This report has been prepared under Section 6 of the National Audit Act 1983 for presentation to the House of Commons in accordance with Section 9 of the Act.

John Bourn
Comptroller and Auditor General

National Audit Office
4 December 1997

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*Cover photograph:* © Crown Prosecution Service
Figure 1  
**Key stages in the prosecution of a criminal case**

Showing the key stages in the prosecution of a criminal case, split between the four main agencies of the police, the Crown Prosecution Service, the magistrates’ courts and the Crown Court. In the interests of clarity, the legal process has been simplified considerably.

**Police**

The police are responsible for investigating criminal offences. Once a suspect has been arrested and charged, the police prepare a prosecution case file. Police administrative support units provide support to investigating officers, and review and submit case files to the Crown Prosecution Service.

In some cases the police seek the advice of prosecutors before starting proceedings.

There are 43 police forces in England and Wales, each headed by a Chief Constable or Commissioner.

**Crown Prosecution Service**

The Crown Prosecution Service reviews all case files submitted by the police to see whether there is sufficient evidence to proceed and whether prosecution is in the public interest.

If either criterion is not met, the Crown Prosecution Service will drop or ‘discontinue’ the case. The Crown Prosecution Service aims to consult the police when it proposes to discontinue a case. Prosecutors will discuss the case with the police administrative support unit or the investigating officer involved.

The Crown Prosecution Service is a national organisation.

**Magistrates’ courts**

If the Crown Prosecution Service decides to proceed, the case is heard in a magistrates’ court. Most cases are completed at this stage, but more serious cases are committed for trial at the Crown Court.

Crown Prosecution Service staff prepare the case for the magistrates’ court hearing. This may include supplying the police with details of the witnesses required to attend court to give evidence and, in more serious cases, providing the defence with details of the prosecution case. Prosecutors present most cases in the magistrates’ courts; in the remainder, the Crown Prosecution Service employs lawyer agents to present cases on its behalf.

There are over 400 magistrates’ courts in England and Wales, working under the direction of 96 Magistrates’ Courts Committees.

**Crown Court**

More serious cases, such as murder, rape and robbery, are heard before a judge and jury at the Crown Court.

Crown Prosecution Service solicitors were recently granted limited rights of audience to present certain cases in the Crown Court. In most cases, the Crown Prosecution Service still instructs external advocates to act on its behalf in the Crown Court. Crown Prosecution Service staff prepare cases for trial. This includes selecting an appropriate advocate, negotiating a fee for the work and providing instruction on the case.

There are 89 Crown Court centres in England and Wales. The Crown Court is part of the Court Service Agency, although staff

Source: National Audit Office  
Photographs: Crown Prosecution Service and the Metropolitan Police Service
Executive summary

Introduction

The Crown Prosecution Service was set up in 1986 to prosecute criminal cases investigated by the police in England and Wales (Figure 1). Expenditure in 1996-97 approached £300 million; just over half of this related to the cost of the Crown Prosecution Service’s 6,000 staff, including some 2,000 prosecuting lawyers. In 1989 the National Audit Office reported on the establishment and early performance of the Crown Prosecution Service. This report examines progress since then and focuses on whether the Crown Prosecution Service:

- is working constructively with the police, especially to ensure that the number of discontinued cases is minimised;
- uses staff and other resources efficiently and effectively;
- has taken appropriate steps to measure and improve performance, in particular the timeliness and quality of its work;
- makes effective use of computers to support local case management.

In May 1997 the Government announced plans for the Crown Prosecution Service to be reorganised into 42 Areas each with its own Chief Crown Prosecutor. There is to be one Area for each police force outside London and one for the area covered by the Metropolitan Police and the City of London Police. The Government has also established an independent review to examine the internal structures of the Crown Prosecution Service together with its policies and procedures, with the aim of building on and adapting its underlying strengths and achievements and informing the new local arrangements. The observations, conclusions and recommendations made in this report are relevant to this review, and many of the recommendations for local action could be pursued by the new Area Chief Crown Prosecutors.
On whether the Crown Prosecution Service is working constructively with the police, especially to ensure that the number of discontinued cases is minimised

In the early days the transfer of the prosecution function from the police to the Crown Prosecution Service (CPS) made for an uneasy relationship. The CPS and the police need, nevertheless, to work closely and constructively together to enable effective and speedy processing of cases through the criminal justice system.

In 1995 the CPS and the police began an initiative known as joint performance management. As part of this, a programme to introduce monitoring of the timeliness and content of police files against agreed guidelines into police forces and CPS branches is almost complete. Early results have shown that only around half of police files meet the time guidelines and around half meet the quality guidelines. Taken together, only one third of files meet both the time and quality guidelines. Joint performance management is proving to be a helpful approach to monitoring local performance, and opportunities for extending the principles of the approach into other parts of the criminal justice system are being explored.

The CPS and the police are working locally to identify how performance can be improved. Joint working at national level has included the development of a series of charging standards for particular offences to help police officers select the most appropriate charges as early as possible in a case. The CPS also contributes to police training and has recently taken part in an initiative to prepare over 100,000 police officers, as well as its own prosecutors, for changes in procedures introduced under the Criminal Procedure and Investigations Act 1996.

The CPS has recently evaluated a pilot initiative run in 12 branches where prosecutors visited police stations and police administrative support units to give early face to face advice. Benefits were found to include improved working relationships and reduced administrative burdens. We found that local CPS staff and police forces supported the initiative in principle. However, in practice, they had found it difficult to achieve the full intended benefits of the initiative because prosecutors could not always meet the recommended attendance levels and police take-up had been disappointing.
The Crown Prosecution Service and the police have worked to overcome early difficulties and are collaborating increasingly, in a range of constructive ways, for the benefit of the criminal justice system as a whole. Joint performance management is proving to be a helpful approach to monitoring local performance and exploring improvements with local forces, and opportunities for extending the principles of this approach into other parts of the criminal justice system are being explored.

Whilst the police decide whether to charge a suspect, the Crown Prosecution Service decides whether or not a case should proceed. If there is insufficient evidence, or if the prosecution is judged not to be in the public interest, the CPS will ‘discontinue’ the case. The CPS can discontinue cases before they come to court. Or cases may be discontinued at a later stage by the CPS withdrawing the charges or offering no evidence against the defendant.

During the first six years of the CPS, the rate at which cases were discontinued (discontinuance) rose from 7.5 per cent to 13.5 per cent. Since 1992 discontinuance has stabilised at around 12 per cent of the some 1.4 million cases received from the police. However there are wide differences in local rates of discontinuance, ranging from 15 per cent in the East Midlands to nine per cent in the North West. These differences result partly from the differing priorities and practices of the 43 police forces.

Until 1993 the CPS had no systematic information on why cases were discontinued. CPS surveys in 1993 and 1994 showed that over 40 per cent of cases were discontinued because there was insufficient evidence to proceed. A further 30 per cent were discontinued on public interest grounds, and the remainder because the prosecution could not proceed, for example where a key witness refused to give evidence or because valid motoring documents were produced for the first time at the court hearing. Local arrangements for monitoring the reasons for discontinuance are emerging, but do not yet provide a clear picture of the position in CPS branches which would help to inform decisions on priority areas for joint action with the police.

The CPS aims to consult the police before discontinuing a case. The 1994 discontinuance survey found that the police were consulted on three-quarters of decisions, and that in most of the remainder the reason for discontinuing the case only became apparent on the day of the court hearing. Where consulted, the police objected to the proposal to discontinue in only four per cent of cases. However, the police and the victims’ organisation, Victim Support, felt that the CPS could sometimes give fuller and more timely information about the reasons for discontinuing cases, to enable the police to explain decisions to victims. This issue
is being addressed under joint performance management with a requirement for fuller reasons to be provided, both to help the police in advising victims and to enable cases where discontinuance might have been avoided to be more clearly identified.

Where it is appropriate to discontinue a case, the CPS aims to do so as early as possible in order to minimise its costs and those of the police and the courts and, in relevant cases, the time spent in custody by defendants. Even so, nearly 40 per cent of cases are discontinued at a second court hearing or later. In 1995-96 the CPS set a target to increase the proportion of cases discontinued before a first court hearing, but became concerned that encouraging discontinuance at this stage could discourage full consultation with the police. The CPS has therefore introduced a new target to increase the proportion of cases that are discontinued between the first and second hearing. This target could, however, cause cases to be continued beyond the first hearing when they could have been discontinued at an earlier stage.

Discontinuance has stabilised at around 12 per cent of the cases submitted by the police, although there are local variations in discontinuance rates. Much more is now known nationally about why cases are discontinued, and information and monitoring at local level is developing to supplement this. The police are generally consulted about decisions to discontinue cases, although the explanations provided by the Crown Prosecution Service sometimes need to be fuller and more timely to enable the police to explain decisions to victims. The timeliness of decisions and the need to consult with the police can sometimes conflict.

On whether the Crown Prosecution Service uses staff and other resources efficiently and effectively

The Crown Prosecution Service’s early performance was adversely affected by severe staff shortages. It had to make extensive use of lawyers from private practice as agents to prosecute cases in the magistrates’ courts. Using agents is regarded as less cost-effective because, for example, of the need for a CPS lawyer or caseworker to read the file after the hearing to determine what happened and identify any post-court action required.

These early problems have now largely been overcome. By 1993-94 the CPS had achieved its target of filling 95 per cent of prosecutor posts, and since 1990-91 it has reduced dependence on agents from 34 per cent to seven per cent of magistrates’ court sessions. This was achieved not just by the larger number of in-house lawyers available to attend the magistrates’ courts, but also by an
increase in the number of court sessions each prosecutor covered, with wider use of caseworkers to carry out preparatory work previously undertaken by qualified lawyers.

Since 1994 the CPS has been reducing staff numbers, including prosecutors, to meet budgetary constraints. The CPS estimates that the planned level of staff in 1997-98 will be six per cent below that in 1996-97. A number of outside bodies told us that they believed that staff resources at local level were stretched. CPS information systems have been developed to cost activities and profile branch staffing requirements to inform resource allocation.

CPS staff previously worked mainly on cases either for the magistrates’ courts or for the Crown Court. The CPS reviewed operational staffing in 1993, and by 1996 had introduced integrated teams of prosecutors and caseworkers wholly responsible for progressing individual cases throughout the legal process, wherever they were tried. These arrangements represented a radical change in the handling of cases and aimed to integrate the experience of lawyers and caseworkers; to provide a consistent point of contact on each case for the police and the courts; and to allow lawyers to play a greater part in Crown Court work.

The severe staff shortages which the Crown Prosecution Service experienced when it was first established have been overcome, and dependence on lawyer agents has been considerably reduced. The introduction of teamworking has helped CPS branches to make more efficient use of their staff at a time of reducing numbers but it is too early to judge the impact of the recent reductions on CPS performance.

In 1996-97 the CPS spent £76 million, about a quarter of its budget, on employing Counsel at the Crown Court at a time when its own lawyers did not have rights of audience. Standard fees apply in less complex cases, but where trials are expected to last longer than three days, fees require more detailed negotiation. In 1996-97, 23 per cent of fees paid were non-standard, accounting for 67 per cent of total expenditure on Counsel.

In 1994 the CPS introduced a system of case management plans designed to assist in the assessment, negotiation and control of more costly non-standard fees. Initially a lack of commitment at local level and a perceived resistance on the part of Counsel meant these plans were not applied in all relevant cases. The CPS has taken steps to raise local awareness of the plans and is monitoring their use. Plans were being used in all the branches we visited. Also, in auditing the CPS’s annual accounts, we found that the plans provide a helpful framework for checking and controlling legal costs.
Case management plans are helping the CPS to control the level of non-standard fees. We are recommending the methods used to other bodies which have to control legal costs.

Where the Counsel initially selected by the Crown Prosecution Service cannot subsequently conduct the case, the brief is returned and the CPS must instruct another Counsel. This can be time-consuming for CPS staff and may impact adversely on the timeliness and standard of case preparation and on the quality of the Counsel employed. The CPS does not routinely collect information on the extent of returned briefs, but in early 1996 a small survey of branches where returns were known to be a particular problem found that briefs had been returned in 75 per cent of cases. In almost a third of these, the Counsel subsequently appointed was judged to have been of inappropriate quality. The CPS and the Bar have produced a joint service standard, which sets out the limited circumstances in which a return will be deemed acceptable, and are discussing plans for monitoring the level of returned briefs.

It is difficult and costly for the CPS to monitor the quality of the outside advocates it employs, because monitoring may take prosecutors and caseworkers away from dealing with their own cases. We found that some branches had a more pro-active approach than others to monitoring Counsel’s performance. The CPS is now asking some branches to adopt a targeted approach, for example by monitoring newly appointed advocates.

The problem of returned briefs impacts adversely on the handling of cases in the Crown Court, and reduces the efficiency of the Crown Prosecution Service by requiring briefing to be repeated. The CPS does not currently collect the information needed to quantify the extent of this problem. With the high levels of expenditure on Counsel, it is important that Counsel’s performance is monitored effectively both on the specific matter of returned briefs and more generally.
On whether the Crown Prosecution Service has taken appropriate steps to measure and improve its performance, in particular the timeliness and quality of its work

Since 1989 the Crown Prosecution Service has developed its corporate performance measures and indicators. Even so, the 25 indicators introduced from 1996-97 (Figure 2) cover a number of key aspects of performance for the first time, including the timeliness of processing cases and the quality of prosecution decisions and advocacy. The CPS published all 25 indicators in its 1996-97 annual report.

![Figure 2](Crown Prosecution Service performance measures and indicators, and performance in 1996-97)

<table>
<thead>
<tr>
<th>Corporate performance measure</th>
<th>Corporate performance indicator</th>
<th>Performance in 1996-97</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The quality of the casework decision making process, the quality of casework decisions and the quality of CPS advocacy in the magistrates’ courts</td>
<td>1.1 The percentage of advice cases which fail to meet the quality standard for the decision making process</td>
<td>0.9 per cent of advice cases failed</td>
</tr>
<tr>
<td>1.2 The percentage of prosecution cases which fail to meet the quality standard for the decision making process</td>
<td>1.2 per cent of prosecution cases failed</td>
<td></td>
</tr>
<tr>
<td>1.3 The percentage of advice cases which fail to meet the quality standard for casework decisions</td>
<td>1.3 per cent of advice cases failed</td>
<td></td>
</tr>
<tr>
<td>1.4 The percentage of prosecution cases which fail to meet the quality standard for casework decisions</td>
<td>3.0 per cent of prosecution cases failed</td>
<td></td>
</tr>
<tr>
<td>1.5 The percentage of CPS advocacy which fails to meet the national quality standard</td>
<td>1.5 per cent of assessments failed (recorded for the second half of 1996-97 only)</td>
<td></td>
</tr>
<tr>
<td>1.6 The percentage of cases completed dismissed on a submission of no case to answer in the magistrates’ courts</td>
<td>0.2 per cent dismissed on a submission of no case to answer*</td>
<td></td>
</tr>
<tr>
<td>1.7 The percentage of non-jury acquittals and bind overs in the Crown Court</td>
<td>10.0 per cent non-jury acquittals and bind overs*</td>
<td></td>
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</tbody>
</table>

*prior years’ data available

continued…
<table>
<thead>
<tr>
<th>Corporate performance measure (working jointly with the police)</th>
<th>Corporate performance indicator</th>
<th>Performance in 1996-97</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Timeliness and content of police files</td>
<td>2.1 The percentage of police files which fail to meet Trials Issues Group guidelines on timeliness, as agreed by the joint performance management mechanism</td>
<td>45.6 per cent of police files failed (recorded only in those branches which had implemented joint performance management)</td>
</tr>
<tr>
<td></td>
<td>2.2 The percentage of police files which fail to meet Trials Issues Group guidelines on quality, as agreed by the joint performance management mechanism</td>
<td>49.8 per cent of police files failed (recorded only in those branches which had implemented joint performance management)</td>
</tr>
<tr>
<td>3. The timeliness of discontinuance decisions</td>
<td>3.1 For those cases which have to be discontinued, the percentage of cases discontinued after the first hearing but before subsequent hearings</td>
<td>47.2 per cent discontinued after first hearing but before subsequent hearings*</td>
</tr>
<tr>
<td></td>
<td>3.2 For those cases which have to be discontinued, the percentage of discontinuances made within 42 days of receipt of a file from the police</td>
<td>71.4 per cent discontinued within 42 days</td>
</tr>
<tr>
<td>4. CPS processing times in respect of advance disclosure, witness warning information and Crown Court case preparation</td>
<td>4.1 The percentage of advance disclosure sent within 5 days of the CPS being aware of the name of the defence solicitor and in possession of a file in either way cases</td>
<td>76.7 per cent sent within 5 days</td>
</tr>
<tr>
<td></td>
<td>4.2 The percentage of cases where witness warning information is sent to the police 14 days (10 days in custody cases) before the date of a summary trial</td>
<td>88.2 per cent sent within time limit</td>
</tr>
<tr>
<td></td>
<td>4.3 The percentage of Crown Court cases in which the brief is delivered to Counsel within 14 days (21 days in non-standard fee cases) of committal</td>
<td>61.3 per cent delivered within time limit</td>
</tr>
<tr>
<td>5. Compliance with time guidelines for advice, review and committal</td>
<td>5.1 The percentage of cases in which advice is sent to the police within 14 days of receipt of a file requesting advice</td>
<td>65.8 per cent sent within 14 days</td>
</tr>
</tbody>
</table>

* prior years’ data available continued…
<table>
<thead>
<tr>
<th>Corporate performance measure</th>
<th>Corporate performance indicator</th>
<th>Performance in 1996-97</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.2 The percentage of cases in which the review of new case papers is carried out within 5 days of receipt of a file from the police</td>
<td>65.3 per cent reviewed within 5 days</td>
<td></td>
</tr>
<tr>
<td>5.3 The percentage of cases in which the committal papers are sent to the defence within 14 days (10 days in custody cases) of receipt of a full file for committal from the police where certified as trial ready</td>
<td>51.3 per cent sent within time limit</td>
<td></td>
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<tr>
<td>6.1 The percentage of prosecution witness’s expenses sent within 5 working days of receipt of a correctly completed claim form</td>
<td>85.6 per cent within 5 working days*</td>
<td></td>
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<tr>
<td>6.2 The percentage of prosecution witness’s expenses sent within 10 working days of receipt of a correctly completed claim form</td>
<td>95.5 per cent within 10 working days*</td>
<td></td>
</tr>
<tr>
<td>6.3 The percentage of complaints replied to within 10 days of receipt</td>
<td>85.4 per cent replied to within 10 days</td>
<td></td>
</tr>
<tr>
<td>6.4 The percentage of responses to correspondence from Members of Parliament sent within 15 days of receipt</td>
<td>90.1 per cent replied to within 15 days*</td>
<td></td>
</tr>
<tr>
<td>7.1 Unit costs in real terms</td>
<td>Not available</td>
<td></td>
</tr>
<tr>
<td>8.1 The percentage of staff with the requisite competencies, skills and expertise for selection and appointment to designated key posts</td>
<td>21 per cent assessed as having further potential for promotion</td>
<td></td>
</tr>
<tr>
<td>8.2 The resignation rate for effective performers</td>
<td>2.2 per cent for lawyers</td>
<td></td>
</tr>
<tr>
<td>8.3 The average number of days for which authorised vacancies of designated key posts remain unfilled</td>
<td>5.4 per cent for administrators</td>
<td></td>
</tr>
<tr>
<td>8.3 The average number of days for which authorised vacancies of designated key posts remain unfilled</td>
<td>60 days</td>
<td></td>
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* prior years’ data available
Some of the indicators are complex, lengthy and use legal jargon, and are very detailed for the purpose of external reporting. They are comprehensive in terms of the CPS’s key activities, but two of its eight objectives have no related corporate performance measures and indicators. Because many of the measures were new in 1996-97, the CPS had insufficient data from previous years to set absolute targets for some of the indicators but instead expects an unspecified year on year improvement. The use of information at local level could be enhanced to facilitate meaningful comparisons between branches, perhaps by grouping them into “families” with similar characteristics.

