in Yorkshire and Humberside, Wessex and the West Midlands. London North has a pan-London unit that manages agent deployment and produces daily agent use reports. This is a good approach for Areas of that size.

1.46. Areas had effective financial reporting structures in place. Area Finance Managers (AFMs) report to the Area Business Managers (ABMs) usually on a monthly basis. Agent budget figures are reported to the Area management boards on a monthly or quarterly basis. These consider the spending and resourcing position. There was evidence that monthly discussions were often supplemented by weekly discussions between the AFM and/or ABM and staff responsible for the deployment/agent rota.

1.47. We also saw evidence of financial probity through dip-sampling checks on the agent accruals expenditure tracker. This is the tracker used for invoicing and for paying of agents. In the West Midlands, the AFM

undertook dip-sampling and also included fraud checks to determine the authenticity of the agent solicitor and barristers used.

1.48. There was limited evidence that Areas were considering equal distribution of agent sessions between solicitor agents and different barristers and chambers. Much of this was due to Areas being driven by the need to secure sufficient resources. However, fairness and equity should be something that is considered as part of any selection process.

1.49. As the agent budget and staffing expenses are part of the general and administrative expenses (GAE), and are not ringfenced, Areas can reallocate funding from the Area staffing budget to the agent budget. This gives the Areas flexibility. As a result, many Areas are increasing their agent budgets as the financial year progresses. In some instances, increases in the agent budget over the year are significant. In 2018-19, actual spend in Wessex was £100,000 more than anticipated and in 2019-20, Merseyside and Cheshire increased the initial allocated budget position by £53,000. This shows that the ability to move funds into the agent budget during a period of recruitment challenge in many Areas is absolutely necessary.

1.50. There are mechanisms in place by which Areas are held to account regarding spend on agents. Areas are challenged on key spend by CPS Headquarters finance business partners, who overall provide budget support to the Areas. Areas are also held to account for their overall GAE spend against budget through quarterly performance meetings with CPS Headquarters.

Planning agent use

1.51. All the Areas we visited control the number of agents by identifying resource gaps, and monitoring and controlling the numbers being used. All Areas were making decisions based on actual permanent legal resource shortfalls. This approach makes sense, particularly when Areas have significant deficits. Some Areas were adopting a more detailed practice, identifying the gaps in actual daily demand and factoring in that demand does not remain static. Areas that used this approach were able to show that this resulted in more effective use of resources. These included CPS London North, the West Midlands, and Yorkshire and Humberside.

1.52. In each Area, there was an evidence base for determining and controlling the numbers being used, whether this was the deployment rota itself, separate documentation or a combination of both. There were clear

processes in place in all Areas to approve additional use above the agent numbers agreed. Some Areas had set out the agreed number of agents that could be booked daily or weekly, and any agents above that number had to be agreed by the ABM, operational delivery manager or a legal manager, with evidence to demonstrate why more agents were needed. In other Areas, senior managers gave slightly more flexibility in terms of the extra numbers above those authorised. This was because they expected overall numbers would be balanced out to the agreed level over a longer period.

1.53. Areas used a variety of tools to determine the gaps in court coverage that could be provided by in-house prosecutors. We found some tools were more effective and gave a clearer understanding of need than others. CPS London North, West Midlands, and Yorkshire and Humberside had electronic resource planners or rotas that effectively identified resources and court coverage gaps. Inspectors considered these tools as good practice.

1.54. CPS Headquarters has not nationally produced or promoted the use of such resourcing tools for Areas, and we would recommend that a model deployment rota accurately identifying resource gaps is made available to all CPS Areas.

Recommendation
Crown Prosecution Service Headquarters should provide key tools needed to manage agents effectively and ensure quality, including a model deployment rota (electronic resource planner), taking account of in-house and agent use, that accurately identifies gaps and enables cost-effective deployment.

4. Securing agent resource

Introduction of new agents

1.55. Agents used by CPS Areas include solicitor agents, more experienced barristers and barrister pupils. The proportions of each are dependent on the demographics of the Area. Pupil barristers often gain advocacy experience in the magistrates' courts. This is accepted practice in the development route for barristers. Identifying new solicitor agents who can represent the CPS often happens when CPS lawyers observe the agent acting as a defence solicitor in the magistrates' court.

1.56. There is variable practice in relation to the selection and introduction of new solicitor agents in the magistrates' courts, and overall CPS Areas adopt an informal approach. The opposite is true for the Crown Court. In the Crown Court, the expectation is that external advocates apply to be CPS advocacy panel members and are assessed before being engaged. There is no specific CPS Headquarters guidance on how solicitor agents should be recruited, other than clear expectations of quality requirements and adherence to the individual regulatory professional obligations.

1.57. The CPS 2020 Advocacy strategy states the intention to consider extending the advocate panel members' commitment to agent prosecutors. Inspectors were told that work is in progress, currently at the Area consultation stage, for a national service level agreement to be used by each Area when instructing magistrates' court agent prosecutors. This includes setting out requirements for providing, receiving and presenting digital information by counsel and solicitor agents when acting for the CPS in magistrates' courts or youth courts. It will detail the levels of service that the parties are expected to provide. The proposal does not include the introduction of a national register for agents operating in the magistrates' court, unlike that used for external advocates in the Crown Court. Whilst it is recognised this would be more resource-intensive, this may be a missed opportunity. Introducing a national register could save duplication of effort when Areas check the same agent, and it would give Areas 'registered' agents to choose from.

1.58. Introducing new agents to CPS work is approached in a variety of ways. Some Areas require new agents to attend CPS offices and speak with advocacy managers or other legal and operational delivery staff. CPS East Midlands only instructs agents who are on an Area approved list. Additions are made to the list following a meeting with the Deputy Chief Crown Prosecutor (DCCP), authorisation by the DCCP and completion of new agent training. This is good practice. In CPS Yorkshire

and Humberside, all agents are expected to meet the regional district crown prosecutor (a legal manager) to discuss the CPS systems, practices and expectations before they are given work.

1.59. CPS Cymru Wales, Wessex, East of England, North East and South West all require or offer some general induction at CPS offices. This is a general familiarisation with CPS processes and expectations. CPS Thames and Chiltern use a new agent checklist when booking agents for the first time. Adopting a simple checklist to establish if the new agent meets basic requirements, such as whether the agent has a valid practising certificate and CJSM account in all CPS Areas, would have some benefits.

1.60. Some Areas use local service level agreements (SLAs) and/or local agent packs when engaging agents for the first time. These set out expectations and provide information on a range of process issues. In some instances, SLAs are signed by the agent and returned to the CPS (seen as a pseudo contract). There was a presumption in some Areas that providing the SLA, and the agent taking on work from the CPS, meant that the agent had agreed to the terms. Given that an agreement between the Area and the agent is the most common form of engagement, Areas need to be clear that agents properly understand the expectations and that the SLA is used to effectively set out standards.

Recommendations

Crown Prosecution Service Headquarters should develop general principles and produce guidance on processes for the introduction of new agents, including the possibility of a national agent register.

Crown Prosecution Service Areas should ensure the right quality of agents is being selected through appropriate introductory checks, strengthened induction processes for agents, and using service level agreements to ensure that expectations are understood and accepted.

Maintaining sufficient agent coverage

1.61. All Areas visited had a cadre of agents, whether pupil barristers, barristers or solicitor agents, who were used regularly to fill in-house lawyer gaps and provide sufficient magistrates' court cover. Some Areas had a very established cadre, mainly using known solicitor agents, whilst others were more reliant on providing cover through using barristers from chambers. The use of each type of agent brings its own particular challenges. Reliance on solicitor agents can lead to problems when agents are not available or retire. Calling on agents from barristers' chambers can lead to uncertainties around who may represent the CPS, and pupil barristers are likely to work in the magistrates' court for a relatively short period before moving on to Crown Court work.

