

Criminal Justice: Working Together



Report by the
Comptroller and Auditor General

Lord Chancellor's Department
Crown Prosecution Service
Home Office

Criminal Justice: Working Together

Ordered by the
House of Commons
to be printed 29 November 1999

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
23 November 1999

The Comptroller and Auditor General is the head of the National Audit Office employing some 750 staff. He, and the National Audit Office, are totally independent of Government. He certifies the accounts of all Government departments and a wide range of other public sector bodies; and he has statutory authority to report to Parliament on the economy, efficiency and effectiveness with which departments and other bodies have used their resources.

For further information about the National Audit Office please contact:

National Audit Office
Press Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

Tel: 0171-798 7400

email: nao@gtnet.gov.uk

Web site address: <http://www.open.gov.uk/nao/home.htm>

Contents

Executive summary	1
Recommendations	8
<hr/>	
Part 1: Introduction	19
Scope of this examination	21
Methodology	22
<hr/>	
Part 2: Planning the criminal justice system	25
Strategic management and planning	25
Accountability	28
Inter-agency groups	33
Local planning and liaison	35
<hr/>	
Part 3: Getting cases to court	45
How long it takes to get cases to court	46
Preparing cases	48
Reviewing and presenting cases	51
Taking and explaining prosecution decisions not to proceed	53
Ensuring legal aid requirements are met to enable the defendant to be represented	54
Arranging the first court hearing	56
Getting cases to court earlier	57
<hr/>	
Part 4: Handling cases in the magistrates' courts	61
Time taken to complete cases and the role of adjournments	63
Information currently collected on the number and causes of adjournments	66
National Audit Office survey findings	68
Addressing the causes of ineffective hearings	75

Part 5: Handling cases in the Crown Court	93
Information available on the time taken to complete cases tried in the Crown Court	95
Transferring cases from the magistrates' courts	97
Ensuring the prosecution case is properly presented	100
Cracked and ineffective trials	103
Reducing the number of cracked and ineffective trials through plea and directions hearings and case progression systems	107

Part 6: Managing information	115
Information technology and electronic links	115
Performance information for managers and users	121
Summary of issues to be addressed to improve management information and target setting	133

Appendices

1. Methodology	136
2. List of external bodies and individuals consulted	140
3. Expert panel members	141
4. Main changes to the criminal justice process arising from the Narey report and the Crime and Disorder Act 1998	142

Executive summary

1 Each year almost two million defendants pass through the criminal courts in England and Wales. The criminal justice process is complex, principally involving the police, the Crown Prosecution Service, the Probation Service, legal representatives of the defendant, magistrates and their court staff. More serious cases move on from the magistrates' court to the Crown Court and also involve the judiciary, Crown Court staff and prosecution and defence Counsel.

2 The independence of many of these participants from each other as well as from Government is important in protecting the rights of the defendant and the interests of justice. The need for independence does not however preclude the need for close co-operation between the participants. The success of the criminal justice system depends on whether it jointly meets the reasonable expectations of victims, defendants, witnesses and the wider public.

3 Important aspects of the criminal justice system have recently been subject to policy review and reform. The Home Office, the Lord Chancellor's Department and the Law Officers' Departments (which include the Crown Prosecution Service) have taken steps to improve joint management of the criminal justice system, including a Ministerial Steering Group and a Strategic Planning Group of senior officials, the publication for the first time of a strategic plan containing aims, objectives and targets for the criminal justice system as a whole, and a commitment to report on performance annually. Initiatives to improve collaboration and reduce delay, many of which were introduced in the Crime and Disorder Act 1998, have been piloted and are being rolled out nationally from November 1999.

4 Our report concentrates on the management and performance of the system in processing criminal cases through the adult courts. Overall performance depends on the police, the courts, the Crown Prosecution Service and the Probation Service working closely with each other as well as with defendants, their legal representatives, victims, witnesses and others. In particular our report considers these issues at local level where the impact of the criminal justice system is most felt and performance can vary widely.

5 The report contains over sixty detailed recommendations. Our key findings, conclusions and recommendations are summarised under three headings: performance, management and information.

Figure 1

Key players involved in progressing a case through the magistrates' courts



Key



Magistrates



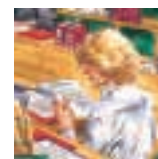
Witness



Police



Defendant's
Solicitor



Court Clerk



Probation Officer



Defendant



Crown Prosecutor



Prisoner Escort

Note: All these individuals would not necessarily be in the courtroom at the same time.

Performance

6 At present, all criminal cases that come before the courts are first heard in the magistrates' courts. The key players involved in progressing a case through the magistrates' courts are illustrated in Figure 1 opposite. Bottlenecks here impact not just on the large number of less serious cases completed, but also on the more serious cases that go on to the Crown Court. Effective and efficient handling of cases as they move through the magistrates' courts is therefore critical to the smooth running of the criminal justice system.

7 The limited information currently collected suggests that local performance in progressing cases is variable. In 1998 it took 81 days nationally on average to complete the more serious cases from the date of charge or summons. But it took less than 60 days on average in Barnet and Bromley and more than 100 days in Leeds, Walsall, Northamptonshire and Birmingham.

8 The number and length of adjournments granted by magistrates is a key factor in the time it takes to progress cases. Many adjournments result from standard court procedures. For example, where a defendant pleads not guilty at a hearing, the court will usually adjourn to allow time for the prosecution and defence to prepare for trial. Other adjournments are the result of factors over which the players in the case have some control; for example, where the prosecution or defence have had time to prepare but are not ready to proceed. In such cases the court hearing is likely to be ineffective because it has to be adjourned to a later date.

9 The Lord Chancellor's Department and Crown Prosecution Service separately collect information on the number of adjournments in magistrates' courts. Their figures suggest that between 1.8 and 2.6 million adjournments in total occur each year. On average, cases involving more serious offences have 2.6 adjournments prior to completion in the magistrates' courts. The initiatives under the Crime and Disorder Act 1998 are intended in part to reduce the number of adjournments, particularly in the early stages of a case. In the areas piloting the initiatives the number of adjournments in adult cases fell by an average of 1.2 adjournments per case.

10 There is no single national source of data on the causes of adjournments, and not all courts we visited collected local information on why adjournments occurred. We undertook a survey of adjournments, which suggested that some 40 per cent are a result of errors or omissions on the part of one or more of the participants. If our data are typical, about 700,000 ineffective hearings a year lead on average to additional delay of more than two weeks in the progress of each case,

and result in total wasted expenditure of at least £41 million each year. In the Crown Court scheduled trials that do not go ahead on the day result in waste of over £40 million each year.

Management

11 We found from our survey that about half of ineffective hearings in the magistrates' courts were caused by problems within, or in liaison between, the courts, the police, the Crown Prosecution Service, the Prison Service, the Prisoner Escort and Custody Service, and the Probation Service. Many of these problems have previously been identified but continue despite departmental guidance provided to local agencies to help tackle them.

12 A quarter of ineffective hearings in our survey were caused by defendants on bail not turning up at court. The Home Office will need to monitor closely the impact of reforms to procedures introduced in the Crime and Disorder Act 1998, which are designed in part to reduce the number of breaches of bail conditions.

13 A further quarter of ineffective hearings were caused by errors or omissions on the part of defendants or their legal representatives. Defence lawyers work in independent private practice and, although largely remunerated through legal aid, it is difficult for Departments to influence their performance. The Government proposes to provide criminal legal services through a mix of directly employed lawyers and firms of solicitors under contract. We believe the opportunity should be taken to incorporate standards for defence preparedness for hearings into contracts and ensure performance is closely monitored.

14 Magistrates decide whether an adjournment should be granted and for how long. They have to weigh the disadvantage of delaying a case against the risk to justice of proceeding when, for example, the defence or the prosecution consider they are not ready. Lay magistrates in particular need help to develop understanding of the need for and appropriate length of adjournments. We found that the sanctions available to magistrates to address unsatisfactory performance by local criminal justice agencies in preparing for hearings are ineffective and require review.

15 Although the effectiveness of the criminal justice system depends on the joint performance of agencies locally, the independence of many of the participants, including the courts and the police, inevitably constrain the extent to which Government Departments can directly ensure that local resources are used to best effect. In many areas they can only act by influence, persuasion and the promotion of good practice, and many of the co-operative initiatives within the

criminal justice system take place through consultation and partnerships in bodies that sit alongside, rather than within, Departments. Two such bodies – the Criminal Justice Consultative Council and the Trials Issues Group – have provided the main impetus to local collaborative working. They were set up in response to different initiatives, have different memberships and separate networks of local bodies to help implement their proposals.

16 One of the main constraints on local co-operative working is the different administrative boundaries of bodies within the criminal justice system, which inhibits familiarisation of each other’s policies and practices, strategic decision-making and practical co-ordination. We found that progress is being made towards aligning boundaries. Local Chief Crown Prosecutors are now in place in 42 Areas, matching local police forces (the Crown Prosecution Service London Area covers the Metropolitan Police Service and the City of London Police). The Home Office is re-organising the Probation Service into operational units which will also match these areas. There are proposals to reduce the number of Magistrates’ Courts Committees so that the number of local administrative areas will fall from the present 84 to 42 by 2001. The Lord Chancellor is consulting with the judiciary and the Bar to align judicial circuit boundaries with those of the other organisations.

17 Up until recently there was no national model for the local forum in which the police, crown prosecutors, defence solicitors, the courts and others should meet to liaise and jointly plan and monitor developments. We found there were three main different local groups through which liaison took place: Area Criminal Justice Liaison Committees and local Trials Issues Groups, which are the local fora of the Criminal Justice Consultative Council and the national Trials Issues Group, and Court User Groups.

18 We believe that the growing alignment of administrative boundaries provides an opportunity to rationalise liaison arrangements. From April 2000 the Area Criminal Justice Liaison Committees, which will be aligned with the 42 Areas and renamed Area Criminal Justice Strategy Committees, will take on a strategic role to develop local plans and performance targets agreed by all the criminal justice agencies and reflecting the overall aims and objectives set in the national strategic plans. We believe that Departments should consider how the accountability of these bodies for achieving national objectives locally will work in practice, and their precise relationships with other local groups.

Information

19 Modern information technology has an important role to play in improving the quality, relevance, and timeliness of management information available to local managers. It also provides scope for improving communication and information transfer between agencies by speeding up contact and information flows through electronic links.

20 Information systems have historically been developed in isolation by each of the separate criminal justice agencies. Moves towards the automated exchange of information have been slow and constrained by the number of different systems in use, and by the fact that they were not designed to communicate with each other. The track record in developing and implementing major information technology projects within the criminal justice system is not good. For example, full implementation of a new system throughout all magistrates' courts is planned for 2004, some 15 years after the need for a replacement system was first identified. And after delays in implementing a new case tracking system started in 1990, the Crown Prosecution Service decided to halt its full implementation in December 1997. Existing systems are being maintained and the Crown Prosecution Service will be introducing new information technology infrastructure from 2000-2001. The Crown Prosecution Service expects to introduce a new case management system, as part of a new managed service provided by an external partner, from 2001-2002.

21 Departments have launched a new initiative, aimed at strengthening the joint-departmental machinery for integrating information systems and related business processes across the criminal justice system. The initiative is being developed against a background of major investment in new computer systems and services by all the main criminal justice agencies, most of which have already entered into contracts. Implementation is expected to take up to six years and will depend in some areas on the willingness of local bodies to adopt the systems being offered nationally. Departments face a major challenge in co-ordinating delivery of these systems and, in particular, maximising the benefits of information exchange without unduly adding to the length of projects and the frustration of local managers at the consequent delay.

22 Information technology in itself cannot ensure that relevant information is available to managers. Many of our recommendations reflect the need to collect better and more consistent information across the different local criminal justice agencies, irrespective of the systems being used. For example, without local information on the precise causes of adjournments, it is difficult for magistrates to progress the case effectively, or for managers to discuss the problem with those

who are responsible and agree the action needed to reduce the number of ineffective hearings. We recommend that the causes of all adjournments are formally agreed and recorded on case files and that this information is analysed and presented for discussion and action at local inter-agency meetings as well as collated nationally.

23 A great deal of performance information is already collected. But much of it focuses on the performance of individual agencies, rather than the joint performance of participants or overall performance of the system. A number of positive initiatives have been undertaken including joint performance management by the police and the Crown Prosecution Service, first piloted in 1995, covering the quality and timeliness of case files in preparation for the first court hearing, the reasons for discontinuing cases in magistrates' courts, and Crown Court acquittals. We believe there is scope for further joint performance management, for example between the police, courts and Crown Prosecution Service on witness care, and between the Probation Service and courts on the provision of pre-sentence reports.

24 Improvements in the quality and consistency of information, together with the improved information systems on which the Departments are already working, should create new scope for analysing the behaviour of the criminal justice system and understanding how its performance can be improved. It should for example become possible to model alternative scenarios and assess options more systematically.

25 Achievement of the new national strategic targets for the criminal justice system as a whole will depend on local action. Departments will need to obtain better and more relevant intelligence about what is happening locally to verify that real improvements in performance are being made. They have made a start by setting performance measures for the criminal justice system as a whole but it will be a major challenge to identify and collect the information needed to monitor progress. For example, there are problems with the quality, completeness, consistency, relevance and transparency of the basic data agencies currently collect on the timeliness with which cases are processed through the criminal justice system. Our report sets out the actions required to improve management information and target setting. Most importantly these include the need for agreement between agencies at local and national level about what information should be collected and how it should be used to determine joint action to improve performance.

Recommendations

Planning the criminal justice system

1 To reduce the potential for duplication of effort and to improve local understanding of their respective roles, we recommend that the new terms of reference, membership, and forward work programmes of the Criminal Justice Consultative Council and the Trials Issues Group and the relationship between them are set out in one document to be made available to managers throughout the criminal justice system.

2 The Trials Issues Group has played a key role in developing inter-agency initiatives including joint performance management. While the issues covered by the Group are published, more detailed findings and recommendations are not widely circulated. We recommend that the Trials Issues Group considers whether any of its work could be published as more formal good practice guides and distributed more widely.

3 Departments should consider how the accountability of the new local Strategy Committees for implementing the national criminal justice system strategy can be strengthened, for example by creating a more direct link between them and the Strategic Planning Group.

4 Chief officers of local agencies should ensure that the local strategic plans agreed by the Strategy Committees are binding on local organisations. The responsibilities of each organisation to work towards the agreed plans should be defined in multi-lateral service level agreements or concordats.

5 The Departments, in consultation with local agencies, should consider how the local Trials Issues Groups can be more explicitly linked to the Strategy Committees so as to help implement the agreed local strategy and to help manage any initiatives agreed by the Strategy Committees.

6 In view of our local findings that much of the practical cross-agency liaison in support of performance improvement is currently carried out by Court User Groups, the Departments should also consider their future place in the new arrangements.

7 In view of the wider role envisaged for the new Strategy Committees, Departments and local agencies will need to consider arrangements to ensure the Committees have appropriate administrative support.

8 The Departments should consider appropriate arrangements to ensure that performance against strategies and plans is regularly reviewed.

Getting cases to court

9 Local police forces and Chief Crown Prosecutors should:

- refine their data collection to improve the quality of monitoring under the joint performance management initiative;
- develop the monitoring to identify whether there are particular types of case or procedures which give rise to disappointing performance on the timeliness and quality of file preparation, including the appropriateness of initial charges prepared by the police;
- take appropriate management action to address the problems identified by the monitoring.

10 Because of changes made under the Crime and Disorder Act 1998, the Crown Prosecution Service's performance indicator on case review has been withdrawn. The Crown Prosecution Service should consider replacing the withdrawn performance indicator with a measure of the number of cases that the Crown Prosecution Service is ready to proceed with at the first hearing.

11 Where the Crown Prosecution Service decides to use designated caseworkers, it should monitor the impact of the change and, as suggested by its Inspectorate, work with the courts to ensure that listing arrangements enable caseworkers to be used fully, so that lawyers can be released to carry out more complex work.

12 In introducing designated caseworkers across the Crown Prosecution Service, areas should monitor the impact of the change on other prosecution work.

13 The Departments should consider a wider evaluation of the early first hearing procedure including the impact on summons cases and court business generally.

Handling cases in the magistrates' courts

14 Departments should provide guidance to local agencies on the development of systems for capturing information on the causes of all ineffective hearings and for using it to develop strategies for reducing their number. Such systems would include:

- a requirement for the cause of each adjournment to be recorded on case files;
- the case file also to note the reason for application and the actions required by the parties;
- the collation and analysis of this information at regular intervals;
- the presentation of the analysis for discussion and agreement on appropriate action at local inter-agency liaison meetings.

15 Magistrates' court staff should:

- collect data to calculate the average time granted locally for different types of standard procedural adjournment;
- compare the performance of the court as a whole against other courts;
- identify inconsistencies and problem areas and develop strategies to address them;
- discuss and agree with other criminal justice agencies protocols to cover the length of adjournment to be allowed.

16 The Home Office should review whether the performance target requiring local probation services to meet court deadlines for providing pre-sentence reports is appropriate and whether a specific maximum target should also be set.

17 Those local probation services that have not yet done so should explore with courts the scope for using on the day specific sentence enquiries, with a view to reducing the number of adjournments required to prepare pre-sentence reports.

18 The Lord Chancellor's Department and magistrates' courts should monitor the new procedures which allow the police to serve concise witness statements with summonses in traffic cases, to ensure they are being used and that they lead to fewer adjournments and shorter case completion times.

19 The Lord Chancellor's Department should remind court clerks and magistrates of the importance of making clear to defendants the impact of breaches in bail conditions, particularly where the defendant has a history of breaches, and should examine ways in which the penalties for breach of bail can be made more effective.

20 The Home Office, Lord Chancellor's Department and magistrates' courts should collect data on the impact of those changes in bail procedures brought about by the Crime and Disorder Act 1998 to ensure they achieve their aim in reducing the number of bail breaches.

21 Magistrates' courts should develop protocols with local Benefits Agency offices to cover the provision of benefit entitlement information needed for legal aid applications.

22 Those magistrates' courts that do not already do so should consider developing and circulating guidance on legal aid requirements to local firms of solicitors.

23 The Home Office should review with police forces the provision of appropriate safe facilities in police stations to enable private and secure interviews between detainees and solicitors in order to avoid court adjournments requested by solicitors for this purpose.

24 The Lord Chancellor's Department, the Court Service, magistrates' courts and the Prison Service should review the arrangements for providing defendants' solicitors with access to defendants on remand with a view to reducing the number of ineffective hearings that currently result where there are problems.

25 The Home Office should review with police forces the provision of tape-copying facilities in police stations to ensure that adjournments to enable the defence to obtain a copy of the defendant's interview with the police are minimised.

26 Chief Crown Prosecutors should explore the reasons for the time taken to provide advance information to the defence and compare performance in their Area with other Areas. Crown Prosecution Service Headquarters should provide good practice guidance based on the working methods of the best performing Areas.

27 Those magistrates' courts that do not already do so should consider providing the defence solicitor's name to the Crown Prosecution Service to improve the availability of advance information to the defence before hearings.

28 Chief Crown Prosecutors should explore the reasons for the time taken to provide committal papers to the defence and compare performance in their Area with other Areas. Crown Prosecution Service Headquarters should provide good practice guidance based on the working methods of the best performing Areas.

29 The Criminal Defence Service should consider including standards in contracts for legal firms providing criminal legal aid services, as a means of reducing the number of ineffective hearings caused by the defence. Standards might require contractors to:

- deliver legal aid applications within a certain period;
- request advance information within a certain period, and to consider it;
- take all reasonable steps to ensure that full instructions are received from the defendant prior to the first hearing;
- warn defence witnesses within a certain period;
- attend all hearings including any preliminary hearings in the magistrates' courts and plea and directions hearings in the Crown Court;
- inform the prosecution and court of the defendant's plea as soon as possible and notify local probation services of any intention of a defendant to change a plea to guilty in advance of a plea and directions hearing;
- deliver briefs to Counsel to allow time for preparation in Crown Court cases.

30 In assessing firms' suitability for contracts and in monitoring performance, the Criminal Defence Service should consider consulting the courts about the standard of service provided by solicitors according to the criteria in recommendation 29.

31 The Trials Issues Group should evaluate the costs and benefits of pre-trial reviews in the light of the stronger case management powers available to single justices and court clerks, and consider issuing guidance on how to organise the reviews and the types of case in which they are most effective.

32 Local agencies should be encouraged to collect information on the reasons why witnesses do not attend court. Chief Crown Prosecutors, Crown Court Managers, Justices' Chief Executives, and police forces should consider using joint performance management to evaluate this information and identify action to improve performance. Targets should be set for the amount of advance warning given to witnesses.

33 The results of monitoring of late and non-delivery of prisoners should be discussed by the courts, the Prison Service and the Prisoner Escort and Custody Service in order to identify the action necessary to improve performance.

34 Clerks and magistrates should work together to:

- monitor the number and type of adjournments granted by individual magistrates to inform their future training;
- issue guidance to help magistrates to establish whether an adjournment is justified.

35 Magistrates' courts should:

- encourage parties to apply for adjournments early so where possible they can be granted outside court, thus saving court and attendance time and costs;
- ensure the progress of each case is monitored carefully and the parties chased to make progress where necessary.

36 The Lord Chancellor's Department should collect more detailed information on local practice in the award of costs against parties for acts of omission or negligence. The Department should use this information to review the effectiveness of costs orders as a sanction against delay.

37 Together with the magistracy, the Law Society and the Bar Council, the Lord Chancellor's Department should review the sanctions and levers available to magistrates to deal with errors or omissions by local criminal justice agencies that lead to avoidable adjournments.

Handling cases in the Crown Court

38 The Lord Chancellor's Department should ensure that magistrates' courts collect information on the time taken:

- between first hearing and completion of either-way cases completed in the magistrates' courts;
- between first hearing and completion of either-way cases that go on to the Crown Court;
- between first hearing and completion of indictable-only cases that go on to the Crown Court.

39 The Court Service should ensure that Crown Court centres collect information on the time taken:

- to complete either-way and indictable-only cases;
- from plea and directions hearing to trial;
- from the start of the trial to conviction or acquittal;
- from conviction to sentence;
- the total time taken to complete cases from the point they are received from the magistrates' courts.

40 The Lord Chancellor's Department and the Court Service should collate information on the total time taken to complete cases from charge/summons to completion in the Crown Court.

41 All magistrates' courts should monitor their performance in forwarding committal papers to the Crown Court against the statutory requirement of four working days.

42 The Lord Chancellor's Department should identify those magistrates' courts that perform well in transferring committal papers and issue good practice guidance.

43 In taking forward its proposals for improved listing procedures, the Court Service should undertake operational research to identify best practice.

44 The Crown Prosecution Service Inspectorate's review of advocacy should consider how our earlier recommendation that Chief Crown Prosecutors develop more explicit approaches to monitoring the performance of Counsel might be taken forward.

45 Chief Crown Prosecutors should:

- in consultation with local chambers, introduce systems for monitoring the number of returned briefs;
- compare performance in their Area with other Areas and discuss the results with local chambers.

46 The Crown Prosecution Service should monitor the impact of the use of employed solicitors rather than outside Counsel to present cases in the Crown Court. In particular, the Crown Prosecution Service should assess the expected benefit of improved case preparation.

47 The Court Service should encourage those Crown Courts with lower rates of cracked trials to identify and promulgate information on how this is achieved.

48 The Home Office and Lord Chancellor's Department should:

- collect information on the use of sentence discounts;
- evaluate their impact on defendant behaviour;

- review whether the system could be improved to ensure the intention of encouraging those defendants who plead guilty to do so as early as possible in proceedings is achieved.

49 The Court Service and Crown Prosecution Service should encourage the wider use of joint performance management to monitor and improve performance in reducing the number of cracked and ineffective trials.

50 The Court Service should consider whether there is a case for more flexibility in the use of plea and directions hearings, in particular by appropriate use of less costly paper-based systems where these provide an effective replacement to a hearing in Court.

51 In taking forward its proposals to change Crown Court procedures, the Court Service should ensure that appropriate forms of sanction are introduced to help manage cases robustly.

52 The Court Service and the Legal Aid Board should review whether the incentives available to defence Counsel for early preparation are effective.

53 Chief Crown Prosecutors should ensure that briefs to Counsel indicate the acceptable response to possible pleas offered by the defendant.

54 In drawing up its plans for the wider introduction of case management officers within the Crown Court, the Court Service should consider the need to deploy staff of sufficient calibre and seniority to take on the role effectively.

Managing information

55 Departments should continue to work together to develop common information standards and definitions for use throughout the criminal justice system. There should be a single definition of “case”, comparable across the criminal justice system.

56 The Board of the new inter-agency initiative for Integrating Business and Information Systems (IBIS) across the criminal justice system should ensure that links with defence solicitors are fully covered in the strategic plans for integration.

57 Departments should bring together key performance statistics from Criminal Statistics, Judicial Statistics and other Departmental and agency publications in the proposed annual report on the criminal justice system.

58 The Lord Chancellor's Department should review the case progression timeliness targets and indicators it sets for magistrates' courts to ensure that they:

- provide for transparent measurement over time;
- provide incentives to those courts which are already performing better than the existing national target.

59 The Lord Chancellor's Department and Court Service should group similar courts together for performance monitoring, to allow local managers to make meaningful comparisons in performance data.

60 Until more regular and timely information on the timeliness of case progression is available through new computer systems, the Lord Chancellor's Department should take steps to improve the usefulness of the current data it collects by:

- asking internal audit to undertake sample verification of local returns;
- distinguishing more transparently bail from custody cases.

61 The Departments should consider how to develop the work started by the Flows and Costs Model and the Crown Court Costs and Performance Model so that improved information on the unit costs across the criminal justice process can be made available.

62 To improve management information and target setting in the criminal justice system Departments and local agencies need to address the issues set out in Figures 60 and 61 of this report. These include the need to ensure information is based on common definitions and standards, is reliable, accurate and validated, reflects the process as a whole, and is able to demonstrate the cost implications of different procedures.

63 Local agencies should agree frameworks to govern the core or key management information that needs to be collected in order to meet local and national targets and how it should be presented to promote joint working and understanding.

Figure 3

Key people and responsibilities in progressing criminal cases in England and Wales

Police

- 125,000 police officers and 57,000 civilian staff are employed by 43 independent forces, each headed by a Chief Constable or a Commissioner.
- Expenditure in 1997-98 of £7.1 billion of which £3.7 billion was provided from the Home Office and the remainder from local authorities.
- Responsible for investigating criminal offences, and have other key priorities including maintaining order, community support and visibility.