In May 1997 the CPS suspended data collection arrangements for its corporate performance measures. A post-implementation review had identified evidence of inefficiencies and duplication in the arrangements and that branches found them unreasonably burdensome. So while the data for some measures continued to be generated, for example from case results, the data for the important new indicators of quality and timeliness were not being collected. The CPS reviewed the arrangements, sought our advice about the options for sampling, and introduced streamlined procedures in November 1997 to address the earlier difficulties.

The Crown Prosecution Service has developed an appropriate framework for internal performance monitoring. The time taken to reach this stage of development means that it will be some years before there are sufficient trend data to enable meaningful comparisons of annual changes in performance to be drawn, and the temporary suspension of the arrangements means that some important data are not currently being collected. In their current form the data are less helpful for external reporting.

The number and length of court adjournments are important factors in determining the time taken to process cases through the courts. It has been estimated that only 30 per cent of adjournments are avoidable and few of these are attributable to the Crown Prosecution Service. But the information the CPS collects is insufficiently detailed to identify the factors that can lead to avoidable adjournments.

The CPS has set challenging targets for the timeliness of processing and the provision of information to the police, to Counsel and to the defence. Performance against these targets is variable at local level. For example, during 1996-97 while the CPS as a whole reviewed 65 per cent of new case papers within five days of receiving them from the police (Figure 2, indicator 5.2), performance ranged from 82 per cent in the North West to 41 per cent in the East Midlands.
The Crown Prosecution Service has an important role in helping to bring criminal cases to court as quickly as possible, consistent with the interests of justice. It has set challenging targets as a means of improving the timeliness of its work. Results in the first year of monitoring show wide variations in local performance which are a matter for concern.

A key purpose in creating an independent prosecution service was to raise the standard and consistency of prosecution decisions. Until recently the Crown Prosecution Service did not systematically monitor the quality of prosecution decisions, although informal arrangements were in place in some branches. In 1996 the CPS introduced new arrangements whereby senior staff at local level examine a sample of each prosecutor’s cases to test consistency and legal judgment against agreed standards. These quality arrangements are important in providing assurance that prosecutors are not pursuing cases where there is little prospect of conviction, whilst at the same time they are not discontinuing cases inappropriately. Early results show that in the CPS as a whole decisions are meeting the agreed standards in 97 per cent of cases, with Area performance ranging from 94 to virtually 100 per cent.

Also in 1996, the CPS established an internal Inspectorate to assess the quality of casework decisions and decision making processes; to make recommendations designed to improve the quality of casework; and to identify and promote good practice. Each branch will be inspected every three and a half to four years.

Complaints are an important measure of performance. An internal review recommended standard procedures for dealing with and collecting information on complaints, and systems to track the CPS’s responses. The recommendations have not been implemented because of the higher priority attached to other developments.

The quality of prosecutors’ decisions is central to effective operation and public confidence in the Crown Prosecution Service. The new arrangements for monitoring consistency of legal judgment will contribute in this area. The creation of the Inspectorate is an important development, but it would have greater leverage if it were independent.
On whether the Crown Prosecution Service makes effective use of computers to support local case management

In 1989 the Crown Prosecution Service told the Committee of Public Accounts that a new case tracking computer system, which was planned to replace a variety of outdated systems, would be its top information technology priority and would be implemented by 1993-94. The new system was intended to improve efficiency by capturing and manipulating information on cases more efficiently and by generating management and performance information.

By September 1997 the system had been implemented in just over half of CPS branches, and a substantial amount of performance information still has to be produced manually. The slippage was caused partly by management effort being directed towards other priorities such as the introduction of teamworking, and the need to reschedule implementation to take account of changes in the organisation of the CPS.

Delays in implementation have resulted in the system being overtaken by technological advances. The original capital cost of the system was projected at £8.0 million. £9.6 million has already been spent and the final capital cost, incorporating the extra developments and new technology, is now estimated to be £15.9 million. This includes around £4 million to upgrade infrastructure common to all CPS computer systems.

The CPS is currently reviewing the programme for extending the system to those branches in which it has not yet been implemented. As part of this review, it is considering the options for revising or replacing the existing system through a Private Finance Initiative project.

The delays in implementing a comprehensive case tracking system to the planned timescale are hampering the efficient and effective operation of the Crown Prosecution Service. The original specification has been overtaken by changes in working practices and new technology and, mainly as a result of these, the system is now expected to cost twice as much as the original estimate.
The way forward

The Crown Prosecution Service was set up with the aim of providing greater accountability and consistency in prosecution policy and practice, while at the same time delivering a locally based service. The move to 42 Areas is intended to strengthen the CPS at local level and to help Areas in forming effective partnerships with other criminal justice agencies, especially the police. The following recommendations are directed at the Chief Crown Prosecutors in charge of the new Areas.

Chief Crown Prosecutors should:

1. assess the relevance of the CPS performance framework to circumstances in their local area and set the agenda for agreeing appropriate priorities and performance targets with headquarters;

2. work with Areas in similar “families” to benchmark performance and working methods, and to share good practice;

3. build on the experience of joint performance management with the police to work with their local force to help improve the quality and timeliness of police files;

4. identify whether their Area has an unjustifiably high discontinuance rate, establish the underlying reasons and take action with their local police force to reduce the level of discontinued cases;

5. work with police officers to ensure that full and timely explanations of discontinuance decisions are provided to victims;

6. periodically examine avoidable adjournments to identify why they occurred, and develop action plans with the local police force and courts to minimise adjournments over which they have control;

7. test the consistency of prosecution decisions by having a proportion of their cases subject to peer review by senior prosecutors from other Areas;

8. review the effectiveness of their Area teams’ use of case management plans so that lessons can be learned and further improvements sought;
9 work with local barristers’ chambers to establish the level of and reasons for returned briefs in their Area, and to reduce the waste of resources the returns represent;

10 develop an explicit approach to monitoring the performance of Counsel and reviewing results with local chambers;

11 make full use of reviews by the Inspectorate to learn lessons and improve performance in the handling of, and decisions made, in individual cases, and use the reviews as a vehicle for discussions with other agencies and for accountability to the public.

Prosecutions will continue to be conducted within a national framework and CPS headquarters will need to support the Chief Crown Prosecutors in charge of the Areas, for example by spreading good practice, leading national initiatives and representing the CPS within the criminal justice system as a whole. The following recommendations are directed at CPS headquarters.

**Crown Prosecution Service headquarters should:**

12 ensure that any reductions in staff are targeted to parts of the CPS where scope for greater efficiency can be demonstrated, and that performance, especially in the delivery of the service at local level, is not adversely affected;

13 accelerate the development of tools such as activity costing and staff profiling to assist Areas in achieving best use of staff, and encourage Areas to monitor the proportion of time which prosecutors have to spend in court, in order to highlight pressure points as they arise;

14 reformulate the new target for timeliness of discontinuance in terms of reducing the proportion of cases discontinued at a second court hearing or later, thus encouraging all earlier appropriate discontinuances equally, without detracting from effective consultation with the police;

15 test the CPS’s performance framework against the requirements of resource accounting, in particular the need for measurable objectives;

16 present information for external reporting and accountability to give a true account of performance whilst at the same time ensuring that results are understandable to the lay reader;
17 as performance measures become more established and more prior year data are available, agree with Chief Crown Prosecutors specific performance targets and priorities for their Areas (rather than expecting only unspecified improvement), and hold them accountable;

18 assist benchmarking of local performance by profiling and grouping Areas with similar characteristics into “families”, and by ensuring that Areas are able to share meaningful comparative information;

19 work with particularly poorly performing Area teams to identify the reasons for poor results, and encourage the best performing Area teams to identify good practice and share it with other Areas;

20 ensure that the recommendations of the internal review of complaints are implemented and that Areas use the information collected to target improvements in performance;

21 act urgently to complete computerisation so that all Chief Crown Prosecutors and their Area teams can benefit from improved information technology support;

22 consider the establishment of a fully independent external Inspectorate, which would enhance public confidence and bring the CPS Inspectorate into line with the inspectorates of the major criminal justice agencies (the police, prisons and the magistrates’ courts).
At the time of our fieldwork in 1996-97, the Crown Prosecution Service was organised into 13 Areas, each headed by a Chief Crown Prosecutor. The Areas oversaw 98 branches, each headed by a Branch Crown Prosecutor and comprising two or more teams of lawyers and caseworkers. The branches corresponded either singly or in groups to the 43 police forces.

Since June 1997, Crown Prosecution Service branches have been grouped into 42 Areas - one for each police force outside London and one for the area covered by the Metropolitan Police and the City of London Police.

The Crown Prosecution Service has headquarters offices in London and York.

Key

1. Avon and Somerset
2. Bedfordshire
3. Cambridgeshire
4. Cheshire
5. Cleveland
6. Cumbria
7. Derbyshire
8. Devon and Cornwall
9. Dorset
10. Durham
11. Dyfed-Powys
12. Essex
13. Gloucestershire
14. Greater Manchester
15. Gwent
16. Hampshire
17. Hertfordshire
18. Humberside
19. Kent
20. Lancashire
21. Leicestershire
22. Lincolnshire
23. London
24. Merseyside
25. Norfolk
26. Northamptonshire
27. North Yorkshire
28. North Wales
29. Nottinghamshire
30. South Wales
31. South Yorkshire
32. South West
33. Staffordshire
34. Suffolk
35. Surrey
36. Sussex
37. Thames Valley
38. Warwickshire
39. West Midlands
40. West Mercia
41. West Yorkshire
42. Wiltshire
43. City of London
44. Metropolitan

Note: Areas are identified using police forces’ national reporting centre numbers.
Part 1 Introduction

Role and organisation of the Crown Prosecution Service

1.1 The Crown Prosecution Service (CPS) was set up in 1986 as an independent body to prosecute criminal cases investigated by the police in England and Wales. Before this, responsibility for prosecution had rested with the 43 separate English and Welsh police forces, whose procedures and practices varied considerably. The creation of the CPS was an important change in the criminal justice system aimed at providing greater accountability, consistency, efficiency and effectiveness in prosecution policy and practice.

1.2 Expenditure on the CPS was just under £300 million in 1996-97, of which just over half went on the employment of some 6,000 staff, of whom around a third are lawyers. At the time we carried out our fieldwork the CPS was organised into 13 Areas, each headed by a Chief Crown Prosecutor. The Areas oversaw 98 local branches which corresponded either singly or in groups to local police forces and which were the key operational units of the service (Figure 3).

1.3 In May 1997 the Government announced plans for the CPS to be reorganised into 42 Areas, each with its own Chief Crown Prosecutor, i.e. one Area for each police force outside London and one for the area covered by the Metropolitan Police and the City of London Police (Figure 3). The aim of these changes is to create a one-to-one relationship between a police force and its corresponding CPS Area, as equal partners.

1.4 The CPS is a government department headed by the Director of Public Prosecutions, a statutory post under the superintendence of the Attorney General. The provisions of superintendence, under Section 3 of the Prosecution of Offences Act 1985, aim to provide parliamentary accountability whilst ensuring that prosecutions are free from political influence. The aim of the CPS is to provide a high quality prosecution service, working in the interests of justice. The CPS’s functions and objectives are set out in Figure 4.
In 1989 we reported on the establishment of the CPS, its early performance and the particular problem of staffing shortages (HC 345, 1988-89); at that time the CPS had been in operation for three years. In their subsequent Report (HC 164, 1989-90), the Committee of Public Accounts recognised the progress made in establishing a new system for the prosecution of criminal offences. They endorsed CPS intentions to reduce dependence on lawyer agents in the magistrates’ courts and to improve its performance indicators, and expected the CPS to give priority to installing its new computer system. Their Report highlighted considerable scope for improvements in collaboration between the CPS and the police, in particular to...
reduce the number of cases which are discontinued. The Committee’s conclusions and recommendations, together with the Government’s response, are summarised in Appendix 1.

**Scope of this National Audit Office examination**

1.6 We examined progress made by the CPS since 1989. This report covers the following areas:
- key developments since 1989 (Part 2);
- receiving and reviewing prosecution cases (Part 3);
- discontinuing cases (Part 4);
- preparing and presenting cases in the magistrates’ courts (Part 5);
- handling Crown Court cases (Part 6).

1.7 We carried out fieldwork at CPS headquarters in London and in five local CPS branches; we visited four police forces to discuss practices and the relationship between the force and the CPS branch. We did not review the legal actions and judgments made in individual cases. Full details of the methodology used in this examination are in Appendix 2. A list of the other criminal justice agencies who were consulted in the course of the examination is in Appendix 3.

**Review of the Crown Prosecution Service**

1.8 Since we undertook the fieldwork for this report, the Government has established an independent review to examine the internal structure of the CPS together with its policies and procedures, with the aim of building on and adapting the underlying strengths of the CPS. We have met members of the review team to discuss this report. They have said that it contains conclusions which will help to inform their review.

1.9 The Government has also announced plans to implement a number of the recommendations arising from the Review of Delay in the Criminal Justice System (the Narey Report). The Review was set up by the previous Government to identify means of expediting the progress of cases through the criminal justice system. It reported in February 1997 and the recommendations are expected to have further implications for the CPS, particularly in terms of its arrangements for working with the police to process cases speedily and effectively.
Victim attacked with a knife and seriously injured. Single suspect arrested and charged with attempted murder.

Source: National Audit Office
Part 2 Key developments since 1989

2.1 This part of the report considers key developments which have had an impact on the work and performance of the Crown Prosecution Service since 1989. In particular it examines:

- the position of the CPS within the criminal justice system and the work of the Trials Issues Group;
- performance monitoring;
- staffing;
- the use of computers to support local case management.

The position of the Crown Prosecution Service within the criminal justice system

2.2 The CPS needs to work closely with a range of other agencies in the criminal justice system in prosecuting cases. Figure 5 indicates the range of different people and organisations who would play a part in a serious criminal case.

2.3 If a case proceeds to court, a local prosecutor usually presents the case in the magistrates’ court. Until recently the CPS’s own lawyers did not have rights of audience in the Crown Court. If the case goes to the Crown Court, the CPS usually instructs a barrister (Counsel) to appear for it. Solicitors with a higher court qualification working in private practice have been allowed to present cases in the Crown Court since December 1993. The Law Society’s application to have the same rights extended to employed lawyers was recently determined and limited rights of audience are now available to CPS solicitors who qualify as higher court advocates.

2.4 Relationships between the CPS and the police are especially important to the prosecution process. With the creation of the CPS in 1986, the police lost their prosecuting function. This, together with the need for the CPS to establish its independence, made for an uncertain relationship in the early years. As the CPS
has become established, the CPS and the police have worked hard to overcome these difficulties and are collaborating increasingly for the benefit of the criminal justice system as a whole.

**The Trials Issues Group**

2.5 The Trials Issues Group comprises senior representatives from organisations in the criminal justice system (Figure 6) and is the key forum for improving performance, co-operation and communication. The Group (then the Pre-Trial Issues Steering Group) was set up in 1989 to examine:

- the quality and timeliness of police files;
- delays in processing cases in the criminal justice system;
- arrangements for warning witnesses;
- the provision of case results.