1.62. During this inspection it was apparent to a greater or lesser degree that all Areas were facing challenges in securing enough agents of the right quality. This was true for both metropolitan and non-metropolitan CPS Areas, and in some instances was exacerbated by competition for good-quality agents between surrounding Areas.

1.63. Due to a recent significant increase in reliance on agents in CPS North West, the Area had to find new sources for agents. Going out to more chambers can bring uncertainties around suitability and quality.

1.64. Many Areas that have magistrates' courts in more remote locations are taking the decision to cover the court using an agent. This is cost-effective and frees up permanent legal resources for case review in the office. Where this approach has been adopted, the agent becomes the regular prosecutor, and the face of the CPS at that court, so their quality is particularly important.

1.65. In most Areas, the pressing need to fill a resource gap meant the focus on having the right agent often became a secondary consideration. To ensure there was enough cover, and to offset the risks set out in paragraph 4.10, some Areas have adopted specific approaches. These include block-booking, which secures the services of an agent for a set period or guaranteed number of days. Other Areas have introduced fixed term arrangements to resource advocacy in the magistrates' courts. Not only does this ensure enough resources, but the agent gains wider knowledge of CPS processes. CPS North East has agreed an arrangement with an agent to secure sufficient quality resource, at a negotiated daily rate. We also found evidence of a non-metropolitan Area paying an enhanced agent rate to ensure quality resourcing.

1.66. All the approaches outlined above are sensible and can help ensure that the right level and quality of agents are engaged. Area relationships with existing and prospective chambers are vital to ensure enough agent cover, the quality of pupils and barristers being used, and to manage the Area rotas effectively. There was some evidence of fostering relationships with chambers, but more could be done. In CPS West Midlands, the senior district crown prosecutor has met with the clerks at solicitors' chambers and set out expectations. The fact that the Area has then taken action and stopped using some agents whose performance was not considered satisfactory has helped to maintain standards.

5. Booking agents

Booking processes

1.67. As set out earlier, there is evidence that agents are mostly deployed effectively in all Areas. All Areas use a rota system that identifies the number of magistrates' court sessions and types of hearings that need to be covered by in-house advocates and agents. Rotas are drafted by operational delivery staff and completed rotas were, in some Areas, authorised by managers to ensure that there was effective use of resources.

1.68. All Areas have dedicated staff responsible for producing the Area rota. Area staff we spoke to were clear that they needed to balance operational need and the most effective use of the agent budget. In a few Areas, rota staff also managed the deployment of all magistrates' court lawyers, including allocating review work. We found that, where this was the case, rota staff had a better understanding of the full range of lawyer deployment and could make more effective use of resources.

1.69. In most Areas, there are effective processes to ensure cover in the event of last-minute changes to court listings. This process is helped if the Area is using chambers, as the expectation is that chambers will provide sufficient agent cover even if there is a last-minute change of the allocated barrister. Whilst this aids deployment, it can result in Areas not knowing who is covering the court and whether the agent has prepared effectively. Last-minute changes are unsatisfactory as Areas need to know who is representing the CPS.

1.70. In an attempt to manage the risk of last-minute changes, many Areas we visited have introduced a system of in-house standby lawyers. For some, this is easier to achieve given the geography of the Area. In CPS Yorkshire and Humberside, a level D advocacy manager has the responsibility to resolve issues, including negotiating with the courts, to reduce the number of courts that need to be covered. We found that, to some degree, all Areas negotiated with the courts to try to accommodate and resolve legal resourcing issues following late changes.

Selecting agents

1.71. The majority of Areas visited gave some consideration to selecting a specific agent to cover particularly complex or sensitive cases. CPS West Midlands had an established process in which a sensitive case register was completed to ensure the right agent selection. Legal managers scrutinised this regularly. Some Areas had a less formal

approach in which reviewing lawyers or legal managers pointed out the more difficult cases to the rota team, and requested specific agents to ensure the right expertise.

1.72. In most Areas, however, there was an expectation that all agents should be capable of covering the majority of trials, including domestic abuse, youth and traffic offences. These trials can be complex, and we found limited evidence that cases were allocated to agents known to be appropriate. We also found that most Areas used agents to cover youth and domestic abuse trials, despite CPS Headquarters recommendations that these should not be covered by agents.

1.73. There were some exceptions. Merseyside and Cheshire preferred agents not to cover domestic abuse trials or cases involving a custody time limit (CTL). Other Areas preferred not to allocate agents to youth trials unless they were suitably trained, or only allocated in-house lawyers to complex domestic abuse trials and youth trials. However, although CPS Areas preferred not to allocate agents to these cases, resource needs meant this was not always possible. National CTL guidance also states that agents should preferably not prosecute cases with CTLs. We saw some evidence of CTL cases being allocated to agents.

6. Agent support

File quality

1.74. Inspectors examined ten files from nine CPS Areas (90 magistrates' court trial files, both successful and unsuccessful outcomes, prosecuted by agents) to determine the quality of information provided to agents by Areas. The CPS has clear expectations of timeliness and standards regarding the papers provided to agents before a court hearing or trial. We examined the files in relation to CPS standards. Overall, we found the information being provided by all Areas was of a good quality and timely.

1.75. The full file findings are detailed in the table below.

Findings from the case papers (bundle)	All cases	%
Papers included the preparation for effective trial form (PET)	74 out of 83 files	89%
Papers included a full file review, including the most recent	82 out of 90 files	91%
Papers included CCTV and Egress links where relevant	43 out of 46 files	93%
Papers included witness details and all relevant statements	87 out of 90 files	97%
Papers included all relevant correspondence	74 out of 81 relevant files	91%
Papers included relevant disclosure, endorsed and signed by lawyer or endorsed (but not signed)	76 out of 90 relevant files	84%
Papers included all relevant applications	44 out of 44	100%
Timeliness in provision of papers to agents	89 out 90 files were provided by the day before or earlier	99%
Previous Hearing Record Sheet (HRS) included in the papers	79 out of 86 files	92%
A HRS was produced by the agent for the hearing	87 out of 90 files	97%
Completed agent HRS provided to CPS within 24 hours of hearing	66 out of 90 files	73%

1.76. In terms of the providing information, we found that in 66 out of 90 cases (73.3%), the Area included a proper disclosure certificate, endorsed and signed. For seven (7.8%), the certificate was endorsed but not signed. In 18.9% (17 cases) of files, the CPS provided a file to the agent without a streamline disclosure certificate or a blank, unendorsed or signed disclosure certificate.

1.77. Inspectors found that in 91% of the papers provided to agents, relevant reviews and correspondence were included. We found that files were generally provided the day before the trial or earlier, with only one file sent to the agent on the day of trial.

1.78. As part of the inspection, we also conducted an agent survey. 64 agents responded to our survey. 66.6% of agents considered they were provided with papers in sufficient time. Papers contained all that was needed in 60.4% of cases. 68.3% of agents surveyed also stated that they received all the information needed on victims and witnesses. Some agents in the survey commented that when papers were sent the day before, if items were missing from the papers, it was sometimes difficult to successfully contact the CPS on the morning of the court hearing. The full findings of the agent survey can be found in annex G.

