



**HMCPSI**

HM Crown Prosecution  
Service Inspectorate

# A six-year review

**By Her Majesty's Chief Inspector  
of the Crown Prosecution  
Service and the Serious Fraud  
Office**

**March 2021**

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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. Chief Inspector's letter to the Attorney General**

**The Rt Hon Michael Ellis QC MP**

I took up the appointment as Her Majesty's Chief Inspector of the Crown Prosecution Service (CPS) on 1 April 2015 and my term ends on 31 March 2021 when Andrew Cayley CMG QC takes over. In the six years of leading Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) I have worked with three Attorneys General, three Solicitors General, two Directors of Public Prosecutions and two Directors of the Serious Fraud Office (SFO).

Over the same period of time HMCPSI has also changed; staff members have moved on, new staff members have arrived, governance arrangements have changed, the way in which we scope and plan inspections has changed and the relationship we have with the two bodies we inspect, the CPS and SFO, has significantly improved.

In six years we have published 63 reports, which includes a complete overview of the CPS, no mean task when staff numbers have hovered between 20 and 30. HMCPSI is also a happy office where people like to work, a fact reflected in the staff engagement index of the Civil Service People Survey for 2020 when HMCPSI scored 82% – higher by two percentage points than any other organisation taking part.

**None of this could have been achieved without talented staff working to a high level of professionalism**

None of this could have been achieved without talented staff working to a high level of professionalism, which I recognise and am grateful for. I also want to thank, in particular, my two deputies, Anthony Rogers and Nicky Saunders, Head of Inspection and Head of Business Services respectively, who have done so much to bring about the necessary changes

to HMCPSI. It could not have been achieved without them. I also owe a debt of gratitude to Jane Boyne and, in more recent times, Carmel Vega, for bringing order to chaos.

I would also like to thank the Law Officers and their staff for the support they have provided over the years and to the Directors of Public Prosecutions, Dame Alison Saunders DCB and Max Hill QC, and the Directors of the Serious Fraud Office, Sir David Green CB QC and Lisa Osofsky, for their willingness to engage so readily.

No organisation is perfect. HMCPSI was not when I took over and is not now. But I hope it is a more effective operation than the one I inherited. The change in inspection methodology set out in the report mainly came about from listening to the criticisms of inspection by Chief Crown Prosecutors, angry at what they

perceived as unfair treatment. Not all their criticism was justified, but much was and we have listened and we have changed. That might never have happened but for them speaking out.

The primary purpose of inspection is not to criticise or identify failings: it is to identify good practice and make recommendations that will help organisations to improve the services they provide to the public. To do this there must be a degree of trust established between the inspectors and the inspected. I believe this has been achieved in recent years and I am grateful to all those in the CPS and SFO who have engaged so positively and to the greater benefit to the public.

But if HMCPSI has changed in the last six years, so has the criminal justice system. At the time of writing, it is dominated by the impact of COVID-19, but even before the pandemic struck, it was in a weakened state due to years of underfunding. Currently, the talk is of returning to pre-COVID levels of backlog, which must be unacceptable to anyone who works or has an interest in criminal justice. It cannot be right that a victim of rape or other serious offence may have to wait 18 months, as was the case before COVID, before their trial can be heard. At the time of writing many cases are not even getting trial dates – however far in the future. Unless delays are reduced there is a real risk that the public will lose confidence in the ability of the criminal justice system to uphold the law.

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I have no interest in party politics and I recognise that government of whatever hue faces a challenge in mending the justice system. I fear that the economic reality post COVID and post Brexit will mean that there will be many pressures on the public purse and that, once again, the criminal justice system will be left behind. I hope not. For my part, I wish HMCPSI and my successor continuing success and I thank the Attorney General of the time,

the Rt Hon Jeremy Wright QC MP, for appointing me to a post that I have found challenging and have also greatly enjoyed.



Kevin McGinty CBE

Her Majesty's Chief Inspector

## **2. HMCPSI developments**



## Developments since 2015

**2.1.** When I took up the post of Chief Inspector there were a number of immediate challenges that needed addressing. Like all other public sector organisations, HMCPSI was not immune to the budget reductions that came with the squeeze on public finances. The majority of the Inspectorate's spend was on staff cost and therefore any budget reduction was going to have to be met with a reduction in staff numbers.

**2.2.** Overall, our budget was reduced by 30% and so I considered it necessary to instigate a number of compulsory and voluntary redundancies. I also felt that the changes to staff numbers needed to be accompanied by a review of the Inspectorate's management and governance structure. While all of this change was undoubtedly unsettling for staff, it meant that I could move the Inspectorate forward and ensure that it was better placed, both from a resourcing perspective and structural position, to maintain a meaningful level of inspection activity in future years.

**2.3.** I do not intend to set out here in any great detail the journey that HMCPSI has been on since 2015 – most of this is covered in the narrative in my Annual Reports. But I think it would be helpful to set out some of the more significant changes that have been made over the past six years.

### Governance structures

**2.4.** On taking up the Chief Inspector post it was clear that the governance structures I inherited were not fit for purpose. The Inspectorate Management Board and supporting governance groups did not promote effective decision making, the role of Deputy Chief Inspector hindered engagement across the inspection and corporate disciplines and, overall, the way in which we engaged and communicated internally was unclear. The Inspectorate's staff engagement score and comments, as determined by the Civil Service People Survey, highlighted that we had some real problems.

**2.5.** It was therefore essential that we did a radical rethink of our approaches. After a review of structures and systems, including removing the Deputy Chief Inspector role which was a senior Civil Service post, I created two internal-facing groups, which had clear terms of reference to support their aims.

- The operational management board was created to ensure the delivery of the core inspection programme, in line with the business plan and using resources effectively. This was missing when I took up post and was something that I would not leave my successor. The operational

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management board was led by the Head of Inspection and included a number of inspectors and corporate staff.

- The people and equality group, headed by a senior inspector, also included a wide range of staff representation. Its aim was to tackle, through clear plans and deliverable objectives, some of the weaknesses in communication, leadership, and equality and diversity matters identified in the Civil Service People Survey findings.

**2.6.** These groups improved our levels of internal engagement and set a firm foundation for me to make additional changes.

**2.7.** In 2018 I reviewed our governance structures again and found that we needed to ensure that senior inspectors were taking a central part in the development of the Inspectorate. I decided that creating the operational delivery group would achieve this and, at the same time, bring all managers into the governance structure of HMCPSI. This change has been effective, with each senior inspector being allocated a specific organisation portfolio, which has allowed me to develop some important aspects of business with clear and accountable objectives.

**2.8.** Prior to taking up this role my experience of management was very limited. I want, therefore, to recognise the significant help, freely given, by Peter Lewis CB, formerly the Chief Executive Officer of the Crown Prosecution Service (CPS), Jenny Rowe CB, formerly CEO of the Supreme Court and Michelle Crotty of the Attorney General's Office.

## **Relationships with those we inspect**

**2.9.** As an inspectorate, not a regulator, driving improvement and making a difference relies on those we inspect valuing and trusting in the findings and recommendations we make. When I took up the Chief Inspector post, relationships with those we inspected were strained and I believe the approach taken previously had been adversarial and often focused on the negative. I wanted to ensure press notices and other external-facing documentation set out positive findings as well as any failings an inspection had unearthed. My personal belief is that an inspected body is more likely to improve if good practice is identified rather than lists of failings recited. The public rightly expect any failings to be identified – and inspection does that – but fairness requires good practice to be identified too.

**2.10.** It is right that the Inspectorate holds those we inspect to account, but we must ensure that our findings are fair and balanced. Therefore, over the six years I have been in post, there have been a series of changes in how we have developed and approached inspection. Having the confidence of those

inspected is central to our findings and recommendations being accepted and implemented. A fundamental lack of trust between an inspectorate and those inspected will undermine the basis of what is being achieved.

**2.11.** Historically, HMCPST had developed its inspection methodology and approach with limited engagement with the inspected body. In some cases, this meant that inspections were being developed by those who had a limited understanding of the subject and also by those whose frontline experience was somewhat out of date.

**2.12.** If the expense of inspection is to be justified, it is essential that it adds value. To make sure that this happens, we need to clearly define the scope and framework of the inspection and direct our limited inspection resource to the areas where it can be used most effectively. To do this, I changed the way that inspections were developed. During the development of the scoping and inspection frameworks, we worked with subject matter experts from both the Crown Prosecution Service (CPS) and Serious Fraud Office (SFO) to ensure that inspection activity focuses on those matters that can bring the most value. This approach does not impinge on the independence of the Inspectorate – we will develop the framework and scope using the core inspection methods – but we need to understand the subject enough to make sure that inspection asks the right questions and focuses on aspects that allow for a balance of identifying what works and what could be improved. Involving those we inspect in that process has helped ensure that what we have delivered has been useful.

**2.13.** It was also true that, when I arrived, inspection was often seen by those inspected as a negative experience. There was a view that the aim of inspection was to criticise. However, the real aim of inspection is to improve the efficiency and effectiveness of the organisation and to do this those inspected must be willing to accept findings and recommendations and make change. An inspectorate who is perceived negatively by those inspected will not be able to deliver a programme that helps drive improvement or make a difference. Part of the problem was that inspection processes were unclear and the common experience of those being inspected was interviews with inspectors that focused on what was not being done well. This left a lasting view that inspection was about finding the negatives.

**2.14.** We have taken a number of steps to address this. One of the key elements in how we make judgements is to assess the quality of legal decision-making. We do this through file examination and in most inspections we read a large number of files. The Inspectorate does not set its own standard for quality; all of our assessments use either expectations set out in legislation – for example, the criminal procedural rules – or the CPS's own expectations. In all inspections we now invite staff from the inspected body to attend case

examination consistency exercises. These exercises are where all inspectors read the same file against the inspection guidance and come together to discuss judgements. Inviting those we inspect breaks down the view that inspectors set impossible standards and opens the judgements and findings to the wider audience. This approach has been welcomed by both the CPS and SFO.

**2.15.** I have also personally visited, along with my Head of Inspection, every CPS Area to speak with senior management teams and set out the vision for what the Inspectorate is there to do, how we have changed some of our practices to make our role more transparent and to break down some the barriers that have developed through historical experience. We also went there to listen as it was largely due to the criticism of inspection processes by Chief Crown Prosecutors that we reassessed how we work. We have followed this up with the creation of Area liaison arrangements who will engage with local management teams.

## **Internal change**

**2.16.** As well as addressing external issues, I looked at a number of historical and long-standing issues around our management of internal processes. Many of these related to the mixture of terms and conditions and approaches to HR matters which had developed over the years since the creation of the Inspectorate. To address this I made the decision to move to a full alignment with the Government Legal Department. Together with my head of Corporate Services I was able to settle some of the longer-standing issues that were a cause for consternation among staff who found themselves following differing practices and terms depending on when they had joined HMCPSI.