Crown Prosecution Service

- 5,500 staff, a third lawyers, are employed by a national Crown Prosecution Service organised into 42 areas, one for each police force area outside London and one for the area covered by the Metropolitan Police and the City of London Police.
- Expenditure in 1997-98 of £321 million, funded from the Exchequer.
- Responsible for prosecuting criminal cases investigated by the police.



Defence solicitors and barristers

- Around 11,000 solicitors¹ and 11,000 barristers, including 1,000 Queen's Counsel, in individual legal chambers or firms.
- Paid under legal aid regulations fees totalling £700 million in 1997-98.
- Under instructions from defendants, solicitors prepare and present the defence case in the magistrates' courts, while barristers usually carry out the defence advocacy in the Crown Court. Barristers may also act as prosecuting counsel on behalf of the Crown Prosecution Service. Many solicitors and barristers also do civil legal work.
- Both solicitors' firms and barristers' chambers are independent private practices. Solicitors and barristers must be members of their professional association in order to practise. Barristers are registered with the Bar Council and solicitors with the Law Society and have professional ethics with which they are expected to comply. Claims for legal aid must be presented in accordance with statutory regulations.



Magistrates' courts

- 30,500 magistrates (of which about 180 are stipendiary magistrates who have legal qualifications) and 10,800 staff operate in about 460 courts organised into 84 independent Magistrates' Courts Committee areas.
- Expenditure in 1997-98 of £350 million, funded 80 per cent from the Lord Chancellor's Department and 20 per cent from local authorities.
- Responsible for hearing all cases. Magistrates sentence defendants found guilty in less serious cases, and commit more serious cases (for trial or sentence) to the Crown Court. Magistrates also hear some non-criminal and family cases.



Crown Court

- 682 judges and 1,200 recorders and assistant recorders (the judiciary) and 2,200 staff operate in 90 court centres organised into six areas.
- Expenditure in 1997-98 of £171 million funded by the Court Service.
- Responsible for trying more serious cases, sentencing defendants committed by magistrates, and hearing appeals against conviction or sentence in the magistrates' courts.



Probation Service

- Expenditure of £537 million funded by the Home Office and local authorities.
- 14,606 staff organised in 54 local bodies.
- Responsible for producing more than 200,000 reports each year to inform sentencing.



Note: 1. A Law Society survey showed that around 11,000 solicitors in private practice regularly conducted criminal business during 1997.

Sources: Criminal Justice System Strategic Plan 1999-2002; National Audit Office

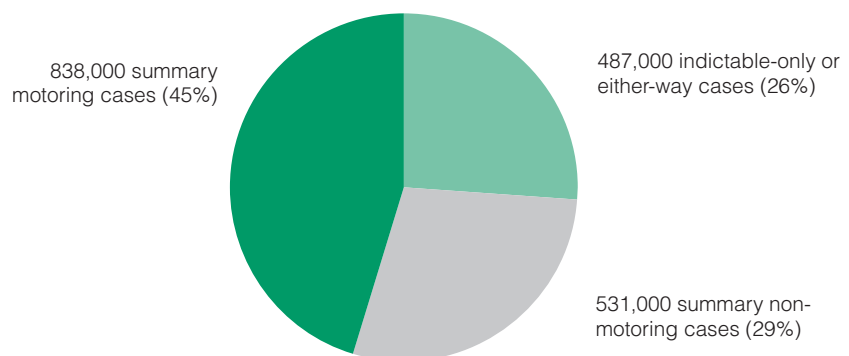
Part 1: Introduction

1.1 Each year the criminal courts in England and Wales deal with almost two million defendants (Figure 2). The criminal justice process is complex, involving a number of separate organisations whose independence is important in protecting the rights of the individual and the interests of justice. Key facts about the main people involved in processing criminal cases – the police, prosecutors and staff of the Crown Prosecution Service, magistrates and staff in the magistrates' courts and, for more serious cases, the judiciary and staff in the Crown Court – are shown in Figure 3 opposite. Defendants are usually represented by lawyers, publicly funded from legal aid. Cases may also require work by others such as probation officers, the Forensic Science Service, independent experts, professional witnesses and, where defendants in custody are brought to court, the Prison Service and the Prisoner Escort and Custody Service. The key stages in the prosecution of a criminal case through the courts are shown in the pullout Figure 4 overleaf.

The number and type of cases dealt with in the criminal courts in 1997

Figure 2

The criminal courts dealt with 1.9 million defendants in 1997. Nearly three-quarters of cases involved the least serious "summary" offences that can be tried only in a magistrates' court. Of the remaining more serious offences, 127,000 cases went on to the Crown Court.



There are three categories of criminal case:

Summary cases (for example, disorderly behaviour and minor road traffic offences). 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 may be tried either by magistrates or in the Crown Court. They are committed to the Crown Court if the magistrates decide the case would be more appropriately dealt with there, for example because of the gravity of the case, or if the defendant elects trial by jury.

Indictable-only cases (for example, murder, rape and robbery). These most serious cases always go on to be tried in the Crown Court, which has greater sentencing powers.

Notes: 1. Criminal Statistics do not show indictable-only and either-way cases separately.

2. This data includes cases prosecuted by bodies other than the Crown Prosecution Service.

Figure 4

Prosecution of a criminal case from charge or summons to disposal by the courts

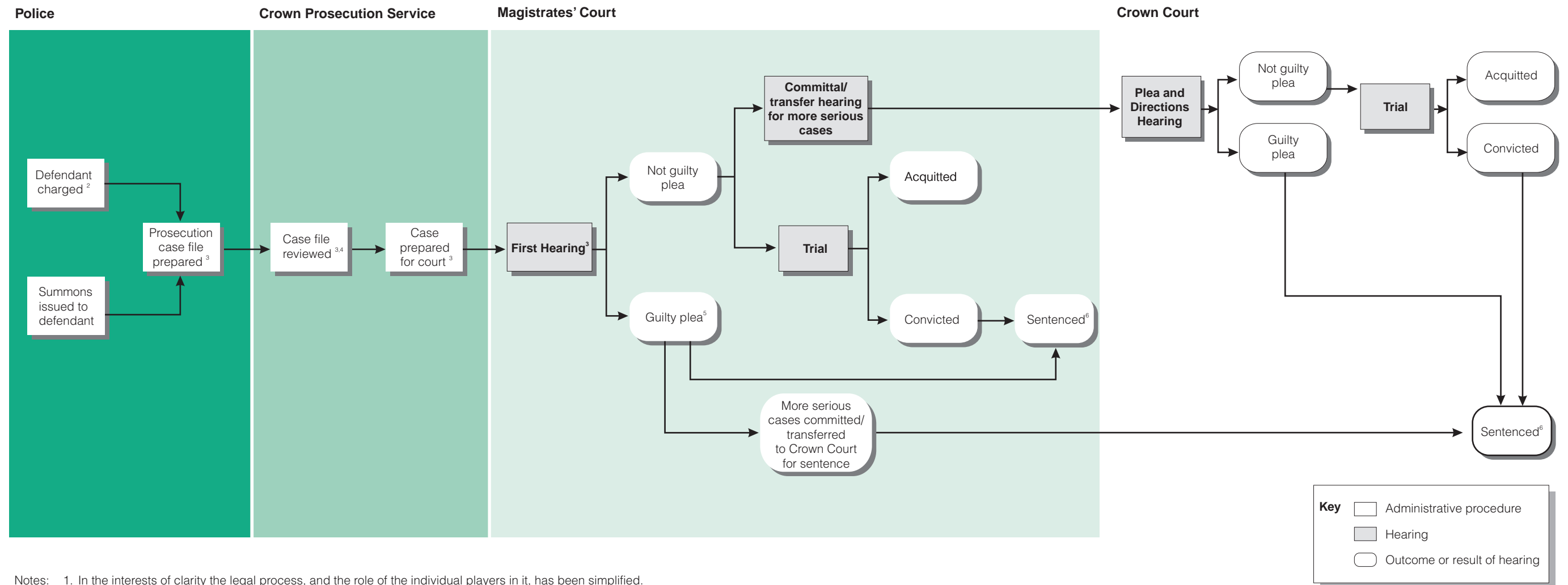
Figure 4
overleaf



Figure 4

Prosecution of a criminal case from charge or summons to disposal by the courts

This shows the key stages in the prosecution of a criminal case as it moves through the system from charge or summons to disposal by the courts¹.



- Notes:
1. In the interests of clarity the legal process, and the role of the individual players in it, has been simplified.
 2. During the period from charge to the first hearing, the defendant is expected to find a solicitor, apply for legal aid and prepare his or her defence. The magistrates' court processes the defendant's legal aid application.
 3. From 1 November 1999, the Crime and Disorder Act 1998 provides for the first hearing to take place within one or two days of charge. Crown Prosecution Service staff will work in police stations and review files very soon after preparation so that queries can be resolved.
 4. The Crown Prosecution Service may decide at case review or later to discontinue a case where there is insufficient evidence to proceed or where prosecution is not considered to be in the public interest.
 5. Plea may be by post in certain summons cases.
 6. The Court may direct the Probation Service to prepare a report on the defendant prior to sentence. This will lead to a further hearing for the report to be considered and sentence passed.

1.2 As a criminal case moves from charge by the police or summons by the court to hearings and completion in the courts, the criminal justice process crosses and re-crosses organisational boundaries. Each of the separate bodies within the criminal justice system has its role to play, but efficient and effective handling of a case depends on good co-operative working between them. In its recent White Paper on *Modernising Government* (Cm 4310), the Government recognised the need for all parts of government to work together better. The criminal justice system is a key area where such a “joined-up” approach is essential.

Scope of this examination

1.3 In taking evidence on our report on the *Crown Prosecution Service* (HC 400, 1997-98) in February 1998, the Committee of Public Accounts were concerned by the time taken to process cases and struck by the way in which the overall performance of the criminal justice system depended on the individual players working well together. We subsequently decided to undertake a wider examination of the criminal justice system, building on our previous work and addressing issues of inter-agency working. This report examines the management and performance of the system in processing criminal cases through the adult courts. It does not examine appeals procedures or the Court of Appeal.

1.4 We have not examined cases involving youth offenders. The processing of youth cases was the subject of a joint inspection *How long youth cases take* by Her Majesty’s Inspectorate of Constabulary, the Crown Prosecution Service Inspectorate and Her Majesty’s Magistrates’ Courts Service Inspectorate at the time of our examination.

1.5 This report considers the arrangements for planning the criminal justice system as a whole. It examines criminal justice agencies’ performance in managing cases through the courts, especially in those areas where overall performance depends on agencies working closely with each other as well as with defendants, their legal representatives, victims, witnesses and others. Finally, it considers the management of case and performance information. The report is arranged as follows:

- planning the criminal justice system (Part 2);
- getting cases to court (Part 3);
- handling cases in the magistrates’ courts (Part 4);

- handling cases in the Crown Court (Part 5);
- managing information (Part 6).

1.6 Important aspects of the criminal justice system have recently been subject to review or reform (Figure 5). Many of the recommendations or proposals are aimed at encouraging organisations to work more effectively together and tackle delay, and we refer to them throughout our report.

Figure 5

Recent reviews of the criminal justice system

Review of delay in the criminal justice system

This review, known as the Narey Report after its author, was published by the Home Office in February 1997 and made 33 recommendations aimed at expediting the progress of cases through the system. The Government accepted most of the recommendations and, where necessary, legislative provision was made in the Crime and Disorder Act 1998. The key changes have been piloted in six areas, and most are being introduced nationally from November 1999 (Appendix 4).

Review of the Crown Prosecution Service

In June 1997 the Government established an independent review, chaired by Sir Iain Glidewell, to examine the organisation and structure of the Crown Prosecution Service, and to consider what changes might be necessary to provide for more effective and efficient prosecution of crime. The Glidewell Review was published in June 1998 and made 75 recommendations on the internal management of the Crown Prosecution Service and the wider criminal justice system. The Government published responses in November 1998, April 1999 and June 1999. Most of the recommendations were accepted.

Joint departmental review of the criminal justice system

As part of the comprehensive spending review of public expenditure, published in July 1998, the Home Office, the Lord Chancellor's Department and the Law Officers' Departments (which include the Crown Prosecution Service) undertook a joint review of the criminal justice system, concentrating on how the planning and management of the system as a whole could be improved. Following the review the Government has established new structures designed to improve joint management of the criminal justice system.

Source: National Audit Office

Methodology

1.7 Full details of our methodology are in Appendix 1. The main elements were:

- visits to 11 magistrates' courts and six Crown Courts centres to examine local arrangements for case management and liaison with other criminal justice agencies. In two areas, we also visited the local Crown Prosecution Service branch and police force;

- a survey in 10 magistrates' courts to generate data on the causes of all adjournments that were granted during a particular week;
- a questionnaire survey of local criminal justice agencies and defence lawyers in 30 localities on their arrangements for inter-agency liaison;
- meetings with staff from the Lord Chancellor's Department, the Court Service, the Crown Prosecution Service and the Home Office;
- consultation with professional and representative organisations.

1.8 The location of the local agencies covered by our methodology is shown in Figure 6 overleaf.

1.9 We consulted the Audit Commission, whose follow-up report on youth justice *Misspent Youth* was published in June 1998. We shared emerging findings with the Crown Prosecution Service Inspectorate, Her Majesty's Inspectorate of Constabulary and Her Majesty's Magistrates' Courts Service Inspectorate whose joint review of youth cases ran parallel with our own. We also consulted Her Majesty's Inspectorate of Probation and Her Majesty's Inspectorate of Prisons.

1.10 During the course of our examination we consulted a range of external bodies and individuals. They are listed in Appendix 2. We also appointed a panel of advisers to review and comment on our findings. The purpose was to provide additional practical insights into the issues underlying our examination. The list of panel members is at Appendix 3.

1.11 Our examination drew on earlier reports we have published on the criminal justice system, including *Control and Management of Probation Services* (HC 377, 1989-90), *Promoting Value For Money in Provincial Police Forces* (HC 349, 1990-91), *Criminal Legal Aid Means Testing* (HC 615, 1995-96), *Administration of the Crown Court* (HC 639, 1993-94) and *Crown Prosecution Service* (HC 400, 1997-98). This report develops our earlier work, examining issues which affect the system as a whole and the way in which overall performance depends on criminal justice organisations working closely together.

Figure 6 Location of local agencies covered during examination



Source: National Audit Office

Part 2: Planning the criminal justice system

2.1 This part of the report considers the arrangements in place for organisations within the criminal justice system to plan together for the benefit of the system as a whole. It describes overall strategic management and planning, considers the constraints imposed by the accountability arrangements of some organisations within the system, and reports our findings on the strengths and weaknesses of liaison and co-operative planning at local level, where the impact of the criminal justice system is most felt. It is set out as follows:

- strategic management and planning;
- accountability;
- inter-agency groups;
- local planning and liaison.

Strategic management and planning

2.2 It is an important principle that the Attorney General in relation to individual prosecutions, the Lord Chancellor in relation to judicial appointments and the courts, and the Home Secretary in relation to the police should be independent in their decision making. Policy responsibility for the key agencies or services within the criminal justice system is therefore divided between the Home Office, the Lord Chancellor's Department and the Crown Prosecution Service, which operates under the superintendence of the Attorney General.

2.3 As part of the comprehensive spending review of public expenditure published in July 1998 (Figure 5), the Departments undertook a joint review of the planning and management of the criminal justice system. The review concluded that the criminal justice system did not operate as a "system", was not seen as a system by many of those who worked within it, and that there was no strong performance culture in many areas. A key problem was the lack of incentive for any individual agency to consider how its activities affected the performance and costs of others.

2.4 Following the review, the Government announced changes designed to improve joint management of the criminal justice system between the Departments. Key elements of the changes are shown in Figure 7 and include plans setting out aims, objectives and targets for the criminal justice system as a whole and annual reports on performance. Aims, objectives, performance measures and targets relevant to the dispensation of justice published in the first strategic plan are shown in Figure 8 opposite.

Figure 7

Progress in implementing key elements of the new planning arrangements for the criminal justice system

Main feature	Progress or expected progress
Unifying aims for the system as a whole supported by a small number of strategic objectives	Published in the public service agreement for the criminal justice system and the first strategic plan (see below)
A set of indicators against which the performance of the system as a whole can be measured	Under development (see Figure 8)
Three-year strategic plan	First plan was published in March 1999 and covers the financial years 1999-2000 to 2001-2002
Annual business plan	First plan was published in April 1999 and covers the financial year 1999-2000
Annual report on performance	First report will cover the financial year 1999-2000 and will be published in Autumn 2000

Source: Public Service Agreement for the Criminal Justice System

2.5 Responsibility and accountability for individual services and agencies within the criminal justice system will remain with the relevant Departments. Each will continue to be separately funded, set individual objectives and performance targets, and publish their own annual plans and reports. But it is intended that their objectives will be consistent, mutually reinforcing, and collectively capable of delivering the strategic objectives of the system as a whole.

Figure 8**Aim, objectives, performance measures and targets for the dispensation of justice**

Aim: To dispense justice fairly and efficiently, and to promote confidence in the rule of law

Objective	Performance measures and targets
To ensure just processes and just and effective outcomes	<ul style="list-style-type: none"> ■ A reduction in the rate of reconvictions for offenders by 31 March 2002 ■ A reduction in the rate of reconvictions of persistent young offenders by 31 March 2002 ■ Measure of just processes and outcomes to be formulated by 31 March 2000
To deal with cases throughout the criminal justice process with appropriate speed	<ul style="list-style-type: none"> ■ Halving the time from arrest to sentence for persistent young offenders from 142 to 71 days by 31 March 2002 ■ Interim target of a reduction of at least two days in the time from charge to sentence or other disposal (for all offenders) by 31 March 2000
To meet the needs of victims, witnesses and jurors	<ul style="list-style-type: none"> ■ New surveys to be developed by 31 March 2000, to measure the satisfaction levels of victims, witnesses and jurors with their treatment in the criminal justice system
To respect the rights of defendants and to treat them fairly	<ul style="list-style-type: none"> ■ Measure on the rights of defendants to be formulated by 31 March 2000
To promote confidence in the criminal justice system	<ul style="list-style-type: none"> ■ Target for an improvement in the level of confidence in the criminal justice system to be set by 31 March 2001

Source: Criminal Justice System Strategic Plan 1999-2002, Home Office, Lord Chancellor's Department, Attorney General

2.6 To support the new arrangements a Ministerial steering group consisting of the Attorney General, the Home Secretary and the Lord Chancellor is supported by a Strategic Planning Group consisting of senior Departmental officials. The Strategic Planning Group agrees the strategic aims, objectives and targets and the action needed to meet them. At a working level a Criminal Justice Joint Planning Unit has been set up by the three Departments to promote joint planning and management of the criminal justice system. The unit is made up of six staff drawn from the Home Office, Lord Chancellor's Department, Crown Prosecution Service and the Treasury. It will produce the strategic and business plans and annual reports of the system as a whole in conjunction with the Departments. It will also have a responsibility for the development, implementation and monitoring of the criminal justice system's strategic aims, objectives and performance targets.

Accountability

2.7 The funding and lines of accountability within the criminal justice system are shown in Figure 9 and Figure 10 overleaf. These arrangements have been shaped in part by the need to ensure that decision-making in individual criminal cases is free from interference by Government or Parliament. They inevitably constrain the extent to which Departments can directly ensure that local resources are used to best effect, in particular in the courts, the police and the Probation Service.

Figure 9 Funding and accountability of the main agencies and services in the criminal justice system

Agency or Service	Accountability	Funding
Crown Court	<ul style="list-style-type: none"> ■ The management of judicial business in the Crown Court is the responsibility of the Lord Chief Justice. The Court Service, an Executive Agency of the Lord Chancellor's Department, provides administrative support for the judiciary. ■ Local court staff are employed by the Court Service but on many matters such as the listing of court cases, they work under the direction of the judiciary. ■ The Chief Executive of the Court Service is accountable to the Lord Chancellor for the effective, efficient and economic management of the Agency's operations. ■ There is no inspectorate. 	Funded directly by central government.
Crown Prosecution Service	<ul style="list-style-type: none"> ■ Headed by the Director of Public Prosecutions, under the superintendence of the Attorney General. ■ 42 local Chief Crown Prosecutors are accountable to the Director of Public Prosecutions, who in turn is accountable to the Attorney General for the effective, efficient and economic management of the Crown Prosecution Service's operations. ■ Inspected by the Crown Prosecution Service Inspectorate, which is in the process of becoming independent. 	Funded directly by central government.
Magistrates' courts	<ul style="list-style-type: none"> ■ The magistrates' courts are a locally managed service. Magistrates' Courts Committees comprise local magistrates and are independent bodies, although the Lord Chancellor has some powers, for example to remove members if a committee is failing in its statutory duties. ■ Court staff are employed by 84 separate and independent Magistrates' Courts Committees. Neither the Lord Chancellor's Department nor any other central government department has direct control over the courts or their staff. Each Magistrates' Courts Committee has a statutory responsibility for the efficient and effective administration of justice in their area. ■ Inspected by Her Majesty's Magistrates' Courts Service Inspectorate, which is independent of the magistrates' courts. 	Central government provides local authorities with a grant to meet 80 per cent of each committee's costs with the remainder contributed by local government.

continued...

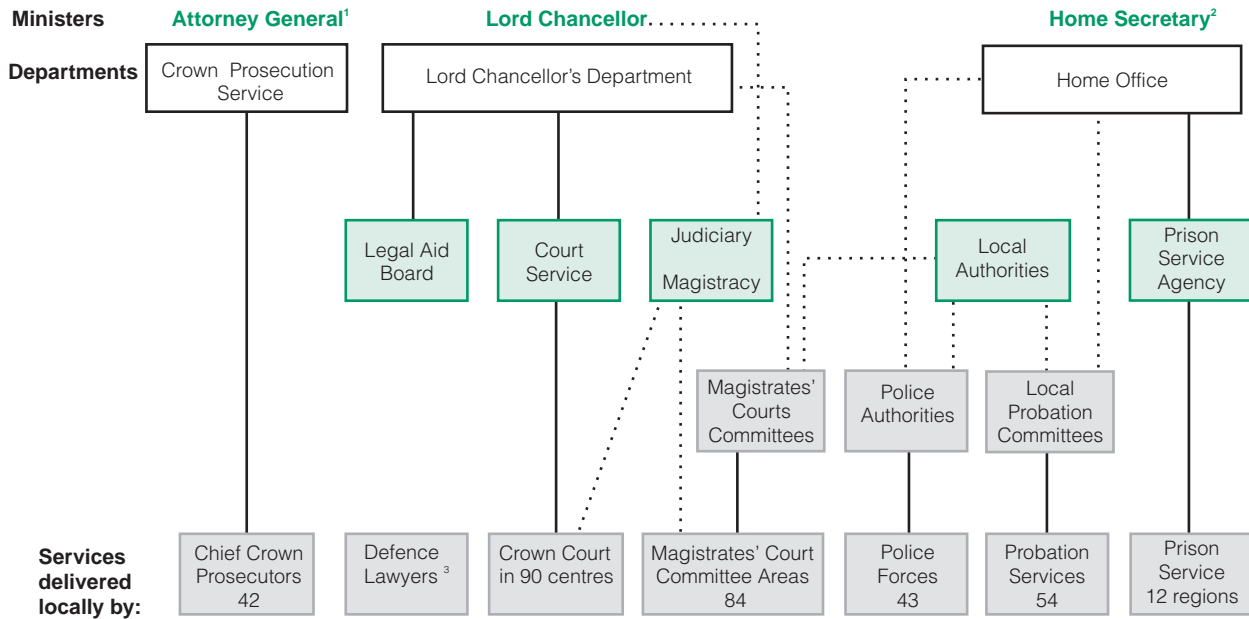
Figure 9**Funding and accountability of the main agencies and services in the criminal justice system**
continued

Agency or Service	Accountability	Funding
Police	<ul style="list-style-type: none"> ■ The Home Secretary is responsible for the organisation, administration and operation of the police service. ■ The 43 local police forces are controlled through a tripartite relationship between local Police Authorities, Chief Constables and the Home Secretary. This is designed to ensure that police operational activities are free from political interference, that the service is responsive to local issues and concerns, and that national standards of policing are maintained. Until July 2000 the Home Secretary is the Police Authority for the Metropolitan Police Service. ■ Inspected by Her Majesty's Inspectorate of Constabulary, which is independent of the police. 	Just over 50 per cent of funds come from Home Office police grant and the remainder through local authorities.
Prison Service	<ul style="list-style-type: none"> ■ The Prison Service is an Executive Agency of the Home Office under the direct operational command of the Director General who is accountable to the Home Secretary for the effective, efficient and economic management of the Prison Service's operations. ■ Treatment and conditions of those in custody inspected by Her Majesty's Inspectorate of Prisons, which is independent of the Prison Service. 	Funded directly by central government.
Probation Service	<ul style="list-style-type: none"> ■ Local probation services are accountable to 54 local probation committees. The committees are accountable to the Home Secretary for the strategic direction and performance of area services, but unless the committee concerned can be shown to have acted ultra vires, accountability for performance is limited. Probation services are free to deploy the resources allocated by central government as their committees see fit. ■ Inspected by Her Majesty's Inspectorate of Probation, which is independent of the Probation Service. 	Central government provides local authorities with a grant to meet 80 per cent of each committee's costs with the remainder contributed by local government.

Source: National Audit Office

Figure 10

Accountability of main bodies in the criminal justice system



- Notes: 1. The Attorney General is also responsible for the Serious Fraud Office and the Treasury Solicitor's Department.
 2. Until July 2000 the Home Secretary is the Police Authority for the Metropolitan Police Service.
 3. Defence lawyers currently operate in private practice and receive fees from the Legal Aid Board or the Crown Court.

Source: National Audit Office

The courts

2.8 The magistracy and judiciary are independent of Government and Parliament. Statutory responsibility for the administration of the magistrates' courts falls to 84 Magistrates' Courts Committees, each comprising up to twelve magistrates, and a Justices' Chief Executive who is responsible for the overall direction of the staff employed by the Committee. The Lord Chancellor's Department has no direct control over magistrates' courts or their staff. The Department's relationship with the magistrates' courts is shown in Figure 11.