2.6 In August 1993 the Group produced common time guidelines and standards for the content of prosecution files, which were agreed between the Association of Chief Police Officers and the CPS in a document known as the Manual of Guidance. The time guidelines are intended to allow each criminal justice agency, in the ordinary course of events, sufficient time to carry out its work. The Trials Issues Group subsequently developed proposals in 1994 for joint monitoring by the police and the CPS of the timeliness and quality of case files against the Manual of Guidance. This joint monitoring is one aspect of a major initiative to improve police and CPS collaboration, known as joint performance management and which is explained in detail in Appendix 4.

2.7 An inter-agency Efficiency Scrutiny, commissioned in Autumn 1994, focused on ways to reduce the administrative burdens on operational police officers and provided further impetus to co-operation between the police and the CPS to find solutions to shared problems. The Scrutiny led to new style abbreviated files for certain cases, requiring fewer forms to be completed by the police. The Trials Issues Group is co-ordinating implementation of the Scrutiny’s recommendations.
Along with other members of the Trials Issues Group, the CPS is examining the potential for electronic communications with other agencies. There are a number of pilot projects. Electronic mail between the CPS, the police, the courts and local solicitors is being piloted in Hampshire and Suffolk; electronic case files are being tested by the CPS and the police in Suffolk, Dyfed-Powys and Gloucester; and the CPS in Liverpool is involved in in-court computing.

Performance monitoring in the CPS

The CPS introduced a framework of performance indicators in 1991. These were completely restructured and revised, with effect from May 1996, to produce a new set of corporate performance measures and related indicators covering the...
range of CPS functions of advice, review and preparation of prosecutions, and advocacy. There were further adjustments for 1997-98. The new corporate performance measures encompassed many areas which had not previously been assessed, such as the quality of case file review. There are therefore no available data on performance prior to 1996-97 for more than two-thirds of the measures. The performance of the CPS’s 13 Areas in 1996-97 against selected measures relating to the issues addressed in this report is shown in Appendix 5.

2.10 We assessed the new measures and the related indicators against good practice criteria. The results are summarised in Figure 7. Details of the assessment, including the criteria used, are in Appendix 6, together with a full list of the eight measures, the 25 related indicators, performance in 1995-96 and 1996-97, and targets for 1997-98.

2.11 Resource accounting, which was introduced in the White Paper “Better Accounting for the Taxpayer’s Money”, envisages clear links between government departments’ objectives and performance indicators. Our review of the CPS’s corporate performance measures and indicators suggested that the recent restructuring has brought the CPS closer to meeting these requirements. However, further work is needed to link objectives and performance measures more directly for the purpose of trial resource accounts for 1997-98. Further consideration also needs to be given to the presentation of performance information for external reporting. Our review also suggested that more meaningful internal comparisons would enable similar branches to compare their performance.

2.12 As the measures become established and more prior year data become available, the CPS intends to set specific targets for the levels of performance it aims to achieve; for example, for 1997-98 a target has been set to increase to 75 per cent the proportion of cases in which advice is sent to the police within 14 days. Where insufficient data for past years are available, targets are at present expressed in terms of unspecified improvements; for example, the indicator for the “percentage of prosecution cases which fail to meet the quality standard for casework decisions” aims to reduce the percentage of failures year on year. For these indicators, the CPS plans to introduce quantified targets for 1998-99.

2.13 In May 1997 the CPS suspended data collection arrangements for its corporate performance measures. A post-implementation review had identified evidence of inefficiencies and duplication in the arrangements and that branches found them unreasonably burdensome. Therefore while the data for some measures continued to be generated, for example from case results, the data for the important new indicators of quality and timeliness were not being collected.
The CPS reviewed the arrangements, sought our advice about the options for sampling, and introduced streamlined procedures in November 1997 to address the earlier difficulties.

Summary results of the assessment of the Crown Prosecution Service’s corporate performance measures

- The corporate performance measures have, in all, 25 related indicators for 1997-98; 21 of these cover the timeliness (14) and the quality (seven) of the CPS’s main outputs; three measure use of resources and one cost.
- There are eight CPS objectives and eight corporate performance measures. A number of the eight objectives are broad and/or difficult to measure. Whilst there is substantial overlap between the objectives and the corporate performance measures, two of the eight objectives have no related measure and others link with up to four measures and up to 12 related indicators.
- None of the indicators assesses productivity, but the CPS is introducing activity costing to improve the management of resources.
- One of the two targets for discontinuance could lead to unintended delays in the discontinuance of cases.
- The two performance indicators relating to the timeliness and quality of police files measure the performance of the police rather than the CPS.
- Only 14 of the 25 targets for 1997-98 aim for a pre-set absolute level of performance. The rest aim for an unspecified level of improvement year on year.
- The branches we visited considered that the new measures focused on important and relevant aspects of local performance.
- Internal comparisons could be more meaningful if CPS branches were grouped into “families”, so that branches with similar local characteristics (for example urban or rural, covering one large magistrates’ court or a number of small, outlying magistrates’ courts) could be routinely compared.
- The CPS published all 25 indicators in its 1996-97 annual report. This large number of indicators is appropriate for internal use but it would be better to select no more than 10 key indicators of performance as the focus for external reporting.
- It is difficult to develop indicators of effectiveness for a process that relies heavily on legal judgments. Some of the indicators are complex, lengthy and use legal jargon; they are difficult for the lay user to interpret and are not ideal for external reporting.

Source: National Audit Office
Costing of CPS activity

2.14 Under resource accounting, departments are expected to demonstrate the costs incurred in pursuit of their main objectives. The CPS’s cost indicators are relatively crude, based on an estimated 60:40 split between magistrates’ courts and Crown Court work. The costs do not take account of the wide variations in the weight and complexity of casework; for example, a case resulting in a guilty plea in a magistrates’ court will cost significantly less than a contested case with a full trial in the Crown Court.

2.15 The CPS has developed activity costing to give a better measure of unit costs. The first stage of the project analysed the key stages in processing case files and the average time taken to complete each element of the process. From this, guideline “should take” costs were developed for individual branches using caseload information and average salary costs. The results have been used to help develop “ideal” staff profiles for branches. The CPS intends to use the information to identify and compare the performance of different branches, to inform the allocation of resources between branches, and to assess and plan the cost to the CPS of new initiatives and changes in the prosecution process.

Complaints

2.16 Complaints are an important measure of performance. Complaints to the CPS normally come from victims, witnesses, defendants, lawyers, police forces or courts, and usually relate to the conduct or outcome of cases. The CPS does not have formal procedures for dealing with complaints or a system for monitoring how quickly they are handled. Performance against the CPS’s target response time of 10 working days cannot yet be measured accurately, although 12 of the 13 Areas have aggregated branch records, suggesting achievement of the 10 day target for 85 per cent of complaints.

2.17 An internal review of complaints, undertaken in 1995, recommended standard procedures across the CPS, followed by a review and reissue of publicity material on the complaints process, and a system for tracking the types of complaint received and their progress. The recommendations of the review had not been implemented at the time of our examination because of the higher priority attached to other developments, although some changes were planned.
In their 1990 Report on the CPS, the Committee of Public Accounts noted that performance had been adversely affected by severe staff shortages. Shortfalls of lawyers of up to 30 per cent at that time were partly attributable to the prevailing national shortage. These early problems have now been largely overcome. The gap between complement and lawyer staff in post narrowed steadily from 1989 (Figure 8), and in 1992-93 and 1993-94 the CPS met its published performance target of maintaining lawyers in post at 95 per cent or more of the total requirement.

Note: * after 1994 the complement was not adjusted to take account of staffing reviews

Source: Crown Prosecution Service
Since 1994, there have been planned falls in staff numbers, including lawyers, in order to meet expenditure reductions. More lawyers have been leaving the CPS than in previous years, but much of the increase relates to retirements and redundancies and the CPS's recruitment needs remain low.

The CPS estimates that the planned level of staff in 1997-98 will be six per cent below that in 1996-97. It is too early to judge the impact of these reductions on the performance of the CPS, and the lack of prior year data in some key performance areas, such as the timeliness of the processing of cases (corporate performance measures 4 and 5 in Figure 2), will hamper the assessment of the impact in the short term. A number of the bodies responding to our consultation perceived that staff resources at CPS branches were stretched. The view of senior lawyers at the branches visited was that, whilst early reductions had been used to remove genuine inefficiencies, branches were now tightly resourced. They sometimes found it difficult to meet peaks in workload and were concerned about the effects of possible further reductions on the ability of branches to perform well. For 1997-98 the CPS has allocated budgets which maintain the operational expenditure of branches at the same level as in 1996-97, and has directed efficiency savings towards headquarters.

**Teamworking**

The CPS reviewed operational staffing in 1993. The review recommended new integrated, multi-skilled prosecution teams to replace the previous arrangements where staff had worked mainly on cases either for the magistrates' courts or for the Crown Court. The new teams of prosecutors and caseworkers would be wholly responsible for individual cases throughout, wherever they were tried. The arrangements represented a radical change in the organisation of staff and the handling of cases. They aimed to integrate the experience of lawyers and caseworkers; to provide a consistent point of contact on each case for the police and the courts; and to allow lawyers to play a greater part in Crown Court work.

Following successful pilots in 13 branches, and consultation with staff, the CPS introduced teamworking into all branches between April 1995 and July 1996. Implementing teamworking is estimated to have cost some £2.6 million.
The use of computers to support local case management

2.23 In their 1990 Report, the Committee of Public Accounts attached considerable importance to the need for efficient and cost-effective management information. The Committee recommended that the CPS should give priority to a new computer system which was planned to replace a variety of outdated systems. In response, the CPS noted that the new system was its top information technology priority. It was on schedule to be piloted in late 1991, and 1993-94 was the original estimated year of completion.

2.24 The new system is designed to enable greater consistency of case handling by standardising letters and forms and by recording key actions taken on a case from registration to final outcome. It allows CPS staff to track cases and to respond more quickly and efficiently to enquiries. The data collected on the system are used to generate case statistics and performance information, and to produce management reports. However, branch staff have found that data entry and case enquiry on the system are not user friendly, and that the system does not yet fully reflect teamworking practices. A development programme is seeking to address some of these weaknesses.

2.25 Implementation of the system has not proceeded as quickly as planned. Slippage has been caused partly by priority being given to other initiatives, particularly teamworking, and the need to reschedule implementation of the system to take account of changes in the organisation of the CPS. A cautious roll-out programme has been adopted because of a lack of information technology experience in some Areas. By September 1997 the system had been implemented in 53 of the CPS’s 98 branches, and a substantial amount of performance information was still being produced manually.

2.26 Delays in implementation have resulted in the system being overtaken by technological advances. The original capital cost of the system was projected at £8.0 million. £9.6 million has already been spent and the final capital cost, incorporating the extra developments and new technology, is now estimated to be £15.9 million. This includes around £4 million to upgrade infrastructure common to all CPS computer systems. Other expenditure, such as staff and training costs, has been assessed at a further £6 million.

2.27 The CPS is currently reviewing the programme for extending the system to those branches in which it has not yet been implemented. As part of this review, it is considering the options for revising or replacing the existing system through a Private Finance Initiative project.
Deciding whether a case should proceed

Illustrating some of the factors which prosecutors take into account in applying the Code for Crown Prosecutors and deciding whether a case should proceed.

1. The evidential test

(a) can the evidence be used in court?
- might the evidence be ruled inadmissible because of the way in which it was gathered (for example, were police interviews conducted in accordance with the Police and Criminal Evidence Act 1984)?
- might evidence based on hearsay be excluded by the court?

(b) is the evidence reliable?
- is a confession likely to be deemed unreliable (for example, because of the defendant’s age or intelligence)?
- is a witness’s background likely to weaken the prosecution case (for example, have they a dubious motive that might affect their attitude to the case)?
- if the identity of the defendant is likely to be questioned, is the evidence linking the defendant to the offence strong enough?

2. The public interest test

(a) examples of factors in favour of prosecution
- a conviction is likely to result in a significant sentence
- a weapon was used or violence was threatened during the offence
- the offence was committed against a person serving the public (for example, a police officer or a nurse)
- the offence was motivated by any form of discrimination against the victim

(b) examples of factors against prosecution
- a conviction is likely to result in a very small or nominal penalty
- the loss or harm can be described as minor and was the result of a single incident
- a prosecution is likely to have a very bad effect on the victim’s health (bearing in mind the seriousness of the offence)
- the defendant is elderly or is, or was at the time of the offence, suffering from extreme ill health (unless the offence was serious or may be repeated)

Source: Code for Crown Prosecutors (June 1994)
Part 3 Receiving and reviewing prosecution cases

3.1 In 1996-97 the police passed a total of 1.3 million cases to the Crown Prosecution Service. Every case is reviewed by the CPS, which assesses whether the charges should be continued or altered, or the proceedings stopped. This part of the report examines:

- the criteria the CPS uses for reviewing cases;
- how the CPS is working with the police to improve the timeliness and quality of police files;
- the timeliness of case file review;
- the quality of case file review.

Criteria for reviewing cases

3.2 The criteria used to review cases are set out in the Code for Crown Prosecutors, a public document issued by the Director of Public Prosecutions under the Prosecution of Offences Act 1985. The third edition of the Code, simplified and written in plain English, was published in 1994. The Code explains the basic principles which prosecutors should follow when deciding whether a case should proceed and sets out two tests.

- **The evidential test**: the CPS must be satisfied that there is enough evidence to provide a realistic prospect of conviction against each defendant on each charge; that is, a jury or a bench of magistrates, properly directed in accordance with the law, is more likely to convict than not to convict the defendant on the charge.

- **The public interest test**: suspected criminal offences are not automatically prosecuted, but a prosecution should take place unless the factors against clearly outweigh those in favour.

Figure 9 illustrates some of the factors the CPS takes into account in applying each of these tests.
Once a decision has been made to proceed, the prosecutor considers the charges that have been brought by the police. The charges proceeded with should reflect the seriousness of the offence; give the court adequate sentencing powers; and enable the case to be presented in a clear and simple way.

**Working with the police to improve the timeliness and quality of police files**

The work of the CPS impacts on the speed with which cases are brought to court and processed. Early and timely review of files received from the police allows the CPS to decide quickly whether cases should proceed and to prepare cases in good time for the first court hearing.

Figure 10 shows the Trials Issues Group’s Manual of Guidance time guidelines for the submission and review of case files. The time allowed for the police to prepare a file depends on whether the defendant is in custody or on bail, and the type of file required. The police’s ability to meet the time guidelines is

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### Figure 10

**Manual of Guidance time guidelines for the submission and review of case files**

- **The defendant is**
  - in custody
  - on bail

  **Preparation and submission of case file by the police**
  - full file required
  - abbreviated file required

  **Review of case file by the CPS**
  - guideline: 14 days
  - guideline: 21 days

  **Source:** Trials Issues Group’s Manual of Guidance

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Note: * 14 days is the length of time between the defendant’s initial appearance at court and the mode of trial and/or plea hearing. Within this time, the file should be prepared by the police and reviewed by the CPS.
constrained by number of factors, including operational demands and shift patterns. And the police have to balance the competing demands of file timeliness and quality.

3.6 Improving the timeliness with which police files are submitted is being addressed by the police and the CPS together under joint performance management (Appendix 4). The CPS has set a target to reduce the proportion of files which are not submitted within the time guidelines. In 1996-97, just under half of police files were not submitted to the CPS within the agreed timescales, with performance ranging between 16 and 84 per cent. These results are taken from seven police forces who provided agreed data for all or part of the year. As joint performance management is introduced across all CPS branches and police forces, more complete results will emerge.

3.7 Under joint performance management, file quality is assessed against criteria set out in the Manual of Guidance. The police file should contain all the evidence and other information required to help prosecutors take the right decisions about the case. The evidence should justify prosecution and support the charge or charges made, and prosecution should be necessary in the public interest. The CPS has set a target to reduce the proportion of police files which do not fully meet the quality standard. In those branches for which data are available for 1996-97, almost half of the files received failed to meet the standard. Area performance ranged between 28 and 81 per cent. Taking timeliness and quality together, only one third of files met the agreed standards for both.

3.8 Two of the branches we visited (Canterbury and Gwent) were participating in joint performance management and had found that local police fully supported the approach. It had enabled them jointly to quantify the extent of poor quality and late files, and to identify appropriate remedial action. The organisations we consulted welcomed the objective measures of file timeliness and quality which joint performance management is helping to provide. Opportunities for extending the principles of joint performance management into other parts of the criminal justice system, such as the courts, are being explored.

**Charging standards**

3.9 In some cases it can be difficult to determine the appropriate charge because the defendant’s actions may fall within the bounds of more than one offence. The CPS and the police are working to produce a series of charging standards for criminal offences to help police officers and prosecutors to select the most appropriate charges at the earliest opportunity. The standards are intended
to promote consistency of practice, and to reduce the number of occasions in which the prosecutor alters the charge on reviewing the police file. To date, three charging standards have been issued - on offences against the person; key motoring offences; and public order (including racial) offences. Standards on sexual offences and drug offences are planned.

**Prosecutors in police stations**

3.10 During 1996 the CPS ran 12 pilot projects in which prosecutors regularly visited police stations and police administrative support units, to give early face to face advice to officers. The initiative was intended to achieve a range of benefits including:

- minimising the need for remedial work, for example in gathering additional evidence, after files have been submitted;

- lessening wasted effort, for example, in a police officer preparing a full file for a case which has no prospect of proceeding;

- reducing the number of cases dropped after submission and the number where charges are altered;

- improving understanding and promoting better relations between the police and the CPS.