Agent support at court

1.79. Areas provide variable levels of support to agents on the day at court. The agent survey identified that 62.5% of agents (40 out of 64) considered they were adequately supported at court. From inspector court observations, we found that 28 out of 32 agents knew who to contact for decisions regarding pleas, advice or instructions. Inspectors also found that in 13 out of 28 observations, CPS rooms at court had contact details displayed, although it was unclear whether details were completely up-to-date. Full details of the findings of court observations can be found in annex F.

1.80. Areas had different approaches to supporting agents at court. These included the use of telephone contact via 'hotlines' or providing direct dial contact numbers. Some Areas had permanent legal staff at court centres to enable face-to-face contact with in-house lawyers. In some of the metropolitan court centres, where courts were large enough, advocacy managers based at court allowed agents immediate access for decisions to be made. There are merits to all the models observed by inspectors but some of the approaches were limited by the geography of the Area, the number of courtrooms or resources available. However, where there were CPS lawyers or legal managers available in the court,

agents and court staff indicated that this was more efficient and allowed courts with agents to operate more effectively.

1.81. In some Areas, contact details were included in the email sent to the agent with the case papers. CPS South East gave agents contact numbers for the lawyer in the case and assigned a 'buddy' if the lawyer in the case was not available. The system was considered to work well by the Area, and was commented on positively in the agent survey. However, there was also some concern about the availability of CPS staff ahead of the morning magistrates' court session. CPS London South provided contact details for the legal manager with responsibility for that court. This is a good approach for ensuring agents have relevant and up-to-date details.

1.82. Our observations identified that 35% of cases (12 out of 34) had issues that affected the ability to deploy the agent effectively. This was due to a variety of reasons, none of which were directly related to agents failing to prepare or being unable to contact the CPS.

1.83. As previously stated, agents do not have access to the CPS case management system (CMS) or prosecutor app. This can create delays the progress of cases at court if information is missing from the file sent to the agent, and also when new files are transferred in to the agent's court during the court session. This is something that the HMCTS staff we interviewed generally understood and accepted, although some commented negatively on the delays to proceedings.

Recommendation

Crown Prosecution Service Areas need to ensure that all agents are provided with contact details so they can get effective and efficient case support without delays to the case.

Agent digital access

1.84. Egress and multimedia solutions have brought significant benefit to the CPS, agents and wider court stakeholders in improving data security and timely information. All Areas require agents to provide a secure CJSM email address to receive the files digitally and to be equipped to prosecute cases using digital media, including click-share and the ability to access digital material. Access using a secure CJSM email account is vital to ensure the protection of sensitive case information. Court observations found that all agents had a laptop and 97% had received their case papers digitally. The only exception was where an agent had

taken over a guilty anticipated plea (GAP) court and had not received the files digitally at the time they were observed. This late change was not a fault of the CPS.

1.85. Observations identified that there were some issues with agents' abilities to access and play audio or video evidence. This was largely based around the Egress² system. Of the courts observed, and where we were able to comment, 79% (27) agents were able to play the digital evidence in court. Our observations found that 11% (four agents) were unable to play the evidence or had difficulties, either through links not working, not being granted access to the Egress system or a lack of knowledge and understanding of how the system worked.

1.86. Moving cases between courts and prosecutors can make it difficult to play digital material on Egress in court, as the relevant agent will not be in possession of the Egress link or have viewed the evidence. In one Area, we found a lack of clarity about who had responsibility for reallocating Egress links. It was unclear whether the CPS should ensure that the agent had the relevant links or whether chambers should deal with this.

1.87. We found different approaches to agent training and to providing information on the use of digital media at court, including Egress links, granting access, and the extent to which Areas made it clear that access to digital information was required. Areas use an assortment of methods, including information provided in service level agreements (SLA) and in agent packs, and through induction training. Most Areas visited used one or more of these approaches. SLAs and agent packs should include the information where possible. Overall, our findings show that there could be improvement in how access to digital media is managed.

Issue to address

Crown Prosecution Service Areas need to be clear that all agents have suitable guidance or training on digital working, and have access so they can share information digitally, in particular access to Egress.

² Egress is an encrypted secure email system used by the CPS to exchange information.

7. Training and provision of information

Training courses

1.88. Solicitor agents and barristers used in the magistrates' court as agents are self-employed, and have clear obligations from their regulating bodies – the Solicitor Regulation Authority and Bar Standards Board respectively. These include that a competent standard of work and service should be provided to each client. There are also professional obligations for continuing professional development. There is an expectation from the CPS that agents are competent and keep up-to-date with relevant law and legislation.

1.89. The CPS provides access to national legal training for external prosecutors through the External Prosecution College (EPC) training portal. This allows external prosecutors to access CPS training courses and policies. The CPS 2020 Advocacy strategy also commits to developing the EPC to ensure that key information, policy and learning material is available to external advocates in one accessible location.

1.90. Data from September 2019 shows that there are 3,233 registered EPC accounts (split between 3,040 advocate panel members (barristers) and 193 solicitors). Of the 193 solicitors, 22 courses are recorded as 'in progress' and 35 completed. For advocate panel members, 206 are 'in progress' and 922 completed. We found that most Areas visited did not promote EPC as a learning tool to agents. In some Areas, CPS staff were not fully familiar with EPC or aware of whether all agents had been given access to EPC. This is reflected in the agent survey: 33 agents (51.6%) had access, 20 (31.3%) had used EPC and 19 (29.7%) had not heard of EPC.

1.91. There were limited expectations from Areas for agents to complete EPC courses. We were informed of a few agents who had been requested to undertake EPC courses, such as custody time limits following issues arising at court. There needs to be improvement in how EPC is being communicated and promoted to agents and used by Areas. EPC courses can count as continuing professional development and will provide the CPS with a cadre of agents with improved knowledge.

Issue to address

Crown Prosecution Service Headquarters should promote the use of the External Prosecution College to encourage greater use, and consider introducing more courses.

1.92. CPS Headquarters informed inspectors that any training required of agents, either via the EPC portal or by other means, is left for the individual CPS Areas to decide. There are no headquarters mandated training courses that agents must undertake ahead of prosecuting for the CPS, although CPS Headquarters is considering introducing mandatory custody time limits (CTLs) training for all external prosecutors.

1.93. Agent training can be challenging for Areas to arrange or to mandate due to a number of factors. Agents are not paid to attend training events and, where training is offered by the Areas, uptake can be low. There is also no extra funding for agent training. Given the requirement for external advocates to meet their own professional obligations and the support that the CPS provides to their own lawyers, there are different training requirements. However, expectations on advocacy quality apply equally to all advocates representing the CPS. Therefore, internal advocates and agents in the magistrates' court are expected to deliver the same effective quality service regardless of the training. Whilst the Area focus must be on clear professional obligations for external prosecutors, Areas need to ensure that those they employ are competent.

1.94. In most Areas, there was generally an absence of a clear planned approach to training agents. Inspectors fully understand the difficulties in setting training expectations for self-employed agents. However, this absence of a planned approach may affect the quality of service delivered by agents and affect the delivery of core CPS business.

1.95. Effective service delivery includes ensuring that agents are of the right quality through being equipped to undertake their role. Putting aside professional obligations, the CPS also has a duty to ensure that all who represent them in court are of the right quality and are familiar with CPS policy and procedure. It is accepted that agents have a variety of experience, some more experienced in criminal law than others and in presenting cases at court. In our discussions with CPS Headquarters, it was accepted that setting out national guiding principles for induction and training would be helpful.

Provision of training information and guidance

1.96. 43 agents who responded to our survey (67.2%) stated they had received updates on CPS prosecution policy and individual case learning, and 32 (50%) said they had received extra training or guidance from the CPS in order to prosecute CPS cases. There was evidence in every Area visited that some guidance, update and/or training information had been provided to agents. In some Areas, this was quite piecemeal and limited, other Areas had a much clearer developed approach. Overall, however, the position was ad-hoc and inconsistent.