Figure 11**Lord Chancellor's Department's relationship with the magistrates' courts**

Circulars	Circulars can be provided for guidance or information but the Lord Chancellor's Department cannot instruct magistrates or the courts.
Default powers	The Lord Chancellor may dismiss the chairman or any member of a Magistrates' Courts Committee if they fail to discharge any duty properly.
Funding	A relatively small proportion of funding was related to performance until 1999, and up to 2000-2001 historical budgets are being rolled over. The details of a new formula from 2001-2002 are currently being considered by the Lord Chancellor's Department.
Inspectorate	Her Majesty's Magistrates' Courts Service Inspectorate can inspect, report and make recommendations for improvement to the organisation and administration of magistrates' courts in a particular Committee area. The Access to Justice Act 1999 enables the Lord Chancellor to direct a Committee to implement a particular recommendation within a specified period.
Internal audit	The Lord Chancellor can authorise magistrates' courts' accounts to be audited by the Department's internal audit.
Management information	The Lord Chancellor's Department collates information on key aspects of performance. But the Department does not investigate the reasons for poor performance or advise on how performance could be improved as this is seen as a matter for local management.
Performance standards	Under the Justices of the Peace Act 1997, the Lord Chancellor can give directions to Magistrates' Courts Committees to meet specified standards of performance.
Reports and plans	The Lord Chancellor can require Magistrates' Courts Committees to submit to him such reports and plans as he may prescribe. But the Lord Chancellor's Department does not have the resources to study and respond in detail to these plans.
Training	The Lord Chancellor's Department helps to organise the training of Magistrates' Courts Committee staff.

Source: Lord Chancellor's Department

2.9 The Court Service Agency is responsible for providing administrative support for the Crown Court, but court staff work under the direction and authority of the judiciary. The separation of judicial and administrative functions is intended to ensure that judicial decisions remain outside the influence of Government.

The police

2.10 With the exception of the Metropolitan Police Service, police forces in England and Wales are controlled through a tripartite relationship between local Police Authorities, Chief Constables and the Home Secretary. The Police Authority for the Metropolitan Police Service is the Home Secretary until July 2000 when the new local government arrangements for London come into operation. Police Authorities decide force budgets and provide the resources necessary to police

their areas; Chief Constables exercise operational direction and control and they determine staffing levels in consultation with the Police Authority; the Home Secretary has general responsibilities for the police service as a whole, including the promotion of force efficiency. Funding comes from central and local government. In their 1991 report on *Promoting Value for Money in Provincial Police Forces* (HC127, 1991-92) the Committee of Public Accounts noted that the Home Office has no direct means of ensuring that resources are used to best effect and that it can act only by influence and persuasion and the promotion of good practice, for example through Her Majesty's Inspectorate of Constabulary. From April 2000 all police authorities will have a statutory obligation to demonstrate increasing efficiency, effectiveness and quality of their services. Performance will be inspected by Her Majesty's Inspectorate of Constabulary and the Audit Commission.

Probation Service

2.11 The Probation Service consists of 54 individual bodies accountable to independent probation committees, composed mainly of magistrates, which appoint staff, prepare budgets and are responsible for the efficient running of the service. The committees are corporate bodies and, within the framework defined by statute and probation rules, are largely autonomous of both the Home Office, which is responsible for the broad direction of probation policy, and local authorities, which initially fund the services. Local authorities reclaim from the Home Office up to 80 per cent of expenditure.

2.12 In their 1990 report on the *Control and Management of Probation Services in England and Wales* (HC259, 1989-90) the Committee of Public Accounts expressed concern over these accountability arrangements. They noted that the Home Office lacked the means, other than by persuasion, to ensure that the objectives and priorities of all probation services were in line with Government policy. And since they met only a small part of its costs, local authorities had little direct financial incentive to promote the role of the probation service or to seek value for money.

2.13 In August 1998 the Government issued a consultation document *Joining Forces to Protect the Public* following a review of the prison and probation services. This noted that to deliver its goals the Probation Service needed to be more accountable and better organised to develop its work in close co-operation with central Government and other agencies within the criminal justice system. In April 1999 following the consultation, the Government announced a decision to create a unified Probation Service led by a national director. Local services would be managed by Chief Probation Officers appointed by the Home Office and

supervised by Probation Boards whose members would be approved by the Home Office. The new Probation Service will be entirely funded by central Government and the Home Secretary will be directly accountable to Parliament for it.

Inter-agency groups

2.14 The high level of independence of the courts, police and Probation Service means that much of the planning of the criminal justice system takes place through consultation and partnership with bodies outside Government departments. Since 1990 two main groups – the Criminal Justice Consultative Council and the Trials Issues Group – have existed which bring together representatives from the courts, judiciary and other organisations involved in criminal justice. These bodies were set up at different times in response to different initiatives.

The Criminal Justice Consultative Council

2.15 The Criminal Justice Consultative Council's origins lie in Lord Justice Woolf's report *Prison Disturbances April 1990*. The Woolf report identified a lack of any structure which would encourage those in the Prison Service and other criminal justice agencies "to consult together so as to perform more effectively their role in the system". It recommended the creation of a national forum complemented by a series of local committees to establish an integrated national liaison structure.

2.16 The Criminal Justice Consultative Council was set up in 1991 to facilitate discussion and agree strategic actions across the criminal justice system. It includes the Permanent Secretaries of the Home Office and the Lord Chancellor's Department, the Director of Public Prosecutions, the Director General of the Prison Service and the Chief Executive of the Court Service, as well as senior members of the judiciary and the legal profession. Given its high level membership, the Council is selective about the issues it considers, to ensure that it focuses on matters which will benefit most from the Council's attention. In recent years the Council has devoted much of its effort to addressing racial equality issues within the criminal justice system; to improving the way in which victims, especially child victims, are treated; and to improving how the system handles mentally disordered offenders. The Council publishes a quarterly newsletter and an annual summary of its activities. At present, 23 Area Criminal Justice Liaison Committees support the work of the Council at a local level.

The Trials Issues Group

2.17 A Pre-Trial Issues Steering Group was set up in 1990 to bring together senior representatives from the Crown Prosecution Service, the Home Office, the Justices' Clerks Society, the Lord Chancellor's Department and the police. The initial focus of the group was on matters relating to the preparation for trials and in particular the relationships between the police, Crown Prosecution Service and the courts.

2.18 In 1996 the Group was expanded to include representatives from the Bar Council, the Law Society, the Magistrates' Association, the Prison and Probation Services and the private sector, and its name changed to the Trials Issues Group to reflect the wider membership and responsibilities. The purpose of the Group is to oversee initiatives designed to cut waste and improve the quality of service to victims, witnesses and other court users. An early task was to set national standards of service for witnesses. To help implement these standards, the Group encouraged the establishment of equivalent groups at local level, with responsibility for co-ordinating the implementation of Trials Issues Group initiatives. The Trials Issues Group publishes a quarterly newsletter summarising its work.

2.19 The Trials Issues Group currently has sub-groups working on initiatives on the management of cases in the Crown Court, the development of joint performance management between agencies, witness care, the youth court and reducing delay. They are supported by a project team of representatives from the Crown Prosecution Service, the Home Office, the Lord Chancellor's Department and the police.

Recommendations

1. To reduce the potential for duplication of effort and to improve local understanding of their respective roles, we recommend that the new terms of reference, membership, and forward work programmes of the Criminal Justice Consultative Council and the Trials Issues Group and the relationship between them are set out in one document to be made available to managers throughout the criminal justice system.
 2. The Trials Issues Group has played a key role in developing inter-agency initiatives including joint performance management. While the issues covered by the Group are published, more detailed findings and recommendations are not widely circulated. We recommend that the Trials Issues Group considers whether any of its work could be published as more formal good practice guides and distributed more widely.
-

Local planning and liaison

2.20 The case for closer co-operation in the joint planning and performance management of the criminal justice system at national level applies equally at local level. Close co-operation is important because decisions taken in one part of the system may have an impact elsewhere (examples of this are shown in Figure 12).

Figure 12

Examples of how decisions in one part of the criminal justice system can have an impact elsewhere

Decision	Impact
Police charging policy	A decision by a police force to charge, rather than caution, defendants for a particular type of offence increases the number of cases that the Crown Prosecution Service and the courts have to handle. Both will have to supply increased resources or achieve greater efficiency, or else take longer to process cases.
Court listing	Some courts give specific time slots to cases. Others list together all the cases to be dealt with either in the morning or the afternoon, which may enable them to use court time more flexibly. However, by specifying time slots more precisely, courts can reduce the length of unproductive time that others, particularly prosecutors, defence lawyers and witnesses, including the police, wait on the day for the case to be heard.

Source: National Audit Office

Local criminal justice boundaries

2.21 Geography and transport links can influence the operation of the criminal justice system locally. And when administrative boundaries are not co-terminous it is harder for staff in different parts of the criminal justice system to work together effectively, which can cause delay and inefficiency. Across England and Wales there are currently: 43 police forces, 42 Crown Prosecution Service areas, 84 Magistrates' Courts Committee areas containing about 460 magistrates' courts, six Crown Court circuits, 54 probation areas, 12 Prison Service areas, and eight Prisoner Escort and Custody Service areas. There are plans to align the boundaries more closely (Figure 13), intended to improve the operation of the criminal justice system by:

- enabling people working in different parts of the system to become more familiar with each other's policies and local practices;
- enhancing relations between chief officers and other staff;

- improving strategic decision-making and practical co-ordination, and avoiding duplication of effort;
- aiding accountability by helping members of the public to identify the people who are responsible for running the criminal justice system in their area.

Figure 13

Plans for changing local criminal justice boundaries

Restructuring of the Crown Prosecution Service

This change has already been implemented, following the Glidewell review (Figure 5). Since April 1999 the Crown Prosecution Service has operated in 42 areas (previously it had 13), one for each police force outside London and one for the area covered by the Metropolitan Police and the City of London Police. The aim was to create a one-to-one relationship between a police force and its corresponding Crown Prosecution Service area, as equal partners.

Amalgamation of Magistrates' Courts Committees

The number of Magistrates' Courts Committee areas fell from 96 to 84 from April 1999. A further reduction to 73 areas is expected from April 2000. By 2001 the aim is for there to be 42 Magistrates' Courts Committee areas more closely aligned to police and Crown Prosecution Service areas.

Reorganisation of the Probation Service and the Prison Service

After consultation following the Prisons-Probation review, published in August 1998, the Government has announced a reorganisation of the Probation Service into 42 operational units to match police and Crown Prosecution Service areas. The Probation Service would also have a regional element, aligned with the 10 Prison Service areas which the review also proposed.

Aligning Crown Court Circuit boundaries with those of other organisations

There are no plans to alter the number of Crown Court Circuits. However, in some areas circuit boundaries run through a police and Crown Prosecution Service area, meaning that the organisations have to deal with more than one circuit. The Court Service is working with the judiciary and the Bar to address these anomalies.

Source: National Audit Office

Local liaison

2.22 Figure 14 shows the three main local groups through which local liaison currently takes place. We examined the practical operation of liaison arrangements in the areas we visited, and any additional local initiatives. We also undertook a questionnaire survey of 30 magistrates' courts and other key criminal justice agencies and defence solicitors in the areas covered by these courts. This provided us with views from some 130 firms or representatives of local bodies on the strengths and weaknesses of arrangements. Details of the survey methodology are at Appendix 1.

Figure 14**Main groups for local inter-agency liaison**

Forum	Origins and purpose	Number and organisation	Membership
Criminal Justice Liaison Committees	These Committees aim to promote better understanding, co-operation and co-ordination in the administration of the criminal justice system.	23 committees based broadly on grouped counties.	Chaired by members of the judiciary. Membership includes local lawyers, the Prison Service, a senior police officer, senior magistrate, Chief Probation Officer, Chief Crown Prosecutor, Director of Social Services and representatives of local lawyers.
Local Trials Issues Groups	These Groups provide a forum to support the local implementation of initiatives developed by the national Trials Issues Group.	42 local groups based on police force areas.	Membership varies, but usually includes representatives of the main criminal justice organisations locally. Usually chaired by a Crown Prosecutor.
Court User Groups	Court User Groups have developed mainly as a result of local initiative. They focus on operational matters and management of court business.	Usually a separate group for each magistrates' court and Crown Court.	Local representatives of the different organisations using the particular court. Usually chaired by the Justice's Clerk or, for Crown Court User Groups, the Court Manager.

Source: National Audit Office

2.23 We found that liaison groups existed in all the 30 localities we surveyed. In all but one locality there was a Magistrates' Court User Group. There was participation in local Trials Issues Groups in 23 localities and in Area Criminal Justice Liaison Committees in 17. The frequency of meetings ranged from every month to twice a year. In many areas court staff also liaised with other bodies through specific committees. For example, staff from Sheffield Magistrates' Court attended separate groups on mental health, substance misuse, prostitution and domestic violence.

2.24 The majority of respondents considered the Court User Group to be the main liaison forum. We found that the main purpose of this group was to discuss the day to day management of court business, including listing and operational matters such as facilities, accommodation and services. Most also covered wider concerns including ways of improving the progression of cases, and reducing the number of ineffective hearings.

2.25 In general local Trials Issues Groups were attended by representatives of the same bodies as the Court User Group, but often at a more senior level. These more strategic groups concentrated on the local implementation of national

initiatives and some also developed local initiatives. Some of the courts we visited were not represented on the local Trials Issues Group because of boundary disparities.

2.26 We found from the responses to our survey and from our local visits that awareness of the role and work of the local Criminal Justice Liaison Committees was patchy, primarily because they were further removed from the local context. In three of the areas visited, people considered that these Committees had had no discernible impact.

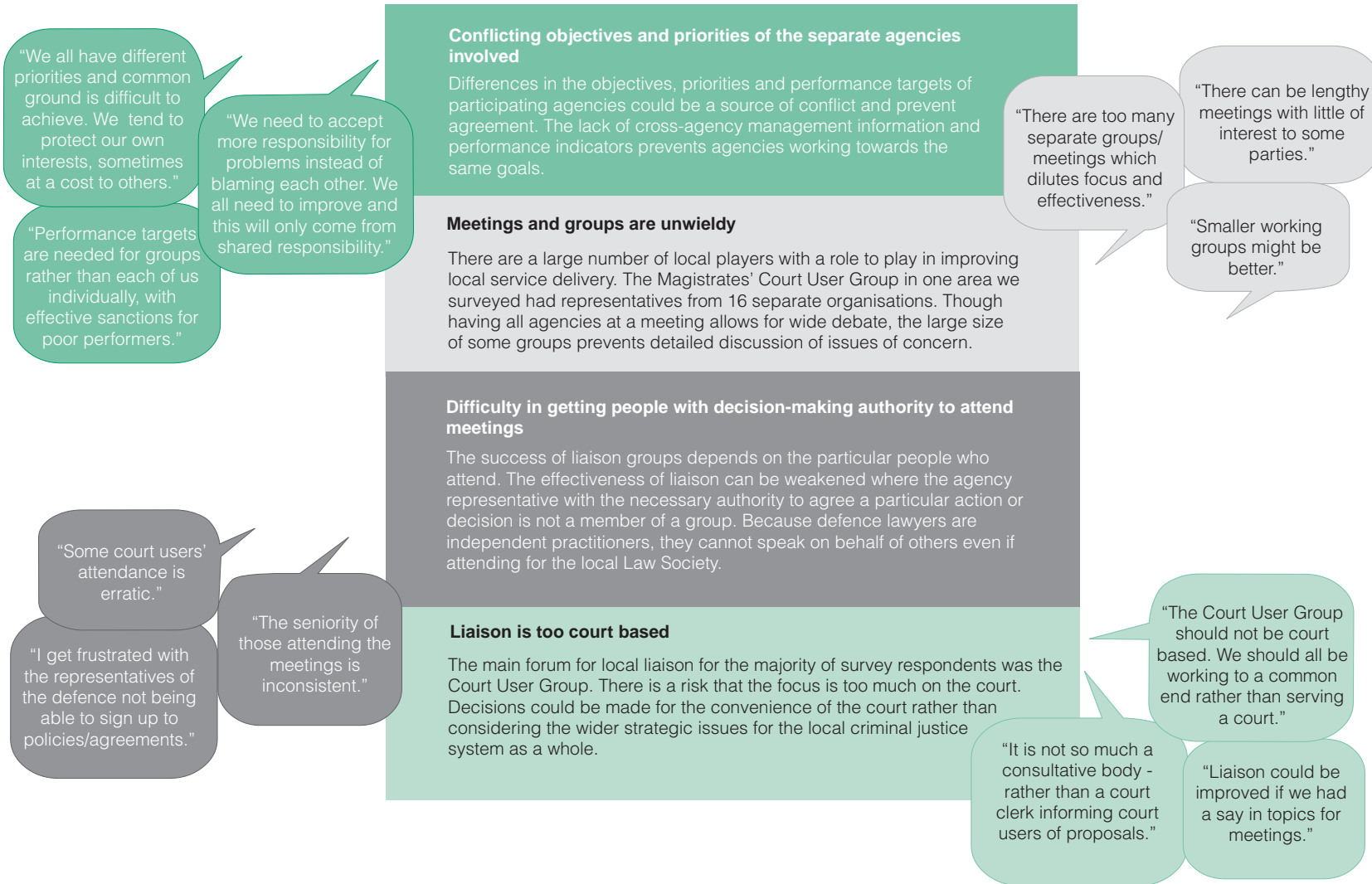
2.27 Respondents to our survey generally supported the concept of having some form of organised liaison. The most common constraints to effective liaison identified by respondents, together with some of the individual comments made in the survey, are shown in Figure 15. Some of the areas visited or surveyed had introduced local initiatives designed to reduce these constraints. For example:

- in one magistrates' court, the clerk had tried to take the availability of defence solicitors into account, for example by scheduling meetings over lunch;
- in a number of areas, the Court User Group had set up sub-groups to deal with particular issues such as case progression in more detail;
- in Durham, the local Trials Issues Group had developed as the main local strategic forum, attended by chief officers, with a separate sub-group of justices' clerks and equivalent people from other organisations to handle operational matters.

2.28 In Gloucestershire there was a strategic group for the county, with an operational group linked to it. To help inform discussion of joint performance, these groups were developing a quarterly management report containing information covering all the main bodies. In one locality surveyed, Wakefield and Pontefract, the agencies were seeking to strengthen liaison by creating a local joint performance management forum. A sub-group of the Magistrates' Courts User Group was developing agreed joint performance objectives and targets and defining the responsibilities of each organisation to work towards them. Some areas had multi-lateral service level agreements covering respective responsibilities in respect of for example witness care. We also found that bi-lateral agreements had been agreed in some areas, for example between magistrates' courts and the Crown Prosecution Service covering the scheduling of court hearings.

Figure 15

Constraints on effective liaison between local managers



Source: National Audit Office survey

2.29 As a result of our visits and survey responses we identified the key features of an effective liaison structure and a possible model for local planning and liaison in each area (Figure 16).

Figure 16 Possible model for local inter-agency liaison

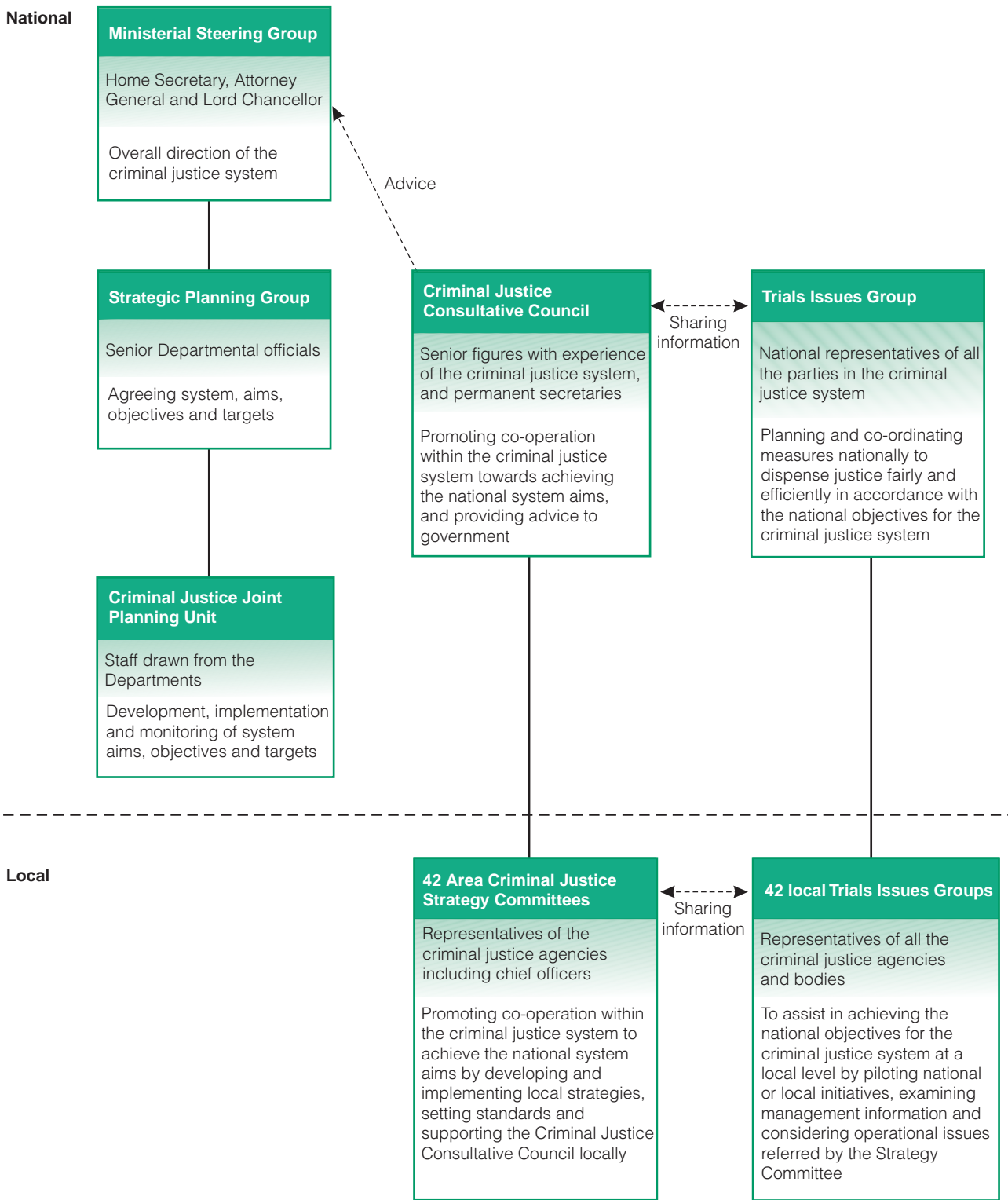
Group	Membership	Role
Strategy Group	Chief officers of the main criminal justice organisations ¹	<ul style="list-style-type: none"> ■ Local planning, including co-ordination of work arising from inter-agency planning at a national level ■ Able to bind local organisations to implement national and local strategies ■ Accountable to national bodies for performance ■ Setting of joint performance measures and targets
Operational Group	Senior officers of the main criminal justice organisations	<ul style="list-style-type: none"> ■ Implementation of local plans and initiatives approved by the strategy group ■ Monitoring of performance ■ Accountable to local strategy group for performance
Court User Group	Representatives of court users and key court staff	<ul style="list-style-type: none"> ■ Discussion of concerns of court users relating to the running of the court

Note: 1. Magistrates could be represented by the Chair of the local Magistrates' Courts Committee. The local Bar and Law Society could have also nominated a representative to give a practitioner perspective.

Source: National Audit Office

2.30 Following our fieldwork, Ministers agreed to a new liaison structure based on proposals of a tri-lateral departmental working group, with implementation planned for April 2000. The number of Area Criminal Justice Liaison Committees will be increased to 42, matching police and Crown Prosecution Service areas. They are expected to have a core membership of chief officers of the various agencies locally and will be chaired by members of the judiciary. They will be renamed Strategy Committees and will be responsible for developing local strategic plans and securing improvements in local performance in terms of the national aims and targets for the system as a whole. Figure 17 opposite shows the relationships of the new Strategy Committees with other bodies in the criminal justice system.

Figure 17 Relationships between inter-agency bodies in the criminal justice system



Source: National Audit Office

2.31 The move to a single strategy group in each of the 42 criminal justice areas meets one of the main elements of our suggested model (Figure 16). However, the model envisages that the local strategy groups would be accountable for implementing national objectives. Because their line of accountability is to the Criminal Justice Consultative Council, which acts in an advisory capacity to the Departments, the accountability of the Strategy Committees in implementing national strategies locally is unclear.

2.32 Another key element of the model at Figure 16 is clear accountability to the local strategy group of a local operational group, which would be responsible for implementing local plans and initiatives. Under the new arrangements local Trials Issues Groups will continue to exist and support the national Trials Issues Group. Accountability of the local Trials Issues Groups for implementation of local strategies and the Groups' relationships with the new Strategy Committees is unclear.








2.33 Figure 16 assumes a role for the local Court User Groups in which we found much of the practical inter-agency liaison in support of improved performance currently taking place. The changes have not so far extended to the role of Court User Groups.