3.11 Two of the branches we visited (Canterbury and Gwent) were running pilot projects. CPS staff supported the initiative’s aims and felt that it had engendered good relations with the local police. However, they had found it difficult to achieve the recommended minimum attendance levels at police premises of four hours a day, five days a week. And police take-up had been disappointing, although steps were being taken to encourage wider use, including the targeting of particular categories of case. The initiative was viewed positively by the police administrative support units we visited. The bodies consulted also welcomed it, provided the distinct roles of investigation and prosecution were maintained.

3.12 The initiative was evaluated early in 1997. The evaluation found that the police had sought advice in some 3,500 cases, mostly before charges were brought. The initiative had brought benefits, not only in improved working relationships but also in reduced administrative burdens, with prosecutors and police officers solving casework problems earlier, thereby avoiding unnecessary work. The earlier in a case that advice was given, the greater the impact. However,
some of the less difficult cases where the advice of prosecutors was sought could more appropriately have been dealt with by supervising police officers. The CPS needs to assess the initiative’s cost-effectiveness by balancing the costs (mainly of employing lawyer agents to cover magistrates’ courts sessions when prosecutors are visiting police stations) against tangible impacts, such as reductions in processing time or in the number of cases either dropped or requiring charges to be amended.

**Involvement in police training**

3.13 The CPS helps to provide police officers with training on the prosecution process in general and on specific legislative changes. It works with the main police training establishments to provide material for inclusion in the national probationers’ and sergeants’ training courses, and has particularly sought to ensure that all officers receive training on the Code for Crown Prosecutors, charging standards and file preparation. CPS input to police training is overseen by a steering group, set up in 1994, including representatives from the Home Office, Her Majesty’s Inspectorate of Constabulary, the Association of Chief Police Officers, the Superintendents’ Association, the Police Federation and the CPS. The group is developing a national strategy to promote joint initiatives.

3.14 A recent initiative is the national joint CPS/police training programme to prepare police officers and prosecutors for the new duties of disclosure under the Criminal Procedure and Investigations Act 1996, which came into effect from April 1997. The Act made radical changes to the procedures for disclosure. It introduced a new Code of Practice which determines how the police should retain material collected during an investigation, and how they should disclose unused material to the CPS and the defence. The training programme was designed to achieve a common understanding and consistent application of the new procedures. The training of 4,600 CPS staff and over 100,000 police officers and civilian staff took place early in 1997. The cost to the CPS is estimated at over £600,000, mainly to cover the cost of employing lawyer agents to present cases in the magistrates’ courts while prosecutors were being trained.
The timeliness of case file review by the CPS

Early and timely initial review of the file is essential to allow the CPS to decide quickly whether cases should proceed and to prepare cases in good time for the first court hearing. The prosecutor may, for example, need to contact the police to ask for additional information. The CPS aims to review new case papers within five days of receiving the file from the police, a much tighter target than the 14 days allowed by the Manual of Guidance. In 1996-97, 65 per cent of new case papers were reviewed within five days of receiving the file from the police (Figure 11). Performance in the 13 Areas ranged from 82 per cent within five days in the North West to 41 per cent in the East Midlands. The CPS has set a target for 1997-98 that 70 per cent of cases should be reviewed within five days.
The quality of case file review by the CPS

3.16 We did not examine the legal actions and judgments made in individual cases, but assessed the CPS’s own mechanisms for reviewing the quality of prosecutors’ review work. The CPS seeks to ensure the quality of prosecutors’ decisions by:

- monitoring judgment quality, as indicated by the number of cases dismissed by the magistrates or judge before the defence is presented;

- regular quality review of cases at branch level;

- the work of the CPS Inspectorate.

Judgment quality

3.17 On occasion, the case against a defendant is dismissed by the magistrates or judge before the defence is presented. This implies that the case should not have proceeded, for example because there was insufficient evidence to support a prosecution. By the time a case is dismissed in this way, there may have been substantial costs to the police, the prosecution, the court and the defence in preparing, administering and presenting the case. The CPS has to strike a balance between minimising the numbers of such cases and discontinuing cases earlier only where there is no realistic prospect of conviction. Part 4 of this report examines how the CPS manages and monitors discontinued cases.

3.18 The CPS uses the proportion of dismissed cases, which in magistrates’ courts are referred to as cases dismissed on a submission of “no case to answer”, as an indicator of the quality of its prosecution decisions and its effectiveness in keeping out of court those cases which have little prospect of succeeding. Figure 12 shows that since 1992-93 the percentage of contested hearings dismissed on this basis has remained at between three and four per cent.

3.19 In the Crown Court, the equivalent cases are non-jury acquittals, which occur either when the prosecution offers no evidence or when the judge finds there is no case to answer; in some of these cases, the defendant may be bound over to keep the peace. The proportion of non-jury acquittals and bind overs has been one of the CPS’s key targets, against which performance is reported, for a number of years. In 1996-97, non-jury acquittals and bind overs fell to 10 per cent of cases completed in the Crown Court, compared with between 11 and 12 per cent over the previous five years (Figure 13). The CPS monitors all Crown Court acquittals.
particularly closely because of the high cost of bringing these cases. Under joint performance management (Appendix 4), the CPS and the police seek to identify the reasons why cases do not result in conviction and any lessons they can learn.

**Quality review at branches**

**3.20** In May 1996 the CPS introduced new national arrangements for monitoring the quality of its prosecution decisions. The arrangements aim to provide assurance that prosecutors are not pursuing cases for which there is no realistic prospect of conviction, whilst at the same time they are not discontinuing cases inappropriately. Prior to this, some branches had undertaken their own quality assessment, but the data generated were patchy and not comparable.

**3.21** Under the new arrangements, senior lawyers in each branch examine two cases per prosecutor per month to test consistency and legal judgment against agreed standards. For each case examined, the reviewer answers a short series of questions about the decision making process (for example, whether key decisions were taken at the appropriate level) and the decision itself (for example, whether the decision about public interest was correct). If any question is answered
adversely, the file is judged to have failed the CPS’s quality standard. The sample of cases reviewed is large enough to provide an assessment of quality for each branch, but not for teams or individual lawyers. The branches we visited welcomed the new quality review process, which they felt provided a meaningful and useful assessment of the standard of casework for both Branch Crown Prosecutors and individual lawyers.

Results for 1996-97, the first year of the quality review, show that:

- 1.2 per cent of prosecution cases failed to meet the quality standard for the decision making process; Area performance ranged from 0.1 per cent in the North West to 3.0 per cent in the South West;

- 3.0 per cent of prosecution cases failed to meet the quality standard for casework decisions; Area performance ranged from 0.5 per cent in the North West to 5.7 per cent in London (Figure 14).
These results indicate that prosecutors are failing to apply the right decision making process in very few cases. However, in a higher proportion of cases the decision made failed to meet the quality standard, with a fairly wide variation between Areas. Some of the variation may result from the standards being applied inconsistently, but the CPS does not yet have a means of testing this routinely.

**The Inspectorate**

3.23 In 1996, the CPS set up an Inspectorate to supplement the new quality review arrangements at branches by having inspectors not involved in day-to-day casework examine quality in greater depth. The Inspectorate’s purpose is to promote the efficiency and effectiveness of the CPS by:

- providing assurance to the Director of Public Prosecutions about the quality of casework;
- making recommendations designed to achieve improvements in the quality of casework;
identifying and promoting good practice.

3.24 The Inspectorate initially intended to inspect CPS Areas once every two years. A pilot inspection was carried out in Wales in 1996, followed by an inspection in London in early 1997. In the light of these, the CPS decided that individual branches rather than Areas should be the unit of inspection. Each branch should be visited every three and a half to four years. The first branch to be inspected was Dorset in the South West Area.

3.25 The inspections include interviews with CPS staff; observation of casework practices and procedures; observation of prosecutors in the magistrates’ courts and in the Crown Court; and discussions with local representatives of other criminal justice agencies, including judges and the police. The inspectors will examine between 200 and 300 case files per branch, concentrating on 14 types of case determined by either offence or result. They will also examine a sample of advice cases. They will review the quality of the decisions made in each case and the processes by which decisions were reached.

3.26 The Inspectorate will also carry out in-depth thematic reviews of issues which are causing particular concern. The information generated by these reviews will be used to develop good practice. A number of topics suitable for review have already been identified, including the treatment of child witnesses and domestic violence cases. The first thematic review considering cases involving child witnesses has begun.

3.27 The programme of inspections is decided by the Chief Inspector, who reports directly to the Director of Public Prosecutions and publishes his reports. The Inspectorate is external to the conduct and management of work in the Areas and to management and monitoring functions in headquarters. However, unlike other criminal justice inspectorates, the Inspectorate is internal to the CPS and not an independent, separate body.

3.28 The CPS Inspectorate is developing links with others, principally Her Majesty’s Inspectorate of Constabulary and Her Majesty’s Magistrates’ Courts Service Inspectorate. They exchange details of respective work programmes and have arrangements for staff secondments and work shadowing. In due course, the Inspectorates intend to consider joint reviews of topics of mutual concern.
In the CPS’s most recent survey to identify the reasons for discontinuing magistrates’ courts cases, over 40 per cent of cases were discontinued because it was considered that there was insufficient evidence to proceed.

**Figure 15** The reasons for discontinuing magistrates’ courts cases

- **Insufficient evidence to proceed**
  - essential legal element missing: 1
  - doubts concerning identification evidence: 11
  - doubts concerning other evidence: 19
  - Total: 43%

- **Not in the public interest to proceed**
  - very small or nominal penalty likely: 1
  - caution considered to be more suitable: 7
  - other public interest grounds: 10
  - Total: 28%

- ** Prosecution could not proceed**
  - civilian witness refused to give evidence: 7
  - civilian witness failed to attend court: 10
  - case not ready: 1
  - adjournment refused: 1
  - police witness failed to attend court: 1
  - offence taken into consideration elsewhere: 1
  - Total: 19%

- **Motoring documents produced at court**
  - valid motoring documents produced: 1
  - Total: 10%

Source: Crown Prosecution Service discontinuance survey (November 1994)
Part 4 Discontinuing cases

4.1 Whilst the police decide whether to charge a suspect, the Crown Prosecution Service decides whether or not a case should proceed. Under the Prosecution of Offences Act 1985, the CPS can discontinue cases before they come to court. Or cases may be discontinued at a later stage in the court proceedings by the CPS withdrawing the charges or offering no evidence against the defendant. The discontinuance of cases attracts considerable public interest and there is concern that the CPS may be too willing to drop proceedings. This part of the report considers the progress the CPS has made in:

- identifying the reasons for discontinuance;
- ensuring the rate of discontinuance is minimised;
- improving consultation with the police about discontinuance;
- where discontinuance is appropriate, ensuring that cases are dropped as early as possible to avoid waste of effort and resources.

Identifying the reasons for discontinuance

4.2 One of the aims in establishing a national, independent prosecution service was to introduce more effective and consistent filtering of cases, so that only appropriate cases reached court. The decision to discontinue proceedings is not normally taken below the grade of Senior Crown Prosecutor. Certain more serious offences require a higher grade; for example, a rape case can be discontinued only by a Branch Crown Prosecutor or above.

4.3 In their 1990 Report, the Committee of Public Accounts expressed concern that the CPS did not systematically analyse the reasons for discontinuing cases. Since then, there has been Home Office research and two surveys by the CPS to find out more. The CPS's most recent discontinuance survey examined the 11,000 magistrates’ courts cases discontinued in November 1994. The results show that the reasons for discontinuance fell into four main categories and that over 40 per cent of cases were dropped because it was considered that there was insufficient evidence (Figure 15).
The survey also generated specific information about certain types of case. In particular, it identified the sorts of case in which witnesses most commonly fail to attend court or give evidence. For example, it found that 99 per cent of the domestic violence cases which were unable to proceed at court were discontinued because a civilian witness refused to give evidence or failed to attend the hearing.

### Ensuring the rate of discontinuance is minimised

In the first six years of the operation of the CPS, the national rate of discontinuance rose from 7.5 per cent to 13.5 per cent. Since 1992-93 the rate of discontinuance has stabilised at around 12 per cent (Figure 16). In 1996-97 this represented some 154,000 of the 1.3 million cases received from the police.

#### Figure 16

The rate of discontinuance was 13.5 per cent in 1992-93 but has since stabilised at around 12 per cent.

Percentage of cases discontinued

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage discontinued</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991-92</td>
<td>11.8</td>
</tr>
<tr>
<td>1992-93</td>
<td>13.5</td>
</tr>
<tr>
<td>1993-94</td>
<td>12.5</td>
</tr>
<tr>
<td>1994-95</td>
<td>11.7</td>
</tr>
<tr>
<td>1995-96</td>
<td>12.0</td>
</tr>
<tr>
<td>1996-97</td>
<td>12.1</td>
</tr>
</tbody>
</table>

Source: Crown Prosecution Service

The rate at which cases are discontinued differs significantly between Areas. In 1996-97, 15 per cent of cases were dropped in the East Midlands but only nine per cent in the North West. The CPS expects some variation because of the differing priorities and practices of the 43 police forces it deals with. The Association of Chief Police Officers felt there was a need for flexibility to meet local need. Different forces may treat similar situations in different ways; for example,
one force may choose to caution an offender, whom another would formally charge. In 1995 the police cautioning rate, as a percentage of those found guilty or cautioned for summary offences, ranged from three to 37 per cent between forces.

4.7 The CPS monitors the discontinuance rate as an indicator of the suitability for prosecution of the cases submitted by the police, and of the independence and effectiveness of its own review. However, the rate is not considered a suitable performance measure for which targets should be set, since it is determined largely by factors outside prosecutors’ control. For example, a prosecution may be undermined by a witness’s failure to appear or refusal to give evidence.

4.8 There was agreement among most of the bodies we consulted that the CPS’s prosecution policy was appropriate and consistent, although the Superintendents’ Association reported some local concerns about inconsistency. Liberty (the National Council for Civil Liberties) noted that the CPS had to strike a difficult balance to avoid on the one hand over-zealously pursuing prosecutions and on the other dropping cases that are less certain than prosecutors might like. The London Criminal Courts Solicitors’ Association commented that the CPS deserved credit for discontinuing cases where appropriate. The Association suggested that it would help public understanding if the CPS explained its decisions, where appropriate, to counter or complement comments from victims or the police.

4.9 The police and the CPS are monitoring discontinuance locally under joint performance management (Appendix 4). Data are collected by case type and reasons, and are then used to identify local trends and explore where different action by either agency could have prevented discontinuance. The six pilot joint performance management projects produced similar results to the discontinuance survey (Figure 15). Just over half the cases had been discontinued on the grounds of insufficient evidence. This was especially common in cases of sexual offences, burglary and theft. The Association of Chief Police Officers emphasised the importance of analysing discontinuance rates by offence type because the global rate may mask wide variations.

**Consultation with the police about discontinuance**

4.10 The CPS aims to consult the police when it proposes to discontinue a case, unless it is impracticable to do so. The initial contact is normally with the police administrative support unit, which is responsible for submitting the prosecution files to the CPS. If the unit considers that the reasons for discontinuance are clear
and valid, it will usually agree straightaway. Otherwise the unit, and sometimes the
CPS, will discuss the options with the investigating officer in the case, who may
provide further information which could affect the decision to discontinue.

4.11 The 1994 discontinuance survey found that the police were consulted in
74 per cent of discontinued cases (Figure 17). Consultation was not possible in
most of the remaining cases. In most cases where consultation took place, the
police agreed with the proposal to discontinue, objecting in only four per cent of
cases. Consultation was more likely on more serious offences. The police were
consulted in 87 per cent of domestic violence cases and in 86 per cent of cases
concerning sexual offences.

Figure 17

The police were consulted in 74 per cent of discontinued cases; consultation was not possible
in most of the remaining cases.

4.12 In some cases, the CPS is not able to consult the police before terminating
proceedings. These are predominantly cases discontinued at court when the
strength of the prosecution has been fundamentally weakened by, for example, a
witness’s failure to attend. The discontinuance survey found that in 91 per cent of
the cases where the police were not consulted, the reason for discontinuance
became apparent only on the day of the hearing.
The CPS branches and police forces we visited considered that the consultation process generally worked well. This was supported by the police organisations who responded to our consultation. For example, the Superintendents’ Association considered that prosecutors and the police discussed discontinuance in a mature and objective manner, before, in the large majority of cases, reaching mutually acceptable decisions.

Even without consultation, the CPS is required retrospectively to notify the police of the reasons for discontinuance, so that they can update their records and inform victims. The police forces we visited expressed concern that, in their opinion, prosecutors sometimes failed to appreciate that officers were responsible for explaining the CPS’s actions to victims, and therefore required timely and accurate information about the decisions made in a case. Victim Support noted that problems arose if cases were discontinued or charges reduced without explanation. Victims needed to be given full and clear explanations, and this was particularly important when cases were discontinued because they were not considered to be in the public interest. Under joint performance management (Appendix 4), the CPS is providing fuller reasons for discontinuance to help the police provide better feedback to victims.

The timeliness of discontinuance

Where it is appropriate to discontinue a case, the CPS aims to do so as early as possible in order to avoid unnecessary court appearances, and wasted costs and inconvenience to victims, witnesses and criminal justice agencies. Early discontinuance in appropriate cases is especially important if the defendant is in custody.

Prosecutions may be discontinued:

- before the first court hearing;
- at the first hearing;
- after the first but before a subsequent hearing;
- at a subsequent hearing.
In their 1990 Report, the Committee of Public Accounts expressed concern at the large proportion (two-thirds) of discontinued cases which were dropped at a court hearing, rather than before. Figure 18 shows the timing of discontinuances from 1991-92 to 1996-97. In 1996-97, 50 per cent of cases were discontinued at a hearing; nine per cent before the first hearing; and a further 41 per cent after the first but before a subsequent hearing.