1.97. Most Areas visited had legal manager leads for agents, whose responsibilities usually included providing information and training for agents. However, Area staff interviewed had varying levels of knowledge about the contents of any local SLA and agent packs used in their Areas, and of the arrangements to keep them up-to-date. Inspectors found evidence that not all Areas reviewed and circulated their agent packs regularly. For example, in one Area where an agent pack was in place, this was not circulated regularly and had resulted in chambers producing its own version of an agent pack. This position could be improved upon to ensure all agents have the most up-to-date and consistent information.

1.98. A small number of Areas had good processes for keeping agents up-to-date including inviting agents to training events, the use of webinars, inclusion in team meetings and providing information to agents on recent significant changes, such as the new domestic abuse approach and new hearing records outcome guidance. CPS Merseyside and Cheshire had a monthly newsletter and CPS East of England provided agent bulletins via email.

1.99. CPS West Midlands highlighted good examples of engagement events with clear expectations that agents should attend. Agent telephone catch-up meetings were also held, at which the magistrates' unit provided updates and raised any new issues or training requirements. The Area is also introducing a new initiative – an agents' evening – which will focus on ten priority issues and expectations. The Area is hoping that this may also attract the interest of newly qualified barristers to magistrates' court work.

1.100. In both CPS London North and South, agents were included in lunchtime briefing sessions at court. This was facilitated by advocacy managers based at court centres. CPS London North and South have

also adopted a pan-London approach with a local agent training programme to increase the quality and size of the agent pool.

1.101. Demographic factors in each Area may mean certain approaches are more effective for that Area. Some Areas have offered training to agents, but because of travel distances, there has been no uptake. Lunchtime sessions at court, webinars and telephone conferences are all examples of good approaches when they meet the local needs of the Area whilst ensuring agents are sufficiently updated. Areas need to ensure that agents have the opportunity to receive up-to-date information, but also provide feedback through whatever mechanism fits local need.

1.102. Accurate mailing lists are vital to ensure that all agents, whether solicitor agents or counsel, receive updates and information, such as on EPC. When responsibility is delegated to chambers to circulate, Areas need to ensure that this is happening, so that the right information is provided to all.

Recommendations

Crown Prosecution Service Headquarters should set out clear expectations and guiding principles for inducting and training agents to support satisfactory agent quality. They should also develop a national agent pack to support the national service level agreement and related service expectations.

Crown Prosecution Service Areas should introduce a clearer planned approach to agent training, taking account of any national principles and guidance, and including use of the External Prosecution College.

8. Agent assurance processes

National guidance

1.103. The CPS 2020 Advocacy strategy applies to all advocacy undertaken by the CPS and provides principles to guide advocacy across the CPS, with implementation governed by local business need. There are three key principles set out by the CPS:

- *We will instruct the right advocate for the case.*
- *We will develop support and mentor advocates, providing opportunity for career progression.*
- *We will maintain effective partnerships with external providers and stakeholders.*

1.104. “We will instruct the right advocate for the case” includes, but is not limited to:

- *The right advocate for the right case will be instructed to ensure we deliver justice through flexible, resilient and sustainable advocacy services, which create quality, value and the best service for victims and witnesses.*
- *All in-house and external advocates will deliver high quality advocacy.*
- *All advocates will follow the Bar and Law Society standards, the National standards of advocacy, CPS advocacy Principles and the Farquharson standards.*

1.105. These are clear principles that every Area is expected to deliver for agent advocates in the magistrates' court through local operational practices. The CPS has a number of national policies to support the processes for how cases should be handled that apply just as much to external advocates as to internal advocates. This includes, but is not limited to, speaking to witnesses at court, custody time limits, national casework quality and advocacy standards.

1.106. The national advocacy standards make quite clear what is expected of everyone who prosecutes on behalf of the CPS. All prosecution advocates are expected to provide advocacy services of the highest quality. This includes technical ability, attitude and behaviour. All advocates instructed by the CPS, whether in-house or external, are also expected to behave in accordance with published CPS values.

1.107. It is currently a matter for the individual Areas how service delivery expectations are communicated to agents, although in the future this may be addressed by the planned introduction of the national service level agreement and complemented at a local level.

Quality checks on agents

1.108. The second guiding principle – “We will develop support and mentor advocates, providing opportunity for career progression” – includes that the performance of every in-house advocate performance will be reviewed regularly through individual quality assessments (IQAs) and advocacy assessments. There is no explicit requirement for the regular review of the quality of agent performance in the magistrates' court, but agents are expected to deliver the same quality of advocacy as in-house advocates.

1.109. Whilst the expected standard is very clear, inspectors found that most Areas do not regularly assess agents for quality.

1.110. Only two out of the nine Areas visited, CPS London North and West Midlands, had formal systems for monitoring advocacy quality and completing assessments for agents. In CPS West Midlands, there was a system of compulsory monthly court observations by the legal managers with advocacy assessments completed and feedback provided after the in-court observation. The remaining seven Areas either had no formal system or had only very recently introduced a more formal approach. Yorkshire and Humberside were targeting observations on newer agents.

1.111. Any quality assessment of an agent should take account of the national advocacy standards. The CPS IQA framework is specifically designed for in-house advocates. There is also an external advocacy assessment (EAA) process that provides for independent assessment of external advocates who represent the CPS. The CPS uses qualified and experienced advocates, external to the CPS, to undertake EAAs. Whilst EAAs can be used by Areas, the reality is that these are conducted in the Crown Court and there was no overall consistent approach to using these assessments for agents in the magistrates' court. It would be helpful if CPS Headquarters reiterated and further clarified that EAAs can, and should, be used to assess all advocates who operate in *any* court on behalf of the CPS.

1.112. Whilst most Areas did not use IQA or EAA to assess the performance of agents, there are other mechanisms to check on performance. Much of this is reactive and comes from other mandatory process checks, such as feedback on hearing outcome records and examination of adverse outcome reports.

1.113. In some Areas, there were some informal ad-hoc court observations of agents. This was often limited to the advocacy manager occasionally looking in if they happened to be at court. For some Areas (such as CPS London North and, to some extent, Yorkshire and Humberside), advocacy managers are regularly based at court centres. In these circumstances, it is easier for the Areas to undertake formal advocacy quality assessments or informal court observations. We know that some agents cover remote courts and it is more resource-intensive to observe these agents. Where court observations are unfeasible due to remote locations, then Areas should find ways to ensure they are fully satisfied about the individual performance of the agents before deployment.

1.114. We know from the Areas that HMCTS is generally proactive in sharing feedback on agents, although generally feedback only tends to be provided when there are concerns about performance. Areas can also obtain feedback from the other court users, such as the Witness Service and defence advocates. Some Areas discuss agent performance at monthly magistrates' court performance groups, and this can be a good approach to obtaining more information on external as well as internal advocacy performance. Again, however, this is not consistent and is only one means of gathering feedback.

1.115. In discussion, Areas generally considered that a more formal approach to agent advocacy assessment would be beneficial, but that it was a matter of balancing time and resources. Assessing agents is vital for ensuring the right quality. We found that there was a lack of clarity at CPS Headquarters and at Area level about when agents should have quality assessments, and how often these should occur. We recommend, as a minimum, that CPS Headquarters should provide guidance for quality assessments be part of the induction process for all newly engaged agents and post any complaint or concern.