Recommendations

3. Departments should consider how the accountability of the new local Strategy Committees for implementing the national criminal justice system strategy can be strengthened, for example by creating a more direct link between them and the Strategic Planning Group.
 4. Chief officers of local agencies should ensure that the local strategic plans agreed by the Strategy Committees are binding on local organisations. The responsibilities of each organisation to work towards the agreed plans should be defined in multi-lateral service level agreements or concordats.
 5. The Departments, in consultation with local agencies, should consider how the local Trials Issues Groups can be more explicitly linked to the Strategy Committees so as to help implement the agreed local strategy and to help manage any initiatives agreed by the Strategy Committees.
 6. In view of our local findings that much of the practical cross-agency liaison in support of performance improvement is currently carried out by Court User Groups, the Departments should also consider their future place in the new arrangements.
 7. In view of the wider role envisaged for the new Strategy Committees, Departments and local agencies will need to consider arrangements to ensure the Committees have appropriate administrative support.
 8. The Departments should consider appropriate arrangements to ensure that performance against strategies and plans is regularly reviewed.
-

Figure 19

Liaison required between the key players to get cases to court

			
 Police	<p>The police charge the defendant. If circumstances warrant it, the police may detain the defendant in custody and deliver them to court.</p>	<p>The police liaise with the Crown Prosecution Service in preparing the prosecution case and where appropriate in informing victims why a case has been dropped.</p>	<p>The police liaise with the court over the appropriate date and time to require the defendant to appear at a first hearing.</p>
	<p>The defendant should arrange representation after the initial hearing and consult with the defendant's solicitor. The solicitor may also help the defendant in applying for legal aid.</p>		<p>The defendant must apply to the court for legal aid to be approved unless represented by a duty solicitor. The court may summons the defendant to appear. The defendant must attend court and meet any bail conditions.</p>
	<p>In more serious cases the Crown Prosecution Service must provide details of the case against the defendant to the defendant's solicitor.</p>	<p>The court needs to inform the defendant's solicitor of the date and time of the hearing.</p>	<p>The court must inform the Crown Prosecutor of the cases and court rooms that have been scheduled for hearings.</p>
			

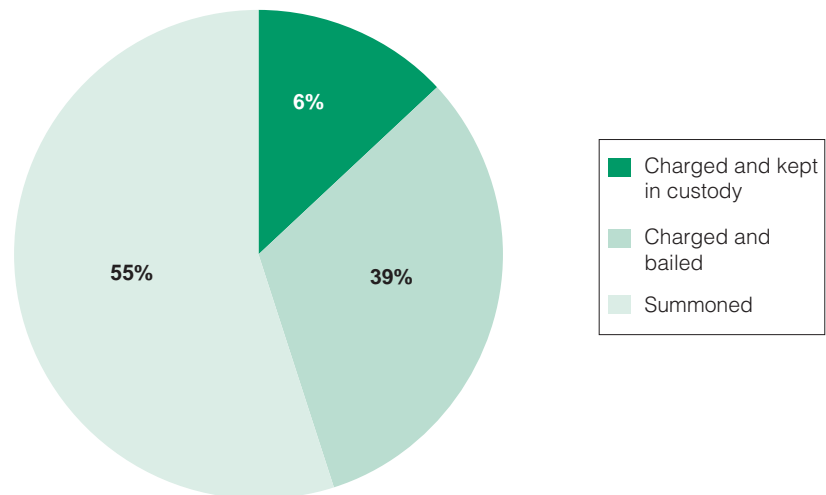
Part 3: Getting cases to court

3.1 All criminal cases that reach the courts start with the police charging or requesting the court to summons a defendant to appear before a magistrates' court (Figure 18). About half of all cases can be completed at the first hearing. For example where defendants plead guilty, magistrates may convict and sentence at the same hearing. Almost 70 per cent of minor offences are dealt with in this way.

How criminal cases start

Figure 18

Summonses are used mainly to deal with less serious, mainly motoring, offences. In all other cases the defendant is arrested and charged in person at a police station. He/she may be bailed to appear at court or, if the circumstances warrant it, kept in custody to appear at the next available court hearing. In over half of cases, the court summons the defendant by post to appear at court.



Source: Criminal Statistics, 1997

3.2 The liaison required between each of the key players in the criminal justice system to get cases to court is shown in Figure 19 at beginning of Part 3. In getting the case to court, those involved need to balance the need for the case to be dealt with as quickly as possible with ensuring that both the prosecution and defence have time to prepare. This part of the report examines local variations in the time taken to get cases to court, the performance of the various criminal justice agencies in undertaking the action needed to get cases to court, and initiatives to get straightforward cases to court earlier. It is set out as follows:

- how long it takes to get cases to court;
- preparing cases;
- reviewing and presenting cases;
- taking and explaining prosecution decisions not to proceed;
- ensuring legal aid requirements are met to enable the defendant to be represented;
- arranging the first court hearing;
- getting more straightforward cases to court earlier.

How long it takes to get cases to court

3.3 The Lord Chancellor's Department monitors the time taken for cases to progress through each stage in the magistrates' courts by three one week surveys for more serious cases and by a single one week survey for less serious cases. There is a risk that the survey data may not be representative of performance during the course of the year, especially for smaller courts where the sample often contains less than 50 cases. From 1999 information has been collected on all cases involving persistent young offenders and there are three four-week surveys covering other youth cases.

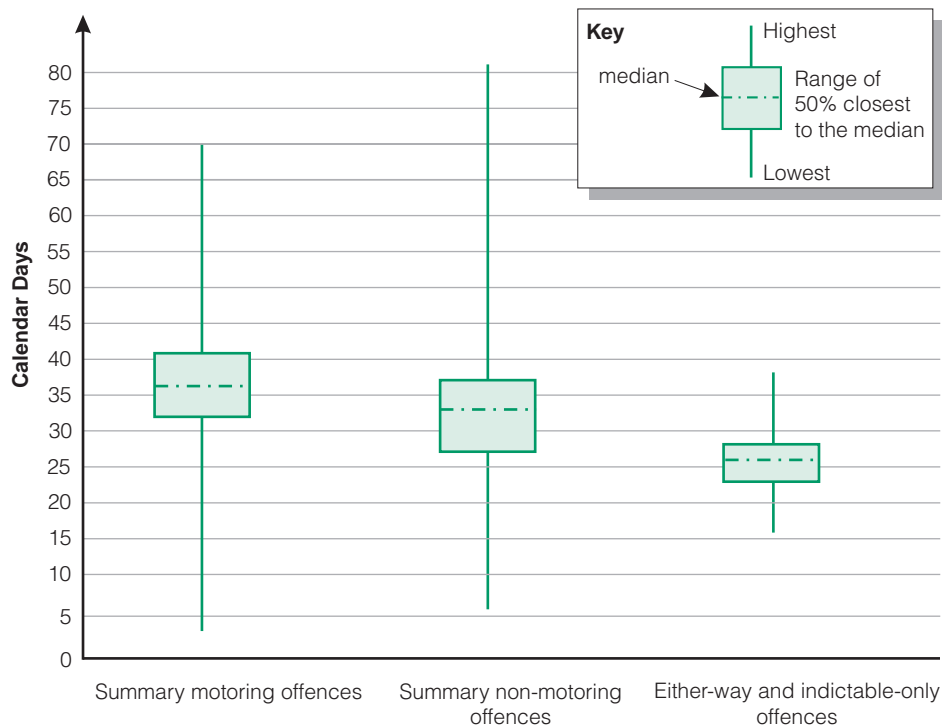
3.4 According to the surveys, the average time taken nationally to get all types of case to court from the point of charge or summons in 1998 was 34 calendar days. Cases involving less serious offences took 34 days to get to court for non-motoring offences and 38 days for motoring offences. It took less time for

cases involving more serious offences (26 days), in part because a larger proportion of these are cases involving people in custody, which are generally dealt with more quickly.

3.5 Local performance ranged widely for the less serious (non-motoring) offences. In the half of Magistrates' Courts Committee areas which were closest to the median, the time taken ranged from 27 to 37 days and there were wide differences among other Committee areas (Figure 20). In areas where the Lord Chancellor's Department survey recorded more than 50 cases, performance ranged from less than 20 days in Oldham to more than 75 days in Doncaster and Barnsley.

Time taken to bring cases to court by Magistrates' Courts Committee area, 1998

Figure 20



Source: Lord Chancellor's Department

3.6 For more serious offences, the range in local performance was smaller. In the half of local Magistrates' Courts Committee areas that were closest to the national median of 26 days, the time taken ranged between 23 and 29 days (Figure 20). Cases took less than 20 days in Barnet, Dudley and Kingston-upon-Thames, but more than 34 days in Bexley, Sefton and Dyfed.

Preparing cases

3.7 The first step in bringing a case before the courts is for the police to prepare a file which they pass to the Crown Prosecution Service for review. In preparing files, the police have to balance competing demands of timeliness and quality. Late police files cause considerable problems for the Crown Prosecution Service, for example by reducing the time available for prosecutors to review the case and prepare for court. Similarly, if the file does not contain the evidence and other information that the Crown Prosecution Service needs to proceed, then additional remedial work is requested by the Crown Prosecution Service, resulting in waste and further delay.

3.8 Time guidelines for the preparation of police files and standards for their content were agreed between the Association of Chief Police Officers and the Crown Prosecution Service in 1993. The time allowed depends on whether the defendant is in custody or on bail, and on the type of file required. In most cases the police have between 14 and 21 days from charge to prepare and submit the case file to the Crown Prosecution Service depending on the type of case.

3.9 In 1995 a number of police forces and Crown Prosecution Service branches began to monitor jointly the timeliness and quality of police files against the agreed standards. The monitoring was one aspect of an initiative to improve collaboration between the police and prosecutors, known as joint performance management. The initiative started at six sites and was gradually extended. Thirty-seven of the 43 police forces provided data on the timeliness and quality of their files for all or part of 1997-98. Results of the monitoring are shown in Figure 21. These demonstrate a clear need for improvement – of the 37 forces, just five met the agreed standards for both timeliness and quality for more than half of their files (Figure 22).

The timeliness and quality of police files, 1997-98

Figure 21

Timeliness

- 65 per cent of files were submitted to the Crown Prosecution Service on time.
- Performance of individual forces ranged from 85 per cent in Cleveland to 35 per cent in Gwent.
- Six of the 37 forces that provided data submitted less than half of their files on time.

Quality

- 53 per cent of files were assessed as fully satisfactory against the agreed criteria.
- Performance of individual forces ranged from 73 per cent in Norfolk to 33 per cent in West Yorkshire.
- 12 of the 37 forces that provided data met the quality standard for less than half of their files.

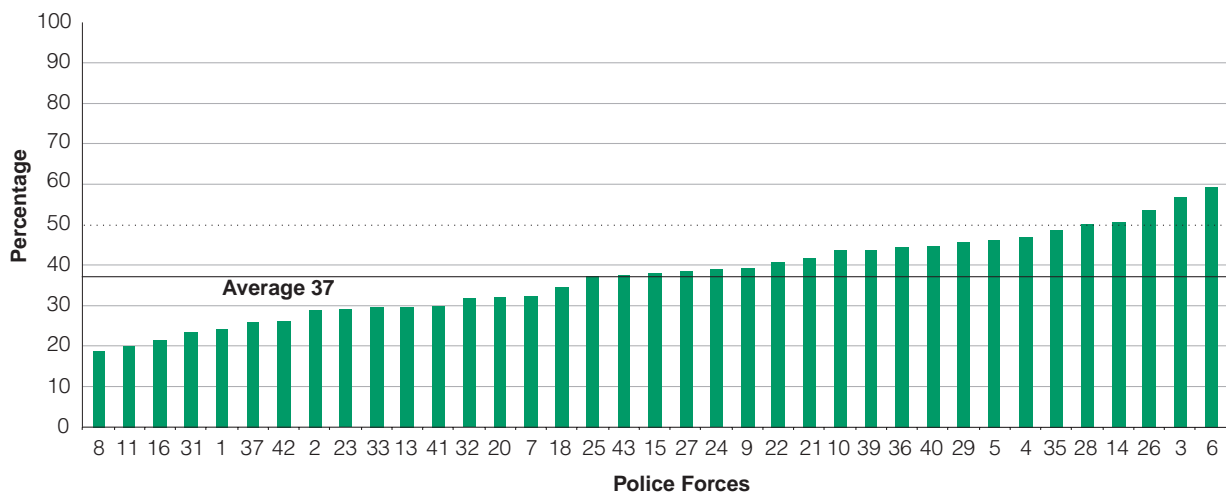
Timeliness and quality

- 37 per cent of files met the agreed standards for both timeliness and quality.
- Performance of individual forces ranged from 59 per cent in Cleveland to 19 per cent in Derbyshire.
- 32 of the 37 forces that provided data met the agreed standards for less than half of their files.

Source: Her Majesty's Inspectorate of Constabulary

Figure 22

Proportion of police files that meet agreed standards for both timeliness and quality by police force, 1997-98



Note: Data available for 37 police forces
Forces are identified using police forces' national reporting centre numbers:

- | | | | |
|-----------------------|-------------------------|----------------------|--|
| 1. Avon and Somerset | 13. Essex | 26. Norfolk | 40. West Mercia |
| 2. Bedfordshire | 14. Gloucestershire | 27. Northamptonshire | 41. West Midlands |
| 3. Cambridgeshire | 15. Greater Manchester | 28. Northumbria | 42. West Yorkshire |
| 4. Cheshire | 16. Gwent | 29. North Wales | 43. Wiltshire |
| 5. City of London | 18. Hertfordshire | 31. Nottinghamshire | |
| 6. Cleveland | 20. Kent | 32. South Wales | Data was not available for the following forces: |
| 7. Cumbria | 21. Lancashire | 33. South Yorkshire | |
| 8. Derbyshire | 22. Leicestershire | 35. Suffolk | |
| 9. Devon and Cornwall | 23. Lincolnshire | 36. Surrey | 12. Dyfed-Powys |
| 10. Dorset | 24. Merseyside | 37. Sussex | 30. North Yorkshire |
| 11. Durham | 25. Metropolitan Police | 39. Warwickshire | 17. Hampshire |
| | | | 34. Staffordshire |
| | | | 19. Humberside |
| | | | 38. Thames Valley |

Source: Her Majesty's Inspectorate of Constabulary

3.10 Despite these disappointing early results, the police and the Crown Prosecution Service are enthusiastic about the future potential of joint performance management. Our report on the *Crown Prosecution Service* (HC 400, 1997-98) found that the initiative was proving a helpful approach to improving local performance, by enabling the police and prosecutors to work more closely together to quantify the extent of poor quality and late files and to identify appropriate remedial action. There are concerns about the quality of the monitoring information and some forces are refining their data collection processes. In most areas the monitoring has been operating for less than two years and it is not yet possible to identify clear trends in performance. However, since Her Majesty's Inspectorate of Constabulary began gathering joint performance management data from forces in January 1997, there has been a measurable improvement in file timeliness, although file quality has remained broadly at the same level. A particular problem is the frequency with which it is necessary for the Crown Prosecution Service to amend charges preferred by the police. In its 1998-99 report the Crown Prosecution Service Inspectorate noted from its inspection visits that almost a quarter of all police files required amendment to reflect the appropriate charge disclosed by the evidence of the case. In February 1998 the Crown Prosecution Service told the Committee of Public Accounts that improvements in overall performance should be apparent during 1999.

Recommendation

-
9. Local police forces and Chief Crown Prosecutors should:
- refine their data collection to improve the quality of monitoring under the joint performance management initiative;
 - develop the monitoring to identify whether there are particular types of case or procedures which give rise to disappointing performance on the timeliness and quality of file preparation, including the appropriateness of initial charges prepared by the police;
 - take appropriate management action to address the problems identified by the monitoring.
-

3.11 In our report on the Crown Prosecution Service, we also reported on a pilot initiative run in 12 localities 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 Crown Prosecution Service staff and police forces supported the initiative in principle, but that they had found it difficult to achieve the full intended benefits because prosecutors could not always meet the recommended attendance levels and police take-up had been disappointing.

3.12 One of the places we visited as part of this examination, Durham, was a pilot area for the prosecutors in police stations project. The initiative has been continued and a prosecutor is now based at one police station during every weekday. The take-up for advice remains low, about one request per hour, but the prosecutor uses the remainder of the time to review files. The initiative has been linked with a local programme to bring straightforward cases to court more quickly, usually within one week. The prosecutor helps to identify cases that are suitable for this fast track approach.

3.13 The Narey report (Appendix 4) recommended placing Crown Prosecution Service staff in police administrative support units to help the police with the preparation of case files and this is being introduced nationally from 1 November 1999. It is hoped that the closer working which should result will allow cases to be completed or progressed at the first available court hearing after charge, usually the next day.

3.14 The Glidewell review (Figure 5) proposed taking joint working a step further with single integrated police/Crown Prosecution Service units to assemble and manage case files. The Government has considered this recommendation and concluded that there should be a national model for joint administration, but with specific arrangements to be developed locally. Chief Crown Prosecutors and Chief Constables have been asked to submit joint plans by November 1999 to an inter-agency group which has been set up to oversee the change.

Reviewing and presenting cases

3.15 Effective case presentation or advocacy depends on sound understanding of the law and court procedures and thorough preparation. In 1994 the Crown Prosecution Service published national standards of advocacy which identify the principles to be applied by its prosecutors in presenting cases. The Crown Prosecution Service Inspectorate evaluates local performance against the national standards. In our report on the *Crown Prosecution Service* (HC 400, 1997-98) we reported the view of many of the organisations we consulted that the quality of prosecutors' advocacy was generally good, and that professional and ethical standards were high.

3.16 Some organisations expressed concern at delays and the quality of case preparation, which they felt was likely to reduce the quality of advocacy. They considered that the amount of time prosecutors had to spend in court limited the time available outside of court for case preparation. Crown Prosecution Service staff need to review files in good time to allow them to prepare cases for the first court hearing. Between November 1997 and March 1998 the Crown Prosecution Service reviewed 64 per cent of new case papers within seven days of receiving the

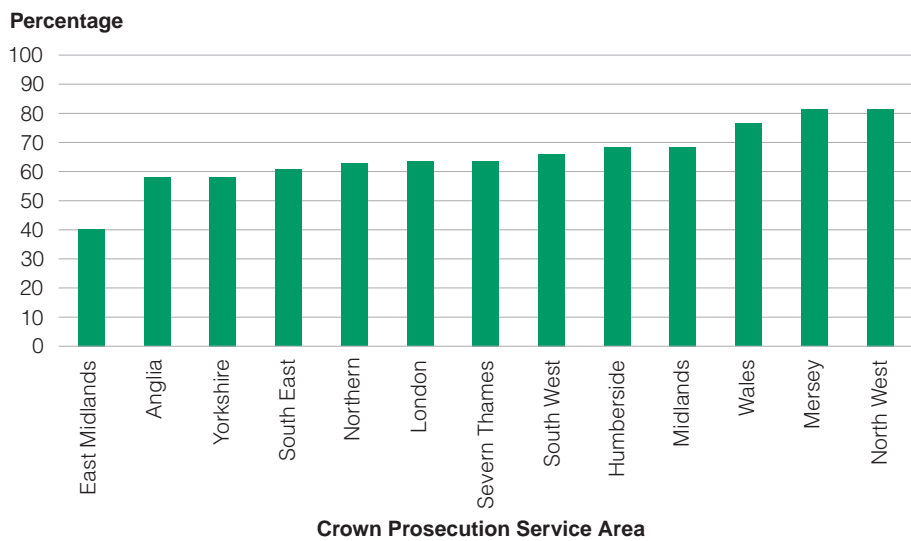
file from the police, against a target of 70 per cent. Performance in the 13 Areas ranged from 82 per cent in the North West to 40 per cent in the East Midlands (Figure 23). In the light of the provision in the Crime and Disorder Act 1998 (Appendix 4) for cases to be brought to court at the next available court sitting, the Crown Prosecution Service has withdrawn its performance measure of timeliness of case review.

Recommendation

10. Because of changes made under the Crime and Disorder Act 1998, the Crown Prosecution Service's performance indicator on case review has been withdrawn. The Crown Prosecution Service should consider replacing the withdrawn performance indicator with a measure of the number of cases that the Crown Prosecution Service is ready to proceed with at the first hearing.

Proportion of cases reviewed by Crown Prosecution Service staff within seven days of receipt of file from the police by Crown Prosecution Service Area, 1997-98

Figure 23



Source: Crown Prosecution Service

Note: In 1997-98 data on performance against timeliness targets were collected only for the last five months of the year.

3.17 The Crime and Disorder Act 1998 also provides for lay (i.e. not legally qualified) designated caseworkers to review files in straightforward cases where the defendant is expected to plead guilty, and to present such uncontested cases and certain motoring cases in the magistrates' courts. This measure is expected to release Crown Prosecution Service lawyers to work more closely with the police on preparing other cases. Designated caseworkers have been appointed at pilot sites and their role has been evaluated by the Crown Prosecution Service Inspectorate.

3.18 The Inspectorate's evaluation found that if designated caseworkers only presented in straightforward guilty plea cases, many magistrates' courts would not have sufficient work to use their time fully. The Inspectorate therefore

recommended that local courts and Crown Prosecution Service areas consult to ensure that court clerks endeavour to list together types of case eligible for presentation by a designated caseworker. This would maximise the use of their time. The evaluation also found that, as might be expected, many designated caseworkers were drawn from the more experienced Crown Prosecution Service staff who are responsible for Crown Court work. Their new responsibilities caused an initial fall in the Crown Prosecution Service's timeliness in handling Crown Court cases, although this had begun to reverse by the end of the pilot. Designated caseworkers are to be introduced nationally from November 1999, although on a phased basis to take account of the issues raised in the pilot.

Recommendation

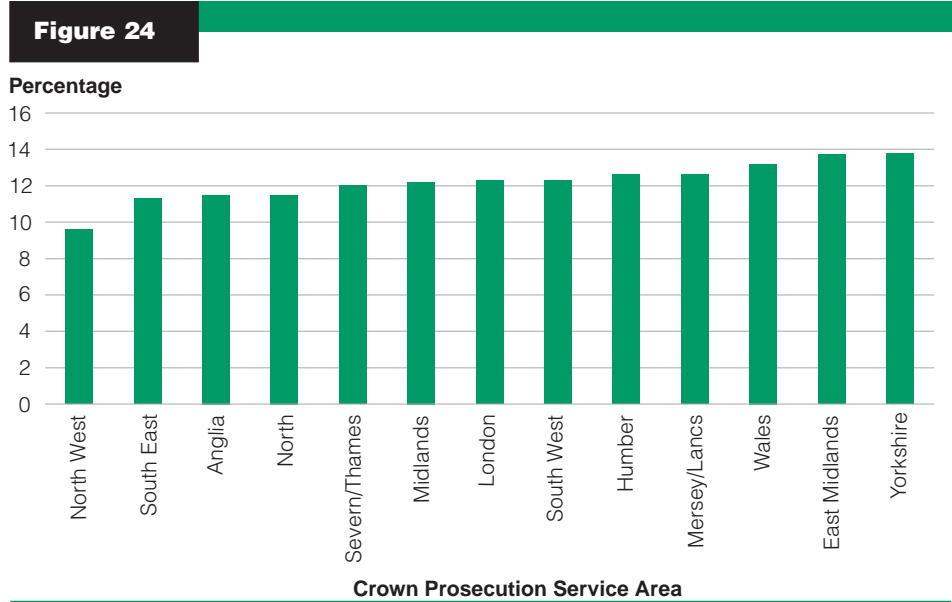
11. Where the Crown Prosecution Service decides to use designated caseworkers it should monitor the impact of the change and, as suggested by its Inspectorate, work with the courts to ensure that listing arrangements enable caseworkers to be used fully, so that lawyers can be released to carry out more complex work.
12. In introducing designated caseworkers across the Crown Prosecution Service, areas should monitor the impact of the change on other prosecution work.

Taking and explaining prosecution decisions not to proceed

3.19 The Crown Prosecution Service can decide to discontinue cases received from the police where there is insufficient evidence to proceed or where prosecution is not considered to be in the public interest. In our report on the *Crown Prosecution Service* (HC 400, 1997-98) we reported that the national discontinuance rates had stabilised at around 12 per cent of the cases submitted by the police. In its 1998-99 annual review, the Crown Prosecution Service Inspectorate reported that its inspectors had agreed with 97 per cent of discontinuance decisions in cases they had examined. However there are differences in local rates of discontinuance, ranging in 1997-98 from almost 14 per cent in Yorkshire and the East Midlands to less than ten per cent in the North West (Figure 24). These differences result partly from the differing priorities and practices of the 43 police forces. We recommended that Chief Crown Prosecutors should identify whether their area had an unjustifiably high discontinuance rate, establish the underlying reasons and act with their local police force to reduce the level of discontinued cases.

3.20 Where a case is discontinued, the decision needs to be taken as early as possible in order to minimise the expenditure on the case, for example on court hearings. In our report on the *Crown Prosecution Service* (HC 400, 1997-98) we recommended a new performance measure to encourage prompt decisions on discontinuance. This indicator, which was introduced in 1998-99, showed that 28 per cent of discontinuances took place before the second hearing.

Rates of discontinuance as a proportion of cases completed by Crown Prosecution Service area, 1997-98



Source: Crown Prosecution Service

3.21 Although the decision to discontinue a case or accept a plea of guilty to a lesser charge is taken by the Crown Prosecution Service, the reasons for decisions need to be understood by police who are responsible for informing victims. We found that the police are generally consulted about decisions to discontinue cases, although the explanations provided by the Crown Prosecution Service sometimes needed to be fuller and more timely to enable police officers to explain decisions to victims. The Glidewell review (Figure 5) considered that the adequacy with which Crown Prosecution Service decisions were explained to victims by the police was doubtful and recommended that in the long term responsibility should be transferred from the police to the Crown Prosecution Service. The Government response accepted the need to improve the level of service, and work is in hand to pilot proposals.

Ensuring legal aid requirements are met to enable the defendant to be represented

3.22 A suspect at a police station may obtain free advice from a duty solicitor, or from a solicitor of his or her choice, if the solicitor can attend within a certain time. At the first court appearance of a defendant who is not already represented, advice and if necessary representation may be provided free by the court duty solicitor. But a duty solicitor is not permitted to provide representation on a not guilty plea, nor will advice or representation normally be provided in connection with a non-imprisonable offence. In any subsequent court appearance, or if the

defendant wishes to use his or her own solicitor from the start of the court proceedings, the defendant must have applied to the court for legal aid if they wish to have publicly funded representation.

3.23 Magistrates' courts are responsible for granting or refusing legal aid in accordance with statutory regulations. There is no timeliness target, but good practice guidance suggests two days. Information on the performance of courts in processing legal aid applications is not routinely collected. In 1997 Her Majesty's Magistrates' Courts Service Inspectorate suggested that courts collect data on the proportion of properly completed applications on which they provide a decision within two working days of receipt. All the magistrates' courts we visited had set targets for dealing with legal aid applications, usually aiming to process them within two days. Most also monitored their performance and generally achieved the targets.

3.24 Court staff should assess legal aid applications to determine whether the applicant's financial circumstances entitle him/her to assistance in meeting the costs of the case, and whether it is in the interests of justice that the applicant should have legal representation. The assessment of financial circumstances must be in accordance with the provisions of statutory regulations. These require the court to obtain detailed documentary evidence of the defendant's income and expenditure, which in some cases can be difficult. Every year since 1990-91 the Comptroller and Auditor General has qualified his opinion on the Lord Chancellor's Department account for legal aid expenditure because of doubts that the regulations were being properly applied. Our examination of *Criminal Legal Aid Means Testing* (HC 615, 1995-96) found that in almost half the cases examined where the defendant had been awarded free legal aid (70 per cent of all cases), the court had not obtained adequate evidence of entitlement to qualifying benefits. Those courts which did perform well had usually set up efficient communication links with their local Benefits Agency Office to ensure that evidence could be provided quickly. For applicants not entitled to qualifying benefits, we found that no evidence of income had been obtained in 15 per cent of cases.