**2.17.** Over the years, some of the change has been unsettling and this, along with the compulsory redundancies that had to be made at the early stage of my tenure, impacted on staff engagement. However, I am proud to leave HMCPSI as the organisation with the highest engagement score according to the Civil Service People Survey. The score has moved from 45% in 2015 to 82% in the 2020 survey. Much of this is down to the managers and staff in HMCPSI and I am grateful that over the years staff have worked with me to change the Inspectorate for the better.

## Joint work with other inspectorates

**2.18.** As well as a statutory remit to inspect the CPS and SFO, The Police and Justice Act 2006 established a statutory duty on criminal justice chief inspectors to deliver a joint inspection programme. Each year the Criminal Justice Chief Inspectors' Group agree a programme of work to undertake joint inspections involving wider cross-cutting criminal justice themes.

**2.19.** Throughout my tenure, there have been 12 joint inspection reports with other inspectorates. These have been primarily with Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) but also with the other criminal justice inspectorates: Her Majesty's Inspectorate of Prisons (HMI Prisons) and Her Majesty's Inspectorate of Probation (HMI Probation).

**2.20.** Most recently, in January 2021, together with the other criminal justice inspectorates, we published a report providing a cross-system view of how the criminal justice system reacted in the immediate aftermath of the first national COVID-19 lockdown, and of how the system has managed since. This report sets out findings from inspections as well as cross-cutting themes, and highlights the successes, challenges and problems that the system has faced and still faces. The report also highlights innovative practices as well as risks, focusing in detail on the greatest risk facing the criminal justice system as it continues to respond to and recover from the pandemic.

## 3. People

**3.1.** The staff who work for the organisations we inspect are vital to their success. Throughout the period covered by this report, our inspections have included aspects of governance, leadership, communication and engagement, all of which significantly contribute to the success and wellbeing of its people.

## Crown Prosecution Service

**3.2.** A key aspect of our inspection of Areas under the Area Assurance Programme (AAP) was governance. Those inspections highlighted that this was where the Crown Prosecution Service (CPS) performed well. The findings across the 14 reports showed that all CPS Areas demonstrated strong leadership, communication and staff engagement. We found that the CPS had driven up the quality and level of leadership and we universally rated Areas as either good or excellent. In the majority of Areas there was effective staff engagement and they demonstrated actions that were consistent with the CPS values.

**3.3.** We also found that smarter working, such as flexible working and staff being able to work from home, supported by digitisation, was broadly welcomed and had a positive effect on staff engagement and productivity.

**3.4.** However, we did find that recruitment was an ongoing problem in some Areas and differing approaches were often being taken across the country to deal with this.

**3.5.** In early 2019 we published reports inspecting the effectiveness of the CPS International Justice and Organised Crime Division (IJOCD) and the CPS Special Crime and Counter Terrorism Division (SCCTD). As part of those inspections we looked at governance and leadership within those divisions.

**3.6.** We found that the IJOCD recognised the need to capitalise on its collective experience and operate as one unified team. Staff felt work had been undertaken by senior managers to deliver a 'one division' ethos and it was recognised that there was a need to continue to build on this to develop both the identity of the division, and synergy across the various units.

**3.7.** The move to a new location had made senior managers more visible and approachable as they no longer had their own offices and sat amongst the teams, which allowed them to engage more readily. Regular team meetings took place across the division and the reporting structure allowed managers to engage with staff on strategic, operational, casework and performance issues. In addition, the CPS smarter working policy had been implemented within the division, although there were a number of inconsistencies in its implementation.

**3.8.** We noted that in the 2017 Civil Service People Survey, the IJOCD had a number of concerning scores related to staff welfare, with over 30% of staff saying they had been subjected to discrimination and bullying and harassment. However, in our inspection we found that the division had been proactive in addressing those concerns.

## The SCCTD needed to continue to build a more ‘whole division’ ethos

**3.9.** In the SCCTD our inspectors found that, overall, the leadership and governance of the division was strong. Staff engagement was also effective and, according to the Civil Service People Survey, had been higher than the CPS average for a number of years.

**3.10.** The division had implemented a range of engagement improvement plans after the 2017 Civil Service People Survey and the scores from the 2018 survey indicated that the action taken had been effective in all but one aspect. We also found regular team meetings across the division encouraging engagement, sharing good news stories, recognising work well done and celebrating success.

**3.11.** However, we did identify some issues around how the SCCTD engaged and supported staff on long-term cases located outside the main offices. In particular, the SCCTD needed to ensure that, in line with its plans, staff on such assignments were suitably supported. Our inspectors also found that the SCCTD needed to continue to build a more ‘whole division’ ethos to further break down the perception that those outside of London were not being offered the same opportunities for promotion.

**3.12.** One important aspect of how the CPS treats its staff is how it quality assures their work, identifies the strengths and the areas which require improvement and then provides constructive feedback to encourage such improvement. In 2015 the CPS introduced individual quality assessments (IQAs) designed to provide a framework within which managers and their staff can work together to improve the quality of their work. In March 2018 we published an inspection looking at whether IQAs were fit for purpose, whether they were being undertaken as envisaged and whether they were driving improvements in advice, review and case progression.

**3.13.** We found that the CPS had shown a real commitment to refreshing its quality assurance regime, but improvements still needed to be made. There was a clear improvement on the previous regime, but there was a lack of robustness or a misunderstanding about the IQA requirement. As a result, the scheme was still not embedded across the CPS, and the standard and implementation of the assessments was not consistent. Legal managers needed to be much better at



identifying work that did not meet required standards and spelling out on the IQA in what way it had fallen short.

**3.14.** The report also found that guidance on how the scheme operated had been improved and a new tool had been developed to analyse the data. The CPS had provided training centrally when IQAs were introduced, but there had been little national training since. We recommended that a national training package should be developed and delivered to designated leads or trainers from each Area, who would then deliver the training locally to all relevant staff.

## **Serious Fraud Office**

**3.15.** We first considered the governance arrangements at the Serious Fraud Office (SFO) in a report published in May 2016. That report considered whether their structures, procedures, leadership, accountability and direction were effective and efficient. We found the SFO had achieved a significant improvement in SFO governance arrangements with a fundamental shift in leadership and direction in the four years since the appointment of the new director, though some issues still needed to be resolved. However, we also found that the SFO could be more effective and provide better value for money if its core funding was raised and dependence on blockbuster funding was reduced. The nature of blockbuster funding was leading to gaps in staffing and skills, with more than one in five SFO employees at that time non-permanent.

**3.16.** The report also found that, while the current governance structure had served the SFO well in addressing legacy issues, the arrangements needed to change in line with best practice to focus and streamline strategic decision-making, clarify roles and responsibilities and free up the director's and other senior managers' time. The report recommended a smaller management board and the appointment of a chief executive officer to achieve those benefits.

**3.17.** In July 2019, we inspected SFO leadership following a specific request from them in response to the 2018 Civil Service People Survey results. This included an assessment of staff engagement within the SFO and we found that it was responding positively to address staff feedback on leadership. However, one of our central findings was that although a sharp focus on delivering casework was positive from a core business perspective, it had in some cases led to a tolerance of neglectful approaches to management and unacceptable behaviours.

**3.18.** There was a variation in how far staff thought managers demonstrated their commitment to SFO values. Although the experience was not universal, some staff felt that senior managers did not engage with them, failed to comply with the performance management process and address performance issues

unrelated to delivery of casework, or showed favouritism towards other staff. Work to tackle these issues was already under way at the time of the inspection, including the SFO's proactive approach to our inspection. We emphasised in our report that it was important that people culture was seen as a corporate priority and addressed as part of a consistent, holistic strategy to reinforce staff confidence in management and role models.

## COVID-19

**3.19.** The global COVID-19 pandemic has had a significant impact on the people who work for the CPS and SFO. Therefore, in June and July 2020, we completed two inspections against the same inspection framework of both the CPS and the SFO, looking at how both organisations responded to the pandemic during the period of lockdown from 16 March to 8 May 2020. A significant aspect of those inspections considered how the two organisations had led and managed staff during that period.

**3.20.** In the CPS report we were pleased to see that frontline managers at all levels were supportive, gave clear messages and kept staff up to date about what was happening through regular communication. Inspectors were impressed by the level of internal and external communication which showed the support offered to key workers.

**3.21.** The report revealed that the CPS created local and national well-being hubs to support staff during the lockdown. Staff informed inspectors that this support had helped with their health and well-being.

**3.22.** Because of its digital capability the CPS was able to move the majority of its workforce from offices to home overnight. Inspectors found that support packages – consisting of equipment such as laptop stands or screens for those involved in video hearings – had been offered to all staff to make working from home easier.

**3.23.** In the SFO report we praised the organisation for its commitment to health and well-being. The report found that the SFO provided advice and guidance to staff through formal updates and via staff blogs. This included information on a range of topics such as the importance of exercising, proper working from home techniques, balancing childcare, creating a new daily routine and taking care of mental health. Staff welcomed this guidance and informed inspectors that they received regular and clear messaging from senior managers.

**3.24.** Prior to the lockdown the SFO was not an organisation where large numbers of staff worked from home and its IT was not designed for that

purpose. Despite that, the SFO successfully moved to a position where the vast majority of staff were working from home. But while inspectors found that the SFO made reasonable adjustments in ensuring that equipment needs were quickly put into place to work from home, staff did express disappointment about the decision not to provide peripheral IT equipment or any other office equipment to staff.

## Concluding thoughts

**3.25.** As the above shows, over the period covered by this report we have considered the impact of the actions taken by both the CPS and SFO on how they manage and lead their staff. There is much more detail in the reports that have been published over the period. But in general, my view is that both the CPS and SFO are organisations that feature their people at the heart of their values, which is confirmed to some extent by the Civil Service People Survey. As with all organisations, there are things that can be done better and things that need to be improved, but in both organisations we have found a desire to do better and, in my view, this sets firm foundations for both the CPS and SFO to continue to ensure that its people are supported and valued.

## 4. Digital capability

4.1. Perhaps the most significant change in the criminal justice system in recent years has been the increased use of modern information and technology. That is only likely to gather pace in the future and therefore it has become increasingly important, over the period of this report, for the Crown Prosecution Service (CPS) and Serious Fraud Office (SFO) to invest in and improve their digital capability. This is the only way they can reap some of the significant benefits on offer and, at the same time, adapt to the rapidly changing nature of crime. However, with those benefits have come significant risks which need to be managed.

## Crown Prosecution Service

4.2. There can be little doubt that the CPS has made huge strides in its digital capability during my tenure. This has led to numerous benefits, not only for themselves but also for the wider criminal justice system.