1.116. CPS Headquarters' Court Business Unit manages the procurement and contract for a supplier of external advocacy assessments, mentioned at paragraph 8.9. This facility is available for Areas to use, not only for in-house advocacy assessment but for external advocacy, subject to the individual cost for each assessment. This may be helpful to some Areas

that have the funds but struggle with carrying out internal and external advocacy assessments themselves.

1.117. It should be clear to agents that being assessed in court assessment is part of their undertaking advocacy for the CPS. CPS London South has recently updated their service level agreement to include the requirement for quality assessments.

Dealing with concerns

1.118. The Circuit Advocacy Liaison Committee (CALC), formerly the Joint Advocate Selection Committee, is mostly focused on the Crown Court. However, CPS Headquarters informed inspectors that the committee's remit has been extended and applies to all advocacy, including that undertaken in the magistrates' courts. This is a positive development, and there is now relevant guidance that can be applied for formal performance issues – the CPS Errant Conduct and Poor Performance Guide October 2017. The guidance also includes the Chief Crown Prosecutors' (CCPs) role in handling minor misconduct and poor performance issues. Although it is encouraging that the remit of the CALC has been extended to cover all advocates in the magistrates' court, this still appears to be used for those who represent the CPS in the Crown Court.

1.119. Inspectors found very limited evidence that magistrates' court agents (solicitors) were referred to the CALC. Our discussions in Areas highlighted that more was clarity needed on applying the guidance to magistrates' court agents. The wording of the guidance could also be improved to make it completely transparent that it covers all agents in the magistrates' court, not just those on the advocate panel, and to make any amendments for the process specifically for those agents.

1.120. All Areas have systems for following up any reported problems with agents. However, the approach on how these are handled and subsequent action varies. Some are more effective than others. In some Areas, feedback to the agent in question is made indirectly through chambers; in others, feedback is given directly to the agent in person. There was some evidence that investigated concerns could result in formal observation of that agent at court, but not always. There were few examples of Areas that stopped using an agent if there were serious substantiated concerns that couldn't be resolved. The approach was ad hoc and not all Areas were willing to lose agents who had been a subject for concern.

1.121. Inspectors found that sharing concerns about agent performance between CPS Areas was not always consistent. Both CPS London North and Thames and Chiltern provided us with details of complaints regarding the unsatisfactory performance of the same agent. CPS London North had informed the agent that they would not be used again, but the agent was subsequently booked by Thames and Chiltern and this led to a similar complaint being raised. As a number of Areas are likely to use the same agents, effective information-sharing is crucial. There is a clear established approach for registering formal complaints about agents that includes a register, but there is no requirement for Areas to register concerns about agents' performance. CPS East Midlands has an established log to record any issues raised in relation to agents. This could be an effective approach for keeping track of concerns.

Recommendations

Crown Prosecution Service Headquarters should develop general principles and produce guidance on individual quality assessment expectations for agents, as a minimum as part of induction. Crown Prosecution Service Headquarters should make it clear how concerns should be investigated and relevant information shared between Areas.

Crown Prosecution Service Areas should ensure the right quality of agents is being selected by using individual quality assessments, and by dealing with concerns effectively and consistently. Information also needs to be shared effectively between Areas.

9. Value for money

1.122. Using agents provides value because agents can be deployed as and when needed. The key, however, is ensuring that agents are used only as a necessity. It is also essential that any deployment of agents is cost-effective and provides effective service delivery. During the inspection, we found that all Areas to some degree considered value for money when deploying agents, but some Areas prioritised having enough court cover over quality.

1.123. We found that most Areas had adopted a policy of only using agents for trials, and very rarely were Areas willing to use agents in other courts. This approach is based on the challenges around the breadth of authorised agent decision-making and the fact that external advocates do not have access to CPS case management systems. Using agents in trial courts is also the national policy preference, recognising the limitations on agents when it comes to decision-making.

1.124. Inspectors consider the CPS position is a cost-effective way of using agents, as long as court listing and trials are effective. How court centres list cases greatly affects the ability to use agents effectively. During our court observations, we were able to see the impact of listing challenges. For two agents at court on a specific day, one agent had four trials listed in their court and a further agent had no trials listed. This had occurred as a result of a two-day trial not progressing to the second day for the empty court. Trials were moved to the empty court, but this didn't happen until 10am on the day of the trial hearings. This meant that one agent had unnecessarily prepared four trials, and the other agent had to prepare on the day at court.

1.125. The impact of court listing was recognised by all the Areas, and we saw clear evidence of Areas working with court staff on scheduling, and on a daily and weekly basis discussing and rationalising the number of courts going ahead. When court sessions are reduced, some Areas use the same number of agents, freeing in-house advocates for review work, whereas others will release the agents. Both strategies can be equally effective as long as the in-house advocates, when freed up, are used effectively. It is accepted that this is easier at larger court centres with multiple trial courts, as it is more likely trials can be moved to courts being covered by agents. When trials did not go ahead on the day, we did not find clear processes for agents to report the position to CPS offices. Whether a trial is cancelled on the day or before, Areas need to consider how they can demonstrate that the in-house and agent prosecutor resources are being deployed effectively.

1.126. Other deployment factors may need to be considered, including how appropriate it is for more complex trials, and/or those involving sensitive witness issues, to be covered by agents at short notice, particularly taking into account the experience of the agent. When agents are cancelled at late notice because of late closure of courts and listing issues, this can strain relationships with chambers and affect confidence in taking on work. This in turn, has an impact on their ability to retain agents. This has to be balanced against incurring unnecessary cost. One Area visited, CPS London North, had included in their SLA with agents that courts could be cancelled at short notice and explained the payment implications. Outlining the consequences of late cancellation in the SLA is good practice, particularly in the larger Areas. It is then a matter for the Area's discretion in what circumstances the late cancellation is applied, as long as the approach is consistent.

1.127. We found positive working relationships between Areas and HMCTS, and some evidence was provided of court listing reductions that allowed Areas to reduce their reliance on agents and plan permanent legal resources more effectively. However, much of this related to the reduction of caseloads across the courts. Areas fully recognised the need to develop a good working relationship with the courts to ensure listing could make the most effective and efficient use of internal and external advocates. Two Areas visited, CPS Merseyside and Cheshire and North West, had a memorandum of understanding with HMCTS that made expectations clear on the effective running of the court centres. This is a good approach when compliance with the memorandum is monitored and used to inform improvement actions.

1.128. Agents can be engaged on a variety of terms, including for half a day, a full day and up to a few days based, on a trial's estimated length. Areas consider the cost-effectiveness of agents against the suitability of booking for a full day or half a day. Generally, we found that agents tended to be used for full days as this was more cost-effective. Where courts have half-day trials, Areas often attempt to negotiate for two half-day sessions (one in the morning, one in the afternoon). CPS South East has a policy of not deploying an agent for half-day sessions, and this was closely monitored. This is not the case for the majority of other Areas who may prefer not to, but will if necessary. This is very dependent on the court listing, but it makes sense if agents can be employed for a full day, particularly where travel costs apply.

1.129. Due to the spread of small court centres in some more rural Areas, such as CPS South East, when an agent's court runs short, there may be

little opportunity to move extra work in from other courtrooms. Overall, however, using agents in the more remote courts represents value for money as it avoids in-house advocates having to travel large distances. We saw evidence that Areas with remote locations rightly considered using agents – CPS North West, for example, used agents to cover parts of Cumbria. This does depend on where in-house advocates and agents are located, which also needs to be considered for both travel costs and effective use of resources.