3.25 In following up our report, the Committee of Public Accounts noted that magistrates' courts have traditionally been concerned to get cases through the system, rather than with administration and financial management. The Lord Chancellor's Department has responded to the Committee's concerns at the breaches in statutory requirements in a number of ways, including:

- reviewing and amending the regulations covering legal aid;

- three conferences for Justices' Clerks and other senior managers to encourage co-operation in securing improvements;
- improved guidance and training for Justices' Clerks and their staff on the practical application of the regulations;
- close monitoring by the Department's internal audit.

However, despite these efforts, our most recent examination of a sample of 1997-98 applications found that in 13 per cent of cases examined, applicants were either wrongly granted free legal aid after providing evidence of a non-qualifying benefit or were granted free legal aid without providing any evidence at all. The Comptroller and Auditor General again qualified his opinion on the 1997-98 appropriation account of the Lord Chancellor's Department.

3.26 The Access to Justice Act 1999, contains a number of reforms of the legal aid system. Under the new scheme for criminal proceedings, courts will continue to be responsible for deciding whether a defendant should be represented at public expense. However in future criminal legal aid will be available without reference to a defendant's means. Rather than seeking contributions from a defendant towards the costs of his or her defence during the criminal proceedings, a new power is proposed for cases that are dealt with in the Crown Court or in the higher courts on appeal. At the end of the case the judge will have the power to order a defendant to pay some or all of the costs of his or her defence. Courts will therefore no longer be required to means test defendants as part of the granting of legal aid.

Arranging the first court hearing

3.27 When a defendant is charged or summoned to appear at a magistrates' court, the police bail form or the court summons contains the date on which the defendant is required to appear at court. The magistrates' court must arrange for the first hearing to take place on the day stated on the form. If defendants are detained in custody, they appear at the first available hearing (usually the same or the next day) for bail to be considered.

3.28 Although the police effectively determine the date of the first hearing, they usually agree their approach with the local magistrates' courts. In most of the areas we visited, the court gave the police a list of dates to use or allowed them to choose the first hearing date up to a maximum number of cases per day. In other areas there was a set period between charge and first appearance, which the

police adhered to. In the courts we visited the usual time between charge and the first hearing varied from three to five weeks and, for summons cases, around six to eight weeks from the date of the summons to the first hearing.

3.29 There is no formal obligation upon the police or the courts to liaise with the Crown Prosecution Service on the dates set for individual cases. This can cause problems for the Crown Prosecution Service in managing its workload. All the magistrates' courts we visited said that they discussed their listing policies and practices with local Crown Prosecution Service branches. We found that some courts had set these out formally in documents which were circulated locally. The Glidewell review (Figure 5) recommended greater Crown Prosecution Service involvement in listing. As part of the pilot outlined in paragraph 3.11 (where prosecution staff work in police administrative support units), Crown Prosecution Service staff are responsible for notifying the court of the type of hearing required. More generally, a sub-group of the Trials Issues Group (paragraph 2.19) has developed a protocol governing listing practices to be used locally in drawing up agreements between agencies.

Getting cases to court earlier

3.30 One of the key changes proposed in the Narey report, which has been piloted and provided for in the Crime and Disorder Act 1998 (Appendix 4), was that cases should be brought before the court as soon as practicable. For cases triable in the magistrates' court, where the defendant is expected to plead guilty, the defendant should appear at an early first hearing where the aim is to complete the case and, where possible, sentence the defendant at this first hearing. A duty solicitor is available to provide free representation at the hearing.

3.31 There were similar fast tracking initiatives already in place at three of the magistrates' courts we visited (Durham, Gloucester, Maidstone). The initiative at Gloucester Magistrates' Court began in December 1997. Cases suitable for fast tracking are identified by the police custody officer and defendants are bailed to appear, usually at the next available court hearing. The initiative depends on having simplified case files and on each criminal justice agency complying with a tight timetable. For example, the police are expected to deliver a copy of the case file to the prosecutor in court by 11.15 on the morning after the defendant is charged.

3.32 At Gloucester around 60 per cent of defendants in fast tracked cases plead guilty at the first hearing. All three courts viewed fast tracking positively. Durham Magistrates' Court told us that it had brought a range of benefits including:

- early completion of guilty plea cases, meaning that the plea and sentence were closer in time to the offence;
- less opportunity for defendants to re-offend while on bail;
- reduced paperwork for the police and the Crown Prosecution Service in straightforward guilty plea cases, allowing them to concentrate resources on more serious or complex cases.














3.33 In Maidstone there had been problems initially with choosing cases that were suitable for fast tracking, and the police and Crown Prosecution Service jointly developed a manual of guidance on appropriate cases. There are benefits in formally agreeing procedures in advance, so that the roles, responsibilities and targets are clear to all those involved. Under the Crime and Disorder Act 1998 pilots the decision on whether a case was suitable for an early first hearing was made by the Crown Prosecution Service lawyer in the police administrative support unit.

3.34 None of the courts we visited had formally evaluated the impact of fast tracking on the rest of court business. Similarly, the evaluation of the Crime and Disorder Act 1998 pilots did not formally consider the impact on summons cases, which represent 55 per cent of cases appearing before magistrates and are not covered by the new provisions to bring cases to court more quickly.

Recommendation

-
- 13.** The Departments should consider a wider evaluation of the early first hearing procedure, including the impact on summons cases and court business generally.
-

Figure 26 Liaison required between the key players to progress a case through the magistrates' court

	 Defendant	 Witness	 Defendant's Solicitor	 Crown Prosecutor	 Court Clerk	 Prisoner Escort
 Police		The police contact prosecution witnesses and ensure that they are able to attend the hearing.	The police make available to the defendant's solicitor copies of recordings of interviews with the defendant or video evidence.	The Crown Prosecutor informs the police of the prosecution witnesses needed to attend the hearing.	The police send case details to the court. The court ensures that police officers are able to attend to give evidence. It may need information held by the police on the defendant's previous convictions.	
			The defendant needs to have had sufficient consultation with the defence solicitor.		The court informs the defendant of the date and time of the hearing. The defendant must have applied for legal aid through the court.	
			The defendant's solicitor identifies defence witnesses and their availability to attend.	The Crown Prosecutor identifies the civilian witnesses they need to attend.		
				The Crown Prosecutor makes advance information on the prosecution case available to the defendant's solicitor.	The court advises the defendant's solicitor of the time and date of the hearing.	
					The court advises the Crown Prosecutor of the time and date of the hearing.	
						For defendants in custody the court informs the Prison Service. The Prison Service releases the defendant into the custody of the escort service, which must deliver the prisoner on time for the court hearing.
						

Part 4: Handling cases in the magistrates' courts

4.1 Half of all cases cannot be completed at the initial magistrates' court hearing and have to be adjourned. For example, where a defendant pleads not guilty, a later hearing will be required to give the parties time to prepare their case for a trial. Where a defendant pleads guilty at the first hearing or is convicted following a trial, the magistrates may require information from a probation officer about the defendant before passing sentence. Cases involving more minor offences and either-way cases tried in the magistrates' courts will be completed once the magistrates have heard the evidence and either acquitted, or convicted and sentenced (unless the defendant appeals against conviction or sentence).

4.2 Cases involving indictable-only offences or either-way cases to be passed to the Crown Court for trial will usually be adjourned by magistrates at the first hearing to allow the parties to prepare for a hearing (known as a committal hearing) at which the magistrates will consider whether there is a case to answer. A case is considered "completed" in the magistrates' court once the magistrates have decided whether or not there is a case to answer and, if so, committed the defendant for trial in the Crown Court. Figure 25 overleaf shows the key steps between the first hearing and the case being completed in the magistrates' court. Figure 26 opposite shows the liaison required between the key players to progress a case through the magistrates' court.

The key steps between the first hearing and completion in the magistrates' court

Figure 25

The key steps between a case first being heard and being completed in the magistrates' court vary according to how the defendant pleads and the category of the offence;

- A defendant charged with a summary or either-way offence may enter a plea at the first hearing, and where he/she pleads guilty, the magistrates may pass sentence. In 1998, 72 per cent of defendants in summary non-motoring cases were dealt with on their first court appearance, 57 per cent in summary motoring cases and 20 per cent in more serious cases.
- Where a defendant charged with a summary offence pleads not guilty, the magistrates' court sets a date for the trial. Defendants charged with either-way offences may also be tried in the magistrates' court, if they agree and the magistrates accept jurisdiction. The waiting time before a trial depends on a variety of factors, principally the availability of witnesses, the complexity of the case, court availability, and how long the trial is expected to last.
- The magistrates commit defendants charged with indictable-only offences to the Crown Court for trial. Defendants in either-way cases may also be committed to the Crown Court, if they plead not guilty and the magistrates decline jurisdiction or the defendant elects trial by jury. The committal hearing takes place usually around eight weeks after the first hearing. The Crime and Disorder Act 1998 removes the need for committal proceedings in the magistrates' court for adult defendants charged with indictable-only offences. But the defendant will still be required to make an appearance before a magistrates' court, primarily to determine his or her bail status and, if possible, the question of legal aid. We examine the handling of cases that go on to the Crown Court in Part 5.

4.3 This part of the report examines the handling of cases in the magistrates' courts once the first hurdle of the initial hearing has been passed. It is set out as follows:

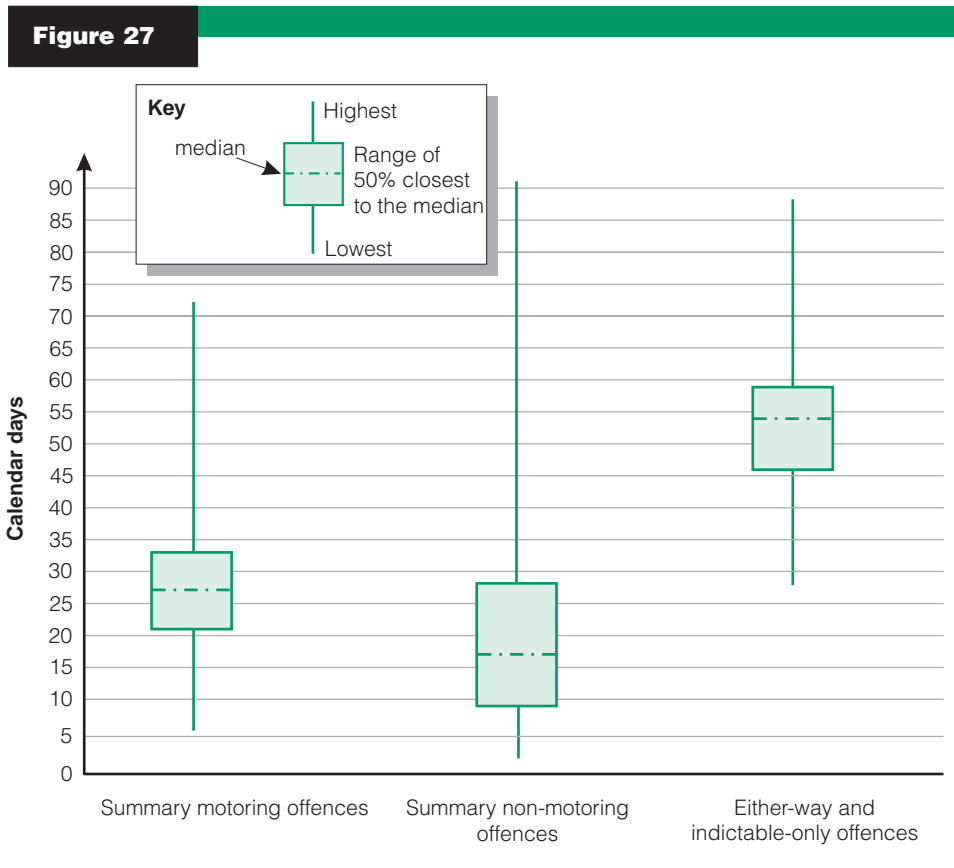
- the time it takes for cases to be completed in the magistrates' courts and the role of adjournments;
- the information currently collected on the number and causes of adjournments;
- the findings of a National Audit Office survey into the causes of adjournments;
- addressing the causes of ineffective hearings.

Time taken to complete cases and the role of adjournments

Time taken

4.4 There is a considerable range in the average time taken in different parts of the country to complete a case after the first hearing (Figure 27). For example, in areas where the Lord Chancellor’s Department’s survey returned results for more than 50 defendants for non-motoring offences, it took less than five days in Bromley, Hounslow and the City of London and more than 50 days in Liverpool against a national average of 18 days. Even in the fifty per cent of Magistrates’ Courts Committee areas which were closest to the median, the time taken ranged between 9 and 28 days.

Time taken to process cases from first listing to completion in the magistrates’ courts, by Magistrates’ Courts Committee area, 1998

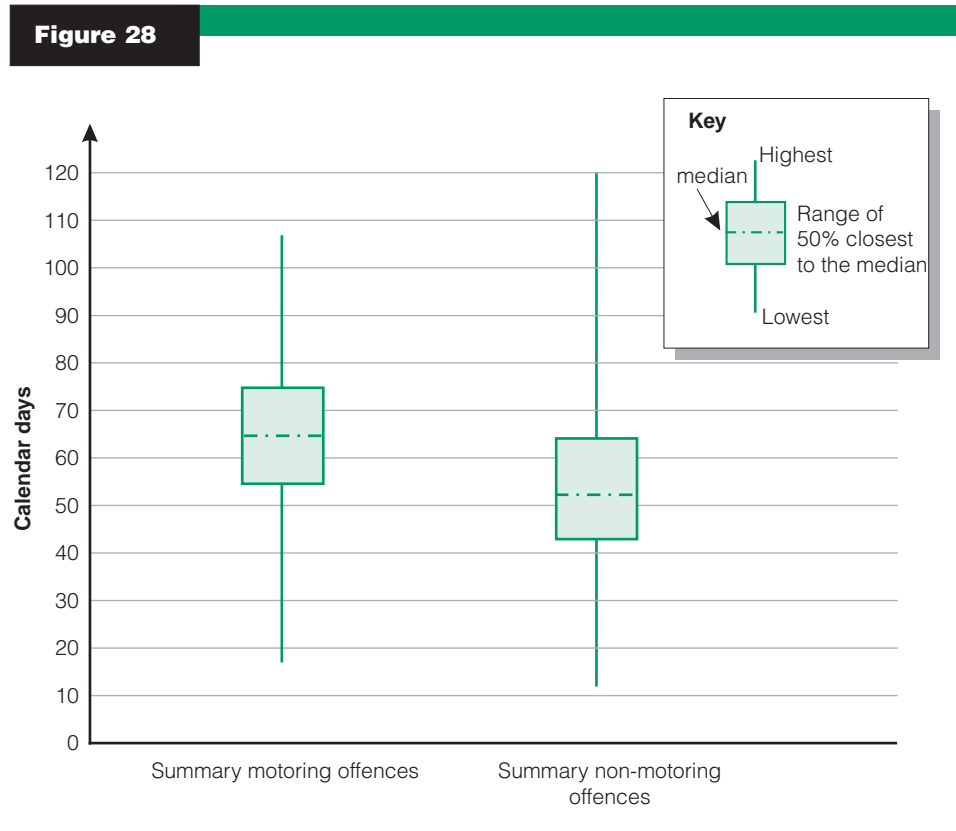


Source: Lord Chancellor’s Department

4.5 All cases involving minor offences finish in the magistrates’ courts, unless an appeal is made to the Crown Court. The total time it took on average for these cases to pass through the whole process from charge or summons to completion in 1998 was 53 days for non-motoring offences and 65 days for motoring offences. There was again a considerable variation in the average time taken by magistrates’ courts in different parts of the country (Figure 28). In areas where the

Lord Chancellor’s Department’s survey returned results for more than 50 defendants for non-motoring offences it took less than 30 days in West Glamorgan and more than 90 days in Doncaster and Liverpool. Even in the fifty per cent of Magistrates’ Courts Committee areas which were closest to the median, the time taken ranged between 43 and 63 days.

Time taken to process cases from charge or summons to completion in the magistrates’ courts, by Magistrates’ Courts Committee area 1998



Source: Lord Chancellor’s Department

The role of adjournments

4.6 Some adjournments result from standard court procedures; others are the result of factors over which the criminal justice agencies have some control, and the hearing is considered ineffective because it has to be “unnecessarily” adjourned to a later date (Figure 29). The number and length of adjournments are important factors in the length of time it may take to complete a case. The delays that may result have a range of adverse effects (Figure 30).

**Definition of terms:
adjournment, standard
procedural adjournment
and ineffective hearing**

Figure 29

Adjournment	Where a court cannot progress or complete a case on the set day and has to defer it.
Standard procedural adjournment	Where the adjournment is the result of standard court procedures rather than failure by one or more of the parties to be ready for the hearing. For example, the court may adjourn a case where the defendant pleads not guilty, in order for the prosecution and the defence to prepare for trial. Reducing or eliminating these types of adjournment requires changes to legislation or established procedures; some, such as time to prepare for trial, are safeguards to protect the legal rights of the parties.
Ineffective hearing	Where expected progress is not made at a hearing because of an error or omission by one of the players involved in the case, and the case has to be adjourned. For example, the prosecution or the defence may not be ready to proceed.

Source: National Audit Office

**Impact of delays on
criminal justice**

Figure 30

On the quality of justice	Evidence may become less reliable, for example witnesses' memories of events may fade with the passage of time.
On victims	Most victims want to see the perpetrator of any crime against them dealt with as soon as possible, so that they can begin to put an unfortunate incident behind them and get on with their lives.
On the impact of the punishment	The longer the delay in passing sentence, the less clear the link between the original offence and the punishment becomes.
On innocent defendants	It is undesirable for defendants to wait to be acquitted for longer than necessary, especially if they are held in custody. It may have implications for their reputation and their employment, as well as causing stress to them and their families.
On rates of crime	Defendants on bail may re-offend while waiting for their case to be heard.
On the costs of the criminal justice system	Remanding defendants in custody for longer than necessary results in extra costs and pressure on prison accommodation. Where cases to be heard do not make progress, there is inefficient use of courtrooms and of the time of magistrates, judges and court staff. Prosecutors, defence lawyers and police officers waste time and incur additional costs in attending unnecessary or ineffective court hearings.
On the public perception of the criminal justice system	Delay may contribute to a lack of confidence in the criminal justice system and a diminution of the public's resolve to report crime.

Source: National Audit Office

4.7 As well as causing unnecessary delay, ineffective hearings are wasteful. The court has to be staffed, and magistrates or judges made available, prosecutors and defence solicitors have to prepare and come to court, and the results of the hearing have to be processed and the case rescheduled. Ineffective hearings also inconvenience others such as civilian and police witnesses. The court, the defence or the Crown Prosecution Service may request adjournments but the decision to grant them is taken by magistrates. In reaching their decision, magistrates have to balance the need to progress cases as quickly as possible with the need to ensure that the parties have a realistic timescale to prepare, that the defendant has been fully able to exercise his or her legal rights, and that all available evidence is ready. If a case is heard before the parties are ready, it may lead to injustice. It may also result in the additional expense of an appeal hearing.

Information currently collected on the number and causes of adjournments

4.8 The first step in tackling the issue of adjournments is to establish accurate information on their number and causes, which can be used to consider the extent and nature of any problems. There is no single national source of data on the number or causes of adjournments or ineffective hearings in the magistrates' courts. The Lord Chancellor's Department and the Crown Prosecution Service separately collect information on the number of adjournments in magistrates' courts, which provide a partial picture (Figure 31). The information available suggests that there are between 1.8 and 2.6 million adjournments each year and that, on average, cases involving minor motoring offences have one adjournment, non-motoring offences have 0.8 adjournments, and cases involving more serious offences (indictable-only and either-way cases) have 2.6 adjournments prior to completion in the magistrates' court.

Figure 31**Summary of the data collected on the number and causes of adjournments in the magistrates' courts**

The data currently collected provide only a partial picture of adjournments. In particular, they provide no useful information on the causes of adjournments.

Agency	Data collected	Limitations
Crown Prosecution Service	The number of adjournments in the cases it prosecutes, and the agency requesting each adjournment.	<ul style="list-style-type: none"> ■ The data do not distinguish between standard procedural adjournments and ineffective hearings (Figure 29). ■ No information is provided on the causes of adjournments since the agency requesting the adjournment may not necessarily have caused it. For example, the defence may request an adjournment for time to consider the prosecution case where information was provided late by the Crown Prosecution Service.
Lord Chancellor's Department	The average number of hearings per case and the average length of adjournments.	<ul style="list-style-type: none"> ■ The data are collected in three separate one week surveys, which may not be representative of the year as a whole. Only one of the survey weeks covers all types of cases. ■ No information is collected on the causes of adjournments.

Source: Lord Chancellor's Department and Crown Prosecution Service

4.9 Information on the causes of adjournments is needed at two levels. Firstly, as a different bench of magistrates is likely to sit for each hearing, clear recording of the reason for each adjournment and the progress expected at the next hearing would assist magistrates in encouraging progress. In their review of *How long youth cases take*, Her Majesty's Inspectorate of Constabulary, Her Majesty's Magistrates' Courts Service Inspectorate and the Crown Prosecution Service Inspectorate found that case files often did not show clearly the reasons for adjournments.

4.10 Information is also needed on the overall causes of adjournments in each area to assist agencies in reducing the number of unnecessary adjournments. Of the eleven magistrates' courts we visited, six collected information on the local causes of adjournments and one was considering collection. In the absence of any national requirements or guidelines, each had adopted a different approach, although they collected data for trials only and not for earlier hearings, unless they had specific initiatives such as fast tracking (paragraph 3.31) which they wished to

monitor. Three courts regularly collected information on the causes of ineffective trials, two collected information on an ad hoc basis and one monitored the results of fast track cases.

Recommendation

-
14. Departments should provide guidance to local agencies on the development of systems for capturing information on the causes of all ineffective hearings and for using it to develop strategies for reducing their number. Such systems would include:
- a requirement for the cause of each adjournment to be recorded on case files;
 - the case file also to note the reason for application and the actions required by the parties;
 - the collation and analysis of this information at regular intervals;
 - the presentation of the analysis for discussion and agreement on appropriate action at local inter-agency liaison meetings.
-

National Audit Office survey findings

4.11 The most recent available survey data on reasons for adjournments was published in January 1997, reporting the results of a series of surveys between July 1994 and May 1995 at 21 magistrates' courts by the Home Office Research and Statistics Directorate. We wished to have more up to date data which more transparently identified the failures in liaison which might lead to adjournments and the agencies responsible. We therefore carried out our own detailed survey, which examined the reasons for all the adjournments during one week in 10 magistrates' courts (about 1,800 adjournments in total). The aims of the survey were to establish:

- the proportion of adjournments which were part of standard court procedures and the length of delay;
- the proportion of adjournments which were the result of ineffective hearings and the length of delay;
- as precisely as possible, the reasons for ineffective hearings and the agencies or other parties responsible.

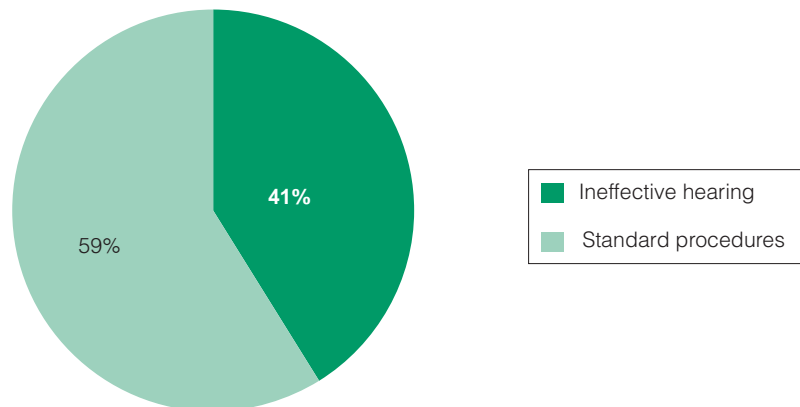
Details of the survey methodology are provided in Appendix 1.

Standard procedural adjournments

4.12 We found that about 60 per cent of adjournments were caused by standard court procedures rather than errors or omissions by any of the parties involved (Figure 32). Figure 33 overleaf shows the reasons for the standard procedural adjournments found in our survey.

Proportion of adjournments in the magistrates' courts resulting from standard court procedures and from ineffective hearings

Figure 32



Source : National Audit Office survey of adjournments

Figure 33

Reasons for standard procedural adjournments

The most common standard procedural adjournment was to allow the parties time to prepare for a trial

For the parties to prepare for a trial or pre-trial review after the defendant pleaded not guilty	36%
For the Probation Service or health service to prepare a probation, psychiatric or medical report on the defendant prior to sentencing	16%
For miscellaneous reasons, most commonly because the defendant was ill, or in traffic cases for the defendant to produce motoring documents	13%
For the prosecution to serve concise witness statements on the defendant where he/she has failed to respond to a summons	10%
For the Crown Prosecution Service to prepare papers in cases which are to be committed to the Crown Court for trial	8%
For the defendant to be notified that the court has found him/her guilty of a road traffic offence and may disqualify him/her from driving at the next hearing	8%
For the case to be dealt with at the same time as other outstanding cases involving the defendant	6%
For the police to provide the Crown Prosecution Service with a more detailed case file after the defendant unexpectedly pleaded not guilty	3%
	100%

Source: National Audit Office survey of adjournments

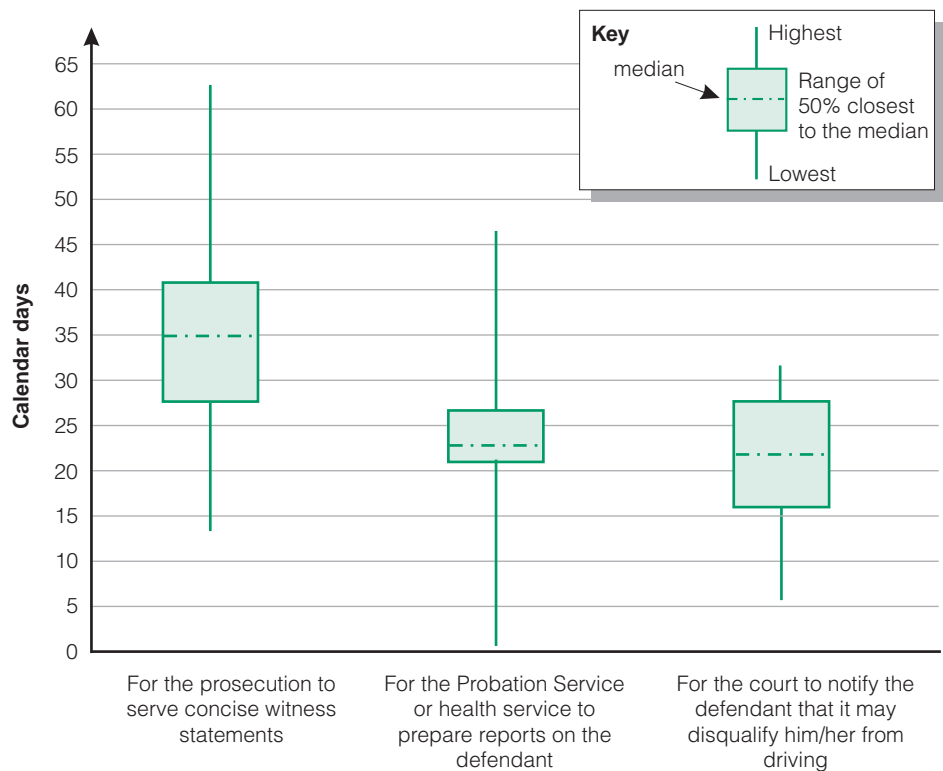
4.13 The average length of a standard procedural adjournment in our survey was 27 days, the longest was 101 days and the shortest just one day. In deciding for how long a case should be adjourned, magistrates consider the representations of the prosecution and defence, the previous performance of agencies in undertaking the action required, and the availability of court time. In some instances, the difference in the times granted can be explained by differing complexities of cases, particularly when the case is adjourned for a trial. For example, a case involving forensic evidence is likely to take longer to prepare than a case where there were police eye witnesses at the scene of a minor offence.