4.3. Early in April 2016 we undertook a specific inspection of CPS digital capability called *Delivering justice in a digital age*. This was a joint inspection with Her Majesty's Inspectorate of Constabulary (HMIC), as they were then, looking at the progress towards digitising processes in and between the police, CPS, the courts and defence.

4.4. Inspectors found that the criminal justice agencies were clearly committed to making improvements using digitisation. Progress had clearly been made, but the vision of a digital end-to-end criminal justice system (CJS), set out in the CJS Digital Business Model, was still some way from becoming a reality.

4.5. In particular:

- agencies still relied on the manual input of some paper documents
- agencies' computer systems still did not directly 'talk' to each other
- there was no single, national police IT system so information was transferred to the CPS in different ways, and each police force visited during the inspection had bought a different body worn video solution
- there was no reliable way of digitally sharing CCTV, interview and 999 recordings, photos and body worn video footage
- the CPS could send information to the defence digitally, but many defence representatives did not use the necessary secure email system

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- the court store system used by Her Majesty's Courts and Tribunals Service was slowing down the court dramatically in cases involving multiple defendants

**4.6.** Then, in May 2017, we conducted an inspection of the CPS system for recording case finalisations, the process of tracking case details such as the principal offence category, the outcome of the case and whether or not it was successful.

**4.7.** We found the CPS had made considerable investments in the quality of data and integrity of information on the case management system. The report also showed that, while staff workloads included a higher percentage of complex cases than they did in 2010, they were making improvements on error rates. Inspectors also found that the CPS had worked to update guidance, train lawyers and administrators and improve knowledge, ownership and accuracy of the finalisation data.

**4.8.** There was, however, scope for more efficiency and accuracy and several issues were identified for improvement.

**4.9.** Since then, most of our inspections have considered CPS digital capability within the wider context of other specific themes rather than as a stand-alone theme. The more recent reports we have published have all shown the CPS has greatly improved its digital capability. This is perhaps best evidenced by the inspection we published in June 2020 into the CPS response to the COVID-19 pandemic during the first lockdown. It is safe to say that the CPS advances in digital capability since our 2016 report made this possible.

**4.10.** In that report we found that the CPS was well placed to deal with the immediate crisis, not by accident, but as a consequence of its 2020 vision, which had evaluated and planned for improvement in a number of key business areas. The 2020 CPS vision, developed in 2016–17 to support its four-year plan, set out a number of core priorities, including digital capability and supporting the success of its people. The actions that the CPS has taken since 2016 laid firm foundations that allowed the service to react in such a way that the pandemic had very limited impact on its business.

**4.11.** The level of service provided throughout the lockdown was effective, with digital capability being core to business continuity. This was a major achievement.

**4.12.** On many levels, the CPS was able to continue to operate its business effectively and efficiently during the initial period of the pandemic because of its digital capability. In addition, the CPS used the opportunity to encourage its

criminal justice partners to make further improvements. For example, the police now routinely upload digital evidence rather than sending discs to the CPS virtual court hearings.

**4.13.** One of the risks of increased digitisation is the potential for data security breaches and, in November 2020, we published an inspection of CPS information management. The report noted that the CPS had worked hard to digitalise its internal and external processes to help ensure efficiency and increase security. It had also put measures in place to improve staff training in and understanding of handling case files.

**4.14.** However, our findings showed that there was still much to do and that the CPS was responsible for a number of data security breaches.

**4.15.** We examined 700 cases to see how effectively the CPS handled cases before the first hearing in the magistrates' courts. We found that 98 cases contained a security breach; however, the CPS was able to prevent a further breach in 10 of those cases. The breaches included a range of serious errors. Some of these involved CPS staff sending the wrong set of previous convictions to the defence or the court. In some instances, the case summary contained an unauthorised disclosure such as the address of a member of the public who called in the incident. Other breaches included the sharing of witnesses' personal details, a victim's unredacted medical notes, and photographs of a victim's injuries which included their date of birth on a hospital wrist band.

**4.16.** The inspection revealed that CPS staff were aware of the need to look out for security breaches and redact material. However, there was a lack of consistent national guidance to help staff determine what does and does not need to be redacted from case file material. Staff informed inspectors that they often found the guidance complex and difficult to navigate, and some guidance did not directly relate to the specifics of their role.

## Serious Fraud Office

**4.17.** We have not specifically inspected the Serious Fraud Office (SFO) digital capability; however, it has formed part of our inspections into case progression in the SFO in October 2019, and the SFO response to the COVID-19 pandemic in July 2020.

**4.18.** Our report into case progression identified that the SFO had commissioned a new case management system which it hoped would improve the processes it had in place to support case progression.

**4.19.** In addition, we reported that the digital forensic unit within the SFO was significantly behind in its processing of the digital material the case teams needed to investigate. The SFO had carried out significant work to address how they would process that backlog but suffered from the overall increases in digital material in cases. Our inspection found that case progression had the potential to be more effective if the SFO could overcome these hurdles.

**4.20.** Our inspection into the SFO response to the COVID-19 pandemic during the first lockdown, published in July 2020, found that prior to the lockdown, the SFO's digital architecture was not designed for an organisation where large numbers of staff worked from home.

**4.21.** Over the past several years, the SFO's digital development activity had focused on providing a stable and secure case management system and upgrading its document review system. The SFO's operating framework had been built around the majority of staff accessing systems from the office. As such, there had been limited opportunity or need for staff to work from home. At the start of lockdown, the overnight shift to the majority of staff working from home and requiring access to systems raised a number of new digital issues for the SFO.

**4.22.** The report highlighted that one of the SFO's main problems and limitations was its inability to use video conferencing facilities, especially in contrast to the use of this technology by other organisations. Since lockdown, it has worked hard to adopt the necessary digital infrastructure and hardware to implement this capability. By working with its internet service provider, the SFO has increased its network's bandwidth and looked for solutions to activate laptop and microphone connectivity.



## Concluding thoughts

**4.23.** Over the six years covered by this report there has been much change in the development of digital platforms and approaches. The COVID-19 pandemic and social distancing have brought opportunities and also challenges to both CPS and SFO. The challenges are different for both.

**4.24.** For the CPS, which has led many of the changes in making the CJS more digital, there is the future development of the common platform. This will fundamentally change processes and systems and allow for better sharing of material and data across the CJS. Like many major IT programmes, the common platform has been delayed and there are still a number of aspects that are being worked on, but there is progress and some parts are now being piloted. Some of the concerns that I set out in the first report on digital capability in 2016 should be addressed by the roll out, but time will tell.

**4.25.** The challenge for the SFO is different in that its strategy was based on a staffing model that required attendance at the office, partly due to security and partly due to a cultural position. The pandemic has challenged this approach and the SFO has managed it well. The single biggest challenge for the SFO in terms of technology will be how to manage cases with the masses of digital material that accompanies large scale fraud cases. The SFO has been ahead of the curve in this with the development of systems to interrogate case data using artificial intelligence. My view is that both the CPS and SFO have, over the six years of my tenure, driven some of the change needed to update the CJS, but some major challenges remain if there is to be a clear and effective digital system to support a modern criminal justice system.

## **5. Strategic partnerships**

**5.1.** Strategic partnerships are vital to the organisations we inspect. They do not operate in isolation; they need to be able to work together with and influence other criminal justice stakeholders and cross-government agencies to allow them to work more effectively, now and in the future.

## **Crown Prosecution Service**

**5.2.** In October 2015, we published a joint inspection on Local Criminal Justice Partnerships (LCJP) together with the then HM Inspectorate of Constabulary and HM Inspectorate of Probation. LCJPs are non-statutory bodies that contribute to improving the efficiency and effectiveness of the criminal justice system at a local level.

**5.3.** Inspectors found that LCJPs were not making a sufficiently positive difference and did not agree their local priorities in any rigorous way. There were examples where, despite a partnership being in place, the action of one agency had an adverse effect on the ability of other agencies to serve victims and manage offenders. Where an LCJP made progress, it was generally driven by a national programme, and usually involved only a few of the agencies, bypassing the LCJP. There was a risk that if all issues were handled in that way, there would be further unforeseen negative consequences.

**5.4.** We found LCJP members were to some extent impeded and constrained by barriers beyond their control, such as the lack of consistent geographical boundaries, nationally set priorities and programmes, and the targets or objectives of individual agencies. The report recommended that there should be a national operating framework to enable local criminal justice agencies to work together more effectively.

**5.5.** In our inspections of Crown Prosecution Service (CPS) Areas between 2016 and 2019 we found that all Areas undertook good work with criminal justice partners at a strategic level. Without exception, Areas' relationships with stakeholders were reported as positive. In all of the Area Assurance Programme reports, inspectors highlighted significant interaction and work with partners. Cross-agency initiatives, such as Transforming Summary Justice and Better Case Management, had resulted in improved joint working with criminal justice partners. Inspectors also noted that the CPS's engagement with partners included providing resources to help with joint training with the police and providing project management resources to support joint initiatives.

**5.6.** In many Areas, inspectors noted that there was a good level of support from all agencies for implementing and managing joint improvement activity. However, in some cases, where there were good relationships, the link to better

performance outcomes could not be clearly seen. As with the findings of the LCJP report, in some instances, while relationships appear to be strong and effective there is not always a direct link to outcomes.

**5.7.** In our inspection into the effectiveness of CPS's International Justice and Organised Crime Division (IJOCD) and Special Crime and Counter Terrorism Division (SCCTD) in January and February 2019 we considered their stakeholder engagement.

**While relationships appear to be strong and effective there is not always a direct link to outcomes**

**5.8.** In the IJOCD inspection we found that the division had a heavy focus on matters that cross international borders, which is integral to the work of all the units. The stakeholders include foreign governments at the highest level, international judicial and legal organisations, and foreign police and investigative services. The division also works

closely with other government departments at home and with their representatives abroad.

**5.9.** Stakeholder engagement therefore affected not only the prosecution of cases in court but also the wider diplomatic and political arena. All criminal justice partners and stakeholders within the United Kingdom and abroad, as well as a small selection of foreign government representatives, spoke very highly of the division and the work that it performs.

**5.10.** Following the referendum on the Exit from the European Union, the division identified that it needed to increase its capacity to engage with the European Union. The aim was to ensure that the work undertaken by the Extradition and Organised Crime units to investigate and prosecute offences with a significant international element would continue after the exit. It was anticipated that extradition casework would increase significantly. A considerable amount of work had been conducted within the division and elsewhere in the CPS, aligned with work across government, to ensure policies were ready to be put in place and contingencies set.

**5.11.** The work undertaken within the division was considered to be of high quality internally and across government. It demonstrated both the positive working relationships that the division had across multiple agencies nationally and internationally, and an understanding of high-level strategy.