There has been a decline in the proportion of late discontinuances - the proportion dropped at a subsequent hearing fell from 57 per cent in 1992-93 to 39 per cent in 1996-97.

Note: discontinuances made at the first or subsequent court hearing include those cases where defendants produced motoring documents at court, thereby proving their innocence. In these circumstances, the CPS has no opportunity to discontinue before the hearing. In 1996-97, 10 per cent of discontinuances were made at court when defendants produced documents, just over half of these at a subsequent hearing.

4.17 In some cases, the CPS does not know it will need to discontinue a case until the hearing; for example, when a key witness refuses to give evidence at court or when the defendant produces valid motoring documents at the hearing (Figure 15). The timeliness of discontinuance can be influenced by factors outside the control of the CPS, such as difficulties in tracing defendants. Problems may be caused by the late delivery of police files which reduces the time available for the CPS to review the case before the court hearing.
Targets for the timeliness of discontinuance

Improving the timeliness of discontinuance decisions has been a long-standing CPS target. In 1992-93, the CPS aimed to make 50 per cent of discontinuances outside court, before either the first or subsequent hearing. The target was subsequently raised to 55 per cent. Neither target was achieved, but the proportion of cases discontinued in advance of a hearing rose gradually, reaching 50 per cent in 1996-97 (Figure 19).

In 1995-96 the CPS changed the target to increasing the percentage of cases discontinued before the first hearing only. Nine per cent of cases were discontinued before the first hearing in 1995-96, compared to seven per cent in 1994-95 (Figure 18). For 1996-97 the target was changed again, because the CPS was concerned that in practice there may be insufficient time to consult the police fully before the first hearing. The new targets are to:

It is preferable, where possible, to discontinue a case before rather than at a court hearing, in order to minimise use of court time and to maximise opportunities for consultation with the police. The proportion of cases discontinued before a hearing rose from 32 per cent in 1991-92 to 50 per cent in 1996-97.
- increase year on year the proportion of cases discontinued after the first hearing but before subsequent hearings - 47 per cent achieved nationally in 1996-97 with Area performance ranging from 62 per cent in Wales to 35 per cent in London;

- increase year on year the proportion of discontinuances made within 42 days of receipt of a file from the police - 71 per cent achieved nationally in 1996-97 with Area performance ranging from 79 per cent in Anglia to 62 per cent in Humber.

4.20 The first of these targets could lead to delay in discontinuance until after the first hearing in order to meet the target. The CPS might instead consider targeting a reduction in the proportion of cases discontinued at or after a subsequent hearing, since this would encourage all earlier appropriate discontinuances equally, without detracting from effective consultation with the police.

* For 1996-97, the CPS included in this category cases where the defendant produced motoring documents at a subsequent hearing. This produced a result of 47 per cent, rather than the 41 per cent shown in Figure 18.
Part 5 Preparing and presenting cases in the magistrates’ courts

5.1 All criminal cases are heard first in a magistrates’ court. Most are concluded there too. Figure 20 shows the size and characteristics of magistrates’ courts’ caseload in 1996-97. This part of the report examines the Crown Prosecution Service’s work and performance in preparing and presenting cases in the magistrates’ courts. In particular it examines:

- the timeliness of case preparation;
- the causes and impact of adjournments;
- the presentation of prosecution cases.

5.2 The key stages in bringing a case before a magistrates’ court are shown in Figure 21. There are three categories of criminal case:

- **summary cases** (for example, minor road traffic offences and disorderly behaviour). These are the least serious cases and can be tried only in the magistrates’ courts;

- **either way cases** (for example, theft and some categories of assault). These more serious cases can be tried either by magistrates or in the Crown Court. Such cases are committed to the Crown Court if the magistrates decline jurisdiction or the defendant elects trial by jury;

- **indictable cases** (for example, murder, rape and robbery). These most serious cases are always heard in the Crown Court, which has greater sentencing powers. The cases are committed to the Crown Court after a preliminary hearing in the magistrates’ court.

The timeliness of case preparation

5.3 The average time from offence to completion in the magistrates’ courts has remained broadly constant over recent years, at around 20 weeks. The Trials Issues Group (paragraph 2.5) has set time guidelines for hearing cases in the magistrates’ courts which envisage a maximum time of 13 weeks from charge to trial for adult defendants on bail who plead not guilty at the first appearance, and
Types of case

1.33 million cases were dealt with in the magistrates’ courts. Of these:

- 749,000 were summary cases
- 524,000 were indictable or either way cases
- 45,000 were advice cases, where the police consulted the CPS before starting proceedings
- 13,000 were other proceedings

Completed cases

1.27 million cases were completed. Of these:

- 898,000 cases proceeded to a hearing
- 99,000 cases were committed to the Crown Court
- 154,000 cases were discontinued
- 122,000 cases were disposed of in other ways, including cases where the defendant was bound over to keep the peace without a hearing or where the prosecution could not proceed because, for example, the defendant had died

Case results

98 per cent of cases heard in the magistrates’ courts resulted in conviction. Of the 902,000 cases heard:

- in 734,000 the defendant pleaded guilty
- in 97,000 the defendant was found guilty in his/her absence
- in 53,000 the defendant was convicted after trial (after pleading not guilty)
- in 18,000 in the case against the defendant was dismissed
lower maxima for other categories of defendant. The Trials Issues Group has begun an initiative to monitor performance against the guidelines, but results are not yet available.

5.4 The timeliness with which the CPS prepares cases for court is an important factor in the speed with which justice is processed. In preparing cases for court, prosecutors and caseworkers undertake the following tasks:

- review of evidence submitted by the police;
- preparation of papers for disclosure to the defence;
- compilation of a list of the witnesses required to attend court to give evidence, so that the police can inform them of the hearing date;
- preparation of the prosecution case for trial in the event of a not guilty plea being entered by the defendant.

5.5 The CPS can contribute to the speedy processing of cases by being prepared in time for each court hearing. Performance is monitored on two aspects over which the CPS has control:

- how quickly advance information is provided to the defence;
- how quickly witness warning information is delivered to the police.

**Advance disclosure to the defence**

5.6 The CPS is required to provide details of the prosecution case to all defendants charged with either way offences (paragraph 5.2). This is known as advance disclosure and may help a defendant to decide whether or not to request committal of the case to the Crown Court. If the CPS fails to disclose on time, the magistrates are likely to adjourn court proceedings to a later date on the grounds that the defence has had insufficient time to prepare.

5.7 The CPS aims to provide advance disclosure within five working days of being told the name of the defence solicitor and in possession of the police prosecution file. In 1996-97 the CPS met the five day target in 77 per cent of cases. Performance in the Areas ranged from 86 per cent in the North West to 68 per cent in the South East. For 1997-98 the CPS is aiming to achieve the five day target in 80 per cent of cases.
Figure 21

Key stages in bringing a case before the magistrates’ court

Showing the key stages in bringing a case before the magistrates’ court, and the nationally agreed Manual of Guidance time guidelines, for defendants on bail. Defendants held in custody will have additional hearing(s) to determine applications to remand them in custody.

- Time guidelines
  - 4 or 5 weeks from charge*
  - 8 weeks to committal

- Summary offences
  - First appearance - plea taken

- Either way offences
  - Mode of trial hearing - court considers jurisdiction
    - Court accepts jurisdiction
    - Court declines jurisdiction
      - Defendant elects magistrates’ court trial
      - Defendant elects Crown Court trial

- Indictable offences
  - Committal hearing - case transferred to the Crown Court

- Plea taken
  - 8 weeks
  - Guilty plea
  - Not guilty plea
    - Trial
      - No case to answer
      - Conviction
        - Sentenced

- Case dismissed

Source: National Audit Office and Trials Issues Group Manual of Guidance

Note: * the time allowed between charge and first appearance is 4 weeks where an abbreviated file is required or 5 weeks where a full file is required
Witness warning information to the police

Once the court has set a date for the trial, the CPS must supply the police with details of the prosecution witnesses required to attend court to give evidence. The police are responsible for notifying (or warning) witnesses of the trial date and the time they are expected to have to attend court. However, the CPS is answerable to the court if any prosecution witness fails to attend.

The CPS aims to allow the police 14 days to contact witnesses before the start of the trial (10 days in custody cases). In 1996-97 the CPS provided witness warning information within this timescale in 88 per cent of cases. CPS Areas performed well. No Area fell below 80 per cent and one, the North West, achieved 96 per cent. The CPS has set a target for 1997-98 to provide witness warning information on time in 90 per cent of cases.

Adjournments

Adjournments occur where the court cannot progress or complete a case on the set day and has to defer it to a later date. In 1996-97 there were some 2.6 million adjournments in the magistrates’ courts, an average of 1.9 for each completed case. The number and length of adjournments are important factors in determining the time taken to process cases through the courts. Figure 22 shows two case examples which illustrate how adjournments can increase the time taken to complete cases in the magistrates’ courts. Unnecessary adjournments lead to wasted cost and inconvenience for victims, witnesses and criminal justice agencies.

Adjournments may be requested by the court, the defence, the police or the CPS. The most recent data on the nature of adjournments come from the 1995 Efficiency Scrutiny on ways to reduce the administrative burdens on the police (paragraph 2.7), which found that nearly 70 per cent of adjournments were unavoidable. They were caused either by standard court procedures, such as an adjournment to a subsequent trial date following a plea of not guilty, or by reasons such as a defendant on bail failing to attend the hearing.
The data routinely collected by the CPS do not distinguish between avoidable and unavoidable adjournments, but show only which agency was responsible. The CPS data show the majority of adjournments in the magistrates’ courts are generated by the defence or the court, with around three per cent generated by the CPS (Figure 23).

We examined 248 adjournments in a sample of 100 magistrates’ courts cases, an average of 2.5 adjournments in each case. The average length of the adjournments was 22 days. Prosecutors often had not endorsed files with clear reasons for the adjournments, but the percentage of adjournments generated by each of the criminal justice agencies was assessed as broadly similar to that shown in Figure 23, although the proportion attributed to the CPS was six per cent. Of these, nearly two-thirds had been requested either to tie up proceedings with other cases against the same defendant or to allow several defendants charged in a case to be dealt with at the same hearing. The remainder resulted from the CPS not being ready to proceed.

The level of adjournments is a particular problem in minor road traffic offences. In some parts of the country 70 per cent of such cases are adjourned for the prosecution to call witnesses or serve evidence on the defence. In Gloucestershire and Lancashire, the Trials Issues Group (paragraph 2.5) piloted streamlined procedures involving the police serving concise pro-forma witness statements with the summonses. Results have shown that this approach is effective in reducing adjournments, with up to 77 per cent of cases being finalised at the first court hearing, and it is to be adopted nationally in 1997.

The CPS is participating in two other initiatives being promoted by the Trials Issues Group. These are early administrative hearings within seven days of a defendant being charged to determine legal aid and representation questions; and the introduction of preliminary hearings to improve pre-trial preparation (including witness availability), to finalise the charges to be heard, to identify contested issues and to agree evidence.

The presentation of prosecution cases

Using lawyer agents in the magistrates’ courts

Using lawyer agents to present cases can be less cost-effective because, for example, of the need for CPS staff to determine what happened at court from the file and identify any post-court action required. Using CPS prosecutors also offers advantages in terms of case continuity and their detailed knowledge of the CPS’s legal and administrative procedures. However, agents from private practice -
Two case examples of how adjournments cause delays

Adjournments can cause delays in processing cases in the courts - Case 1 was adjourned for a total of over 13 weeks and Case 2 for five weeks.

**Case 1: a summary offence, the defendant pleads not guilty**

- The police arrest and charge defendant with the offence, and bail him/her to appear before the magistrates’ court.

**First court appearance:**
- The defendant has not obtained legal aid; case adjourned for the grant of legal aid to be determined.
  - Defence generated adjournment
  - Two weeks

**Second court appearance:**
- The defendant pleads not guilty; case adjourned for a trial date.
  - Defence generated adjournment
  - Five weeks

**Third court appearance:**
- A police officer witness is unable to attend court to give evidence; case adjourned to enable the officer to attend the trial.
  - Police generated adjournment
  - Three weeks, two days

**Fourth court appearance:**
- The defendant is convicted after trial; case adjourned for the probation service to prepare pre-sentence reports.
  - Court generated adjournment
  - Three weeks

**Fifth court appearance:**
- The defendant is sentenced and the case concluded.

**Case 2: an either way offence, the defendant pleads guilty**

- The police arrest and charge defendant with the offence, and bail him/her to appear before the magistrates’ court.

**First court appearance:**
- The CPS has failed to provide the defence with details of the prosecution case; case adjourned for the CPS to provide advance disclosure.
  - CPS or police generated adjournment
  - Two weeks

**Second court appearance:**
- The defendant pleads guilty; case adjourned for the probation service to prepare pre-sentence reports.
  - Court generated adjournment
  - Three weeks

**Third court appearance:**
- The defendant is sentenced and the case concluded.

Source: National Audit Office
either solicitors or barristers - are sometimes employed to present cases, especially to cover sessions in outlying magistrates’ courts and at times of peak workload.

5.17 The CPS previously made extensive use of agents to overcome shortfalls in the number of lawyers employed (paragraph 2.18). In their 1990 Report, the Committee of Public Accounts recommended that the CPS should take steps to reduce its dependence on lawyer agents, to keep the costs of agents to a minimum, and to ensure that only suitable agents were employed.

5.18 The CPS has since recruited more lawyers (Figure 8 on page 27) in order to help reduce dependence on agents, and has made wider use of caseworkers to carry out preparatory work previously undertaken by lawyers. In 1993-94 the CPS also introduced a target for prosecutors to cover an average of four magistrates’ court sessions a week (a session lasts half a day). The target was first achieved in 1994-95 and the average increased slightly to 4.1 sessions a prosecutor a week in 1995-96, after which the target was dropped. The branches we visited were generally allocating four sessions a week, making effective use of prosecutors’ time, but reported that they sometimes had to allocate more than four sessions in order to cope with high workloads. This limited the time available for case

Figure 20

In 1996-97, over 90 per cent of magistrates’ courts adjournments were generated by the defence or the court. Only three per cent were generated by the CPS.

Source: Crown Prosecution Service

Note: an adjournment is defined as an interruption to the flow of the case which causes a separate date to be arranged for the continuation of the proceedings.
preparation and contact with the police and others involved in individual cases. The police administrative support units we visited confirmed that contacting prosecutors could be difficult because of the time they spent in court.

5.19 Since 1990-91 the proportion of magistrates’ court sessions covered by lawyer agents has fallen from 34 per cent to seven per cent in 1996-97 (Figure 24). The level of usage of agents ranged from one per cent in Wales and Mersey/Lancashire to 14 per cent in the South West.

5.20 The cost of employing lawyer agents has fallen from £17 million in 1990-91 to £2 million in 1996-97. The average cost of employing an agent to cover a magistrates’ court session also fell over the same period from £133 to £82. There are again variations between Areas, with the average cost of a session ranging from £46 in the East Midlands to £117 in Yorkshire. The use of national rates for barristers working in the magistrates’ courts has been agreed with the Bar Council since 1986. The current rates, set in 1992, are £112 for a half day and £175 for a full day in court. Solicitors’ fees are negotiated locally by branches on a case by case basis.

5.21 The CPS reviewed the use of lawyer agents in the magistrates’ courts in 1995 and found wide variations between Areas in the terms for employing agents and the fee structures. Arrangements for reimbursing travel costs were often complex, and the length of a half day session varied between Areas. Few Areas had clear procedures for vetting lawyers who applied to undertake magistrates’ court work, although most monitored performance in some way, usually via feedback from court staff or the police and review of actions noted on returned case files.

5.22 The review made a number of recommendations including simplified fee structures; a formal system of vetting potential agents; standard service levels and criteria to monitor performance; clear and specific instructions to agents on the conduct of CPS business; and assessment of agents against the standards of advocacy expected of CPS prosecutors. All the branches we visited had taken steps to implement the recommendations. For example, fee structures had been simplified to a half day and a full day rate, and branches monitored agents’ performance on appointment and thereafter once a year. In 1996 the CPS issued model terms and conditions for agents employed in the magistrates’ courts.

5.23 Most of the organisations we consulted commented on the reduction in the number of agents employed by the CPS in recent years. Some viewed the use of agents as a cost-effective way of covering outlying courts and peaks in workload,
and as an important source of independent thought to challenge established views. Other organisations suggested that the reduction in the use of agents had contributed to an improvement in the CPS’s standards of prosecution.

**Standards of advocacy**

Effective case presentation (advocacy) depends on sound understanding of the law and court procedure, and thorough preparation. The prosecutor should present the case in a cohesive, structured and persuasive manner, having mastered the facts and understood the issues to be decided in the case.

In 1994 the CPS published national standards of advocacy, which identify the principles to be applied by its prosecutors in presenting cases. The principles are: professional ethics and court-room etiquette; rules of evidence and court procedure; and planning, preparation and presentation in court. The standards provide the framework for the CPS’s national advocacy training programme,
which was launched in 1995. The CPS introduced a performance measure on advocacy for the first time in November 1996. In the second half of 1996-97, 98.5 per cent of assessments met the national quality standard for advocacy.

5.26 The advocacy of individual prosecutors is monitored primarily by branches. Members of the recently created CPS Inspectorate (paragraph 3.23) attend magistrates’ court sessions to observe prosecutors presenting cases as part of their programme for reviewing the performance of branches. They evaluate local performance against the national standards and will assess the effectiveness of the national advocacy training programme.