4.14 However some of the actions required between hearings are relatively standard. Our survey showed wide variation in the adjournment length for these processes (Figure 34). Some magistrates take a more robust approach than others in accepting the representations of the parties. Differences in the local performance of agencies and the availability of court time account for some of the variation between courts in time granted.

Variation in the time between hearings as a result of standard procedural adjournments

Figure 34

The length of standard procedural adjournments varies widely. The third example below, which is the shortest, is wholly within the court's control. The other two both require action from other parties.



Source: National Audit Office survey of adjournments

Recommendation

15. Magistrates' court staff should:
 - collect data to calculate the average time granted locally for different types of standard procedural adjournment;
 - compare the performance of the court as a whole against other courts;
 - identify inconsistencies and problem areas and develop strategies to address them;
 - discuss and agree with other criminal justice agencies protocols to cover the length of adjournment to be allowed.

4.15 Whilst many standard court procedures would be difficult to change without interfering with defendants' legal rights, we found that agencies in some areas were taking steps to avoid some adjournments by changing local working practices, for example in the provision of probation reports and witness statements in traffic offences.

Probation reports

4.16 Before passing sentence, magistrates may ask the Probation Service to compile a report on the defendant. In 1997-98 probation officers completed 225,000 pre-sentence reports for the courts, detailing the circumstances of the offender and assessing the suitability of particular sentences, in the light of the facts of the offence, the plea offered and the risk of re-offending.

4.17 Usually cases are adjourned to allow the Probation Service time to prepare reports, which accounted for 16 per cent of standard procedural adjournments in our survey. In 1997-98 the 54 probation services collected data on the average time taken to provide pre-sentence reports and the proportion completed within the target time of 15 working days. While the data should be treated with caution because all areas may not have recorded on a consistent basis, it showed that the average time taken to complete a pre-sentence report for magistrates was 16 working days and that nearly 60 per cent of reports were completed within the target time. Performance in the 54 areas ranged from 31 per cent in North East London to 83 per cent in South Glamorgan. For 1998-99 the Home Office has introduced a new performance indicator which measures the proportion of reports provided within the time laid down by the court, rather than within 15 working days. Her Majesty's Inspectorate of Probation told us that they were concerned that the new measure could result in cases taking longer to complete, as some courts tended to allow the Probation Service more than 15 working days to provide reports. Our survey evidence confirmed this. We found that adjournment periods granted to allow the Probation Service to prepare a pre-sentence report varied from one day to 47 days. We also found wide variations within individual courts. For example in one court (Southend) the time allowed to prepare probation reports ranged from six days to 37 days.

Recommendation

-
- 16.** The Home Office should review whether the performance target requiring local probation services to meet court deadlines for providing pre-sentence reports is appropriate and whether a specific maximum target should also be set.
-

4.18 Some probation services have started to provide pre-sentence reports on the same day in straightforward cases where the magistrates consider that they do not require a detailed report. The reports – known as specific sentence enquiries and provided in oral or written form – consider an offender's suitability for a

specific community sentence identified by the court. In 1997, as part of a thematic inspection of the work of the Probation Service in the courts, Her Majesty's Inspectorate of Probation examined the piloting of specific sentence enquiries. It found variation in their use in different magistrates' courts and considered that the variation reflected the extent to which they had been promoted by local probation staff and court clerks. Research from one of the pilot areas showed that orders made by magistrates on the basis of specific sentence enquiries were as successful as those made on the basis of full pre-sentence reports. They were popular with magistrates because they enabled them to complete straightforward cases on the day without a further sentencing hearing. The Home Office is developing a circular for probation services on the use, content and handling of specific sentence enquiries.

Recommendation

-
17. Those local probation services that have not yet done so should explore with courts the scope for using on the day specific sentence enquiries, with a view to reducing the number of adjournments required to prepare pre-sentence reports.
-

Witness statements in traffic offences

4.19 Around a quarter of the cases (some half a million) that magistrates' courts deal with each year concern road traffic offences where the defendant can plead by post. In many instances defendants fail to respond to the police summons and, in some areas, 70 per cent of cases are adjourned for the prosecution to call witnesses or serve evidence on the defence. Our survey of adjournments found that 10 per cent of standard procedural adjournments were for this purpose.

4.20 Between September 1996 and March 1997, criminal justice agencies in Gloucestershire and Lancashire piloted new procedures where the police served concise witness statements on defendants with the summonses. This allowed the Crown Prosecution Service to present cases and the court to reach a verdict where necessary in the absence of the defendant, enabling up to 77 per cent of cases to be finalised at the first hearing. And the average time from offence to case completion fell from 144 to 95 days in Gloucestershire, and from 139 to 84 days in Lancashire. The new procedures have since been adopted nationally under the Magistrates' Courts (Procedures) Act 1998, which came into force in May 1999, and are expected to lead to fewer adjournments and shorter case completion times.

Recommendation

-
18. The Lord Chancellor's Department and magistrates' courts should monitor the new procedures which allow the police to serve concise witness statements with summonses in traffic cases, to ensure they are being used and that they lead to fewer adjournments and shorter case completion times.
-

Ineffective hearings

4.21 We found that 41 per cent of adjournments during the survey week were due to errors or omissions on the part of the various players (Figure 32). The hearing concerned was therefore ineffective and, on average, cases were delayed for 18 days. The maximum length of adjournment was 70 days and the minimum one day.

4.22 Our survey covered all adjournments granted during one week in 10 magistrates' courts covering inner-city, suburban and rural proceedings. If our findings are typical across courts in England and Wales, and using the lower estimate for the number of adjournments annually (paragraph 4.8), it would mean that each year about 700,000 magistrates' courts hearings are ineffective and cause unnecessary delay.

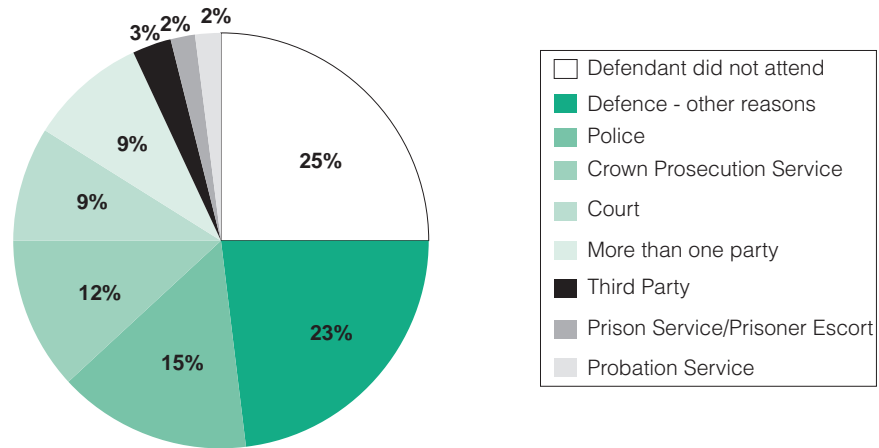
4.23 Using broad data on the cost of court hearings produced by the Home Office, we estimate that ineffective hearings in the magistrates' courts result in wasted expenditure of at least £41 million each year. This does not include possible additional legal aid payments to the defence or witness expenses.

4.24 Figure 35 shows the ineffective hearings in our survey split by the criminal justice agency responsible. One quarter of ineffective hearings were caused by the defendant failing to attend court. The defendant or defence solicitor were responsible for a further 23 per cent of the adjournments, for example where the defendant needed to give further instructions to the solicitor. The prosecution was responsible for just over a quarter and the courts less than ten per cent. The remainder were caused by other agencies such as the Probation Service and the Prisoner Escort and Custody Service, or by third parties such as witnesses. These findings are broadly in line with the findings from a sample of some 270 cases involving youths examined as part of the recent joint inspection by Her Majesty's Inspectorate of Constabulary the Crown Prosecution Service Inspectorate, and Her Majesty's Magistrates' Courts Service Inspectorate (paragraph 1.4).

Responsibility for ineffective hearings

Figure 35

About half the ineffective hearings in our survey were caused by the defence, including cases where the defendant failed to attend the hearing.



Source: National Audit Office survey of adjournments

4.25 Our estimate of the cost of ineffective hearings (paragraph 4.23) includes that caused by the defendants not turning up to hearings. The agencies do not have direct control over defendants but can exercise some influence through the use of appropriate incentives and sanctions.

Addressing the causes of ineffective hearings

4.26 Figure 36 overleaf shows the causes of ineffective hearings during the National Audit Office survey week. This section of the report considers these causes in more detail and the action that could be taken or is being taken to address them.

Figure 36

Reasons for ineffective hearings

Failure of the defendant to attend the hearing was the most common reason for ineffective hearings in the magistrates' courts

The defendant was on bail and did not attend the hearing without giving a satisfactory explanation	25%
The prosecution needed to make further enquiries	10%
The defendant needed to give further instructions to his/her solicitor	9%
The court did not have details of the defendant's previous driving convictions	7%
The Crown Prosecution Service had not provided advance information on time	6%
The defendant had not applied for legal aid	5%
The Crown Prosecution Service did not provide committal papers on time	5%
The defence had not requested advance information	4%
A witness (civilian or police) did not attend court	4%
The defendant was not made aware of the date of the hearing or had been issued with a defective summons	3%
The Crown Prosecution Service and defence needed to liaise	3%
The defence had received committal papers but not considered them	3%
The defendant's application for legal aid had not been processed	2%
The summons had not been served on the defendant	2%
The defendant was in custody and the Prisoner Escort and Custody Service failed to bring him/her to court	2%
The Crown Prosecution Service had not served concise witness statements on time	2%
A previously requested pre-sentence report from the Probation Service had not been provided to the court	2%
The defence had received advance information but had not considered it	1%
There was insufficient court time to hear the case	1%
The Crown Prosecution Service was unable to produce the file in court	1%
The defendant wished to see tape or video evidence	1%
The Crown Prosecution Service needed to consider the appropriateness of the charges	1%
Miscellaneous reasons (each less than 1%)	1%
	100%

Source: National Audit Office

Defendant fails to attend

4.27 The defendant failing to attend caused one quarter of ineffective hearings in the magistrates' courts in our survey. Where this occurs, unless a satisfactory explanation is provided, the magistrates will assume that the defendant has breached bail and will usually issue a warrant for his or her arrest.

4.28 Breaching bail is a separate offence carrying a maximum penalty of three months in custody or a £5,000 fine. Two magistrates' courts we visited told us that magistrates usually dealt with bail offences as soon as the defendant was brought back to court to make a clear link with the failure to attend. However most of the courts we visited said no specific action was taken when they were brought back before the court. Many defendants are granted bail again. Bail is a statutory right but may be refused in certain circumstances, and failure to appear is a factor that the court may take into account.

4.29 A number of changes brought about by the Crime and Disorder Act 1998 are aimed at reducing the number of breaches of bail. Magistrates were given more discretion to ask for security by removing the restriction that it may be required only if the defendant was unlikely to remain in Great Britain. It was also made easier for the magistrates' court to require the payment of security given on behalf of a defendant who absconds while on bail.

Recommendations

-
19. The Lord Chancellor's Department should remind court clerks and magistrates of the importance of making clear to defendants the impact of breaches in bail conditions, particularly where the defendant has a history of breaches, and should examine ways in which the penalties for breach of bail can be made more effective.
 20. The Home Office, Lord Chancellor's Department and magistrates' courts should collect data on the impact of those changes in bail procedures brought about by the Crime and Disorder Act 1998 to ensure they achieve their aim in reducing the number of bail breaches.
-

4.30 If a defendant fails to appear at a trial, the magistrates' court can proceed in their absence but, as in other cases, the defendant may appeal to the Crown Court against a conviction or sentence in absence. An amendment to the Magistrates' Courts Act 1980, which came into force in January 1996, has made it easier for magistrates' courts to rehear cases themselves if they consider it in the interests of justice to do so. This has reduced the risk of trials in absence leading to expensive Crown Court appeals. Two-thirds of the courts we visited said that magistrates were willing to proceed in the defendant's absence in minor cases. The Crown Court can only try in absence summary or either-way cases linked to an indictable-only case which has already been dealt with, and may proceed in absence only with the consent of the defendant.

Problems with the defendant's representation

4.31 Before the first hearing in the magistrates' court defendants on bail should have found a solicitor, applied for legal aid, discussed their case with the solicitor and reached conclusions on the plea and handling of the case. Defendants in custody are usually granted legal aid temporarily for the initial hearing where the court decides whether to remand the defendant in custody, but they are expected to submit a full application before the first hearing on their case. Five per cent of the ineffective hearings in our survey of magistrates' courts occurred because the defendant had not applied for legal aid. The courts we visited told us that magistrates would usually grant one adjournment to allow the defendant further time to apply for legal aid. The average length of these adjournments in our survey was 15 days, but in one case an adjournment of 70 days was granted.

4.32 To address this problem, Bexley Magistrates' Court has held early administrative hearings since 1993, intended to overcome defendants' failure to instruct a solicitor or apply for legal aid during the four week period between being charged and appearing in court for the first time. Defendants are bailed by the police to attend an administrative hearing with a court clerk within two or three days of charge. At the hearing the defendant completes a legal aid application form with help from an independent volunteer. The clerk assesses the claim and if legal aid is granted the defendant is given details of local solicitors who do legal aid work. The defendant (or a court usher) telephones his or her choice of solicitor from the court and arranges an appointment. The clerk then bails the defendant to appear at a first full hearing in around four weeks' time. Where the defendant does not have the documentation necessary to support the claim at the time of the hearing, the court may refer the defendant to a solicitor giving a deadline for submission of a properly completed and supported application. Sometimes the court may grant legal aid subject to production of the necessary evidence, though with the risk the defendant receives legal aid to which he or she is not entitled.

4.33 Bexley's monitoring showed that the introduction of early administrative hearings had increased the proportion of cases making progress at the first full hearing from around 50 to almost 80 per cent. The organisations we consulted supported the wider use of such hearings as a means of focusing defendants' minds on the need to obtain legal representation.

4.34 From November 1999, the Crime and Disorder Act 1998 (Appendix 4) will require the police to bail all defendants to the earliest available court hearing. In cases where the defendant is expected to plead not guilty, the first hearing may be an early administrative hearing, which may be conducted by a single magistrate or

court clerk, rather than by a bench of magistrates, subject to the Lord Chancellor making rules to allow this. At the hearing, the defendant's eligibility for legal aid may be determined and directions given on preparing for trial.

4.35 In addition to the five per cent of ineffective hearings due to failure to apply for legal aid, a further two per cent of cases in our survey occurred because the defendant's legal aid application had not been processed. We found that most delay resulted from defendants' failure to provide all the documentation required to support their claims or to fill in the claim forms correctly. It is the responsibility of the defendant to obtain the necessary documentation but, in practice, the defendant's solicitor will help. However, two magistrates' courts we visited obtained confirmation of benefit entitlement directly from local Benefits Agency offices which allowed applications to be processed sooner. In December 1998, the Government published proposals to change the system for granting legal aid and providing representation for defendants (paragraph 3.26).

Recommendations

21. Magistrates' courts should develop protocols with local Benefits Agency offices to cover the provision of benefit entitlement information needed for legal aid applications.
22. Those magistrates' courts that do not already do so should consider developing and circulating guidance on legal aid requirements to local firms of solicitors.

Defence or prosecution not ready

Defence

4.36 In nine per cent of the ineffective hearings in our survey the magistrates' court granted an adjournment because the defendant's solicitor needed to take further instructions from the defendant. In some cases this may be because of a lack of preparation on the part of the solicitor or a lack of co-operation on the part of the defendant, but in others the solicitor may have faced problems in obtaining information or access (Figure 37). Sometimes, usually in straightforward cases, the court may be able to avoid adjourning by putting a case back until later the same day, allowing the solicitor to take instructions at court. Four courts told us that they did this where appropriate.

Figure 37

Problems defence solicitors may face in obtaining information or access

Access to defendants at police stations	The Police and Criminal Evidence Code of Practice states that all people in police custody must be informed that they may at any time consult and communicate privately with a solicitor. The Home Office issued a circular in 1998 reminding police forces of the importance of providing appropriate facilities for a private and secure interview between a detainee and a solicitor.
Access to defendants in custody	42 per cent of Crown Court centres responding to a recent Court Service survey reported that defence solicitors were facing problems with arranging to meet their clients in prison. There may be a long waiting time for appointments, and there can be problems if the defendant is moved to a different prison at short notice. A further 8 per cent of Courts said there were problems with supplying space or the necessary escorts for conferences to happen at the Court. Information is not routinely collected on whether this is also a problem in magistrates' courts, although Her Majesty's Magistrates' Courts Service Inspectorate examines cell accommodation in the courts, including access for solicitors to defendants.
Recording of interviews with the police	Under the Code of Practice for the Police and Criminal Evidence Act 1984 a copy of the interview tape should be provided to the suspect as soon as practicable if he or she has been charged or informed that he or she will be prosecuted. Not all forces have fast tape-copying facilities in police stations. The Home Office recently reminded police forces that they should accommodate any request by a solicitor to make a separate audio recording unless there were circumstances specific to the case which might prejudice the course of the investigation. One per cent of ineffective hearings in our survey were caused by problems with a defence request for tape or video evidence.

Source : National Audit Office; Court Service - Review of Plea and Directions Hearings

Recommendations

23. The Home Office should review with police forces the provision of appropriate safe facilities in police stations to enable private and secure interviews between detainees and solicitors in order to avoid court adjournments requested by solicitors for this purpose.
24. The Lord Chancellor's Department, the Court Service, magistrates' courts and the Prison Service should review the arrangements for providing defendants' solicitors with access to defendants on remand with a view to reducing the number of ineffective hearings that currently result where there are problems.
25. The Home Office should review with police forces the provision of tape-copying facilities in police stations to ensure that adjournments to enable the defence to obtain a copy of the defendant's interview with the police are minimised.

4.37 The Crown Prosecution Service is required to provide details of the prosecution case to all defendants charged with either-way offences. This is known as advance information and may help a defendant to decide whether or not to ask for the case to be committed to the Crown Court. Advance information is needed at an early stage of a case and its reliable and timely provision avoids unnecessary adjournments. Problems with the provision of advance information gave rise to some 11 per cent of ineffective hearings in our survey (Figure 36: the Crown Prosecution Service had not provided advance information on time – 6 per cent;

defence had not requested advance information – 4 per cent; defence had received advance information but had not considered it – 1 per cent). In their joint examination of youth cases (paragraph 1.4), the criminal justice inspectorates also found that advance information gave rise to a considerable proportion of adjournments and that this proportion was particularly high for persistent offenders.

4.38 In six per cent of cases in our survey ineffective hearings were caused by late delivery of advance information requested by the defence. We classified these as prosecution or police-related ineffective hearings for the purposes of our analysis in Figure 35. The Crown Prosecution Service aims to provide advance information within seven days of getting the name of the defence solicitor and being in possession of the police file. Between November 1997 and March 1998 it achieved this in 77 per cent of cases, against a target of 80 per cent. Performance ranged from 84 per cent in the North West to 65 per cent in the South East. The Crown Prosecution Service Inspectorate reported improving performance in 1998-99.

4.39 The defendant's solicitor is responsible for contacting the Crown Prosecution Service to obtain advance information before the hearing, but in 4 per cent of ineffective hearings it was requested only at the hearing. Magistrates' courts are aware of the name of the defence solicitor from the defendant's legal aid application. Three of the courts we visited used this to provide the solicitor's name to the Crown Prosecution Service, so that advance information could be provided in good time before the hearing.

4.40 In half of the 6 per cent of ineffective hearings caused by the late delivery of advance information, disclosure was provided on the day of the hearing. Where this consists of only a few pages of evidence, the defendant's solicitor may be able to consider them at the court, enabling the case to be heard later the same day. This may also be possible on occasions where the defence has received advance information on time but had failed to consider it. However, the London Criminal Courts Solicitors' Association told us that at some courts the facilities were unsuitable for this. The additional delay to the case caused by problems with advance information ranged from three to 50 days.

Recommendations

-
26. Chief Crown Prosecutors should explore the reasons for the time taken to provide advance information to the defence and compare performance in their Area with other Areas. Crown Prosecution Service Headquarters should provide good practice guidance based on the working methods of the best performing Areas.
27. Those magistrates' courts that do not already do so should consider providing the defence solicitor's name to the Crown Prosecution Service to improve the availability of advance information to the defence before hearings.
-

4.41 In cases that are to be transferred to the Crown Court, the Crown Prosecution Service provides a copy of the committal papers to the defence. Late delivery of these papers, which was the cause of five per cent of ineffective hearings in our survey, may mean the case is delayed because the defence are likely to ask for the committal hearing to be adjourned on the grounds that they have not had sufficient time to prepare. Between November 1997 and March 1998 the Crown Prosecution Service sent committal papers to the defence within seven days of receiving a committal file from the police in 51 per cent of cases, against a target of 60 per cent. Performance ranged from 69 per cent in Wales to 39 per cent in Yorkshire.

Recommendation

28. Chief Crown Prosecutors should explore the reasons for the time taken to provide committal papers to the defence and compare performance in their Area with other Areas. Crown Prosecution Service Headquarters should provide good practice guidance based on the working methods of the best performing Areas.
-

4.42 The Government is proposing to set up a Criminal Defence Service. This is intended to arrange for the provision of criminal defence legal services through a mix of directly employed lawyers and firms of solicitors under contract. Firms under contract will be required to provide legal services to acceptable standards, which will generally relate to the quality with which they process and document their caseload.

Recommendations

29. The Criminal Defence Service should consider including standards in contracts for legal firms providing criminal legal aid services, as a means of reducing the number of ineffective hearings caused by the defence. Standards might require contractors to:
- deliver legal aid applications within a certain period;
 - request advance information within a certain period, and consider it;
 - take all reasonable steps to ensure that full instructions are received from the defendant prior to the first hearing;
 - warn defence witnesses within a certain period;

Recommendations continued

- attend all hearings including any preliminary hearings in the magistrates' courts and plea and directions hearings in the Crown Court;
 - inform the prosecution and court of the defendant's plea as soon as possible and notify local probation services of any intention by a defendant to change a plea to guilty in advance of a plea and directions hearing;
 - deliver briefs to Counsel to allow time for preparation in Crown Court cases.
30. In assessing firms' suitability for contracts and in monitoring performance, the Criminal Defence Service should consider consulting the courts about the standard of service provided by solicitors according to the criteria in recommendation 29.
-

Prosecution

4.43 Almost one-fifth of the ineffective hearings in our survey were caused by the prosecution not being ready to proceed, largely as a result of the police failing to provide information to the Crown Prosecution Service on time. Only 37 per cent of police files met standards agreed between the police and Crown Prosecution Service for quality and timeliness in 1997-98 (Figure 21). Where evidence or other details are missing the Crown Prosecution Service may request an adjournment to allow additional time to prepare. If there has already been considerable delay, magistrates have the ultimate sanction of proceeding without the prosecution being ready. But this may be unfair to victims, and is generally regarded as a last resort because it may cause the Crown Prosecution Service to drop or lose the case.

4.44 In some cases in our survey, the Crown Prosecution Service needed an adjournment to consider the charges. This may occur where the defendant indicates that he or she is prepared to plead guilty to a lesser charge. And in a small number of cases the hearing was ineffective because the Crown Prosecution Service was unable to produce the file in court.

Initiatives to improve preparedness

Pre-trial reviews

4.45 To help ensure that the prosecution and defence are ready to proceed, many of the magistrates' courts we visited held pre-trial reviews in some or all cases where the defendant pleaded not guilty at the first hearing. The reviews were conducted by a single magistrate or court clerk, and attended by the Crown Prosecution Service, the defendant's solicitor, and usually the defendant. Pre-trial reviews provide an opportunity for:

- the defendant to change his/her plea to guilty, avoiding the need for a full trial;

- the Crown Prosecution Service to finalise the charges or to drop cases which after review it decides should not proceed;
- the parties to establish the legal issues involved in the case and identify which witnesses are needed to give evidence in person (agreeing statements in advance where possible);
- the magistrates' court to estimate the length of the trial and identify any practical requirements, for example video facilities.

4.46 The organisations we consulted were generally positive about the value of pre-trial reviews in resolving issues before the start of a trial, although the views of staff at the courts we visited were mixed. Most felt that they were worthwhile and some told us that they had reduced the proportion of trials which did not proceed on the day. However some courts were not able to identify any discernible impact. There may be a risk that, by adding an extra stage, pre-trial reviews could lead to longer case completion times. One court (Liverpool) had concluded that holding reviews in all cases was not profitable and had decided to use them only where court staff considered that a particular case could benefit from a review, for example to resolve apparent conflicts about the legal issues involved.

4.47 During our visits we identified a number of factors that appeared to enhance the effectiveness of pre-trial reviews. These included:

- the involvement of an experienced magistrate or court clerk who would cover all the relevant issues and put effective pressure on the parties to prepare for the trial;
- co-operation from the parties and preparation prior to the hearing (for example, the exchange of witness statements);
- the attendance of a Crown Prosecution Service lawyer with the authority to take decisions on the case concerned without having to refer the matter back to the prosecutor with overall responsibility for the case.