1.130. There was some evidence for considering travel distances. The 2006 guidance provides that mileage is paid after 25 miles for barrister agents. We found in some Areas that there was limited understanding of how often agents are paid travel, how much of the budget is spent on agent travel and whether that is reasonable. Only one Area, CPS Yorkshire and Humberside, was considering analysing agent travel spend. Overall, the cost of agent travel could be more closely monitored and considered.

1.131. A sliding scale of payments is negotiated and authorised by CPS Headquarters. During the on-site period of the inspection these payments were £125 for a half-day session and £200 for a full day. After a review in 2019, the CPS increased rates to £150 for a half-day session and £300 for a full day. Trial rate fees during the time of the inspection were £230, £240 £250 per day, depending on the estimated length of the trial. These fees have been increased by £100 since the 2019 review. Youth court fees are enhanced and are £200 for a half-day and £400 for a full day. These fees were introduced to ensure consistency and remove the need to negotiate. Whilst these rates are applied to solicitor agents by Areas, the guidance provides that the rates do not automatically apply. In our inspection, one Area paid an enhanced daily rate to some of its barrister agents to secure sufficient quality resources. Inspectors found there was little consideration by Areas of cost in relation to the types of trials, and many Areas automatically paid the top rate of the scale. Inspectors were told this was mainly as a result of Areas wanting to make sure they had enough agents to cover courts.

Issue to address

Crown Prosecution Service Areas should consider the full breadth of value for money when using agents, in terms of the cost-effectiveness of when agents are used (scale of payments) and travel.

Annex A
Agent use as a percentage of
magistrates' court sessions

The effective use of agents in the magistrates' court

Areas	2016-17	2017-18	2018-19	April-October 2019
National	30.7%	37.1%	26.8%	28%
Cymru Wales	17%	21.2%	21.2%	21%
East of England	36.5%	47%	32.1%	34%
East Midlands	25.3%	26.6%	23.4%	40%
London North	34.4%	42.2%	27.2%	27%
London South	31.3%	36.2%	24.6%	23%
Merseyside and Cheshire	15%	18.6%	17.5%	20%
North East	23.3%	30.9%	22.7%	25%
North West	18.4%	9.6%	12.8%	21%
South East	32.8%	49.5%	37.5%	37%
South West	35.3%	37.7%	26.4%	26%
Thames and Chiltern	37.1%	54.9%	33.1%	28%
Wessex	12.5%	12.2%	18.5%	15%
West Midlands	46.9%	84.2%	38.6%	30%
Yorkshire and Humberside	43%	50.4%	32.5%	35%

Annex B

National resourcing model criteria

The national resourcing model is used to calculate the levels of required legal and operational staff within CPS Areas. The calculation is based on the following factors:

- Volumes are determined using the case management system (CMS), and are updated quarterly and are produced from the management information system (MIS). These are defendant count based. Volume is calculated on a 12-month rolling basis.
- Factor: this is the percentage of the volume that applies to the task. Some tasks are not required in 100% of cases, for example custody time limit review, but other tasks are required for all cases, such as finalisations.
- Frequency: this is the number of times a task occurs in the process. File review is a good example, where there is often more than one review in each case
- Average processing time: this is calculated from the Resource and Efficiency Measures (REMs) tool, which provides a standard way of understanding how long it takes to complete activities. The national average is used from magistrates' court REMs only. Crown Court REMs are not accurate enough yet to form part of the calculation, so the processing times are created by Finance and agreed with the Operations Director.
- Working day length: this is how many minutes in a working day, which differs for London and nationally.
- Working days available: this is the number of working days in the year.
- Resource bias: this is 20% uplift for activities not part of a task, for example slow IT, meetings and phone calls.
- Extraction rate: this 20% uplift for absence factors, such as training, leave and sickness.

Annex C

Inspection framework

CPS effective use of agents in the magistrates' court

Introduction

The framework is split into five sections. Each section has a number of criteria against which evidence will be gathered.

- At the national level, the CPS promotes best value in the use of agents.
- The approach by CPS Areas to agent use provides resource flexibility and overall provides effective and efficient use of resources.
- Areas use agents effectively and efficiently to ensure the appropriate court cover.
- Area support of agents promotes effective and efficient court appearances.

Agents are able to deliver the right level of service, supported by training and effective performance monitoring by the Area. The framework aligns with CPS priorities. Overall, inspectors are looking to see that the CPS delivers the maximum benefit for users and stakeholders with the resources available. This means the right people doing the right thing at the right time for the right cost and delivering the right outcome.

At the national level, the CPS promotes best value in using agents

- The national CPS resourcing strategy takes account of the balance between permanent staff and agents, and is assessed as the right resourcing approach to ensure sufficient flexibility.
- Agent use factored into the national budget and the provision of CPS Area allocations for prosecution costs and agents.
- CPS Headquarters advise Areas on the use of agents as a resource, through the provision of national policy, plans and operational guidance.
- CPS Headquarters monitor performance on the level of use of agents, and whether Area use levels are appropriate.

The effective use of agents in the magistrates' court

- CPS Headquarters assures itself that Areas have effective systems in place for agent management (including selection and use).
- There is a national strategy for agent training that fully supports agent performance.
- CPS Headquarters considers that the overall approach to agents is sufficient to make expectations clear for Areas.
- The CPS monitors whether national training and guidance for agents, including any mandatory training, is accessed by agents.
- Feedback systems or forums are in place for Areas to feed back nationally on agent use and any issues.

The approach by CPS Areas to agent use provides a flexible resource and, overall, provides effective and efficient resource use

- Areas have a clear resourcing strategy that factors in proper consideration of agents, and is balanced with permanent recruitment.
- The Area resourcing strategy includes determining baseline advocate requirements, and consideration of any peaks.
- The Area has a policy or clear criteria for its agent use, and factors are considered for agent allocation such as different hearing types (and specialist courts).
- The strategy for agent use fits needs and properly considers effectiveness and efficiency.
- The Area considers that the agent spend is cost-effective, and fits with its resourcing strategy.
- The Area ensures it has enough agents.
- Area opportunities and constraints for improvement in the cost-effectiveness of agent use are identified.
- Agent use is properly controlled and monitored.
- Management information is used to understand staffing levels, advocate court coverage and agent requirements.

Areas use agents effectively and efficiently to ensure appropriate court cover

- The Area strategy for agents is applied, taking account of issues such as staff shortages and the inability to recruit.
- What operational cover are agents providing across the Area demographic (remote courts), coverage and hearing types (including specialist courts).
- The Area uses a consistent cadre of agents (at what level) and to what degree does the need for consistency in agent use (block-booking) influence agent selection?
- The agent approach results in satisfactory court cover and is monitored.
- Case listing is supported through constructive engagement with criminal justice partners, enabling the effective use of agents and resources.

Support for agents from the Area promotes effective and efficient court appearances

- Effective processes are in place for the timely selection of the right agents appropriate to the court hearing.
- Effective processes are in place for managing agent bookings (including any last-minute changes).
- The Area has a system to support agents in receiving and reviewing individual cases before hearings with set time limits, specific email boxes and contacts.
- Agent support (both at court and CPS offices) on the day of the hearing enables effective hearings.
- Quality prosecution files (prosecutor bundles) are provided to agents where relevant, and these contain all relevant information and clear instructions.
- Areas provide relevant information to agents enabling satisfactory support for victims and witnesses at court.