**5.12.** In the SCCTD inspection we found that the division's senior managers promoted an open and constructive approach with a wide range of criminal justice partners and stakeholders. The inspection identified several examples of

joint strategies being implemented to improve the prosecution process across the division. In addition, the division deals with cases that are likely to attract media attention and a number of systems are in place to keep the Attorney General's Office up to date with progress in these cases.

**5.13.** Agents are another stakeholder the CPS uses regularly. Agents are lawyers who are not directly employed by the CPS but who are used to fill gaps in resourcing that the CPS's own lawyers cannot bridge. While they are not one body, as a collective they have a significant impact on CPS business.

**5.14.** In March 2020 we inspected whether the CPS used agents effectively in the magistrates' court. Our report found that the CPS strategy for the use of agents was effective; using them to meet shortfalls in CPS lawyer deficits and to cover peak demands. We also found that, while the CPS deployed agents effectively, it needed to provide them with better support.

**5.15.** The CPS has invested in training for agents, but we found that take up was limited with only one in three agents surveyed having used it and a similar proportion had not heard of it. Therefore, the CPS needed to better promote its training to ensure agents were fully prepared to represent the CPS.

## **Serious Fraud Office**

**5.16.** We inspected how the Serious Fraud Office (SFO) manages its strategic partnerships on two separate occasions: as part of our inspection of governance arrangements in the SFO in May 2016, and as part of our inspection of case progression systems and processes between case acceptance and charge in October 2019.

**5.17.** In our 2016 inspection we found that the SFO had a complex and demanding stakeholder and accountability landscape which, overall, was managed well. However, its engagement with the Attorney General's Office was less effective than it could have been, and this stemmed from the lack of clear expectations, which needed to be revisited.

**5.18.** We found that external relations and stakeholder feedback was largely positive and had improved considerably over the preceding three years. There was good evidence of inter-agency co-operation nationally and internationally, and the SFO has made positive progress on sharing experiences.

**5.19.** In our 2019 inspection we found that senior managers were fully engaged with partners and stakeholders, there were agreements and protocols in place, and there was an international team in the SFO, all of which had tangible benefits. However, we identified that there could have been better

processes for escalation with stakeholders, and engagement would benefit from clearer expectations and consistency around the role of heads of division in stakeholder engagement.

**5.20.** SFO staff at all levels were of the view that the organisation measured its success with partners by the level of assistance it received from them during frontline operations. Based on that measure, the SFO was largely achieving its aim as operational links with stakeholders were positive and effective on a case-by-case basis.

**5.21.** We found that the SFO's cases frequently had an international dimension, so there were often discussions with other jurisdictions about which agency or agencies take the lead on investigating and prosecuting. These primacy discussions can take some time and have held back cases in the past. The current director has resolved some of the issues – particularly with the US, where the strong relationships were seen as positive – but staff still had concerns about other jurisdictions. Further work needed to be done at senior levels to assist with this.

## **Concluding thoughts**

**5.22.** Inspection activity over the six years covered by this report has highlighted the importance of effective stakeholder engagement. Neither the CPS nor the SFO works in isolation. The single biggest challenge facing any organisation that needs to work with others is ensuring that good relationships are not just about being polite and cordial, but also lead to improvement and better service for users.

**5.23.** Over the years, our inspections have shown that in some places relationships have not always resulted in better outcomes or improvement. The latest inspection report on the response to the COVID-19 pandemic and the pressures faced by the criminal justice system have demonstrated the best and worst of the different needs and priorities of organisations. In the 2016 joint inspection we were clear that a shared and agreed understanding of the challenge was needed if stakeholder partnerships are to deliver.

**5.24.** It is my view that there is clearly much that needs to be done between all stakeholders to reap the benefits that will come with a 'whole systems' approach.

## **6. Casework quality**

**6.1.** A high standard of casework quality is essential to delivering justice and protecting victims and witnesses. Continuously striving to improve the quality of casework should be at the very centre of the organisations we inspect.

## **Crown Prosecution Service**

**6.2.** The majority of our inspections over the period of this report have analysed Crown Prosecution Service (CPS) casework quality, whether it is within individual Areas, CPS Headquarters, or on a thematic basis.

### **Area inspections**

**6.3.** When we designed the methodology for the new Area Assurance Programme (AAP) in 2015–16 we wanted to assess how well the CPS delivered the maximum benefit for users and stakeholders with the resources it had available. Good casework quality is pivotal to that benefit and so our methodology included a performance expectation that Areas delivered justice through excellent, timely legal decisions, casework preparation and presentation, leading to improved outcomes.

**6.4.** The AAPs were undertaken in all 14 CPS Areas between 2016 and 2019. While they identified good performance in some aspects, they also highlighted that the core element of the CPS's business – legal decision-making and casework – needed to continue to improve.

**6.5.** It is vitally important to public confidence in the criminal justice system that only those cases that deserve consideration by the courts proceed to prosecution. It is as important for the CPS to filter out those cases that do not require prosecution, as it is for the Service to ensure that proper cases are heard. This meant that we looked carefully at how the CPS applied the test for prosecution set out in the Code for Crown Prosecutors. Our inspections found that in a very high proportion of cases, the CPS correctly applied the Code and that the charges proceeded with were the correct ones

**6.6.** However, in every Area we visited we found that our findings highlighted some clear themes. The CPS needed to do more to add value to and gain a grip on cases and, in particular, to improve the handling of disclosure in the Crown Court. We found that in too many cases, in the period between first appearance and trial, the CPS appeared to do little to review the case or progress work that needed to be done. Too much was left to be done at a late stage, if it was done at all.

**6.7.** There are, of course, a number of factors that can affect CPS performance and outcomes. Some of these are outside its direct control and, at



best, it can only seek to influence. Those factors can include, but are in no way limited to:

- the service provided by the local police force(s)
- the attitudes and actions of the local defence community
- Her Majesty's Courts and Tribunals Service (HMCTS) listing practices
- the robustness of the magistrates and the judiciary.

**6.8.** Despite this, we found that when looking across the entire AAP landscape the CPS as a whole could do more to add value and grip to cases. A lack of case grip causes unnecessary work for the court, with time being lost to address problems that should have been resolved much earlier in the process.

**6.9.** Our Area reports also found that there needed to be better casework quality assurance, with more effective use of the CPS quality assurance system.

**6.10.** Across all ten Area reports, inspectors set out 52 issues to address – more than twice as many as those found in any other section of those reports. As detailed in the table, inspectors rated one Area as poor, one as good and the remaining eight were rated fair.

## **Thematic inspections**

We have conducted a number of thematic inspections, which are directly linked to the quality casework the CPS produces.

### **CPS Rape and Serious Sexual Offences (RASSO) Units, February 2016**

**6.11.** In this report we found that the CPS was insufficiently resourcing and staffing its RASSO units, and not following its own victim policies in a third of cases.

**6.12.** The report acknowledged the level of commitment and the work done by the CPS to improve the service provided to victims. However, it also found that since RASSO units were rolled out by the CPS, different operating models had been developed in each Area, resulting in inconsistent approaches to cases and limited compliance with minimum standards, which needed to improve significantly.

**6.13.** It was also evident from the files examined that RASSO casework was not always handled by specialists in dedicated units, as they should have been, nor was there an end-to-end approach with continuity of prosecutor throughout a case.

### **Rape Inspection, December 2019**

**6.14.** This inspection was requested by the Attorney General to provide an independent assessment of why, with a substantial increase in the number of allegations of rape reported to the police, there had been a significant reduction in the number of successful prosecutions.

**6.15.** The inspection was undertaken to provide evidence to support the wider cross-departmental Violence against women and girls strategy. A key part of this strategy was a review into the criminal justice response to adult rape and serious sexual offences across England and Wales, commissioned by the national Criminal Justice Board.

**6.16.** Our inspection identified a number of key findings.

- Since 2016, the number of cases prosecuted by the CPS had fallen by 52%, despite the fact that there had been a 43% rise in the number of rape allegations to the police
- There had been a 23% fall in the number of cases referred to the CPS for a decision by the police. This reduction meant that, while reports of rape to the police have nearly doubled, a significant number of these cases have not been referred to the CPS.
- Nearly a third of all the cases the CPS received from the police were 'admin finalised'. These are cases that the CPS sends back to the police for further investigation and until such time, they are held in abeyance (unhelpfully called admin finalised).
- There had been concerns that the CPS was only charging easy cases where a conviction was more likely, rather than applying the appropriate legal test (known as the Code for Crown Prosecutors). That view was not supported by the findings from this inspection.
- The CPS had improved its application of the Code for Crown Prosecutors – the test for prosecutions: in the 2016 inspection there was a 10% failure rate, but in this inspection there was a 2% failure rate.

**6.17.** There was also evidence that more victims were withdrawing their allegations before the police could refer their case to the CPS for a prosecution decision. This report highlighted that only 8% of reported rape allegations are referred to the CPS by the police.

**6.18.** In the report, we noted that the police and CPS had both seen significant reductions in their resources and RASSO units were undoubtedly stretched. In

our survey, half of CPS managers said that their unit was not staffed to the level set by the organisation's guidelines.

**6.19.** It was also clear that cases had become more complex. This was due to an increase in the evidential importance of digital media from mobile phones and social media, which can take longer for the police to progress. We found that to improve how the police handled this evidence, there needed to be better communication between the police and the CPS. CPS Headquarters should provide national information on what data can be obtained from different digital devices and social media platforms, and this should improve the delays in processing complex evidence.

#### **Disclosure of unused material**

**6.20.** The disclosure of unused material has been inspected on a number of occasions during this period. The first inspection was a joint inspection undertaken with Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) in July 2017. This report was subject to two follow up reports, undertaken by the Inspectorate in January and December 2020, in relation to aspects which impacted on the CPS alone.

#### **Making it fair: a joint inspection of the disclosure of unused material in volume Crown Court cases, July 2017 (joint with HMICFRS)**

**6.21.** This report found widespread failures across the criminal justice system when it came to disclosure of unused material.

**6.22.** Inspectors found extensive issues in the way unused non-sensitive disclosure material was recorded by the police, with 22% of schedules found to be wholly inadequate. Often officers were just compiling lists, rather than explaining their contents to assist the prosecutor. Prosecutors, in turn, were not requesting a description of the items, preventing them from making any meaningful review.

**6.23.** The report found that the lack of proper case supervision by the police was a significant cause for concern and 78% of the files examined were marked either poor or fair.

**6.24.** The inspection found a number of additional issues including poor IT, poor communication between both agencies and inadequate training. A culture of acceptance appeared to prevail, in which the inability to manage disclosure effectively was seen as too difficult to address.

### **Disclosure of unused material in the Crown Court – January 2020**

**6.25.** In this report we found that the CPS had improved its handling of disclosure since the first report, but further improvement was needed before the necessary standard was achieved.