4.48 The co-operation of the parties with the pre-trial review at the courts we visited was voluntary. The Narey report recommended stronger case management to enable clerks to put pre-trial reviews on a firmer footing. The necessary powers were provided in the Crime and Disorder Act 1998 (Appendix 4) and are available nationally from November 1999.

Case management systems

4.49 To help prevent ineffective hearings resulting from the prosecution or defence not being ready, one of the magistrates' courts we visited (Bristol) had introduced a formal system of case management. Magistrates and court clerks seek to manage case progression in court by:

- asking the prosecutor and defence solicitor what needs to be done for the case to progress, and how long it will take;
- drawing up a timetable of what they expect to happen during any adjournment periods, and providing copies to the parties;
- making it clear that the case will proceed at the next hearing unless there are exceptional circumstances.

4.50 Bristol's case management system was introduced in October 1998, shortly before our visit. An initial assessment indicated that the average time from first hearing to case completion had fallen from 37 to 28 days and that there had been a reduction in the number of interim hearings. Several of the organisations we consulted considered that there was scope for courts to manage cases more actively to ensure that they were ready for trial as early as possible.

Recommendation

31. The Trials Issues Group should evaluate the costs and benefits of pre-trial reviews in the light of the stronger case management powers available to single justices and court clerks, and consider issuing guidance on how to organise the reviews and the types of case in which they are most effective.

Ineffective hearings generated by others

Witnesses

4.51 About four per cent of ineffective hearings in our survey were caused by the non-attendance of witnesses. However only about eight per cent of cases heard in the magistrates' courts go to a trial likely to involve witnesses, and so the proportion of trials that are ineffective is considerably higher. In the Crown Court almost a quarter of trials are ineffective because witnesses fail to attend.

4.52 A survey conducted by the Trials Issues Group in November 1998 found that 12 per cent of all witnesses expected by magistrates' court staff to attend a trial did not in fact attend. It also found wide variations locally. In Wolverhampton, Brent, Walsall and the City of London, the proportion of witnesses failing to attend was more than a quarter. In South Tyneside, Powys, Barnsley, Kingston-upon-Thames, Hertfordshire, Suffolk, Warwickshire, Derbyshire, the

Isle of Wight and Barking and Dagenham it was less than five per cent. The information collected did not indicate whether the problems were caused by a failure to warn witnesses to attend or forgetfulness or reluctance on the part of the witnesses themselves. A Home Office research project, published in 1998, which surveyed 275 witnesses in five magistrates' courts found that over a third were given no instructions on how to get to the court and half were not told what to do on arrival.

4.53 Just over half the witnesses failing to attend in our survey were prosecution witnesses. In the circumstances, the hearing may be adjourned to a later date or the Crown Prosecution Service may have to drop the case. The police are responsible for notifying (or "warning") prosecution witnesses of the trial date and the time they are expected to attend court, but rely on prosecutors to supply them with details of the witnesses required to give evidence. The Crown Prosecution Service relies in turn on the defence giving notice of the prosecution evidence they accept and the prosecution witnesses they require to attend to give evidence. The Crown Prosecution Service aims to allow the police 14 days to contact witnesses before the start of the trial where the defendant is on bail, and 10 days where he/she is in custody. Between November 1997 and March 1998 the Crown Prosecution Service provided witness warning information within these agreed timescales in 72 per cent of cases, against a target of 90 per cent. Performance in the areas ranged from 93 per cent in the North West to 45 per cent in Anglia. The defendant's solicitor is responsible for notifying defence witnesses.

4.54 National Standards of Witness Care circulated by the Trials Issues Group specify that the police should notify prosecution witnesses as quickly as possible and in any event within four working days of being informed by the Crown Prosecution Service. Information on performance by the police against this standard is not routinely collected.

The magistrates' court

4.55 Three per cent of ineffective hearings were caused by problems with the notice of the hearing given to the defendant. Almost half of these occurred because the court failed to notify the defendant of the hearing date. If a defendant does not attend the court notifies him or her formally of the next hearing date once the outcome of the previous hearing has been processed. Where backlogs of results build up notifications may not be sent out in time. Some courts told us that having computer terminals to record case details in the court room would reduce the time taken to process results.

4.56 Courts aim to use court time as fully as possible. Most of the magistrates' courts we visited scheduled more than the number of trials required to fill each session, if all trials were to go ahead. For example, they might list five hours' work to fill a three-hour session. This is known as "overlisting" and is intended to ensure that when cases collapse or take less time than expected, other cases can be heard and the court fully utilised. There is a risk that some cases will not be reached although our survey of magistrates' courts found that only one per cent of ineffective hearings were the result of insufficient court time (Figure 36).

4.57 The whole of the costs of listed trials not going ahead or starting late, including costs of the Crown Prosecution Service, defence solicitors and witnesses and police witnesses, have not been quantified. However, the Lord Chancellor's Department has previously estimated (in 1982) that one-fifth of the cost of legal aid in the magistrates' court, which would currently amount to £49 million, is spent on solicitors waiting in court for a case to start. In 1994 the Home Office estimated that costs associated with police officers waiting at court to give evidence were some £33 million per year. Figure 38 sets out initiatives which have been undertaken to reduce the time which witnesses and others have to wait.

Measures to reduce on the day waiting times at court

Figure 38

The Trials Issues Group has agreed National Standards of Witness Care to be applied by agencies locally. In most areas we visited magistrates' courts had service level agreements with the police and Crown Prosecution Service covering witness care.

The Lord Chancellor's Department has issued a quality of service charter stating that most witnesses should not have to wait more than one hour, and has set a target for magistrates' courts to reduce waiting times so that more than half of victims and witnesses wait less than one hour by 1999-2000.

The Department asks magistrates' courts to collect data on *defendant* waiting times during one week each year to indicate the time waited by other parties including witnesses. The Trials Issues Group has conducted four two-week surveys of witness waiting times in magistrates' courts since November 1997. The November 1998 survey showed that nationally 52 per cent of witnesses had to wait more than an hour. Local performance ranged between 7 per cent and 78 per cent.

The Criminal Justice System Strategic Plan promises a new target by 31 March 2000 to measure the satisfaction of victims, witnesses and jurors with their treatment in the system. Performance will be monitored using surveys.

Source: Lord Chancellor's
Department

Recommendation

- 32.** Local agencies should be encouraged to collect information on the reasons why witnesses do not attend court. Chief Crown Prosecutors, Crown Court Managers, Justices' Chief Executives, and police forces should consider using joint performance management to evaluate this information and identify action to improve performance. Targets should be set for the amount of advance warning given to witnesses.

4.58 In motoring cases the courts are responsible for obtaining details of a defendant's previous driving convictions from the Driver and Vehicle Licensing Agency to inform sentencing. Seven per cent of ineffective hearings in our survey occurred where the court had not obtained the information in time. Magistrates' courts we visited told us that it can take up to four weeks to obtain the information from the Agency, but some sought to avoid adjournments by requesting the information as soon as the police notified them of the case, rather than waiting for the defendant to be convicted. By the end of 1999, nearly all courts will have a computer link enabling direct extraction of information from the Agency's computer.

Prison Service/Prisoner Escort and Custody Service

4.59 Two per cent of ineffective hearings in our survey of magistrates' courts were the result of a defendant in custody not being brought to court by the Prisoner Escort and Custody Service. This delayed the progression of cases by between five and 28 days. While this shows that it is relatively uncommon for prisoners not to be brought to court at all, several of the courts we visited had experienced difficulties with prisoners arriving late, after the hearing should have started. This can leave the court sitting idle and affect other cases scheduled to be heard later in the day.

4.60 The court notifies the Prison Service of the need for a defendant to appear. The prison concerned is responsible for handing over the defendant to the Prisoner Escort and Custody Service which, in turn, is responsible for delivering him or her to the hearing on time. A failure or delay in delivering a prisoner can be caused at any of these stages. The Prisoner Escort and Custody Service is provided by private contractors and performance is monitored by the Prison Service. In 1997-98, about 15 per cent of prisoners were delivered late. Where contractors persistently bring prisoners to court late, they may incur financial penalties.

Recommendation

- 33.** The results of monitoring of late and non-delivery of prisoners should be discussed by the courts, the Prison Service and the Prisoner Escort and Custody Service in order to identify the action necessary to improve performance.

4.61 Under section 57 of the Crime and Disorder Act 1998, the court may direct that a defendant in custody should appear at a pre-trial hearing via a video link between the courtroom and the prison, rather than being brought to court. The use of video links is being piloted at Bristol, Manchester and Swansea Magistrates' Courts.

The role of the magistracy

4.62 The decision in court to grant an adjournment and its length is taken by magistrates. Court clerks told us that some magistrates took a more robust approach than others in questioning the parties about the need for an adjournment, and the length of time requested. Several court clerks told us that, in general, stipendiary magistrates took a more robust approach than lay magistrates.

4.63 In 1993 the Magistrates' Association produced guidance to encourage magistrates to question the reasons why an adjournment was necessary. We found that most training provided locally to magistrates included advice on the need to consider requests for adjournments carefully. One Magistrates' Courts Committee monitored the number of adjournments granted by each magistrate and used the results to help inform training. In another area magistrates were provided with cards containing questions they might ask in court to help identify whether an adjournment was justified.

4.64 Clerks also have an important role to play in the effective functioning of the magistrates' courts. The clerk advises lay magistrates in court on points of law (for example, the sentences available for a particular offence). They may also draw to magistrates' attention the history of the case (for example, the numbers of previous adjournments), and question the parties on the reasons for delay. Magistrates' training is carried out locally by Justices' Clerks.

Recommendation

- 34.** Clerks and magistrates should work together to:
- monitor the number and type of adjournments granted by individual magistrates to inform their future training;
 - issue guidance to help magistrates to establish whether an adjournment is justified.

4.65 Justices' Clerks have powers to grant adjournments outside court where both parties agree. We found that two per cent of adjournments in our survey were granted in this way. If the parties approach the court early enough, the court is able to reschedule other hearings to make use of the time left by the adjourned case. It also means that any witnesses can be informed and avoid attending court unnecessarily. Clerks therefore need to question closely to ensure that such adjournments are justified.

Recommendation

-
35. Magistrates' courts should:
- encourage parties to apply for adjournments early so where possible they can be granted outside court, thus saving court and attendance time and costs;
 - ensure the progress of each case is monitored carefully and the parties chased to make progress where necessary.
-

4.66 Under the Prosecution of Offences Act 1985, the magistrates may require either the Crown Prosecution Service or the defendant's solicitor to pay costs of the other party as a result of "unnecessary or improper acts of omission" or "unreasonable or negligent acts". Information relating to these powers, and how the procedures work in practical terms, was disseminated to courts by the Lord Chancellor's Department in 1991. In 1995 the Justices' Clerks' Society published further guidance. In 1997-98 courts made 335 of these costs orders against the Crown Prosecution Service, at an average cost of £1,025 per order. Information on awards against the defence is not collected.

4.67 For sanctions to be effective they need to be both workable and appropriate. Magistrates and court staff we spoke to criticised costs orders, which they considered to be overly cumbersome since a lawyer's right to make representations against an order can prove time consuming and expensive. They are also felt to be inappropriately severe, since a single costs order can damage the reputation of an advocate, leading to hostility rather than co-operation between local defence solicitors and Crown Prosecution Service staff. Additional hearings may entail expenditure greater than the award itself. The orders can only be awarded against the Crown Prosecution Service or the defence, and not against other players such as the police.

4.68 In a recent consultation paper on reducing delays, the Home Office noted that many magistrates and judges would like a simpler form of sanction to be available. A consultation paper *Transforming the Crown Court*, recently issued by the Court Service, raised the possibility of fixed penalties for failing to complete a specified task within the timescale imposed by the court, or within locally agreed protocols.

Recommendations

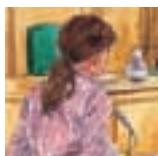
-
36. The Lord Chancellor's Department should collect more detailed information on local practice in the award of costs against parties for acts of omission or negligence. The Department should use this information to review the effectiveness of costs orders as a sanction against delay.
37. Together with the magistracy, the Law Society and the Bar Council, the Lord Chancellor's Department should review the sanctions and levers available to magistrates to deal with errors or omissions by local criminal justice agencies that lead to avoidable adjournments.
-

Figure 40

Key players involved in progressing a case through the Crown Court



Key



Witness



Judge



Court Clerk



Crown Barrister
(Prosecuting Counsel)



Crown Prosecution
Service Caseworker



Defence Barrister
(Defence Counsel)



Probation Officer



Defence Solicitor



Defendant



Prisoner Escort

Note: All these individuals would not necessarily be in the courtroom at the same time.

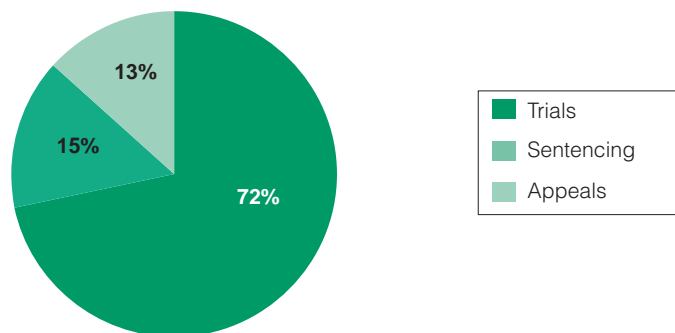
Part 5: Handling cases in the Crown Court

5.1 The main work of the Crown Court is the trial of defendants committed from the magistrates' courts (Figure 39). Between the committal hearing in the magistrates' courts and the trial, the Crown Court holds a preliminary hearing, known as a plea and directions hearing, to help the parties prepare and ensure the trial will be effective. The key players involved in progressing a case through the Crown Court and the liaison required between them are shown in Figure 40 opposite and Figure 41 overleaf. This part of the report considers performance in getting cases transferred from the magistrates' courts and their handling in the Crown Court. It is set out as follows:

- information available on the time taken to complete cases tried in the Crown Court;
- transferring cases from the magistrates' courts;
- ensuring the prosecution case is properly presented;
- waste caused by cracked and ineffective trials;
- reducing the number of cracked and ineffective trials through plea and directions hearings and case progression systems.

**Crown Court caseload
1997-98**

Figure 39



Trials For the more serious indictable-only offences magistrates decide at a committal hearing whether there is a case to answer, and if so the case is transferred for trial at the Crown Court. In either-way cases magistrates may decline jurisdiction in certain types of case and pass them to the Crown Court or, at present, the defendant may elect for trial at the Crown Court.


















Sentencing In some cases the magistrates may consider that greater punishment is needed than they can impose and therefore commit the defendant to the Crown Court, which has greater sentencing powers.

Appeals The Crown Court hears appeals against convictions and/or sentences in the magistrates' courts.

Source: Court Service

Figure 41

Liaison required between the key players to progress a case through the Crown Court

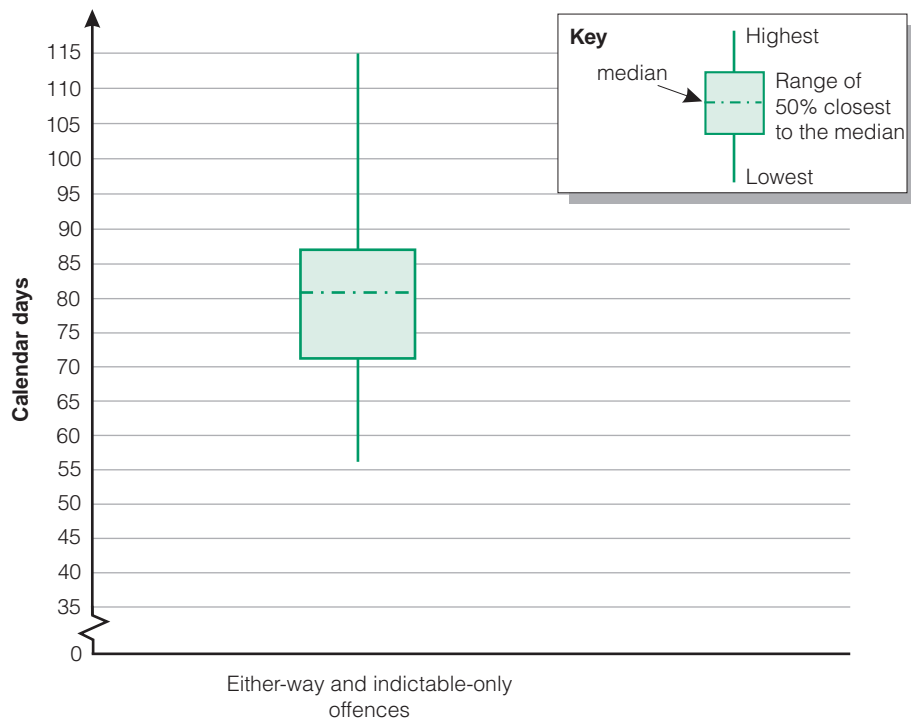
								
		The Court liaises with the prosecution on the date and time of the hearing.	The Crown Prosecution Service instructs Counsel and must provide the brief in good time. The barrister needs to return the brief promptly if unable to take the case.		The defence Counsel liaises with the prosecution on legal and other issues in the case (e.g. on the need for cross-examination of witnesses).			
		The Court advises witnesses on their arrival at Court, ensures they know where to wait and keeps them informed of when they are likely to be called.	The prosecution caseworker identifies the witnesses required to attend and must inform the police in good time to warn witnesses to attend.				The defence identifies the defence witnesses needed to appear at the hearing and advises them when to arrive at Court.	
				The Court informs the Prison Service and the Prisoner Escort and Custody Service of the defendants on remand required to appear at Court.			The defence should supply the Court with a full list of the witnesses they require to attend, at least 14 days before the trial.	The Court Service ensures that a judge with appropriate experience is available to hear the case and that he/she has the case file.
							The Crown Prosecution Service exchanges necessary information with the defence (e.g. unused evidence).	
					The Prisoner Escort and Custody Service ensures that defendants on remand are delivered to Court on time.			
						The defence barrister needs sufficient time to consult with the defendant and advise on the plea.	The defendant's solicitor identifies and advises a barrister to act on the defendant's behalf.	
							The defendant's solicitor needs sufficient access and time to consult with the defendant on the case.	
								

Information available on the time taken to complete cases tried in the Crown Court

5.2 All cases that reach the Crown Court start in the magistrates' courts but until recently data were not collected that separately identified the time that cases transferred to the Crown Court took in the magistrates' courts before committal. Survey data collected by the Lord Chancellor's Department since February 1999 do separately distinguish such cases but has not yet been published. According to 1998 survey data the average time taken nationally to complete indictable-only and either-way offences in the magistrates' courts was 81 days, but this includes a large number of either-way cases that were dealt with entirely by the magistrates' courts and did not pass to the Crown Court. There was a wide variation in local performance (Figure 42). In Birmingham, Leeds, Northamptonshire and Walsall the average time taken was more than 100 days and in Barnet and Bromley less than 60 days. Even in the 50 per cent of local Magistrates' Courts Committee areas which were closest to the median for these types of case, the time taken ranged between 72 and 87 days.

Time taken in the magistrates' courts to complete the more serious offences from charge or summons, by Magistrates' Courts Committee area, 1998

Figure 42



Source: Lord Chancellor's Department

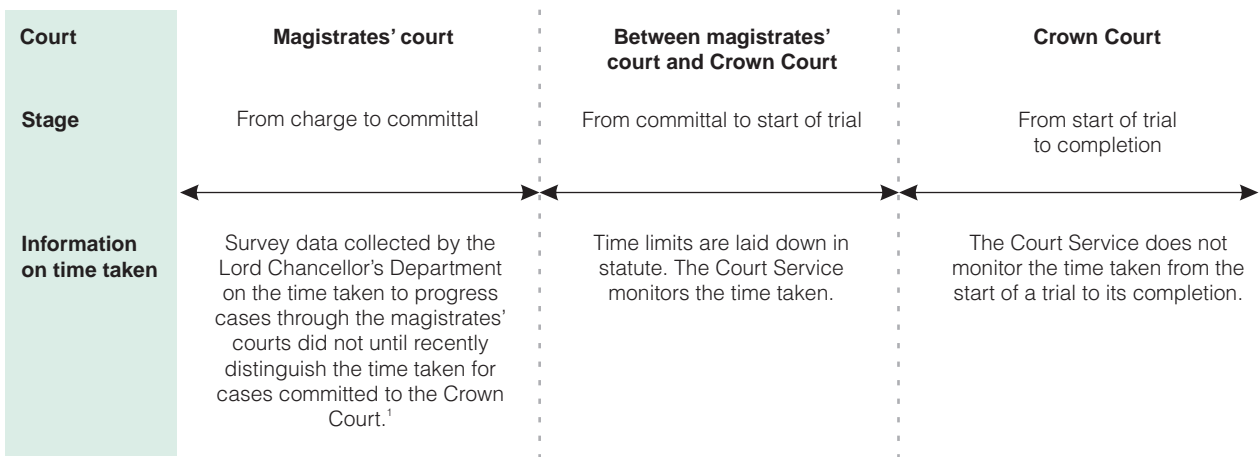
5.3 No data are collected on the time taken for trials to be completed once they begin in the Crown Court. There is therefore no accurate information on the total time it takes the more serious cases to pass through the court system, which would allow management in the Court Service to evaluate whether trial lengths are changing over time (Figure 43).

Recommendations

38. The Lord Chancellor’s Department should ensure that magistrates’ courts collect information on the time taken:
 - between first hearing and completion of either-way cases completed in the magistrates’ courts;
 - between first hearing and completion of either-way cases that go on to the Crown Court;
 - between first hearing and completion of indictable-only cases that go on to the Crown Court.
39. The Court Service should ensure that Crown Court centres collect information on the time taken:
 - to complete either-way and indictable-only cases;
 - from plea and directions hearing to trial;
 - from the start of the trial to conviction or acquittal;
 - from conviction to sentence;
 - the total time taken to complete cases from the point they are received from the magistrates’ courts.
40. The Lord Chancellor’s Department and the Court Service should collate information on the total time taken to complete cases from charge/summons to completion in the Crown Court.

Figure 43

Information on the total life of a case tried in the Crown Court



Note: 1. This data has been collected since February 1999 but has not yet been published.

Source: National Audit Office

Transferring cases from the magistrates' courts

Time taken

5.4 The Crown Court Rules provide that a trial must begin no later than eight weeks from the date of committal in the magistrates' court unless the Crown Court has otherwise ordered. In 1995 the Lord Chancellor's Department told the Committee of Public Accounts that any time limits set down were subject to judicial control. In their report on the *Administration of the Crown Court* (HC 173, 1994-95), the Committee expressed serious concern that the waiting time limits embodied in statute had never been achieved. Although performance has improved in recent years, average waiting times are still well in excess of the statutory limit. In 1998, 51 per cent of defendants waited more than eight weeks from committal for their trial to start.

5.5 Courts are bound to observe a statutory 16-week limit on the period defendants can remain in custody between committal and being brought before a judge. If this period is exceeded, the defendant must be granted bail unless the prosecution successfully applies for an extension. This may involve additional work for the Crown Prosecution Service, the defence and the courts. In 1998, 17 per cent of defendants held in custody waited more than 16 weeks for their case to come to trial.

5.6 In 1998 the Crown Court dealt with a total of 24,000 defendants who were remanded in custody before their trial. Almost three-quarters of defendants held on remand were found guilty, but this means that the remaining quarter held on remand were subsequently acquitted. Also, less than half of remanded defendants ultimately received a custodial sentence. Remanded prisoners waited on average 9.4 weeks for their trial to start, at a cost to the Prison Service of around £350 per prisoner per week. Holding unconvicted Crown Court prisoners therefore cost the Prison Service almost £80 million in 1998.

5.7 The Court Service has set several waiting time targets for the Crown Court, which are in excess of the limits set out in the Crown Court Rules. In 1997-98:

- 76 per cent of trials began within 16 weeks, against a target of 75 per cent. Performance ranged from 98 per cent at Lincoln Crown Court to 44 per cent at the Central Criminal Court (the Old Bailey);
- 87 per cent of committals for sentence began within 10 weeks, against a target of 80 per cent. Performance ranged from 100 per cent at Dolgellau to 65 per cent at Haverfordwest;

- 86 per cent of appeals began within 14 weeks, against a target of 80 per cent. Performance ranged from 100 per cent at Barrow in Furness and Dolgellau to 54 per cent at Leicester.

Ensuring the Crown Court has the necessary papers

5.8 Delays in cases starting at the Crown Court may arise where the case papers are delivered late by the magistrates' courts. At present these are sent by hand or post. Magistrates' courts have a statutory duty to send committal papers to the Crown Court within four working days of the case being committed. In our report on the *Administration of the Crown Court* (HC 639 1994-95), we reported on a sample of cases examined at 16 Crown Court centres. We found that 14 courts received committal papers on average between eight and 14 working days after committal with the shortest delay being 4.8 days and the longest 15.5 days. Only one court received committal papers for more than half its cases within four working days; 10 courts received papers for less than a fifth of the cases by then; and one court received papers for only two per cent of its cases within four working days.

5.9 Information on the performance of magistrates' courts in forwarding committal papers is not routinely collected, although Her Majesty's Magistrates' Courts Service Inspectorate examines performance during the inspections and has recommended that courts monitor their performance. Seven of the 11 magistrates' courts we visited were monitoring whether they were complying with this requirement and one was about to start monitoring. There is no sanction against non-compliance with the statutory time limit.

5.10 The Crown Court monitors the proportion of committal papers received within seven days, although this is calculated in calendar rather than working days. The Crown Court centres we visited told us that performance varied both over time and between magistrates' courts. However, none could recall having to postpone a hearing because the committal papers were late. Nevertheless, the earlier the papers were received the more time Crown Court staff had to make the appropriate preparations for the plea and directions hearing.

Recommendations

-
41. All magistrates' courts should monitor their performance in forwarding committal papers to the Crown Court against the statutory requirement of four working days.
 42. The Lord Chancellor's Department should identify those magistrates' courts that perform well in transferring committal papers and issue good practice guidance.
-

Arranging trial or hearing dates

5.11 The listing of trials and plea and directions hearings is undertaken by Crown Court administrative staff (known as listing officers) on judicial directions. The Lord Chancellor's Department issues guidelines for Crown Court listing which are approved by senior members of the judiciary. The guidelines recognise that whilst the overall objective of listing should be to enable cases to be brought before a judge as expeditiously as is compatible with the interest of justice, attaining this objective may in practice entail achieving a compromise between:

- the most effective use of the time of the courts, judges and jurors; and
- the interest of the parties, their legal advisers, witnesses and others concerned in individual cases.