Agents are able to deliver the right level of service, supported by training and effective performance monitoring by the Area

- Agents follow CPS expectations and standards to support the effective prosecution of cases (i.e. agents are equipped to prosecute cases satisfactorily with access to CJSM, suitable technology, ability to play digital files and open links).
- Agents ensure they have access to up-to-date forms to enable adequate hearing outcomes to be recorded.
- Agents have access to up-to-date information, either through agent packs or other approaches (including lessons learnt).
- Areas have an effective system in place for individual quality assurance (IQA) of agents.
- Areas have an effective complaint system in place for agents.
- Feedback is a factor considered in the selection of agents, and ensures that lessons are learnt by individual agents.
- Training requirements or expectations are mandatory for agents who represent the CPS, and are compliance monitored.
- Agents are aware of the External Prosecution College and have access to it.

Annex D

File examination question set

The following questions were used to assess the completeness of the information provided to agents ahead of the trial hearing.

	File question	Answers
1	Papers include PET form	Yes No NA
2	Papers include a full file review including the most recent	Yes No NA
3	Papers include CCTV evidence, Egress links where applicable	Yes No NA
4	Papers include witness details and all relevant statements	Yes No NA
5	Papers include all relevant correspondence	Yes No NA
6	Papers include disclosure	Yes – SDC included endorsed and signed Yes – SDC included endorsed by lawyer but not signed No – SDC included but not endorsed or signed by lawyer No – SDC not included or blank N – Wrong SDC included (not up to date)
7	Papers include all relevant applications have been included (particularly any relevant victim/witness communication)	Yes No NA
8	Timeliness in provision of papers to agent. Papers sent:	On the day 1 day before 2 days before 3-4 days before 5 or more days before
9	Previous Hearing Record Sheet (HRS) included in the papers	Yes No NA

The effective use of agents in the magistrates' court

File question	Answers
10 HRS produced by the agent for the hearing	Yes No NA
11 Completed agent HRS received by the CPS within 24 hours of the hearing	Yes No
12 Any further comments	

Annex E

File examination findings

File reading examination totals including NA answers

Question	Answer	Volume	Percentage
1 Papers include PET form	Yes	74	82.2%
	No	9	10%
	NA	7	7.8%
2 Papers include a full file review including the most recent	Yes	82	91.1%
	No	8	8.9%
3 Papers include CCTV evidence, Egress links where applicable	Yes	43	47.8%
	No	3	3.3%
	NA	44	48.9%
4 Papers include witness details and all relevant statements	Yes	87	96.7%
	No	3	3.3%
5 Papers include relevant correspondence	Yes	74	82.2%
	No	7	7.8%
	NA	9	10%
6 Papers include disclosure	Y – SDC included endorsed and signed	75	83.3%
	Y – SDC included endorsed by lawyer but not signed	1	1.1%
	N – SDC included but not endorsed or signed by lawyer	7	7.8%
	N – SDC not included or blank	7	7.8%
7 Papers include all relevant applications (particularly any relevant victim/witness communication)	Yes	44	48.9%
	NA	46	51.1%

The effective use of agents in the magistrates' court

	Question	Answer	Volume	Percentage
8	Timeliness in provision of papers to agent	On the day	1	1.1%
		1 day before	60	66.7%
		2 days before	24	26.7%
		3-4 days before	4	4.4%
		5 days before	1	1.1%
9	Previous Hearing Record Sheet (Pros App) included	Yes	79	87.8%
		No	7	7.8%
		NA	4	4.4%
10	HRS produced by the agent for the hearing	Yes	87	96.7%
		No	3	3.3%
11	Completed agent HRS received by the CPS within 24 hours of the hearing	Yes	66	73.3%
		No	24	26.7%

Question	Cymru Wales		London North		Merseyside and Cheshire		North West		South East		Thames and Chiltern		Wessex		West Midlands		Yorkshire and Humberside		Total	
	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Question 1 Papers include PET form																				
Yes	9	90	8	80	8	80	6	60	9	90	9	90	9	90	8	80	8	80	74	82.2%
No	1	10	1	10	1	10	3	30	0	0	1	10	0	0	1	10	1	10	9	10.0%
NA	0	0	1	10	1	10	1	10	1	10	0	0	1	10	1	10	1	10	7	7.8%
Question 2 Papers include a full file review including the most recent																				
Yes	9	90	10	100	9	90	7	70	10	100	10	100	8	80	9	90	10	100	82	91.1%
No	1	10		0	1	10	3	30	0	0	0	0	2	20	1	10	0	0	8	8.9%
Question 3 Papers include CCTV evidence, Egress links where applicable																				
Yes	5	50	6	60	4	40	2	20	2	20	2	20	6	60	8	80	8	80	43	47.8%
No	0	0	0	0	1	10	1	10	1	10	0	0	0	0	0	0	0	0	3	3.3%
NA	5	50	4	40	5	50	7	70	7	70	8	80	4	40	2	20	2	20	44	48.9%
Question 4 Papers include witness details and all relevant statements																				
Y	10	100	10	100	10	100	10	100	9	90	10	100	9	90	10	100	9	90	87	96.7%
N	0	0	0	0	0	0	0	0	1	10	0	0	1	10	0	0	1	10	3	3.3%
Question 5 Papers include all relevant correspondence																				

Question	Cymru Wales		London North		Merseyside and Cheshire		North West		South East		Thames and Chiltern		Wessex		West Midlands		Yorkshire and Humberside		Total	
	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Y	7	70	9	90	10	100	10	100	10	100	7	70	6	60	8	80	7	70	74	82.2%
N	2	20	0	0	0	0	0	0	0	0	2	20	0	0	2	20	1	10	7	7.8%
NA	1	10	1	10	0	0	0	0	0	0	1	10	4	40	0	0	2	20	9	10%

Question 6 Papers include disclosure

Y – SDC included endorsed and signed	8	80	8	80	8	80	8	80	9	90	9	90	6	60	9	90	10	100	75	83.3%
Y – SDC included endorsed by lawyer but not signed	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	10	0	0	1	1.1%
N – SDC included but not endorsed or signed by lawyer	0	2	20	0	0	0	1	10	1	10	1	10	2	20	0	0	0	0	7	7.8%
N – SDC not included or blank.	2	20	0	0	2	20	1	10	0	0	0	0	2	20	0	0	0	0	7	7.8%

Question 7 Papers include all relevant applications

Question	Cymru Wales		London North		Merseyside and Cheshire		North West		South East		Thames and Chiltern		Wessex		West Midlands		Yorkshire and Humberside		Total	
	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Y	5	50	1	10	5	50	5	50	6	60	4	40	3	30	8	80	7	70	44	48.9%
NA	5	50	9	90	5	50	5	50	4	40	6	60	7	70	2	20	3	30	46	51.1%

Question 8 Timeliness in provision of papers to agents

On the day	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	10	0	0	1	1.1%
1 day before	10	100	8	80	5	50	9	90	10	100	1	10	1	10	9	90	7	70	60	66.7%
2 days before	0	0	2	20	4	40	1	10	0	0	9	90	5	50	0	0	3	30	24	26.7%
3 to 4 days before	0	0	0	0	0	0	0	0	0	0	0	0	4	40	0	0	0	0	4	4.4%
5 or more days before	0	0	0	0	1	10	0	0	0	0	0	0	0	0	0	0	0	0	1	1.1%

Question 9 Previous Hearing Record Sheet (HRS) included in the papers

Y	8	80	7	70	10	100	7	70	10	1	9	90	10	100	8	80	10	100	79	87.8%
N	2	20	2	20	0	0	1	10	0	0	1	100	0	0	1	10	0	0	7	7.8%
NA	0	0	1	10	0	0	2	20	0	0	0	0	0	0	1	10	0	0	4	4.4%