5.27 Many of the organisations we consulted considered that the quality of prosecutors’ advocacy was generally good, and that professional and ethical standards were high. However, some organisations expressed concern at delays in, and the quality of, case preparation, which they felt was likely adversely to affect the quality of advocacy. The organisations considered that the increased time prosecutors spent in court was a key factor in limiting the time available for case preparation.
Part 6 Handling Crown Court cases

6.1 This part of the report considers the special aspects of CPS work and performance in relation to cases brought to the Crown Court. In particular it examines:

- the process whereby a case is brought to the Crown Court;
- the timeliness of case preparation;
- the causes and impact of adjournments;
- arrangements for instructing and monitoring Counsel.

Figure 25 shows the size and characteristics of Crown Court caseload in 1996-97.

Bringing a case to the Crown Court

6.2 Figure 26 shows the complex process of bringing a case before the Crown Court. Once the case has been committed to the Crown Court for trial, the CPS instructs an advocate or Counsel (barrister or solicitor in private practice) to act on its behalf. The CPS remains responsible for the efficient and effective prosecution; the prosecutors and caseworkers prepare the case and take decisions, advised by Counsel, on whether to offer no evidence, amend charges or accept pleas. Counsel is responsible for taking decisions in relation to the presentation and general conduct of the case. CPS solicitors have recently been granted limited rights of audience in the Crown Court (paragraph 2.3).

6.3 Plea and directions hearings were introduced into all Crown Court centres from the end of 1995. Cases committed for trial are listed for a plea and directions hearing, normally within six weeks of committal. The purpose of the hearings is to identify guilty pleas at an early stage and encourage early case preparation by the prosecution and defence, so as to reduce the number of trials which are unable to proceed on the set date. If a defendant pleads guilty at the plea and directions hearing, the judge will, if possible, pass sentence there and then. If the defendant pleads not guilty, the judge enquires into the case issues, estimates the length of the trial and sets a likely date.
Average waiting times from a case being committed to the start of the trial increased from 13 weeks in 1991 to 16 weeks in 1995, and fell to 13 weeks again in 1996. The Trials Issues Group’s guidelines require trials to start within a maximum of 16 weeks of the committal hearing. The Group has begun to monitor performance against the guidelines, but results are not yet available.

In their 1990 Report on the CPS, the Committee of Public Accounts expressed concern at the substantial delays experienced in the Crown Court. They noted the CPS’s view that these were caused largely by factors outside its control. Reasons for delays were examined in the Comptroller and Auditor General’s report on the Administration of the Crown Court (HC 639, 1993-94). In their subsequent Report (HC 173, 1994-95), the Committee of Public Accounts considered that the Lord Chancellor’s Department should do more to exercise firmer control of the problem, whilst recognising that some of the causes of delay also lay outside the Department’s direct control. Delays in Crown Court cases are not considered further in this report, except in relation to the CPS’s part in the prosecution process.

The timeliness of case preparation

The CPS assesses performance in two key areas of the prosecution process over which it has control:

- how quickly committal papers are provided to the defence;

- how quickly instructions (“the brief”) are delivered to Counsel.

Committal papers to the defence

Late preparation and delivery of papers to the defence are likely to lead to delays because the defence may ask for a hearing to be adjourned on the grounds that they are not sufficiently prepared to proceed. The Trials Issues Group’s time guidelines require the committal papers and draft indictment to be served on the defence within 14 days of receiving a committal file from the police (10 days if the defendant is in custody). In 1996-97 the CPS served committal papers within the time guidelines in 51 per cent of cases. There were wide variations in performance between Areas, ranging from 43 per cent in the Midlands to 66 per cent in Mersey/Lancashire. The CPS has set a target for 1997-98 to deliver 60 per cent of committal papers within the time guidelines.
**Figure 25**

CPS caseload in the Crown Court, 1996-97

**Types of case**

115,000 cases were dealt with in the Crown Court. Of these:
- 94,000 were committed for trial
- 15,000 were appeals against conviction and/or sentence in the magistrates’ court
- 6,000 were committed for sentence because the magistrates decided that greater punishment was required than they had the power to impose

**Completed cases**

94,000 cases were committed for trial. Of these:
- 85,000 cases ended with a trial
- in 1,000 cases, charges were dropped and the defendant was bound over to keep the peace
- 6,000 cases were not proceeded with because, for example, the defendant was seriously ill
- 2,000 cases were disposed of in other ways, including cases where the prosecution could not proceed because, for example, the defendant had died

**Case results**

91 per cent of cases tried in the Crown Court resulted in conviction. Of the 87,000 cases tried:
- in 67,000 the defendant pleaded guilty
- in 12,000 the defendant was convicted after trial (after pleading not guilty)
- in 8,000 the defendant was acquitted

Source: Crown Prosecution Service
**Briefs to Counsel**

6.0 The timely delivery of the brief to Counsel is an important factor in ensuring early case preparation. For example, it enables Counsel to consider the CPS’s views on the acceptance of pleas and to seek timely guilty pleas. Time guidelines are not prescribed for this stage of the process, but in August 1994 the CPS and the Bar Council published a joint service standard on the timely delivery of briefs to Counsel. This included a target that briefs should be delivered within 14 days of committal (or 21 days for cases involving serious offences). In 1996-97 the target was achieved in 61 per cent of cases. There were wide variations in performance between Areas, ranging from 53 per cent in London to 90 per cent in Wales. The CPS has set a target for 1997-98 to deliver 80 per cent of briefs within the time guidelines.

6.9 The Bar Council and the Criminal Bar Association told us that the late delivery of briefs had been a problem in the past, but that there had been a considerable improvement. However, they noted that the strict time limits of plea and directions hearings had imposed greater burdens on the CPS, and that this could result in insufficiently prepared briefs.

**Adjournments**

6.10 The number and length of adjournments are important factors affecting the time taken to process cases through the courts. In 1996-97 there were about 132,000 adjournments in the Crown Court, an average of one for every case completed. This total does not include any previous adjournments in the magistrates’ courts which may already have affected the progress of cases. The low average number of adjournments in the Crown Court partly reflects the many cases which have no Crown Court adjournments: for example, the defendant may plead guilty and be sentenced at the first hearing.

6.11 Some adjournments in the Crown Court are unavoidable and result from the court process; for example, adjournments between the plea and directions hearing and the trial date; to tie proceedings up with other cases against the defendant; and, after conviction, to allow the probation service to prepare reports to help the judge decide the appropriate sentence. Other adjournments are the result of factors over which the criminal justice agencies have some control: for example, where the prosecution or defence are not ready for the trial; where time is needed for the defence to consider how to plead or for the prosecution to consider the plea offered; and shortages of court time or court rooms.
Figure 26

Key stages in bringing a case before the Crown Court

Showing the key stages in bringing a case before the Crown Court, and the nationally agreed Manual of Guidance time guidelines for the completion of certain stages in the process for defendants on bail.

Either way offences

Indictable offences

Time guidelines for defendants on bail

Mode of Trial hearing

First appearance in magistrates’ court

The police submit committal file to the CPS

The CPS prepares committal papers and draft indictment and serves them on defence

COMMITTAL HEARING (in magistrates’ court)

PLEA AND DIRECTIONS HEARING (in Crown Court) (paragraph 6.3)

Trials

Sentenced

Acquitted

Guilty plea

Not guilty plea

Conviction after trial

Acquittal after trial

Non-jury acquittal

Magistrate directs or defendant elects Crown Court trial

4 weeks

8 weeks

16 weeks

14 days

6 weeks

Source: National Audit Office and Trials Issues Group Manual of Guidance
Data collected by the CPS show that the majority of Crown Court adjournments in 1996-97 were generated by the defence or the court (Figure 27), with under two per cent generated by the CPS. Data on the causes of adjournments, and the numbers that are avoidable and unavoidable, are not collected.

We examined 93 adjournments in a sample of 50 Crown Court cases. The average length of adjournment was 43 days. Prosecutors often had not endorsed files with clear reasons for adjournments, but the review suggested that the proportion generated by each of the criminal justice agencies was broadly similar to that shown in Figure 27. Three of the adjournments (three per cent) were directly attributable to the CPS.

A number of the organisations we consulted expressed concern about delays and adjournments in the Crown Court. The Law Society and the London Criminal Courts Solicitors’ Association said that delays in cases reaching the Crown Court could be caused by adjournments in the magistrates’ courts arising from the late delivery of committal papers. The judiciary suggested that poor case preparation could cause delay both in cases reaching court and at court if a hearing had to be adjourned to resolve matters which could have been dealt with in advance.

The Bar Council, the Criminal Bar Association and the judiciary commented that in many cases Counsel were not supported by a CPS caseworker in court. This could cause delays if Counsel needed to take instructions on pleas offered. Prosecutors can be difficult to contact because they are often presenting other cases in the magistrates’ courts. The CPS aims to have a caseworker present at the key stages of every trial, but considers full time support to each Counsel not to be cost-effective, because for much of the time the caseworker would have little to do.

**Arrangements for instructing and monitoring Counsel**

Fees paid to Counsel amounted to £76 million in 1996-97, about a quarter of the CPS’s total expenditure. This section considers:

- the selection of Counsel;

- the negotiation of fees;
the monitoring of performance.

Selecting appropriate Counsel

6.17 The CPS generally aims to appoint Counsel once a case has been committed for trial. Barristers are eligible for this work only if they have applied and been added to the approved list. On the provincial circuits, Counsel are graded from one to four, based on their expertise and experience, to provide a guide to the broad level of work they are qualified to undertake. In London and the South East, advocates in grades one to three form a general list, with a special list for grade four. All Areas use Queen’s Counsel infrequently, only for the most complex work, such as contested murder cases and complex fraud work. The CPS periodically reviews the gradings given to barristers to check that they are still appropriate.

6.18 In most branches the CPS keeps a list of all Counsel available for Crown Court work. A different system operates in London and the South East because of the greater number of barristers; the majority of work is allocated between a more limited number of barristers’ chambers, known as preferred sets. Each branch is free to decide which Counsel to instruct. Generally, knowledge of the experience and ability of the Counsel previously used are key factors in selection. The choice also depends on Counsel’s specialisms and availability.

6.19 If the Counsel initially instructed cannot subsequently conduct the case, for example because another trial they are involved in lasts longer than expected, the brief is “returned” and the CPS must instruct another barrister. This can be time-consuming for CPS staff and may have an adverse effect on the timeliness and standard of preparation; and there may be few Counsel of suitable quality available at short notice, particularly if a brief is returned just before the trial.

6.20 Information on the extent of this problem is not routinely collected, although it would require little extra effort as the CPS already keeps data on the number and type of cases given to different Counsel. The most recent data, based on a review in February 1996 of 433 cases at nine court centres where the CPS had experienced problems with returned briefs, found that the brief had been returned in 75 per cent of cases. In almost a third of these cases, the Counsel subsequently appointed was judged to have been of inappropriate quality. Returned briefs were a problem at some of the branches we visited. In part, this was because the courts were not always able to set definite trial dates in advance, making it difficult to establish the availability of the Counsel selected.
The CPS has sought to address the problem of returned briefs in conjunction with the Bar. A joint service standard, seeking to minimise the level of returns, was introduced in November 1996. The standard sets out the limited circumstances in which a return will be deemed acceptable for different categories of case. Special attention is given to retrials and sensitive cases involving vulnerable witnesses. The CPS and the Bar are discussing plans for monitoring the level of briefs returned by individual Counsel and barristers’ chambers.

Negotiating fees

The type and level of fees paid to Counsel are determined by the CPS’s Counsel Fee Scheme, which is reviewed each year in association with the Bar. The fees paid fall into three categories:

- **standard fees**, which apply in less complex cases: trials expected to last up to three days; committals for sentence; and appeals against sentence or conviction;

- **pre-marked fees**, which are paid where trials are expected to last for more than three days. Such fees are determined in advance by negotiation between the CPS and Counsel’s clerk;
**ex post facto fees**, which are paid where agreement cannot be reached on a pre-marked fee before the trial. The fee is assessed by the CPS after the case has been completed.

In 1996-97, 77 per cent of payments to Counsel were standard fees, but these accounted for only 33 per cent of total fee expenditure (Figure 28). Ex post facto fees represented 2 per cent of payments but 33 per cent of expenditure. This balance reflects the higher level of payments for the longer and more complex ex post facto cases.

**Standard fees**

For standard fee cases, a set fee is paid in respect of case preparation and the first day of a trial; and a refresher fee for subsequent effective hearing days. Figure 29 shows the rates for 1996-97. Additional amounts are paid for other work, such as appearances in court, pre-trial conferences and time spent listening to tape recorded interviews.
A key indicator used by the CPS is the proportion of trials falling to standard fees. In 1996-97 the CPS paid 74 per cent of trials at standard fees, against a target of 80 per cent. Performance in 1995-96 was 77 per cent. Most of the branches visited told us they found it difficult to meet the target for the proportion of trials allocated to standard fees because, for example, it was often unclear how a defendant would plead when the fee was being decided. They suggested that the increasingly complex nature of cases, and the rising proportion of serious offences, was compounding this problem, since such cases would be less likely to fall within the standard fee category.

Pre-marked and ex post facto fees

Pre-marked and ex post facto fees require a greater element of negotiation than standard fees. Guidance on negotiating pre-marked fees is set out in the Counsel Fee Scheme and fees are negotiated by an experienced member of staff in each branch. There are guideline figures for brief and refresher fees for a “typical” case, and higher and lower range points (Figure 30). Departure from the typical fee is a matter for local judgement based on factors such as the complexity or seriousness of the case, and the likely length of the trial.

The CPS monitors the level of fees paid in pre-marked and ex post facto cases. In 1996-97 the average brief fee paid exceeded the guideline for a typical case in three of the four categories of payment in jury trials (Figure 30). There was wide variation between Areas, with the average three to four day fee ranging from £348 to £407. However, the average fee nationally was still over three per cent lower than the average in 1995-96.

Case management plans

In 1994 the CPS introduced a system of case management plans in response to concern over the level of non-standard fees and difficulties in controlling costs. These plans apply, at the CPS’s discretion, to all pre-marked and ex post facto cases attracting a brief fee of £5,000 or more. The plans, which are drawn up jointly by the CPS and Counsel, are designed to provide a detailed record of Counsel’s work in preparing and presenting the case, and of the progress of the case, to assist in assessing and controlling the level of fees.

Case management plans were introduced in co-operation with the Bar, but the CPS initially found that they were not being used in all appropriate cases because of a lack of commitment at local level and a perceived reluctance by barristers to use them. The principle of the plans was therefore re-affirmed in April 1995 and additional guidance issued on calculating the likely length of cases. The CPS now monitors the use of case management plans to ensure they are used...
in all appropriate cases, although results are not yet available. The branches we visited were using case management plans, and had found them helpful in monitoring the work carried out by Counsel and in determining fees.

**Monitoring the performance of Counsel**

6.30 The standards of advocacy for CPS prosecutors (paragraph 5.25) are provided to Counsel and they are expected to meet them. The CPS provides no specific guidance to branches on how to monitor Counsel’s performance, and monitoring is difficult because only legally qualified staff can properly comment on the professional performance of Counsel. Having CPS prosecutors attend court to observe the conduct of cases would be costly.

6.31 Counsel are expected to comply with two service standards agreed between the CPS and the Bar on pre-trial preparation and returned briefs. The Bar is responsible for monitoring Counsel’s performance against these standards. In addition, some CPS branches have implemented service level agreements with the preferred sets or barristers’ chambers they use, setting out local requirements which Counsel are expected to meet.
The approach to monitoring performance varied at the branches we visited. At some it was ad hoc, relying on exception-based feedback from the caseworkers supporting Counsel in court. At others it was more pro-active and formal, with monitoring of cases to assess Counsel’s performance in categories such as pre-trial preparation, presentation and cross-examination. Information from third parties such as the judiciary or court clerks was used, but not acted upon until it had been verified, for example by legally qualified CPS staff observing the Counsel concerned. If this confirmed a problem, the matter was discussed with the clerk of the chambers and action agreed, such as suspending the use of Counsel for a period of time or confining briefs to less complex work. The CPS is now asking some branches to adopt a targeted approach, for example by monitoring newly appointed advocates.

### Figure 29

Showing the standard fees payable to Counsel for Crown Court work in 1996-97.

<table>
<thead>
<tr>
<th>Category of case</th>
<th>Type of fee</th>
<th>Standard fee (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Committal for trial</td>
<td>Brief</td>
<td>117</td>
</tr>
<tr>
<td></td>
<td>Appearance</td>
<td>46</td>
</tr>
<tr>
<td>Effective plea</td>
<td>Brief</td>
<td>117</td>
</tr>
<tr>
<td></td>
<td>Appearance</td>
<td>46</td>
</tr>
<tr>
<td>Effective trial</td>
<td>Brief</td>
<td>224</td>
</tr>
<tr>
<td></td>
<td>Refresher</td>
<td>155</td>
</tr>
<tr>
<td></td>
<td>Appearance</td>
<td>46</td>
</tr>
<tr>
<td>Cracked trial</td>
<td>Brief</td>
<td>220</td>
</tr>
<tr>
<td>Committal for sentence</td>
<td>Brief</td>
<td>76</td>
</tr>
<tr>
<td></td>
<td>Appearance</td>
<td>46</td>
</tr>
<tr>
<td>Appeal against sentence</td>
<td>Brief</td>
<td>76</td>
</tr>
<tr>
<td></td>
<td>Appearance</td>
<td>46</td>
</tr>
<tr>
<td>Appeal against conviction</td>
<td>Brief</td>
<td>124</td>
</tr>
<tr>
<td></td>
<td>Refresher</td>
<td>124</td>
</tr>
<tr>
<td></td>
<td>Appearance</td>
<td>46</td>
</tr>
</tbody>
</table>

Notes:

1. listed for plea, or plea and directions hearing, and acceptable plea of guilty entered or prosecution offered no evidence
2. listed for trial and jury sworn
3. listed for trial but no jury sworn because acceptable plea of guilty offered or prosecution offered no evidence

Source: Crown Prosecution Service

Counsel Fee Scheme

6.32
Figure 30

Showing the guidelines for pre-marked brief fees payable to Junior Counsel in jury trials (with suggested lower and higher range points) and the average fees that were actually paid in 1996-97. The average fee paid exceeded the guideline for a typical case in three of the four categories of payment.