**6.26.** The report found that the range of internal measures being implemented by the police and the CPS, including the extensive training programmes and more rigorous internal quality assurance, were making a difference. There were good examples of prosecutors who really understood what was required of them. The direction of travel was encouraging for the CPS although it was still at an early stage.

**6.27.** The file examination showed that the recent focus on disclosure, both in the police and the CPS, was having an impact although the improvement was from a low baseline. The inspection concluded that performance in many aspects will need to improve further to reach an acceptable standard and there were areas of performance, which although improved, remained unacceptably low.

**6.28.** The report emphasised that effective training would be crucial if the improvements in case quality and compliance with disclosure were to continue.

### **Disclosure of unused material in the Crown Court – a follow up, December 2020**

**6.29.** In this further follow-up report we found that there had been some signs of improvement, including with the completion of disclosure management documents by the police and CPS, and in the timeliness of serving initial and continuing disclosure. However, the CPS was responsible for a number of disclosure failings, and much more still needed to be done.

**6.30.** Since the last inspection, performance had declined in a number of aspects. These included the service provided by the police to the CPS, and the quality of the prosecutor's review at charging. The CPS's compliance with the statutory disclosure regime at the initial and continuing disclosure stages also showed a slight decline from its performance levels in the last report.

**6.31.** We noted that some of the findings set out in this report were likely to be impacted by the service provided by the police, for example, in cases where the police do not identify what was and was not disclosable. However, the inspection also showed that the rate of CPS feedback to the police had declined since it was looked at in January 2020.

**6.32.** The report also highlighted a number of issues that were set out previously, and therefore included four recommendations for the CPS.

## A six-year review

1. A joint inspection of the handling of disclosure should be added to the Criminal Justice Joint Inspection business plan for 2021-22.
2. The CPS Areas should work with the police at a local level to identify and address deficiencies in file quality.
3. The CPS should develop a clear strategy to improve the quality and standard of pre-charge reviews and case file reviews, including the expectation for reviews to consider and address disclosure issues.
4. The CPS should improve the capability and capacity of legal managers to understand and set clear expectations for disclosure review records and provide clarity around expectations at all stages of review.

## Charging

**6.33.** Charging has been inspected on two occasions during this period. The first inspection was a joint inspection undertaken with HMICFRS in May 2015. The second inspection was undertaken by Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) alone in December 2020.

### **Joint inspection of the provision of charging decisions, May 2015 (joint with HM Inspectorate of Constabulary)**

**6.34.** This joint inspection closely scrutinised how well the police and the CPS ensured that quality charging decisions were made. There had been a previous inspection in 2008 and our report in 2015 found improvements since then. For example, pre-charge bail was better managed by the police and the digital transfer of information had speeded up some parts of the process. However, we also found police officers often still had to wait too long for CPS charging decisions, whether waiting to get through on the telephone to CPS Direct or when they submitted a file to a CPS Area for written advice.

**6.35.** The inspection welcomed the steps CPS Direct had taken to implement a digital charging process, but emphasised that the success of that relied heavily on good quality police files. The report found that in too many cases the CPS had to ask for more information before an informed charging decision could be made.

**6.36.** The report found that greater attention needed to be given to training police decision-makers to ensure they know not only how to consider evidential criteria correctly, but also in which cases they were authorised to make decisions. Overall, there needed to be more emphasis on the importance of the role, including the sufficiency of resources, to ensure that timely high-quality decisions were made.

**6.37.** This report highlighted that not only were the police charging cases which should go to the CPS, but also they were submitting cases where they should be making the decision. It raised concerns around where charging responsibility lies in domestic abuse cases, which needed to be clarified urgently.

**6.38.** We found that the quality of police and CPS charging decisions needed to improve. In police-charged cases there was lack of a clear decision-making audit trail, while too many CPS charging decisions failed to address all the necessary issues. We also found that the CPS needed to ensure that cases charged by the police were reviewed effectively before the first hearing to weed out weak cases at the start, which this was not happening.

**6.39.** The report highlighted that, nationally, the Charging Delivery Board had a key role to play. And locally, more needed to be done to inform joint prosecution performance management teams about the quality of all aspects of the charging process.

#### **Charging inspection, September 2020**

**6.40.** In this report, undertaken by HMCPSI alone, we inspected the quality and timeliness of charging decisions made by the CPS.

**6.41.** In 2016, the CPS returned the responsibility for most charging decisions from CPS Direct, the 24-hour national service, to the regional Areas. This inspection was carried out to analyse the standard of charging decisions following those significant changes to its system.

**6.42.** In the report we found that the CPS had improved its charging decisions, but further improvements were needed. The joint report in 2015 found that in 9% of cases CPS prosecutors made the wrong charging decision. This inspection found that it was less than 3%, demonstrating a significant improvement.

**6.43.** However, there had been a drop in the overall standard of prosecutors' legal analysis since 2015. Fewer than half of CPS charging decisions were assessed as fully meeting expectations for a) case analysis and b) setting out a clear strategy for how a case should be handled after charge. The latter is fundamental to the subsequent stages as it moves through the justice system. Our report highlighted a skills gap in this regards for some lawyers, which the CPS needed to address.

**6.44.** Inspectors also found that there had been a significant drop in the timeliness of charging decisions made by CPS Areas, with timely decisions being made just under half of the time. This had deteriorated since the 2015

inspection and we concluded that the changes made by the CPS had not yet ensured that timely charging decisions were being made.

### **Transforming Summary Justice**

**6.45.** The Transforming Summary Justice (TSJ) initiative was adopted by all criminal justice agencies from June 2015. Its aim was to reform the way that criminal cases were handled in the magistrates' courts, and to create a swifter system with reduced delay and fewer hearings. Its success is therefore vital to ensuring a high standard of casework quality and justice for victims. We inspected the CPS response to this on two occasions.

### **Transforming Summary Justice, February 2016**

**6.46.** This report found that the CPS was making a positive early contribution to the TSJ initiative adopted by all criminal justice agencies. But with further work still to be done, focus needed to be maintained if the expected benefits were to be realised.

**6.47.** The report found a good level of buy-in among CPS staff and their criminal justice partners to achieve the aims of the initiative, with good legal training and strong governance arrangements already in place. Inspectors assessed 81% of first hearings as effective, with the right people present and the prosecutors well prepared and able to make decisions. The prosecution file was also found to be substantially digitised, meaning prosecutors could present their cases in the courts without paper copies.

**6.48.** The report found that CPS charging decisions were good, but we also found that the Service failed to review the prosecution file in over a third of cases. Inspectors also highlighted a need to find a more effective way of working with the police to improve the quality of the prosecution file.

### **Transforming Summary Justice follow-up report, June 2017**

**6.49.** In our follow-up report 16 months later we found improvements that would enhance the experience for victims and witnesses had been made across magistrates' courts. Although we noted some really encouraging improvements, we also identified that the CPS must ensure that its focus was maintained in order to drive the necessary momentum for change.

**6.50.** The clearest improvement in performance was shown in the time taken from first hearing to completion of the case. Improvements had also been made in the average number of hearings it took to deal with both guilty pleas and contested cases.

**6.51.** Other performance measures showed more mixed results: while nationally there was an increase in successful trial outcomes, the numbers of



effective trials had dropped and there was inconsistency in performance across England and Wales, which was unsatisfactory for a national initiative.

**Better Case Management, November 2016**

**6.52.** Better Case Management (BCM) is a judicially led initiative superintended by the Senior Presiding Judge and delivered through Crown Court circuit-based local implementation teams.

**6.53.** BCM introduced two major case management initiatives: a uniform national Early Guilty Plea scheme (EGP), and Crown Court Disclosure in document-heavy cases. The scope of our inspection focused on the EGP scheme and compliance with the overarching aims and key principles of BCM. Once more, its success is vital to ensuring a high standard of casework quality and justice for victims

**6.54.** We commended the CPS's contribution to the planning and implementation, governance arrangements and training and resource materials that had been made available to staff. We found the CPS was fully engaged and committed to BCM, but it needed to maintain a focus on the initiative to maintain momentum and drive improvement in compliance in order to embed the scheme and realise the benefits.

**6.55.** The report found that the quality of high level decision-making by the CPS was excellent, but its performance was not as good in relation to case analysis and strategy, with fewer than 50% of cases in the file sample addressing this properly. As a result, many files were not of the required standard. This was compounded by the CPS not making the police aware of these failings, and there was very little direct engagement with the defence before the first hearing in the magistrates' court.

**6.56.** After the first hearing and before the Plea and Trial Preparation Hearing (PTPH), there should be a proper and proportionate case review and timely service of the prosecution bundle of evidence, the indictment and the PTPH form. Inspectors found that all of these aspects needed to be carried out more efficiently and required significant improvement. Neither the prosecution nor the defence had yet made the cultural shift required and this was a priority for the future.

**Serious youth crime, March 2020**

**6.57.** This inspection report revealed regional discrepancies as to how well youth charging decisions and casework were handled. However, we found that the CPS had begun to address this by rolling out its youth training programme nationally.



**6.58.** The report identified some aspects of casework quality that needed urgent attention. We also found that the quality of casework was markedly better in Areas with engaged and effective youth justice coordinators, but that not all Areas set out what was expected from their coordinators.

**6.59.** Since the last inspection of this issue in 2013, far fewer children now find themselves in the criminal justice system. However, when youth cases do reach court, the cases are often increasingly complex. This report showed that, as a result, most youth cases were prepared in magistrates' court teams within the CPS and they struggle to complete their workload with the resources available.

**6.60.** We found that youth policy and guidance was only applied fully in 38% of the cases inspected. In CPS Areas where youth casework is not separated from adult magistrates' court casework some very serious allegations were being reviewed and prepared by prosecutors who do not have the necessary training and experience.

#### **Inspection of CPS Complex Casework Units, March 2021**

**6.61.** In this inspection we found that, in general, Complex Casework Units (CCUs) are both effective and efficient in managing their casework. The areas where they can improve should not detract from the overall high standard of work we saw during our inspection.

**6.62.** We found that CCUs were staffed by a committed and confident workforce who demonstrated a high level of professionalism and skill in their work. The CPS has put in place clear allocation criteria for cases that should be referred to CCUs and these are well understood and enforced consistently by most CCUs.

**6.63.** The CCUs' internal case management processes are generally effective and the cases they prosecute exhibit a clear case strategy from the beginning, providing vital investigative advice to investigators. CCU cases are regularly overseen at a local level by senior case managers and, in the most complex cases, at a national level by senior legal managers in CPS Headquarters. Senior managers are aware of the casework being handled and attempt to adopt as flexible an approach as possible to resourcing CCUs, often to match fluctuating workloads.