Question 10 HRS produced by the agent for the hearing

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Question	Cymru Wales		London North		Merseyside and Cheshire		North West		South East		Thames and Chiltern		Wessex		West Midlands		Yorkshire and Humberside		Total	
	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
Y	10	100	10	100	10	100	10	100	10	100	7	70	10	100	10	100	10	100	87	96.7%
N	0	0	0	0	0	0	0	0	0	0	3	30	0	0	0	0	0	0	3	3.3%
Question 11 Agent HRS received by the CPS within 24 hours																				
Y	5	50	4	40	9	90	9	90	10	100	4	40	8	80	7	70	10	100	66	73.3%
N	5	50	6	60	1	10	1	10	0	0	6	60	2	20	3	30	0	0	24	26.7%

Annex F

Court observation outcomes

The effective use of agents in the magistrates' court

Inspector court observation outcomes		Answer		All Cases
Question 1	Agents worked digitally from a laptop	Yes	34	100%
Question 2	Agents had all papers (digital or paper) including the court list	Yes	33	97.1%
		No	1	2.9%
Question 3	Agents had a CJSM email	Yes	34	100%
Question 4	Agents were able to access Egress links and play digital evidence	Yes	27	79.4%
		No	4	11.8%
		Not known (NK)	3	8.8%
Question 5	The CPS room had contact details for agents to use	Yes	15	44.1%
		No	15	44.1%
		Not applicable (NA)	2	5.9%
		NK	2	5.9%
Question 6	The agent knows who to contact for pleas, advice and instructions: Allocated duty lawyer/admin Telephone hot line Level D legal manager Other method Doesn't know	Yes	14	41.2%
		Yes	2	5.9%
		Yes	3	8.8%
		Yes	11	32.3%
		No	4	11.8%
Question 7	The agent contacts the CPS using: Email Hotline/direct telephone number Switching board telephone number Other Doesn't know	Yes	2	5.9%
		Yes	20	58.8%
		Yes	7	20.6%
		Yes	3	8.8%
		No	2	5.9%
Question 8	Agents demonstrate awareness of CPS protocols and standards	Yes	29	85.3%
		Partially	1	2.9%
		NK	4	11.8%

The effective use of agents in the magistrates' court

Inspector court observation outcomes		Answer	All Cases	
Question 9	Agents were deployed effectively without any issues	Yes	12	35.3%
		No	22	64.7%
Question 10	Issue identified at Question 9 was court related e.g. moving files	Yes	3	25%
		No	9	75%
Question 11	Issue identified at Question 9 was CPS related supported by a check on the CPS file	Yes	5	55.6%
		Partially	2	22.2%
		No	2	22.2%

Annex G

Agent survey findings

The effective use of agents in the magistrates' court

Question	Answer	Number	%
Are papers provided in sufficient time for you to adequately prepare?	Always	6	9.4%
	Frequently	37	57.8%
	Infrequently	18	28.1%
	Never	3	4.7%
	Total	64	100%
Do papers usually contain all the necessary information you need to prosecute cases?	Always	3	4.7%
	Frequently	36	56.2%
	Infrequently	24	37.5%
	Never	1	1.6%
	Total	64	100%
Do you receive all the communication you need with regard to victims and witnesses ahead of trials?	Always	3	4.7%
	Frequently	41	64.1%
	Infrequently	17	26.5%
	Never	3	4.7%
	Total	64	100%
Does the CPS provide you with adequate support at court? (including contact details, accessibility of advice, and so on)	Always	10	15.6%
	Frequently	30	46.9%
	Infrequently	21	32.8%
	Never	3	4.7%
	Total	64	100%
Does the CPS provide you with the updates on CPS prosecution policy and individual case learning?	Yes	43	67.2%
	No	21	32.8%
	Total	64	100%
Have you received additional training or guidance from the CPS in order to prosecute CPS cases (whether on line or in person)?	Yes	32	50%
	No	32	50%
	Total	64	100%
Do you have access to the CPS External Prosecution College (EPC)?	Yes	33	51.6%
	No	31	48.4%
	Total	64	100%
Have you ever used CPS External Prosecution College? (relevant for Yes answers for access to EPC)	Yes	20	60.6%
	No	13	39.4%
	Total	33	100%
Have you ever heard of the CPS External Prosecution College? (relevant for No answers for access to EPC)	Yes	12	38.7%
	No	19	61.3%
	Total	31	100%

Annex H

Glossary

Advocate panel member (APM)

A member of the CPS advocate panel relating to advocates in the Crown Court with higher rights of audience. This provides a list of quality assured advocates who can undertake criminal prosecution advocacy for the CPS in the Crown Court and higher courts.

Agent

Agents are lawyers who are not employed by the CPS but who are booked to prosecute cases in court on its behalf, usually on a daily basis. They are not empowered to take decisions under the Code for Crown Prosecutors and have to take instructions from CPS lawyers in this regard.

Anaplan and Oracle

The CPS computer systems used for finance and accounting.

Area

The Crown Prosecution is divided into 14 geographical Areas across England and Wales. Each Area is led by a Chief Crown Prosecutor, supported by an Area Business Manager.

Area Business Manager (ABM)

The most senior non-legal manager at CPS Area level or Division level. The operational delivery profession lead.

Bar standards board

Regulatory authority for barristers/counsel.

Barrister/Counsel

Members of the self-employed Bar (formerly known as the Independent Bar) who are instructed by the CPS to prosecute cases at court, including at magistrates' court as agents.

Case management system (CMS)

Computer system for case management used by the CPS. Through links with police systems, the CMS receives electronic case material. Such material is intended to gradually replace paper files.

Chief Crown Prosecutor (CCP), DCCP Deputy Chief Crown Prosecutor (DCCP), Senior District Crown Prosecutor (SDCP), District Crown Prosecutor (DCP)

Legal management roles in the CPS in descending order of seniority. The Chief Crown Prosecutor is the legal head of a CPS Area.

Crown Prosecution Service (CPS)

The principal prosecuting authority in England and Wales, responsible for: prosecuting criminal cases investigated by the police and other investigating bodies; advising the police on cases for possible prosecution; reviewing cases submitted by the police; determining any charges in more serious or complex cases; preparing cases for court, and presenting cases at court.

Domestic abuse and domestic violence

Domestic abuse is abuse that occurs in relationships or between family members. Domestic violence is one type of domestic abuse, but domestic abuse also includes other types, such as emotional abuse (like controlling behaviour, isolating and belittling) or threats and intimidation.

Egress

An encrypted secure email system used by the CPS to exchange information.

External Prosecution College

An online learning portal for external advocates that gives access to a number of online training courses, such as CTL (Custody Time Limit) training.

Her Majesty's court and tribunal service (HMCT)

Executive agency of the Ministry of Justice, with responsibilities including the administration of criminal magistrates' courts in England and Wales.

Individual quality assessment (IQA)

The process the CPS uses to assess casework done by a prosecutor on a case or the advocate at court. This is a set of questions, which the manager goes through, covering the full range of work that might need to be done. The process calls for feedback to be provided to the prosecutor or advocate, and for themes identified by managers to feed into improvement work across the Area.

National resourcing model (NRM)

The analytical resourcing model used to calculate CPS staffing levels.

Preparation for effective trial form (PTR)

A form used by the courts, CPS and defence solicitors for court directions, and identification of action required ahead of the trial and any agreed arrangements.

Service level agreement (SLA)

In this context a service level agreement between the CPS and magistrates' court agents to determine the levels of service expected by agents, and the related role of the CPS.

Solicitor regulatory authority

The regulatory body for solicitors.

Streamlined disclosure certificate (SDC)

A form used by the police and CPS to determine what should be disclosed to the defence for cases being dealt with at the magistrates' court and youth court that are anticipated not guilty pleas.

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