<table>
<thead>
<tr>
<th>Fee (dependent on the estimated length of the trial)</th>
<th>Lower range point (£)</th>
<th>Typical case fee (£)</th>
<th>Average fee paid (£)</th>
<th>Higher range point (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3-4 days</td>
<td>245</td>
<td>325</td>
<td>366</td>
<td>750</td>
</tr>
<tr>
<td>4-5 days</td>
<td>360</td>
<td>530</td>
<td>542</td>
<td>1,250</td>
</tr>
<tr>
<td>5-10 days</td>
<td>555</td>
<td>915</td>
<td>902</td>
<td>1,400</td>
</tr>
<tr>
<td>10 days to a month</td>
<td>820</td>
<td>1,880</td>
<td>2,033</td>
<td>4,420</td>
</tr>
</tbody>
</table>

Source: Crown Prosecution Service Counsel Fee Scheme
Appendix 1

## Main conclusions and recommendations

### Setting up the CPS

The Committee appreciated the problems in establishing a completely new system for the prosecution of criminal offences throughout England and Wales, and recognised the progress of the CPS in the face of these difficulties. They were glad that the CPS and the other agencies with whom it operated aimed to build on what they had done so that the criminal justice system might better serve the interests of justice and provide good value for money. The Committee's findings were directed to this end.

The CPS referred to changes in its headquarters organisation following a review of the senior management structure in 1989. The new structure was designed to provide a greater central focus on field management issues. The CPS was confident this would be an appropriate structure for the foreseeable future.

The Committee noted the uncertainties in the original estimates of resource requirements and the difficulties in producing more realistic figures before Parliament approved the setting up of the CPS. Nevertheless, they were concerned that the CPS appeared to be costing almost twice as much as the previous prosecution arrangements, with a staff requirement practically double the size originally envisaged. They noted that the CPS had not fully met the Government’s initial objectives more than two and a half years after becoming operational.

The CPS set out a number of measures being taken to control costs including:

- improved staff control procedures;
- the introduction of a staff inspection programme covering all areas in three years, and work on a means of determining staff requirements in relation to workload;
- seminars for senior Area managers on financial management;
- recruitment to reduce dependence on costly agents;
- an extensive programme for the introduction of information technology to replace staff intensive procedures.

### Staffing arrangements

The Committee noted the gradual improvement in the recruitment of lawyers and appreciated the need for the initiatives to improve their recruitment, retention and use. In view of the substantial costs of understaffing and its operational consequences, the Committee trusted that the CPS would monitor operations closely with a view to minimising the effects of staffing shortfalls and making the most cost-effective use of scarce resources.

The number of lawyers in post had increased from 1,375 in October 1988 to 1,443 in February 1990. However, due to an increase in the need for staff, a shortfall of 434 lawyers still remained. The CPS was also increasing the number of senior lawyer posts and introducing a scheme to allow rapid promotion. It was confident that the new arrangements would provide a substantial boost to the attractiveness of a career with the CPS.

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### Treasury Minute response

The CPS referred to changes in its headquarters organisation following a review of the senior management structure in 1989. The new structure was designed to provide a greater central focus on field management issues. The CPS was confident this would be an appropriate structure for the foreseeable future.

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continued…
<table>
<thead>
<tr>
<th>Main conclusions and recommendations</th>
<th>Treasury Minute response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Staffing arrangements (continued)</strong></td>
<td>The CPS would continue to reduce dependence on agents. The proportion of magistrates’ court sessions covered by agents had fallen from 35 per cent in 1988-89 to 24 per cent in the first nine months of 1989-90. Agents would continue to be monitored and those who were less than satisfactory weeded out. The CPS’s ability to reduce further its reliance on agents would depend on success in recruiting lawyers and the number of court sessions it was required to cover.</td>
</tr>
<tr>
<td>The Committee were disturbed at the very high cost of employing agent lawyers, especially where their performance has been less satisfactory. They were also concerned at the effect on the morale and performance of the CPS, and felt it important for the CPS to press forward with its intention to reduce the dependence on agents. In the meantime, only suitable agents should be employed and their costs kept to a minimum.</td>
<td>The CPS would continue to reduce dependence on agents. The proportion of magistrates’ court sessions covered by agents had fallen from 35 per cent in 1988-89 to 24 per cent in the first nine months of 1989-90. Agents would continue to be monitored and those who were less than satisfactory weeded out. The CPS’s ability to reduce further its reliance on agents would depend on success in recruiting lawyers and the number of court sessions it was required to cover.</td>
</tr>
<tr>
<td><strong>Performance and discontinuance</strong></td>
<td>The CPS was planning a revised performance indicator system for the latter half of 1990 which would focus more closely on matters within its control, and make the indicators more useful to managers. Challenging targets would be set for key aspects of performance. The new computer system for tracking cases and providing management information had top priority in the CPS’s information technology strategy, and was on schedule and due to be piloted in late 1991.</td>
</tr>
<tr>
<td>The Committee welcomed the steps taken by the CPS to develop and improve its performance indicators and its intention to set challenging targets. They expected priority to be given to installing the new computer system.</td>
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</tr>
<tr>
<td>The Committee recognised the scope for variation in rates of discontinuance between Areas, given that the judgment of individual police officers or Crown Prosecutors is involved. But they did not accept that such variations should arise from differences in the policies and priorities of individual police forces. They were surprised at the absence of systematic analysis of the reasons for discontinuing cases, and therefore welcomed the intention to investigate this and to make more information readily available on the proposed computer system.</td>
<td>The revised performance indicator system would be used to identify suitable targets in the investigation of rates of discontinuance in different parts of the country, in order to establish whether variations are produced by inconsistencies in lawyer judgment or differing standards of material presented to the CPS by the police for review. The CPS had agreed to participate in a Home Office study designed to analyse the reasons for discontinuance. And the new computer system would produce daily reports as a basis for a more systematic analysis of discontinuance.</td>
</tr>
<tr>
<td>The Committee were concerned to learn that, despite the steps taken to establish effective liaison between the CPS and the police, consultation and feedback were still being hindered by inadequate communication and, in the view of the CPS, the late delivery of files from the police. They expected the CPS and the police to improve the flow of information between them in this area.</td>
<td>The quality and timeliness of police files are fundamental issues in improving the standard of case preparation. Every CPS Area had begun to monitor the timeliness of the delivery of files and information on court dates. The Senior Liaison Committee, chaired by the Director of Public Prosecutions and including representatives from the police and the courts, was addressing these and other pre-trial issues. CPS managers were required to keep liaison arrangements with the police under review, so as to improve communications in both directions. Areas were being encouraged to play an active role in the training of police officers so as to develop a greater understanding of the inter-relationship of the work of the two services.</td>
</tr>
<tr>
<td>The Committee were disappointed to learn that the CPS had failed to secure the improved standard of case preparation it was expected to achieve over previous prosecution arrangements, and trusted that the CPS and the police would ensure they take all practicable steps to achieve satisfactory and consistent standards across all areas.</td>
<td>The quality and timeliness of police files are fundamental issues in improving the standard of case preparation. Every CPS Area had begun to monitor the timeliness of the delivery of files and information on court dates. The Senior Liaison Committee, chaired by the Director of Public Prosecutions and including representatives from the police and the courts, was addressing these and other pre-trial issues. CPS managers were required to keep liaison arrangements with the police under review, so as to improve communications in both directions. Areas were being encouraged to play an active role in the training of police officers so as to develop a greater understanding of the inter-relationship of the work of the two services.</td>
</tr>
</tbody>
</table>

continued…
The Committee were disturbed at the large proportion of discontinued cases which were not dropped until the court hearing, and expected the CPS, the police and court authorities to co-operate to ensure that there was a substantial reduction in such cases.

The CPS intended to investigate closely the factors directly affecting the timing of discontinuance, focusing on the extent to which cases were not discontinued until the court hearing because of the late delivery of police files and other information, and the proportion of cases dropped at court because of difficulties which are outside the control of the CPS, for example, difficulties in tracing defendants.

Teams of experienced lawyers would undertake inspections of Areas, focusing on particular issues. They would assist in identifying and spreading best practice within the CPS. The teams would also examine any problems which might affect performance and investigate unsatisfactory performance, identifying the reasons, so that management could take appropriate remedial action. Variations in Area costs would be monitored and any necessary action taken.

The Committee welcomed the CPS’s assurance that it monitored variations in Area prosecution results and costs and sought explanations for them. They accepted there may be valid explanations but expected the CPS to identify the reasons for unsatisfactory performance and attend to them promptly.

The CPS were committed to avoiding unnecessary delays and to reducing delay wherever possible in the system as a whole. The reasons for delays and the possibilities for overcoming them were being examined and a report was expected in October 1990. The recommendations would be studied by the Senior Liaison Committee and action taken to reduce delays to a minimum.

The Committee were disturbed about the continuing substantial delays experienced in both magistrates’ courts and the Crown Court, and noted with increased concern that these delays were tending to get worse.

The CPS were committed to avoiding unnecessary delays and to reducing delay wherever possible in the system as a whole. The reasons for delays and the possibilities for overcoming them were being examined and a report was expected in October 1990. The recommendations would be studied by the Senior Liaison Committee and action taken to reduce delays to a minimum.

The Committee noted the view of the CPS that the delays are caused largely by factors outside the control of the CPS. They recognised the steps being taken to investigate and analyse the reasons for delays and the possibilities for overcoming them. They expected these initiatives to be translated soon into concerted and vigorous action to reduce the delays to an acceptable level.
Appendix 2

National Audit Office methodology

1. The findings in this report are based on work at Crown Prosecution Service headquarters in London and at local CPS branches. Pilot visits were made to Cambridgeshire, Coventry and Ealing branches to test the planned methodology. Following these visits, our main fieldwork was carried out at five branches - Bedfordshire, Canterbury, Gwent, Sheffield and Tyneside. Where references are made in the report to the branches visited, they are based on the work carried out at these five locations.

2. The branches visited were selected judgementally broadly to cover England and Wales. We examined working practices at first hand and reviewed the operation of major initiatives and developments including joint performance management, prosecutors in police stations and the standard case tracking computer system.

3. During the five main branch visits, we examined all the adjournments in a sample of 100 magistrates’ courts cases and 50 Crown Court cases, to gain an understanding of the circumstances which lead to adjournments. The sample was judgemental and drawn from cases which had been completed in June 1996.

4. We did not examine individual cases to review the legal actions and judgments made by prosecutors. However, we did examine the CPS’s own mechanisms for reviewing the quality of prosecutors’ legal judgments and work, particularly where the judgments concerned whether cases should proceed or be discontinued.

5. We visited four local police administrative support units to discuss local practices and the relationship between the police force and the CPS branch. These units provide support to investigating officers, review and submit police files to the local CPS branch, and liaise with prosecutors about discontinuance. The units visited were in the Bedfordshire, South Wales, South Yorkshire and West Midlands police forces.

6. We sought the views of other organisations operating in the criminal justice system (Appendix 3) about the performance of the CPS, and met with representatives of the Trials Issues Group.
Appendix 3

Organisations consulted by the National Audit Office

The Association of Chief Officers of Probation

The Association of Chief Police Officers

The Bar Council

The Criminal Bar Association

The Criminal Law Solicitors’ Association

The Justices’ Clerks’ Society

The Law Society

Liberty (the National Council for Civil Liberties)

The London Criminal Courts Solicitors’ Association

Lord Justice Auld, Senior Presiding Judge for England and Wales

The Magistrates’ Association

The Police Federation

The Police Superintendents’ Association of England and Wales

Victim Support
Appendix 4

The joint performance management initiative

1. The joint performance management initiative involves the police and the CPS working together to identify local difficulties and find ways of improving performance. The police and the CPS jointly collect and analyse data in three key areas. The results are then discussed at quarterly meetings and appropriate action developed.

2. Joint performance management focuses on three areas of particular concern:

- the timeliness and quality of the case files received by the CPS from the police; files are assessed against agreed national standards, set out in the Trials Issues Group’s Manual of Guidance;

- the discontinuance of cases in the magistrates’ courts, to identify trends by case type and reason and to explore where different action by the police or the CPS could have prevented discontinuance;

- acquittals in the Crown Court, to gain greater insight into why cases do not end in conviction and identify lessons for the police and the CPS.

3. The intended benefits of joint performance management include better quality files (and therefore less remedial work later), fewer adjournments at court (since more files should be on time) and fewer abortive cases. Joint performance management was piloted in six branches and the associated police forces between July and November 1995. During the pilot the proportion of files submitted within the Manual of Guidance time guidelines improved from 59 per cent to 62 per cent. Performance then declined slightly with around a quarter of files being submitted more than five days late (Table 1). On the quality of police files, the proportion of files classed as fully satisfactory represented less than half the files submitted. During the pilot, the proportion that were insufficient to proceed was nine per cent. However since then, the proportion of fully satisfactory files has increased considerably to over 60 per cent, whilst those classed as insufficient to proceed has fallen to seven per cent (Table 2).
The late delivery of police files can result in delays in the delivery of committal papers to the defence in Crown Court cases. Between July and September 1995 the police submitted 53 per cent of committal files within the agreed timescales. This improved steadily to reach 65 per cent between January and March 1997.

An evaluation of the pilot at the start of 1996 found strong support for the principles of joint performance management, and identified ways in which data collection arrangements might be refined to increase the value of the information collected, and scope for wider use of local target setting. The evaluation estimated the total net cost of operating joint performance management in a typical site to be some £35,000 a year. This represents the costs to both the CPS and the police of collecting and analysing data, and attending meetings.
Following the evaluation, the initiative was widened to other branches from May 1996. By the end of March 1997, 34 police forces and 66 CPS branches were participating in the scheme, although only seven sites produced agreed data for inclusion in the corporate performance measure for 1996-97. In April 1997 Her Majesty’s Inspectorate of Constabulary agreed to amend their performance indicators for police forces to include information on file timeliness and quality agreed with the CPS. They are collecting this data from the forces operating joint performance management and are encouraging other forces to participate.
Appendix 5

Area performance against selected corporate performance measures, 1996-97

These graphs show the relative performance of the CPS’s 13 Areas in 1996-97 against the corporate performance measures relating to the issues addressed in this report - quality, the timeliness of discontinuance and the timeliness of case preparation. The best performance is shown to the right of each graph.

Quality

1.1 The percentage of advice cases which fail to meet the quality standard for the decision making process

1.2 The percentage of prosecution cases which fail to meet the quality standard for the decision making process

1.3 The percentage of advice cases which fail to meet the quality standard for casework decisions

1.4 The percentage of prosecution cases which fail to meet the quality standard for casework decisions

1.5 The percentage of CPS advocacy which fails to meet the national quality standard

Note: no data available for the South West (11)

Key

1 Anglia
2 East Midlands
3 Humber
4 London
5 Mersey/Lancashire
6 Midlands
7 North
8 North West
9 Severn/Thames
10 South East
11 South West
12 Wales
13 Yorkshire

Note: Area performance may be affected by the performance of other agencies in the criminal justice system. For example, if the police submit files that are late or of inadequate quality, CPS decisions or case preparation may be delayed, for example while further information is sought.

Source: Crown Prosecution Service
Area performance against selected corporate performance measures, 1996-97

Quality

1.6 The percentage of cases dismissed on a submission of no case to answer in the magistrates’ courts

1.7 The percentage of non-jury acquittals and bind overs in the Crown Court

Timeliness of discontinuance

3.1 For those cases which have to be discontinued, the percentage of cases discontinued after the first hearing but before subsequent hearings

3.2 For those cases which have to be discontinued, the percentage of discontinuations made within 42 days of receipt of a file from the police

Key

1. Anglia
2. East Midlands
3. Humber
4. London
5. Mersey/Lancashire
6. Midlands
7. North
8. North West
9. Severn/Thames
10. South East
11. South West
12. Wales
13. Yorkshire

Note: Area performance may be affected by the performance of other agencies in the criminal justice system. For example, if the police submit files that are late or of inadequate quality, CPS decisions or case preparation may be delayed, for example while further information is sought.

Source: Crown Prosecution Service
Timeliness of case preparation

4.1 The percentage of advance disclosure sent within 5 days of the CPS being aware of the name of the defence solicitor and in possession of a file in either way cases

4.2 The percentage of cases where witness wanting information is sent to the police 14 days (10 days in custody cases) before the date of a summary trial

4.3 The percentage of Crown Court cases in which the brief is delivered to Counsel within 14 days (21 days in non-standard fee cases) of committal

5.1 The percentage of cases in which advice is sent to the police within 14 days of receipt of a file requesting advice

5.2 The percentage of cases in which the review of new case papers is carried out within 5 days of receipt of a file from the police

5.3 The percentage of cases in which the committal papers are sent to the defence within 14 days (10 days in custody cases) of receipt of a full file for committal from the police where certified as trial ready

Note: Area performance may be affected by the performance of other agencies in the criminal justice system. For example, if the police submit files that are late or of inadequate quality, CPS decisions or case preparation may be delayed, for example while further information is sought.