**6.64.** We did find room for improvement primarily in the recording of some of the work the CCUs undertake. Work is often completed, but not evidenced in an easily accessible format. CCUs need to make sure that an accurate audit trail of decision-making, actions and oversight of cases is available on all their files.

## Serious Fraud Office

**6.65.** During the period of this report we have not inspected casework quality in the Serious Fraud Office (SFO) to the same extent as our inspections of the CPS. The nature of the SFO's casework makes it very difficult, time consuming and resource intensive for HMCPsi to conduct inspections to any meaningful extent.

**6.66.** We have, however, inspected one aspect of their casework quality. In October 2019 we published a report reviewing SFO case progression systems and processes between case acceptance and charge.

**6.67.** The report highlighted that the SFO could improve the processes it had in place to support how it progressed cases. Inspectors noted that the SFO was already making some changes, including the development of a new case management system and more effective case management controls, but more could be done.

**6.68.** The inspection found that the SFO had clear and well-documented internal casework processes, contained in an operational handbook which set out what is expected and, in some instances, mandated. However, the application was inconsistent, with individual case managers operating in their preferred way, and this impacted the effectiveness and efficiency of case progression.

**6.69.** Case progression was helped by senior managers who were fully engaged with partners and stakeholders, and there were agreements and protocols in place and an international team in the SFO. These factors had tangible benefits for mutual assistance and case progression.

**6.70.** Cases were accepted for investigation in a timely manner, but in some cases delays occurred due to a backlog of digital material needing to be processed in order to progress investigations. The report identified staffing and resourcing issues as the main cause of delay. But it also highlighted how the SFO has been proactive and made changes to reduce staff shortages by providing training and development opportunities to upskill and multi-skill staff.

**6.71.** The SFO had various strands of case oversight. These included case review panels, heads of divisions' meetings with case teams, peer reviews and performance data. However, we found the process could be improved and should include more of a focus on assurance of case processes and consistency across cases being operated by case managers.

## Concluding thoughts

**6.72.** High quality casework must be the aim of both the CPS and SFO. Both exist to make effective decisions to ensure that the right cases are prosecuted, and that justice is served. The public has the right to expect that both organisations deliver high quality casework. A theme that I have repeated in many of the inspections that have been published during my tenure is that the quality of legal decision needs to improve. More recently, I have also set out that the reduction in CPS funding has had a lasting impact on its ability to deliver; too few resources are spread too thinly across the volume of cases to ensure that high quality casework can be achieved universally.

**6.73.** In the SFO, the issue is a little different and the extent and complexity of the cases it works on make it difficult for my inspectors to assess the quality of decision-making. The issue, as identified in the case progression report, is more one of focus than decision-making. I am pleased that the director has made it her priority to ensure that cases are gripped and that there has been a change in governance and casework arrangements to ensure that this grip is focused and maintained.

**6.74.** I leave as Chief Inspector with an overall view that both senior leaders in the CSP and SFO have a clear understanding of the challenges. Some plans have been pushed off course due to the pandemic, but the focus must be maintained if both organisations are going to deliver the quality of casework that the public should expect.

## **7. Public confidence**

**7.1.** The Crown Prosecution Service (CPS) and Serious Fraud Office (SFO) have a duty to build public confidence in them and in the wider criminal justice system. In order to achieve their aims, they must be organisations which are trusted both in the decisions they make and in the way they operate. Being seen as fair and reliable is vital in gaining the confidence of the general public and the communities they serve, which in turn will encourage victims and witnesses to support the work they do.

## **Crown Prosecution Service**

### **Area inspections**

**7.2.** In our Area Assurance Programme (AAP) inspections we found that the focus on financial control was effective in all Areas. Budgetary control and governance processes were working well and the majority of Areas had a good grip on finance and controls.

**7.3.** We found that there were some Areas that were improving outcomes while working within budget. These Areas were able to demonstrate that performance could be improved by weeding out inefficiencies and working with partners to streamline processes. Across the country, a large number of CPS Areas were delivering good value for money. However, there was a small number of Areas that needed to improve to ensure that they could deliver a quality service to the public.

**7.4.** Overall, we found that most Areas had good levels of community engagement and worked effectively to use feedback to improve local practices and processes. This was central to fostering public confidence.

### **Thematic inspections**

#### **Disability hate crime**

**7.5.** During this period, disability hate crime has been inspected on two occasions. The first was a joint inspection undertaken with Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Inspectorate of Probation (HMI Probation) in May 2015. The second was also a joint inspection, but this time undertaken with Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS).

**Disability hate crime, May 2015 (joint with HMIC and HMI Probation)**

7.6. This inspection was a follow-up review to a March 2013 joint inspection titled Living in a different world: joint review of disability hate crime. That first joint review inspected how the police, CPS and probation trusts dealt with disability hate crime. The 2015 review considered how those agencies had responded to the recommendations contained in the original report.

7.7. Our 2015 review concluded that performance had not improved sufficiently. The number of reports of disability hate crimes to the police had remained disappointingly low and the police, CPS and probation service providers had failed to universally embed good working practices relating to disability hate crime.

7.8. The key message of the 2013 review was that there was a need for leaders of the 43 police forces, the CPS and probation service providers to understand disability hate crime's unique features and ensure additional focus and attention was given to this important area at an operational level. Our 2015 report found that this message had not gained sufficient traction. Real change across the criminal justice agencies had not yet fully materialised; however, the CPS chief executive had now assumed personal responsibility for driving improvement.

**Joint inspection of the handling of cases involving disability hate crime, October 2018 (joint with HMICFRS)**

7.9. This inspection reviewed the progress made since the last follow-up report in 2015.

7.10. The 2018 report highlighted some significant improvements in handling cases involving disability hate crime. There were signs that the number of cases being identified correctly as hate crimes was increasing. There had also been an increase in the number of successful applications for sentence uplifts due to cases containing elements of disability hate crime.

7.11. While praising the work already done, the report made recommendations to further improve performance. They included recommendations regarding the identification and investigation of cases involving disability hate crime, and the coordination of work between the police and CPS in these matters. We also recommended that a number of changes were made to better highlight and explain cases to the court and defence where an increase in sentencing is required due to the offence being motivated wholly or in part by hostility towards a disability.

7.12. The report recorded high levels of referral to victim support services and compliance with the Victims' Code of practice. But it also identified that more

could be done to assess and support the needs of victims when attending court and giving evidence.

**Living in fear: the police and CPS response to harassment and stalking, July 2017 (joint with HMIC)**

**7.13.** This joint inspection found that crimes of harassment and stalking were often missed or misunderstood by both the police and CPS. As a result, inspectors found cases where offenders were allowed to continue their persecution of victims, or victims were not protected with the powers in place to prevent this kind of personal and persistent crime.

**7.14.** While there was some evidence of good service provided by police or prosecutors, none of the cases we inspected were dealt with well overall. Incidents of harassment and stalking were often dealt with in isolation by both police and prosecutors. As a result, victims were being given varying advice including, in many cases, that the individual incidents were not significant. Often, therefore, the severity of the overall situation was overlooked.

**7.15.** Inspectors found that prosecutors were charging stalking offences as harassment, meaning charges did not reflect the seriousness of the offence and victims were not receiving the support they required. There were also varying practices in different CPS Areas around whether decisions to alter or reduce charges had to be approved by managers.

**7.16.** Inspectors made a series of recommendations to the Home Office, the College of Policing and the National Police Chiefs' Council, as well as to forces and the CPS.

**The CPS response to the Modern Slavery Act 2015, December 2017**

**7.17.** This inspection assessed the national, international and local Area response of the CPS in terms of strategic leadership, governance and joint working related to prosecution of modern slavery. We also considered the effectiveness of operational practice in prosecuting or disrupting criminality and providing support to victims and witnesses, and we assessed progress against the recommendations in the Modern Slavery Act Review.

**7.18.** Good practice was identified particularly in Wales and the West Midlands and the report found that examples of good practice needed to be used to develop an overarching national strategy to tackle this complex crime.

**7.19.** The main recommendations of the report were for the CPS to review where modern slavery and human trafficking sat strategically and ensure that there is an overarching framework to lead, assure and provide oversight. There was a crucial need for a more formal structure nationwide. Although the CPS

was working closely with other UK prosecuting authorities and there was a significant amount of cross-government collaboration, there was no clear, overarching framework for all the crime types and it was not treated as a single body of work. This led to a lack of clarity and consistency. Modern slavery and human trafficking casework required a framework for leadership, assurance and oversight akin to that of Violence against women and girls, either within the existing structures or as a separate parallel regime.

**7.20.** In the review, we also found that while special measures have been extended to all victims of trafficking and slavery – including screening them from defendants in court and allowing them to give evidence via a live link – more could be done to support victims.

**The poor relation: the police and Crown Prosecution Service's response to crimes against older people, August 2019 (joint with HMICFRS)**

**7.21.** The inspection found that the police and CPS lacked any joint cohesive and focused strategy to deal with older victims of crime.

**7.22.** The report praised the work of police officers in their initial dealings with older victims of crime, including attending promptly to reports of crime from older victims. But afterwards, officers struggled to deal with some of the complex needs of older people. This meant older people were not always properly safeguarded, for example:

- referral to victim support services for older people was too inconsistent
- older people were not always offered the support of intermediaries, or helped to give their best evidence, for example, by video-recording their evidence or using hearing loops.

**7.23.** The report made a series of recommendations aimed at improving responses to older victims of crime and vulnerable adults more generally. One of these recommendations related to the CPS, namely that the National Police Chiefs Council and the CPS should, within six months, agree a definition of what constitutes an older victim and take a coordinated approach to understand and respond to the problem.

**Joint inspection on pre-charge bail and released under investigation: striking a balance, December 2020 (joint with HMICFRS)**

**7.24.** The changes to bail introduced through the Police and Crime Act 2017 were in part intended to remedy the problem of suspects being on bail for long periods of time. This legislation also allowed suspects to be released under investigation (RUI) as an alternative to formal bail. This report found that those



changes led to a potentially increased risk to victims and uncertainty for suspects.

**7.25.** The inspection found that:

- suspects were still faced with lengthy delays and that the changes had unintended consequences for victims, who viewed them as overwhelmingly negative
- not enough thought was given as to how the legislative changes would affect victims
- RUI left too many victims without the reassurance and protection that bail conditions can provide
- forces implemented the changes inconsistently due to a lack of clear guidance
- investigations involving suspects released under investigation tend to take longer and are subject to less scrutiny than ones involving formal bail
- victims and suspects do not understand the legislation and are not being updated about the progress of their case.

**7.26.** The speed at which the legislation was put through limited the time available to address the consequences of these changes. Both the police and the College of Policing highlighted the potential risks before the changes were implemented.

**7.27.** Inspectors found that a lack of accurate data meant that any increased risk brought about by the legislation change was difficult to assess.

**Joint inspection: evidence-led domestic abuse prosecutions, January 2020 (joint with HMICFRS)**

**7.28.** An evidence-led prosecution is when the victim of domestic abuse decides not to support a prosecution. Police and prosecutors should then consider whether it is possible to bring a prosecution without that support.

**7.29.** This inspection was undertaken to establish whether police officers and CPS lawyers understood what needed to be done to build viable evidence-led prosecutions. It also looked at whether the guidance, the policy and the importance of both are understood by all staff within the police and CPS dealing with domestic abuse cases.

**7.30.** The report concluded that the handling of evidence-led domestic abuse prosecutions required improvement.

**7.31.** Inspectors found that staff at all levels in the police and CPS clearly recognised that domestic abuse was a priority area of work and there was a desire to achieve the best possible outcomes for victims. However, officers and prosecutors needed to ensure that, at the outset of a case, consideration was given to how to prosecute if the victim was to withdraw support. That would then lead to a more detailed investigation at the scene, such as evidence from neighbours, forensic and photographic evidence, and so on. When prosecutors consider the evidence (either at charge or review stage) they should raise this with officers.

**7.32.** Our examination of CPS casework revealed that, in general, prosecutors are making sound legal decisions in domestic abuse cases. But we found that in 42.1% of appropriate cases the inspectors read, there was no consideration of how to progress the case without victim participation when the CPS prosecutor authorised charge. At the later legal review stage there was no proper consideration in 40.1% of appropriate cases.

**7.33.** The inspection found that evidence-led domestic abuse cases should be given the same weight and training as that offered to staff dealing with general domestic abuse. We also found that neither the police nor the CPS has a system to identify and measure performance in evidence-led cases. This presents a challenge when trying to drive improvement in prosecutions or training to support and spread best practice.

#### **Internal fraud controls, November 2017**

**7.34.** This report into internal fraud controls at the CPS showed good procedures were in place, but there was still work to be done to educate staff about their responsibilities.

**7.35.** We found that the CPS has a zero tolerance policy on fraud and we considered the risk of fraud within the CPS to be low. There were well-established management practices that provided continuous testing of the procedures in place, and individuals throughout the CPS had clear roles and responsibilities for reducing and detecting fraud.

**7.36.** However, we did find that although 80% of those staff asked knew how to report an incident if they suspected one had occurred, some would have chosen not to report suspicious behaviour, which could breach the CPS's staff Code of Conduct.

**7.37.** We made a number of recommendations around training for all staff in relation to raising awareness of the importance of detecting and reporting suspicious activity, creating a mechanism for sharing good practice and updating the CPS's fraud policy and reporting mechanisms.

### **Handling defence correspondence, October 2018**

**7.38.** This inspection found that, despite the CPS's anecdotally poor reputation for processing correspondence to and from the defence, it generally dealt with defence correspondence quickly and effectively. Staff were largely aware of what they could deal with and what needed more specialist legal knowledge or required contact with other agencies to address queries effectively.

**7.39.** We praised the CPS's guidelines on what could be dealt with by its magistrates' court teams. We also encouraged the CPS to develop further guidance on the types of correspondence that could be dealt with by paralegal staff who deal with Crown Court cases.

**7.40.** However, we did find some areas where improvements could be made. For example, a lack of meaningful engagement with the defence increased the risk of misunderstandings. There were communication issues that made effective engagement with the defence challenging, but both the CPS and defence community would benefit from a more structured model of engagement in the future.

**7.41.** We also identified issues with the user interface of the CPS's case management system, which the CPS had already invested in upgrading. In particular, the defence correspondence process would be improved by making the process of recording correspondence less complex and improving filtering capabilities to identify what was from the defence and which matters had been processed.

### **Impact of the pandemic on the criminal justice system, January 2021 (joint with HMICFRS, HMI Prisons and HMI Probation)**

**7.42.** This report provided a cross-system view of how the criminal justice system reacted in the immediate aftermath of the first national COVID-19 lockdown (23 March to 10 May 2020), and of how the system has managed since.

**7.43.** All four criminal justice inspectorates have carried out inspections of their respective agencies' responses to COVID-19. This report sets out findings from these inspections as well as cross-cutting themes, and highlights the successes, challenges and problems that the system has faced and still faces.

**7.44.** The report highlights risks and innovative practice and focuses in detail on the greatest risk facing the criminal justice system as it continues to respond to and recover from the pandemic.

## Concluding thoughts

**7.45.** Public confidence in the criminal justice system (CJS) is central to the rule of law. If the CJS does not inspire confidence there is a fundamental risk to how society views the effectiveness of justice. All inspection activity in one way or another results in judgements that can have a lasting impact on confidence.

**7.46.** Most of the reports that we produce show that, generally, the public can have confidence in what the CPS does. This is a good thing. However, as set out in the letter at the beginning of this report, there is one overriding concern that could fatally undermine confidence – and that is delay because of the backlog resulting from COVID-19. There is a real risk that the public will lose confidence in the ability of the criminal justice system to uphold the law unless delays are reduced.

## **8. Victims and witnesses**

**8.1.** Victims and witnesses are vital to the criminal justice system. Their experience of it can ultimately affect the public's confidence in the system as a whole. It is therefore important that when members of the public do come into contact with the criminal justice system they are treated with respect and support. They should receive timely information and explanation about the progress of their case and be able to provide their own information for use in the criminal justice process. They should be protected in any way necessary and receive compensation when appropriate. Failure to do this undermines the whole criminal justice system.

## **Crown Prosecution Service**

**8.2.** Throughout the period of this report we have, on a number of occasions, inspected the service the Crown Prosecution Service (CPS) provides to victims and witnesses. This has been done through a combination of specific inspections relating to the treatment of victims and witnesses, as well as through our inspections of CPS Areas, headquarters divisions and our thematic inspections, some of which were undertaken together with other Criminal Justice Inspectorates.

### **Specific victim and witness inspections**

#### **Witness for the prosecution: identifying victim and witness vulnerability in criminal case files, November 2015 (Joint with HMICFRS)**

**8.3.** This inspection examined the effectiveness of the police in providing accurate information about the circumstances of the case; identifying the vulnerability of victims and witnesses; and assessing and managing risks so that their needs were met effectively.

**8.4.** The inspection also examined how prosecutors used this information to ensure that cases were well presented, the needs of vulnerable victims and witnesses were met and action was taken when the necessary information had not been included.

**8.5.** The inspection found that the quality of service was no different whether a vulnerable victim or witness was involved in the case or not. We found that the police and the CPS needed to improve their understanding of the vulnerability of a victim or witness, how their vulnerability can change as the case progresses through court, strive to understand better their respective contributions to the criminal justice process and eliminate the 'tick-box' culture. This would improve the service provided to vulnerable victims and witnesses.

### **CPS communicating with victims, January 2016**

**8.6.** In this report we assessed how effectively the CPS communicates with victims with a focus on the quality and timeliness of communications.

**8.7.** We found that the CPS had attempted to improve the service provided to victims and witnesses, but in 43.4% of cases communication with victims was still very slow. Victims also felt let down by receiving what they saw as a standard impersonal letter, which did not give them enough information to help them understand what had happened to their case. Nearly a fifth of letters failed to inform the victim of their right to seek a review of a decision not to prosecute, and nearly all letters failed to provide details of sources of support for victims of domestic abuse. In nearly half the cases examined, inspectors found that no reason was given if it had been decided not to go ahead to trial.

**8.8.** We concluded that it was essential for the CPS to work closer with criminal justice partners, not just at a strategic level but also operationally, to improve victims' experience of the criminal justice system.

### **Witness summons audit, January 2016**

**8.9.** In this inspection we considered how the CPS uses a witness summons to ensure the attendance of a witness at court to give evidence.

**8.10.** We found more than 10% of witnesses in domestic abuse cases were being inappropriately summoned to court and that alternative approaches should be considered by the CPS. This included proceeding with the case without the support of the victim/witness by using other evidence.

**8.11.** We also found that witness attendance was declining in both the Magistrates' and Crown Court. Although the use of the witness summons procedure has increased there was little evidence to indicate that this has improved witness attendance.

### **Victim liaison units: letters sent to the public by the CPS, November 2018**

**8.12.** Victim Liaison Units (VLUs) were set up by the CPS in 2014. The aim of the units was to create a dedicated and professional service to victims and to ensure that victims were provided with high quality, timely, effective and empathetic communications after a case has concluded.

**8.13.** The objective of this inspection was to evaluate the effectiveness of the CPS's communications with victims and to assess the quality, process and timeliness of letters sent to the public.

**8.14.** We found too many letters contained simple errors, including spelling mistakes, some were wrongly addressed, and incorrect cases were even identified.

**8.15.** Only 22.1% of the 340 letters inspectors looked at met the quality standard expected. Nearly half of these were rated by inspectors as not being empathetic enough. We also found that legal managers had not received training in drafting or responding to complaints, which again had an impact on the quality of the letters sent out.

**8.16.** Although inspectors found that staff in the VLUs were committed to providing a quality service, the fact that there was not an effective level of quality assurance in place meant that too many letters were not meeting the standard expected.

**Victim Communication and Liaison scheme: letters to victims, October 2020**

**8.17.** In this follow-up report we found that, two years on, the CPS was still sending poor quality letters to victims of crime. Inspectors looked at 490 letters and rated less than one in four as being of a satisfactory standard. Inspectors noted some slight improvement in eight of the 14 Areas, but in all Areas the majority of letters were still of poor quality.

**8.18.** We also reviewed letters to victims in cases involving rape and serious sexual offences and found that the standard of responses in these sensitive cases was worse, with only 19% of letters being of satisfactory quality. We also examined letters to victims in domestic abuse cases and inspectors found 28% were of satisfactory quality. The inspectors found that many of the letters needed to demonstrate a higher level of empathy – 58% were rated as having satisfactory empathy. While this was a 12% improvement from the 2018 findings, the letters were a long way from satisfactory performance.

**8.19.** Inspectors also found that the timeliness of responses had deteriorated since 2018, with more victims receiving letters late. Just 65.1% of letters were timely, compared to 72% in the 2018 inspection.

**8.20.** In line with the 2018 findings, we found that often the explanation of the CPS's decision did not sufficiently cover the circumstances and included legal terms that were sometimes difficult for victims to understand. The inspection also revealed that not all prosecutors took personal responsibility for their involvement in providing information to allow the CPS to send effective letters to victims.



### **CPS geographical Area inspections**

**8.21.** In our inspection of Areas under the Area Assurance Programme (AAP) between 2016 and 2018 we set a performance expectation that:

- the service provided to victims and witnesses should be central to the work of an Area
- decisions should be appropriately explained to them
- an Area's interaction with victims and witnesses should take account of their needs, be open and direct, and show empathy.