A key to the 13 Areas is on page x.

Source: Crown Prosecution Service
Appendix 6

Performance monitoring in the Crown Prosecution Service

1 The CPS has eight corporate performance measures and 25 related indicators as set out in Table 3 at the end of this Appendix. We assessed these measures and indicators against the following good practice criteria, based on Treasury guidance to departments to assist in preparing Resource Accounts.

Relevance

Criteria: the measures chosen should be relevant to the needs of users of the performance information. In particular, the measures selected should be those which contribute best to a complete understanding of the main activities of the CPS and the extent to which it is meeting its aims and objectives. The number of measures provided should not be so great that users are swamped with data.

2 The performance measures and indicators of the CPS cover the range of the organisation’s functions of advice, review and preparation of prosecutions, and advocacy. Of the 25 related indicators, 21 cover the timeliness (14) and quality (seven) of the CPS’s main outputs, three measure use of resources and one cost.

3 A number of the eight objectives are, by comparison, broad (“to improve our management of performance”) and/or difficult to measure (“to explain and promote the role of the Crown Prosecution Service in the criminal justice system”). Two of the eight have no corporate performance measure. Others relate to up to four measures and up to 12 of the 25 indicators. Table 4 at the end of this Appendix shows these relationships and identifies the gaps. Some of the objectives are supported by initiatives which are not directly reflected in the performance indicators, such as common initiatives under the auspices of the Trials Issues Group and joint training with the police.

4 Corporate performance measure 2 (relevant to objective 3) and the related indicators are a measure of police rather than CPS performance. The timeliness and content of police files are critical to the CPS’s work, and the CPS seeks to influence performance by working closely with local police forces. The CPS therefore needs to monitor police files, but using the related measure as a measure of the CPS’s performance is inappropriate and potentially misleading.
The branches we visited considered that the new measures focused on important and relevant aspects of local performance. Comparisons could, however, be more meaningful if they took account of the context in which individual branches operate. For example, the circumstances of a branch covering a single large magistrates’ court in a city and relating to a police force dealing with urban crime would differ greatly from a branch serving many small, outlying magistrates’ courts and with a rurally based police force. A better basis for comparison might be achieved by developing “families” of branches with similar characteristics.

Twenty-five indicators, whilst extensive, is not an unreasonably high number for a large and complex organisation such as the CPS. It is, however, a large number for reporting to lay users, which the CPS has done in its annual report. This reporting needs to be carefully handled in order to avoid confusing the report’s audience; it is generally considered to be good practice to focus on no more than 10 key indicators for external reporting.

Meaning

Criteria: lay users should be readily able to interpret the performance information, and should not normally require technical knowledge of the department’s detailed activities or of special techniques in order to do so. The measures should not give a misleading view of performance and should be unambiguous; in particular, the rise (or fall) in the value of a measure should be clearly identifiable as a sign of improvement (or deterioration).

The performance indicators selected provide a fair and balanced view of performance. Individual indicators are unambiguous in that a rise or fall in the indicator is linked to a rise or fall in performance. However, not all the indicators are easy to interpret. The wording is sometimes long and complex, with reliance on technical legal terms; for example, indicator 4.1 “the percentage of advance disclosure sent within five days of the CPS being aware of the name of the defence solicitor and in possession of a file in either way cases”. Measures which relate to the CPS’s quality or advocacy standards would be difficult for most users to interpret because the standards are not published. These constraints again require careful handling in external reporting.

The first of the two targets for discontinuance is potentially misleading. For those cases which have to be discontinued, the target is to increase to 60 per cent the proportion of cases discontinued after the first hearing but before subsequent hearings, implying that this is the optimum stage at which to discontinue a case. The true position is that cases should be discontinued as early as possible,
consistent with the need to consult the police. The target originally reflected this but was changed to allow time to accommodate consultation with the police. However, prosecutors might now be unintentionally encouraged to delay discontinuance unnecessarily until after the first hearing in order to meet the target. The simplest solution might be to reverse the target, with the objective being to reduce the proportion of cases discontinued at or after a second hearing.

**Comparability**

Criteria: the indicators should permit valid comparisons using meaningful, pre-set targets. Targets should be absolute (set at a specific level such as 90 per cent), rather than relative (envisaging a non specific change compared with the performance in the previous year).

Only one absolute target (for responses to MPs’ correspondence) was set for 1996-97. All other targets for that year were relative, aiming for an increase or decrease on the previous year. The CPS considered that there were insufficient data on historical performance to allow realistic absolute targets to be set. However, data were available on case dismissals, non-jury acquittals, timeliness of discontinuance, timeliness of witness expense payments, unit costs, staff resignation rates and the vacancy level for key posts, and these could have been used to set absolute targets for 1996-97.

The CPS has set 25 quantified targets for 1997-98. Of these, 14 are absolute and 11 are relative. The absolute targets are expressed as a percentage of cases to be achieved, based on performance in 1996-97, trends from previous years, where available, and the range of performance being achieved locally.

**Accuracy, consistency and verifiability**

Criteria: measures should be recorded and stated to a level of accuracy sufficient to enable users to judge performance and to identify any significant changes. There should be adequate systems and controls to ensure that the data produced are unbiased, and to prevent or detect any improper manipulation. Measures chosen should, as far as possible, be consistent year on year, and compiled on a consistent basis across the organisation to allow for accurate year on year comparisons. Where the basis for compilation changes, prior year figures should be restated. The data which form the basis of the measures should be recorded so that others can reperform the exercise and verify the figures.
The revised corporate performance measures and associated indicators, introduced in 1996-97, were significantly different from the indicators developed in 1991, and there were no historical data for some of the new measures to enable comparisons with performance prior to 1996-97. The CPS aims to retain the current indicators into the foreseeable future. The underlying data are recorded in sufficient detail to enable the reported results to be verified and to permit restatement of earlier years’ figures, if the basis of compilation were to be changed.

We reviewed the data collection arrangements at the branches we visited. Branches collect a wide range of data on the number and types of cases received, how cases are dealt with and case outcomes. These data are used to generate branch performance indicators, such as the quality of casework decisions, case dismissal rates and timeliness of file review. Branches prepare monthly reports of their performance for the Area office and use the measures to set objectives and to monitor the performance of individual teams.

We did not undertake a detailed examination of the adequacy of controls to prevent or detect improper manipulation of data. The CPS gives guidance to staff on data collection and there are management checks on the accuracy of the data collected.

**Timeliness and presentation**

Criteria: results should be produced with the minimum of delay, and should generally relate to the most recent period for which they can be stated with reasonable confidence. The output and performance analysis should be set out in a way which promotes ease of use.

Most of the data are collected at branch level, usually with the minimum of delay. Performance against the revised performance indicators was presented in the 1996-97 annual report. Graphical presentation is likely to be more user friendly than raw data or statistics.
<table>
<thead>
<tr>
<th>Corporate performance measure</th>
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<tbody>
<tr>
<td>1. The quality of the casework decision making process, the quality of casework decisions and</td>
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<tr>
<td>the quality of CPS advocacy in the magistrates’ courts</td>
</tr>
<tr>
<td>1.1 The percentage of advice cases which fail to meet the quality standard for the decision</td>
</tr>
<tr>
<td>making process</td>
</tr>
<tr>
<td>* 0.9 per cent of cases failed</td>
</tr>
<tr>
<td>Performance in 1995-96</td>
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<tr>
<td>Target for 1997-98</td>
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<tr>
<td>1.2 The percentage of prosecution cases which fail to meet the quality standard for the</td>
</tr>
<tr>
<td>decision making process</td>
</tr>
<tr>
<td>* 1.2 per cent of prosecution cases failed</td>
</tr>
<tr>
<td>1.3 The percentage of advice cases which fail to meet the quality standard for casework</td>
</tr>
<tr>
<td>decisions</td>
</tr>
<tr>
<td>* 2.3 per cent of advice cases failed</td>
</tr>
<tr>
<td>1.4 The percentage of prosecution cases which fail to meet the quality standard for casework</td>
</tr>
<tr>
<td>decisions</td>
</tr>
<tr>
<td>* 3.0 per cent of prosecution cases failed</td>
</tr>
<tr>
<td>1.5 The percentage of CPS advocacy which falls to meet the national quality standard</td>
</tr>
<tr>
<td>* 1.5 per cent of assessments failed (recorded for the second half of 1996-97 only)</td>
</tr>
<tr>
<td>1.6 The percentage of cases dismissed on a submission of no case to answer in the magistrates’</td>
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<tr>
<td>courts</td>
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<tr>
<td>0.2 per cent</td>
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<tr>
<td>0.2 per cent dismissed</td>
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<tr>
<td>3.5 per cent of contested cases</td>
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<tr>
<td>1.7 The percentage of non-jury acquittals and bind overs in the Crown Court</td>
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<tr>
<td>12 per cent</td>
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<td>10 per cent non-jury acquittals and bind overs</td>
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<td>9 per cent</td>
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* new indicator in 1996-97

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<tbody>
<tr>
<td>2. Timeliness and content of police files (working jointly with the police)</td>
<td>2.1 The percentage of police files which fail to meet Trials Issues Group guidelines on timeliness, as agreed by the joint performance management mechanism</td>
<td>*</td>
<td>45.6 per cent of police files failed</td>
<td>To reduce percentage year on year</td>
</tr>
<tr>
<td></td>
<td>2.2 The percentage of police files which fail to meet Trials Issues Group guidelines on quality, as agreed by the joint performance management mechanism</td>
<td>*</td>
<td>49.8 per cent of police files failed</td>
<td>To reduce percentage year on year</td>
</tr>
<tr>
<td>3. The timeliness of discontinuance decisions</td>
<td>3.1 For those cases which have to be discontinued, the percentage of cases discontinued after the first hearing but before subsequent hearings</td>
<td>45 per cent</td>
<td>47.2 per cent discontinued after first hearing but before subsequent hearings</td>
<td>60 per cent</td>
</tr>
<tr>
<td></td>
<td>3.2 For those cases which have to be discontinued, the percentage of discontinuances made within 42 days of receipt of a file from the police</td>
<td>*</td>
<td>71.4 per cent discontinued within 42 days</td>
<td>87 per cent</td>
</tr>
<tr>
<td>4. CPS processing times in respect of advance disclosure, witness warning information and Crown Court case preparation</td>
<td>4.1 The percentage of advance disclosure sent within 5 days of the CPS being aware of the name of the defence solicitor and in possession of a file in either way cases</td>
<td>*</td>
<td>76.7 per cent sent within 5 days</td>
<td>80 per cent</td>
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<td></td>
<td>4.2 The percentage of cases where witness warning information is sent to the police 14 days (10 days in custody cases) before the date of a summary trial</td>
<td>*</td>
<td>88.2 per cent sent within time limit</td>
<td>90 per cent</td>
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<td></td>
<td>4.3 The percentage of Crown Court cases in which the brief is delivered to Counsel within 14 days (21 days in non-standard fee cases) of committal</td>
<td>*</td>
<td>61.3 per cent delivered within time limit</td>
<td>80 per cent</td>
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* new indicator in 1996-97 continued...
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<tbody>
<tr>
<td>5. Compliance with Trials Issues and other time guidelines for advice, review and committal.</td>
<td>5.1 The percentage of cases in which advice is sent to the police within 14 days of receipt of a file requesting advice</td>
<td>*</td>
<td>65.8 per cent sent within 14 days</td>
<td>75 per cent</td>
</tr>
<tr>
<td></td>
<td>5.2 The percentage of cases in which the review of new case papers is carried out within 5 days of receipt of a file from the police</td>
<td>*</td>
<td>65.3 per cent reviewed within 5 days</td>
<td>70 per cent</td>
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<tr>
<td></td>
<td>5.3 The percentage of cases in which the committal papers are sent to the defence within 14 days (10 days in custody cases) of receipt of a full file for committal from the police where certified as trial ready</td>
<td>*</td>
<td>51.3 per cent sent within time limit</td>
<td>60 per cent</td>
</tr>
<tr>
<td>6. Compliance with Citizen’s Charter commitments for:</td>
<td>6.1 The percentage of prosecution witnesses’ expenses sent within 5 working days of receipt of a correctly completed claim form</td>
<td>72 per cent</td>
<td>85.6 per cent within 5 working days</td>
<td>90 per cent</td>
</tr>
<tr>
<td></td>
<td>Response times for complaints</td>
<td>-</td>
<td>95.5 per cent within 10 working days</td>
<td>100 per cent</td>
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<tr>
<td></td>
<td>Response times for correspondence from Members of Parliament</td>
<td>-</td>
<td>85.4 per cent within 10 working days</td>
<td>85 per cent</td>
</tr>
<tr>
<td></td>
<td>6.3 The percentage of complaints replied to within 10 working days of receipt</td>
<td>-</td>
<td>90.1 per cent within 15 days</td>
<td>95 per cent</td>
</tr>
<tr>
<td></td>
<td>6.4 The percentage of responses to correspondence from Members of Parliament sent within 15 days of receipt</td>
<td>85 per cent</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>7. CPS unit costs</td>
<td>7.1 Unit costs in real terms</td>
<td>-</td>
<td>Not available</td>
<td>To reduce unit costs in real terms</td>
</tr>
</tbody>
</table>

* new indicator in 1996-97
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<tbody>
<tr>
<td>8. Whether the CPS is making the best use of its staff</td>
<td>8.1 The percentage of staff with the requisite competencies, skills and expertise for selection and appointment to designated key posts</td>
<td>*</td>
<td>21 per cent assessed as having further potential for promotion</td>
<td>To increase percentage year on year</td>
</tr>
<tr>
<td></td>
<td>8.2 The resignation rate for effective performers</td>
<td>*</td>
<td>2.2 per cent for lawyers</td>
<td>To reduce percentage year on year</td>
</tr>
<tr>
<td></td>
<td>8.3 The average number of days for which authorised vacancies of designated keyposts remain unfilled</td>
<td>*</td>
<td>5.4 per cent for administrators</td>
<td>To reduce percentage year on year</td>
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<td></td>
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<td></td>
<td>60 days</td>
<td>To reduce the average number of days</td>
</tr>
</tbody>
</table>

* new indicator in 1996-97
Two of the CPS’s objectives have no relevant performance indicators. The remaining six objectives are measured by between two and 12 indicators. Eight of the 25 indicators relate to more than one objective.

<table>
<thead>
<tr>
<th>CPS objectives</th>
<th>CPS performance indicators relevant to objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 To make high quality, consistent casework decisions.</td>
<td>7 indicators</td>
</tr>
<tr>
<td></td>
<td>The quality of the casework decision making process, of casework decisions and of CPS advocacy in the magistrates’ courts (performance indicators 1.1 to 1.7).</td>
</tr>
<tr>
<td>2 To provide timely advice to the police and timely and accurate information to the police and others.</td>
<td>12 indicators</td>
</tr>
<tr>
<td></td>
<td>The timeliness of discontinuance decisions (performance indicators 3.1 and 3.2).</td>
</tr>
<tr>
<td></td>
<td>CPS processing times in respect of advance disclosure, witness warning information and Crown Court case preparation (performance indicators 4.1 to 4.3).</td>
</tr>
<tr>
<td></td>
<td>Compliance with Trials Issues and other time guidelines (performance indicators 5.1 to 5.3).</td>
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<tr>
<td></td>
<td>Compliance with Citizen’s Charter commitments for timeliness (performance indicators 6.1 to 6.4).</td>
</tr>
<tr>
<td>3 To work closely with the police and others in the criminal justice system to secure and marshal the information needed for effective casework decisions.</td>
<td>2 indicators</td>
</tr>
<tr>
<td></td>
<td>Timeliness and content of police files (working jointly with the police) (performance indicators 2.1 and 2.2).</td>
</tr>
<tr>
<td>4 To explain and promote the role of the CPS in the criminal justice system.</td>
<td>No corporate performance indicator</td>
</tr>
</tbody>
</table>
## Table 4 continued

<table>
<thead>
<tr>
<th>CPS objectives</th>
<th>CPS performance indicators relevant to objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. To identify and pursue issues of common interest with other criminal justice system agencies to improve the efficiency of the criminal justice system as a whole.</td>
<td>7 indicators</td>
</tr>
<tr>
<td></td>
<td>Timeliness and content of police files (working jointly with the police) (performance indicators 2.1 and 2.2)</td>
</tr>
<tr>
<td></td>
<td>CPS processing times in respect of advance disclosure, witness warning information and Crown Court case preparation (performance indicators 4.1 to 4.3).</td>
</tr>
<tr>
<td></td>
<td>Compliance with Trials Issues and other time guidelines (performance indicators 5.1 and 5.3).</td>
</tr>
<tr>
<td>6. To devolve responsibilities to the lowest appropriate level.</td>
<td>No corporate performance indicator</td>
</tr>
<tr>
<td>7. To improve the management of performance.</td>
<td>4 indicators</td>
</tr>
<tr>
<td></td>
<td>CPS unit costs (performance indicator 7.1).</td>
</tr>
<tr>
<td></td>
<td>Whether the CPS is making the best use of its staff (performance indicators 8.1 to 8.3).</td>
</tr>
<tr>
<td>8. To equip CPS staff to meet its business needs and encourage them to develop their full potential.</td>
<td>3 indicators</td>
</tr>
<tr>
<td></td>
<td>Whether the CPS is making the best use of its staff (performance indicators 8.1 to 8.3).</td>
</tr>
</tbody>
</table>