**8.22.** The findings across the 14 Areas showed that the CPS could do more to communicate with victims in a timely and effective manner. The CPS was generally effective at representing the interests of victims and witnesses within the court process, and making timely and effective representations in court. However, there were issues with the quality, accuracy, timeliness and empathy of the letters which were sent to victims and witnesses.

**8.23.** Our overall findings showed that Areas struggled to identify where letters needed to be sent. When the need was identified, Areas struggled to send them in a timely manner, or in some instances, send them at all.

**8.24.** We also reviewed the quality of the letters that were sent and 40.9% were assessed as fully meeting the expected standard; that is, clear, containing the correct information, and having the correct balance of empathy and explanation. Another 38.4% of letters were assessed as partially meeting the required standard. Some of these letters were complex and/or used legal phrases, and they did not always read as empathetic. The remaining 20.7% of letters were assessed as failing to meet the standard. Some of these letters contained incorrect information and/or confusing detail, or were not addressed correctly.

**8.25.** The reports did highlight good work taking place in most Areas' VLUs and in two Areas, the VLU was noted as a strength. However, in the majority of Areas, inspectors found that there was a problem with lawyers notifying the VLU of the need for a letter and providing a form of words for the VLU to include in the letter. This lack of adherence to established process puts pressure on VLU staff to get letters out in a timely way and also impacted the quality of the letters.

**8.26.** Our inspection work also noted how well victims' interests were dealt with and how well victims' views were represented in the court process. Inspectors praised both London Areas for making sure that, in a number of cases, prosecutors sought the appropriate hate crime uplift in sentencing. However, in a

number of reports, it was noted that victim and witness issues arising during the progress of the case were not being prioritised. This resulted in cases where victims' issues were not being addressed. In some Area reports, we highlighted delays in responses to witnesses' queries, and this may be one reason why some cases fail due to victim issues.

**8.27.** In four Areas, inspectors noted many instances where witness statements sent digitally to the CPS by the police included the personal details of the victim. We were concerned that in some Areas not enough was being done to remind the police of their obligations with respect to handling victims' personal data.

**8.28.** Generally, we found that there were good relationships between witness care units and CPS Areas. But in some Areas, witness care units raised concerns about delays in dealing with witnesses' queries. A common theme in a number of reports, and issue to be addressed, was the need for the CPS to ensure that communications with witnesses were actioned promptly and prioritised during the trial process.

### **CPS Headquarters divisions**

**8.29.** The Special Crime and Counter Terrorism Division (SCCTD) has responsibility for a significant amount of serious and sensitive casework, which has a considerable impact on the victims, their families and witnesses in those cases.

**8.30.** In 2019, our inspection into the effectiveness of SCCTD found a number of aspects of good practice in their approach to dealing with victims and witnesses.

**8.31.** A significant action in the divisional business plan was to create a policy for supporting victims of disasters and multi-fatality cases, including terrorist incidents. This resulted in the publication of a policy guidance document.

**8.32.** The division used what it learned from the Hillsborough and Grenfell disaster cases to develop a policy which was used to form engagement strategies in cases with more than three fatalities. In another example, we found a change in procedures followed extensive liaison with the family of a murder victim in March 2018. That change went beyond the requirements of the Victims' Code and enhanced the service provided to bereaved family members.

**8.33.** In our inspection we found that much thought was given to the content and tone of communications with victims and witnesses, and bespoke arrangements were made around delivery to meet particular circumstances.

**8.34.** The unit heads responsible for the Victims' Right to Review scheme and Victim Communication and Liaison scheme letters considered and proofread all such letters before they were sent out to the complainants. This illustrated a strong commitment to the experience of victims and witnesses, and we found victim and witness care was viewed as a priority by staff at every level.

**8.35.** The Special Crime unit within SCCTD has a single-case small team who face a particularly unique challenge in the delivery of their service to the families of victims. The team have various mechanisms in place with the stated aim of giving a better service than that required of it.

**8.36.** The associated Local Liaison Group is chaired by the CPS and aims to help with the smooth running of the court hearings by making sure the correct facilities are available for anyone who needs them. There is a hearing support action plan in place, which covers aspects such as live links in court, emotional support, security, defence involvement, communication with families, and seating in court. Newsletters are prepared for the families to keep them updated and there is a dedicated email inbox for queries from them. Arrangements are made for a special crime prosecutor to be present at each hearing to deal with the families at court.

**8.37.** The team are committed to providing a good service to the families and work hard to meet the considerable challenges. Some of the lessons learned have already informed policy guidance for supporting victims of disasters and multi-fatality cases. We identified this as good practice in our report.

## **Thematic inspections**

**8.38.** While a number of our thematic inspections related directly to the treatment of victims and witnesses, others considered them as part of the wider theme under inspection.

**8.39.** Over the course of this period, the thematic inspections have been varied but, when appropriate, we ensured that the impact on victims and witnesses was part of the inspection framework. Some of the main outcomes from those inspections, which relate to victims and witnesses, are listed below.

**8.40.** Transforming Summary Justice (TSJ) and Better Case Management (BCM) were initiatives adopted by all criminal justice agencies. Part of the aims of those initiatives were to speed up justice in the magistrates' court and Crown Court, creating a higher standard of casework quality and improving justice for victims.

**8.41.** We published inspection reports in 2016 into both these initiatives and we praised the CPS for their contribution and engagement to them. But at the

same time, we highlighted that some of the ultimate results were mixed. In 2017 we completed a follow-up inspection report on TSJ and we found improvements had been made across magistrates' courts that would enhance the experience for victims and witnesses.

**We again noted that the police and CPS had both seen significant reductions in their resources and RASSO units were undoubtedly stretched**

**8.42.** In 2016 we published an inspection of the CPS Rape and Serious Sexual Offences (RASSO) units. We found that across all CPS Areas there were many committed and professional individuals trying to deliver a quality and timely product, with appropriate consideration of the needs of victims and witnesses. However, we also found that the CPS was insufficiently resourcing and staffing its RASSO units and that the level of care for

victims and witnesses fell well short of what is expected. Only 66.7% of cases were compliant with all relevant victim policies.

**8.43.** As a result, in our 2019 Rape inspection report, while praising the commitment and determination of individual RASSO lawyers, we again noted that the police and CPS had both seen significant reductions in their resources and RASSO units were undoubtedly stretched. In our survey for that report, half of CPS managers said that their unit was not staffed to the level set by the organisation's guidelines. This report was in relation to a discrete part of rape investigations prior to charge, but it did show that some of the issues with resourcing of RASSO units, which had impacted on victim and witness care in our 2016 inspection, were still present in 2019.

**8.44.** In previous reports, concerns had been raised about the appropriate level of service being provided to victims of disability hate crime. We considered this as part of our joint inspection reports into the police, CPS and probation service handling of disability hate crime in 2015 and 2018.

**8.45.** In those reports we praised some of the work done by CPS. In particular, in the 2018 report, we found signs that the number of cases being identified correctly as hate crimes was increasing, and there had been an increase in the number of successful applications for sentence uplifts in disability hate crime cases. However, we also recommended a number of changes that were required to better highlight and explain cases to the court and defence, where an increase in sentencing was required due to the offence being motivated wholly or in part by hostility towards a disability. In addition, although the report recorded high levels of referral to victim support services and compliance with the Victims' Code of practice, it also identified that more could be done to assess and support the needs of victims when attending court and giving evidence.

**8.46.** In 2017, we published a joint inspection report on the police and CPS response to stalking and harassment. We found that the police and the CPS frequently struggled to separate the two offences and that stalking, in particular, was misunderstood. Prosecutors on occasions missed opportunities to charge stalking offences, instead preferring other offences, particularly harassment. As a result, it often went unrecognised and this had a detrimental effect on victims.

**8.47.** We also found that some prosecutors did not always protect victims by seeking bail conditions or remands in custody, or appealing when an application for a remand in custody was refused. Prosecutors did not always communicate with the police when important evidence was missing from files or apply for restraining orders on conviction or acquittal. The effect of this, and similar police inaction, was to leave victims vulnerable to repeat victimisation and serious harm, either during the criminal justice process itself or afterwards.

## **Prosecutors on occasions missed opportunities to charge stalking offences, instead preferring other offences, particularly harassment**

**8.48.** Victims of modern slavery and human trafficking can be the most vulnerable, requiring significant support and work to engage them at the outset and keep them on board throughout the process of a prosecution in court. In our 2018 report on the CPS response to the Modern Slavery Act we found that there could be better awareness of the vulnerabilities and nuances of victims of these crime types.

This would lead to ensuring they are properly safeguarded and supported with special measures, the use of intermediaries and interpreters and building an evidence-based prosecution, or using alternative offences to manage risk effectively. In short, more could be done to support victims in these cases.

**8.49.** Similarly, in our 2019 joint inspection report into the police and CPS response to crimes against older people, we found that older people were not always offered the support of intermediaries, or helped to give their best evidence, for example by video-recording their evidence or using hearing loops.

**8.50.** Finally, the coronavirus pandemic has had a significant and very practical impact on how the CPS and the criminal justice system supports victims and witnesses. In our 2020 inspection into how the CPS had dealt with the initial lockdown period we gave examples of how the CPS had proactively taken a number of measures to try to maintain support for victims and witnesses.

**8.51.** However, we also highlighted that, while the CPS has tried to support the needs of vulnerable victims, the pandemic had brought into sharp focus a

number of issues the criminal justice system had faced for years, which impacted on victims and witnesses. Those issues have only gotten worse with the increased delays caused by the pandemic. Again, we highlighted this in our recent 2021 joint inspection report into the impact of the pandemic on the criminal justice system.

## Serious Fraud Office

**8.52.** Our inspections of the Serious Fraud Office (SFO) during this period have generally not focused on its treatment of victims and witnesses. However, in 2019 we published a report into the SFO's handling of case progression between case acceptance and charge. In that inspection we found that the SFO has made a greater commitment to victims and witnesses since previous reports into this aspect of their work. We found it had applied more resources and set clearer expectations, which had led to improved communications with victims and witnesses. The requirement for case controllers to develop a victim and witness strategy at an early stage was leading to more timely determination of a person's status as a suspect, victim or witness, which improved the quality of investigative decisions.

## Concluding thoughts

**8.53.** Victims and witnesses are at the heart of the criminal justice system. In the inspections we have undertaken over the past six years there have been a number of reports where I have been pleased to set out some examples of where the service to victims and witnesses has been very good; those dealing with cases going the extra mile to ensure that justice was served and the impact on victims ameliorated.

**8.54.** However, there have also been the low points of the two inspections that I published on the quality of letters sent to victims by the CPS. As with the quality of casework, there is no doubt that the reduction in resources has a consequence on the service delivered.

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