5.12 At the Crown Courts we visited we found that in setting a date for a trial the listing officer has to liaise with a range of parties and balance a number of conflicting issues including:

- the readiness of the parties to proceed;
- the availability of witnesses, including police officers;
- the length of the trial – very long trials can disrupt court business significantly – and available court slots;
- the need to meet statutory and Court Service targets on the time elapsed since committal of the case from the magistrates' court;
- the availability of judges – some cases can only be heard by a judge of appropriate experience.

5.13 We found different listing systems being used in the Crown Courts we visited. The Court Service acknowledges the need for more consistent practice between Crown Court centres. It has recently issued a consultation document *Transforming the Crown Court*. This contains proposals to improve listing systems and provide more certainty of hearing dates by better use of information technology and judicial deployment.

Recommendation

-
43. In taking forward its proposals for improved listing procedures, the Court Service should undertake operational research to identify best practice.
-

Ensuring the prosecution case is properly presented

Monitoring the quality of Counsel

5.14 In the Crown Court the Crown Prosecution Service usually instructs an advocate or Counsel (a barrister or solicitor in private practice) to act on its behalf. In our recent report on the *Crown Prosecution Service* (HC 400 1997-98) we noted that it was difficult and costly for the Crown Prosecution Service to monitor the quality of the outside advocates it employs, because monitoring may take prosecutors and caseworkers away from dealing with their own cases. But we found that some local branches had a more pro-active approach than others to monitoring Counsel's performance. We recommended that local Chief Crown Prosecutors develop an explicit approach to monitoring the performance of Counsel and reviewing results with local chambers. More formal monitoring arrangements have not yet been introduced. The Crown Prosecution Service Inspectorate is carrying out a review of advocacy, which includes the performance of Counsel.

Recommendation

-
44. The Crown Prosecution Service Inspectorate's review of advocacy should consider how our earlier recommendation that Chief Crown Prosecutors develop more explicit approaches to monitoring the performance of Counsel might be taken forward.
-

Prosecution and defence Counsel remuneration

5.15 Fees for prosecution and defence Counsel are both publicly funded but from different Departmental budgets. Fees paid to prosecution Counsel are paid by the Crown Prosecution Service and are controlled under a Counsel Fees Scheme agreed between the Crown Prosecution Service and the Bar for most cases, with individual case management plans for more serious cases. Fees to defence Counsel are paid from the Legal Aid Fund by the Legal Aid Board or the Crown Court. Work by the Departments has established that, on average, fees paid to the defence were 34 per cent higher than fees paid to the prosecution for cases lasting up to 10 days.

5.16 The Glidewell review (Figure 5) noted that the result of the disparity in fees is that, given a choice, most Counsel would prefer to work for the defence rather than the prosecution. The review recommended that the disparity should be addressed by discussions between the Law Officers' Department, the Lord Chancellor's Department and the Treasury. In its response the Government noted

that the introduction of graduated fees had thrown into relief the disparity between defence and prosecution fees. The Government is seeking to establish with greater accuracy the extent and nature of the disparity and how it might be addressed.

Returned briefs

5.17 The prompt delivery of briefs to Counsel is an important factor in ensuring timely case preparation. Since 1994 the Crown Prosecution Service has had an agreed service standard with the Bar that includes a target that briefs should be delivered to Counsel within 14 days of committal (or 21 days for cases involving more serious offences). Between November 1997 and March 1998 the Crown Prosecution Service delivered the brief within the agreed timescales in 66 per cent of cases, against a target of 80 per cent. Performance in the Areas ranged from 90 per cent in Wales to 48 per cent in the South East. The General Council of the Bar and the Criminal Bar Association told us that the late delivery of briefs made it difficult for Counsel to prepare cases fully before the trial.

5.18 Where the Counsel initially selected by the Crown Prosecution Service cannot subsequently conduct the case, the brief is returned and the Crown Prosecution Service must instruct another Counsel. This can be time-consuming for Crown Prosecution Service staff and may affect the timeliness and standard of case preparation and the quality of the Counsel employed. In our report on the *Crown Prosecution Service* (HC 400, 1997-98) we reported on a survey of Crown Prosecution Service branches where returns were known to be a particular problem that had 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.

5.19 In their report on the *Crown Prosecution Service*, the Committee of Public Accounts (HC 526, 1997-98) expressed their dismay at the extent of the problem of returned briefs and welcomed plans for barristers' chambers to report performance against an agreed service standard that sets out the limited circumstances in which a return will be deemed acceptable. The Committee recommended that the Crown Prosecution Service uses this information to benchmark the performance of chambers and challenge those providing a poor service to improve as a condition of retaining prosecution work. The Glidewell review (Figure 5) recommended that the Crown Prosecution Service and the Bar should not only discuss the results of the monitoring, but publish them to demonstrate they are alive to the problem and determined to cure it. The Government has accepted this recommendation in principle, and the Director of Public Prosecutions is taking it forward in consultation with the Bar.

5.20 Monitoring of chambers' returns began in February 1998 following agreement with the Bar. Some chambers responded well, though others were slow to undertake the agreed monitoring, but the position is improving steadily. The Crown Prosecution Service does not collate the data centrally because it considers that identifying and resolving problems is a local matter for Chief Crown Prosecutors who are expected to develop strong working relationships with local chambers. The Bar is not required to collate national statistics either, but has obtained interim data from some areas, showing an average return rate of 45 per cent. Separate work carried out by the Crown Prosecution Service Inspectorate since April 1997 shows an average return rate of 60 per cent for the Areas visited. The Crown Prosecution Service treats both figures with caution; the Bar's figures may underestimate the problem because better performing chambers may be more likely to undertake the monitoring, while the Inspectorate's figures are not based on the agreed service standard.

Recommendation

45. Chief Crown Prosecutors should:
- in consultation with local chambers, introduce systems for monitoring the number of returned briefs;
 - compare performance in their Area with other Areas and discuss the results with local chambers.

Rights of audience

5.21 Where a lawyer has a "right of audience", he or she is permitted to present a case in court. Both the Law Society and the Crown Prosecution Service have argued that extension of rights of audience in the Crown Court to employed solicitors including those working for the Crown Prosecution Service would address difficulties with some Counsels' lack of preparedness at the Crown Court.

5.22 Employed solicitors, were granted rights of audience for non-contested hearings in the Crown Court in 1997, provided that they obtain the Law Society's higher courts' qualification. The Crown Prosecution Service currently has 122 higher court advocates. Between August and December 1998 they appeared at 167 plea and directions hearings, 343 committals for sentence, 109 appeals against sentence, and 49 appeals against conviction. The Access to Justice Act 1999 provides full rights of audience for employed solicitors in the Crown Court.

Recommendation

46. The Crown Prosecution Service should monitor the impact of the use of employed solicitors rather than outside Counsel to present cases in the Crown Court. In particular, the Crown Prosecution Service should assess the expected benefit of improved case preparation.
-

Cracked and ineffective trials

Cracked trials

5.23 A cracked trial is a case that is listed at the Crown Court for a contested trial by jury but on the day of the trial is disposed of in some other way. The majority of cracked trials (about 60 per cent in 1998) occur when the defendant changes his or her plea to guilty on the trial date. A Home Office study based on offenders convicted in 1989-90 found that only 17 per cent of those who elected at the magistrates' court to be dealt with at the Crown Court eventually pleaded not guilty to all charges. A further 14 per cent pleaded not guilty to some charges.

5.24 In 1998 some 17,000 trials (about a third of those scheduled) cracked but there was a wide range in the performance of individual courts. In 1998 about 15 per cent of trials cracked at the Central Criminal Court in London, but in Doncaster, Durham and Hull the figure was more than half. A sample of cases studied by the Court Service found that each cracked trial cost about £1,700. If this is representative, cracked trials in the Crown Court cost almost £29 million each year. While a cracked trial costs less than a fully contested hearing, it is more effective if a case can be disposed of at an earlier stage.

Recommendation

47. The Court Service should encourage those Crown Courts with lower rates of cracked trials to identify and promulgate information on how this is achieved.

5.25 The Narey report identified three main reasons why defendants elect for trial in the Crown Court:

- to delay proceedings and put off conviction and sentence;
- to retain remand status in a local prison, close to family and friends with the additional visits that are available to unconvicted prisoners – time spent on remand is deducted from any eventual prison sentence;
- to increase chances of acquittal, which are higher in the Crown Court than at a summary trial in a magistrates' court.

5.26 The Royal Commission on Criminal Justice 1992 and the Narey report recommended that defendants should not be able to choose to be tried by a jury in either-way cases where magistrates have indicated that they would be content to hear the case. Following consultation the Home Secretary announced in May 1999 his intention to bring forward legislation to abolish the right of defendants to elect for jury trial in either-way cases. In determining where an either-way case is tried,

magistrates' would be required to have regard not only to any defence representations, but also to such factors as the gravity of the offence, the complexity of the case, and the effect of conviction and likely sentence on the defendant's livelihood and reputation. Defendants would also be given a right of appeal to the Crown Court against a decision by magistrates not to commit a case to the Crown Court.

5.27 Under the Criminal Justice and Public Order Act 1994, in sentencing a defendant who has pleaded guilty, a court can take into account how soon in the proceedings the defendant indicated his or her intention to plead guilty. The possibility of a lighter sentence where defendants plead guilty early in a case is intended to help reduce the number of cracked trials. A recent review of a sample of Crown Court cases found that defendants were advised by their legal representative of these provisions in 95 per cent of cases. Information on the use of sentence discounts is not routinely collected.

5.28 Sentence discounts are granted at the discretion of individual judges. A recent Court Service review commented that often defendants simply did not believe that they would be given sufficient credit for an early plea and suggested that a formal tariff system might encourage a greater number of early pleas.

Recommendation

48. The Home Office and Lord Chancellor's Department should:

- collect information on the use of sentence discounts;
 - evaluate their impact on defendant behaviour;
 - review whether the system could be improved to ensure the intention of encouraging those defendants who plead guilty to do so as early as possible in proceedings is achieved.
-

5.29 Cracked trials may also be caused where a judge directs or orders an acquittal. This may occur where the Crown Prosecution Service decides not to proceed with a case, for example where a witness refuses at the last moment to give evidence. The Glidewell review (Figure 5) examined a sample of acquittals ordered by judges and found that a quarter were the result of problems with evidence or the prosecution case. It concluded that in a substantial proportion of cases that did not proceed in the Crown Court, the weakness which led to the acquittal should have been anticipated before committal. In June 1999 the Crown Prosecution Service Inspectorate published a thematic review of cases where a judge or magistrate had ordered an acquittal or directed the jury to return a not guilty verdict. It found that over one fifth of such cases could be attributed to failures in Crown Prosecution Service decision-making.

Ineffective trials

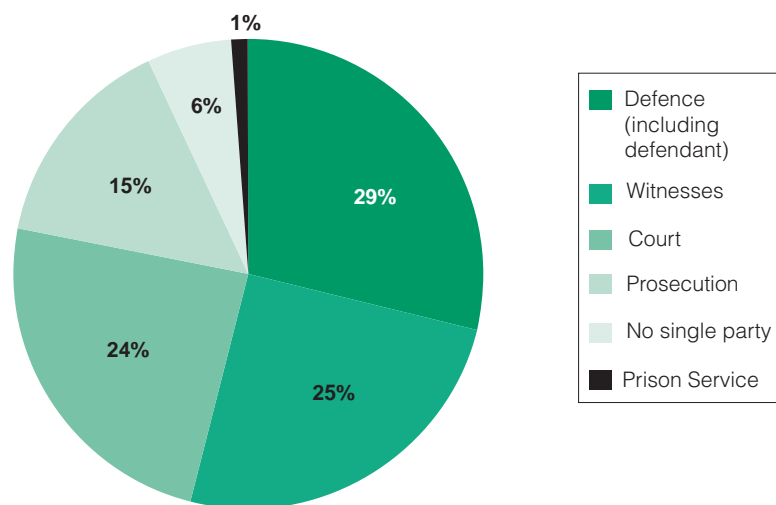
5.30 As in the magistrates’ courts, hearings in the Crown Court are ineffective where they are adjourned because of factors over which the various players have some control. Data are routinely collected on the number and causes of ineffective trials in the Crown Court though not other hearings. There were about 14,000 ineffective trials in 1998, representing about 26 per cent of all trials. National information on the cost and additional delay caused by ineffective trials in the Crown Court is not available. However, a sample of 28 cases studied by the Court Service found that each ineffective trial resulted in delay averaging around 16 days and cost around £1,100. If this is representative, ineffective trials in the Crown Court waste around £15 million each year.

5.31 Data on the causes of ineffective trials in 1998 show that, as in the magistrates’ courts, the defendant or the defence representatives were responsible for the largest number (Figure 44). Over a quarter were caused by witnesses not attending court. The failure of witnesses to attend is a more significant problem in the Crown Court compared to the magistrates’ courts because a far higher proportion of hearings involve witnesses. As with magistrates’ courts, the Departments do not have direct control over defendants, but can exercise influence through appropriate incentives and sanctions.

Ineffective trials in the Crown Court analysed according to the agency responsible, 1998

Figure 44

The defence was responsible for the largest proportion of ineffective trials in the Crown Court



Source: Court Service

5.32 Over one fifth of ineffective trials were due to the court not having sufficient time to deal with the case (Figure 45). This is a more significant problem in the Crown Court than the magistrates' courts because of the greater number and length of trials, which makes listing and utilising court time when cases collapse more complex. Courts have to try to manage overlisting so that it matches the rate of collapsed trials, in order to use court time effectively while also minimising the number of trials unable to start on the scheduled day. The proportion of trials made ineffective through insufficient court time varies considerably between courts. In 1998 some courts had no trials unable to start while one had 89, representing 12 per cent of the cases listed.

Figure 45

Reasons for ineffective trials in the Crown Court in 1998

The failure of witnesses to attend court was the most common reason for ineffective trials in the Crown Court. Almost a quarter of ineffective trials were due to insufficient court time.

A witness did not attend Court.	25%
There was insufficient court time to hear the case.	22%
The defendant was on bail but did not attend the hearing without giving a satisfactory explanation.	13%
The defence was not ready for trial and needed to do further preparation.	11%
The prosecution was not ready for trial and needed to do further preparation.	10%
The defendant was unwell and could not attend court. ¹	5%
The parties had not exchanged the necessary information (for example, unused evidence) on time.	4%
One or more Counsel did not attend Court or were engaged in a trial elsewhere.	3%
One of the parties changed their time estimate for presentation of their case at the last moment, which meant that there was insufficient time to carry out the trial.	2%
The Court could not hear the case because a judge or sufficient jurors were not available.	2%
The defendant dismissed his solicitor or Counsel at the last moment, and required time to obtain fresh representation.	1%
For the case to be dealt with at the same time as other outstanding issues involving the defendant. ¹	1%
The defendant was in custody and the Prisoner Escort and Custody Service failed to bring him/her to Court.	1%
	100%

Note: 1. These are treated as standard procedural adjournments in our survey of magistrates' courts.

Source: Court Service

5.33 The Court Service produces quarterly league tables showing the Crown Court centres with the five best and five worst cracked and ineffective trial rates. A joint Court Service/Crown Prosecution Service working party identified the reduction of cracked trials as a suitable subject for joint performance management. A pilot project took place from October 1997 for twelve months at six Crown Court centres to gather more detailed information on cracked trials. Those involved believed that the exercise had been worthwhile, in particular by improving their understanding of other agencies' roles and encouraging managers to review working practices and focus on performance issues. The Court Service is considering developing a simplified system of joint performance management for wider introduction.

Recommendation

49. The Court Service and Crown Prosecution Service should encourage the wider use of joint performance management to monitor and improve performance in reducing the number of cracked and ineffective trials.

Reducing the number of cracked and ineffective trials through plea and directions hearings and case progression systems

Plea and directions hearings

5.34 Since 1996 all Crown Court centres have held preliminary hearings before a case goes to trial, known as plea and directions hearings. These are held usually within four weeks of committal if the defendant is in custody or six weeks if he/she is on bail. At the hearing the defendant has an opportunity to state a plea. Where the defendant pleads guilty, the judge may pass sentence or adjourn for the Probation Service to prepare a pre-sentence report. Where the defendant pleads not guilty, the judge enquires into the legal issues in the case and gives directions to the parties to prepare for the trial. Plea and directions hearings are considerably cheaper to run than a trial. A sample of cases studied by the Court Service showed that such hearings cost between £350 and £450, compared to more than £2,000 for a trial.

5.35 In their 1995 report on the *Administration of the Crown Court* (HC 173, 1994-95), the Committee of Public Accounts noted that the Lord Chancellor's Department set great store by plea and directions hearings. The aim of the hearings is to reduce the number of cracked trials to ensure that cases will be ready to proceed on the date it is listed for trial and prevent the unnecessary attendance of witnesses. The Court Service reviewed the effectiveness of plea and directions hearings in 1997. The review found that following their introduction, the cracked trial rate had fallen from 34 per cent to 29 per cent. The number of guilty pleas dealt with before trial had risen from 38 per cent to 46 per cent, and average waiting times between committal and trial had dropped from around 16 weeks to

12 weeks. The ineffective trial rate had increased slightly from 27 to 29 per cent. These overall improvements were not as significant as the Court Service had hoped.

5.36 Staff and judges at the Crown Court centres we visited considered that plea and directions hearings had generally had a positive impact. However, two courts questioned whether it was necessary to hold a hearing in every case. They considered that courts should have more flexibility in deciding whether and how to hold the hearings. For example, in some straightforward cases it might be as effective for the plea and directions hearing to be a “paper” exercise, rather than a court hearing with both parties attending in person. In its consultation paper *Transforming the Crown Court* the Court Service proposes moving towards more rigorous case preparation, rather than resolving issues in the courtroom or at plea and directions hearings.

Recommendation

- 50.** The Court Service should consider whether there is a case for more flexibility in the use of plea and directions hearings, in particular by appropriate use of less costly paper-based systems where these provide an effective replacement to a hearing in Court.

5.37 From our discussions with Crown Court staff and judges we identified four key factors that appeared to make plea and directions hearings more effective (Figure 46).

Key factors which make plea and directions hearings more effective

Figure 46

- (1) The involvement of a senior judge, experienced in running the hearings, who puts effective pressure on prosecuting and defence Counsel to resolve issues in advance of the trial.
- (2) Prior preparation and liaison by prosecuting and defence Counsel.
- (3) Attendance at court of the main Counsel and staff from the Crown Prosecution Service with the authority to make decisions on the case.
- (4) The availability of pre-sentence reports.

Source: National Audit Office

(1) The involvement of a senior judge, experienced in running the hearings, who puts effective pressure on prosecuting and defence Counsel to resolve issues in advance of the trial.

5.38 In three of the Crown Court centres we visited more senior judges presided over plea and directions hearings. Staff believed that the robustness of the judge in handling inadequate preparation by the parties, including failure to comply with directions, was central to a case making progress. The need for proper and timely compliance by prosecutors with directions was the subject of recommendations in

14 out of 29 inspections of Crown Prosecution Service areas by the Crown Prosecution Service Inspectorate in 1998-99. The Inspectorate highlighted compliance as an area for action by Crown Prosecutors in its annual report.

5.39 Where parties have not properly prepared or resolved issues in advance of a hearing the sanctions available to the judge include:

- costs orders (paragraph 4.66);
- reduced payments to defence Counsel if the trial judge subsequently comments about their handling of the case; the judge must give the advocate an opportunity to show why adverse comments should not be made, and Counsel may also make representations to officers responsible for assessing fees. Data on the use of this sanction are not routinely collected and none of the Crown Courts we visited used it;
- reprimand in open court, which can range from asking difficult questions to a more public rebuke;
- oral representation (in the Crown Court in judges' chambers) as to why an advocate was unprepared;
- request for a written explanation from the head of chambers or the senior partner of a solicitor's firm;
- reference to the Law Society, the Bar Council or Chief Crown Prosecutor.

5.40 As part of the review of plea and directions hearings, 67 courts replied to a survey about which sanctions judges employed to address lack of preparation and how frequently they were used. The results (Figure 47) suggest that Courts use the sanctions only occasionally, if at all. In its recent consultation document *Transforming the Crown Court*, the Court Service put forward a number of suggestions for improved sanctions including on-the-spot fines for local criminal justice agencies imposed locally by the judiciary or by court staff under judicial direction.

Figure 47

Use of the main sanctions available to judges

Sanction	Proportion of Crown Courts using sanction		
	Regularly	Occasionally	Never
	%	%	%
Costs order	3	73	25
Adverse comments	2	58	40
Reprimand in open court	4	6	90
Oral representation	0	6	94
Request for written explanation	9	66	25
Reference to Bar Council	2	10	88

Source: Court Service review of the effectiveness of plea and directions hearings in the Crown Court

Recommendation

- 51.** In taking forward its proposals to change Crown Court procedures, the Court Service should ensure that appropriate forms of sanction are introduced to help manage cases robustly.

(2) Prior preparation and liaison by prosecuting and defence Counsel

5.41 To be effective, plea and directions hearings require prior preparation and liaison between:

- Crown Prosecution Service staff and prosecuting Counsel;
- the defendant, his or her solicitor and Counsel;
- the prosecution and the defence.

5.42 The Court Service’s review of plea and directions hearings found that matters sometimes went unresolved due to a lack of preparation and communication. For example, the defence is supposed to supply the Court and the prosecution with a full list of the witnesses they require to attend at the trial at least 14 days prior to the hearing. The review sampled defence solicitors and found that the defence provided witness details within this timescale in 23 per cent of cases.

5.43 The Court Service's review also found that defence and prosecution Counsel met before the hearing in only three per cent of cases. Often this was because the Counsel did not know who their opposing Counsel was going to be until the day of the hearing. Since January 1997, the legal aid regulations have allowed defence Counsel to receive £100 of their fee as fees in advance if they certify that they have liaised with the prosecution, read the case papers, held a conference with the client and advised on plea, at least five days before the hearing.

Recommendation

52. The Court Service and the Legal Aid Board should review whether the incentives available to defence Counsel for early preparation are effective.

(3) Attendance at court of the main Counsel and staff from the Crown Prosecution Service with the authority to make decisions on the case

5.44 During our visits to Crown Courts we were told that the effectiveness of plea and directions hearings depended in part upon the attendance of the Counsel likely to prosecute and defend the case at the trial. Judicial Practice Rules state that it is expected that the main advocate briefed in the case will appear at the plea and directions hearing wherever practicable. The Court Service's review found that the same prosecution Counsel attended both the plea and directions hearing and the trial in 26 per cent of cases, and the same defence Counsel in 41 per cent of cases.

5.45 During our earlier review of the *Crown Prosecution Service* (HC 400, 1997-98), the General Council of the Bar, the Criminal Bar Association and the judiciary commented that in many cases prosecuting Counsel were not supported by a Crown Prosecution Service caseworker in court. And the Bar Council and the Criminal Bar Association considered that at present the availability of Crown Prosecution Service lawyers authorised to take decisions in Crown Court was haphazard.

5.46 The Law Society told us that effective liaison between the Crown Prosecution Service and prosecuting Counsel was important so that the prosecution could respond to any offer of a lesser plea from the defence. Prosecutors can be difficult to contact because they are often presenting other cases in the magistrates' courts. In Durham we found that the Crown Prosecution Service had agreed to indicate in advance on the brief provided to Counsel acceptable responses to lesser pleas, and tried to make a prosecutor available in Court to be consulted if necessary. The Crown Prosecution Service anticipates that the Crime and Disorder Act 1998 changes will release prosecutors from magistrates' courts (paragraph 3.17), enabling a prosecutor to be available for consultation in the Crown Court on a permanent basis.

Recommendation

-
- 53.** Chief Crown Prosecutors should ensure that briefs to Counsel indicate the acceptable response to possible pleas offered by the defendant.
-

5.47 The Glidewell review (Figure 5) recommended that each area should have a trial unit responsible for all prosecutions in the Crown Court and for presenting the prosecution case in trials of either-way cases in the magistrates' courts. It recommended that Crown Prosecution Service staff should be present in the Crown Court, and that in major Crown Court centres a lawyer should be in overall charge. The Government accepted these recommendations in principle and local Chief Crown Prosecutors have been asked to consider further the resource and practical issues involved in implementing them. The availability of lawyers for trial units will depend on freeing up their time through better co-operation in the magistrates' courts between the Crown Prosecution Service, police and the courts.

(4) The availability of pre-sentence reports

5.48 Where a defendant intends to plead guilty, the defence is expected to notify the Probation Service as soon as this is known. Failure to do so can mean that the pre-sentence report is not prepared in time for the plea and directions hearing, and a separate sentencing hearing will be required at a later date. A sentencing hearing is estimated to cost between £270 and £900. The Court Service's review of plea and directions hearings found that 70 per cent of hearings where the defendant pleaded guilty had to be adjourned for an additional sentencing hearing. In two-thirds of these cases, the defence had failed to inform the Probation Service of a guilty plea in advance of the hearing.

5.49 Criminal justice agencies in some local areas are working to address these issues. For example:

- at Bristol Crown Court, the form given to the defendant's solicitor to help prepare for the plea and directions hearing contains a form for them to fax to the Probation Service in the event of a likely guilty plea;
- directions made at committal hearings in some magistrates' courts require solicitors to notify the Probation Service as soon as the defendant has made clear his or her intention to plead guilty;
- a number of local probation services produce a standard form for solicitors to complete and fax direct to them if a pre-sentence report needs to be prepared. The Trials Issues Group has recommended that local agreements be established between the Court, defence solicitors and the Probation Service to notify the Probation Service of intended guilty pleas.

Case progression systems

5.50 Some Crown Courts have recently introduced case progression systems in which a member of staff follows up with the prosecution and defence the action they need to take a case forward. We found that Bristol, Croydon and Nottingham Crown Courts had appointed dedicated case progression officers and Gloucester Crown Court was piloting arrangements to follow up the directions issued by magistrates at the committal hearing.

5.51 We found that the case progression officer had a different role at each Court (Figure 48) and that there was not yet much guidance as to what the role should entail. In April 1998 a Court Service report proposed the creation of new roles for Crown Court staff, including the introduction of case progression officers who would focus on managing the throughput of work and liaising with other criminal justice agencies and court users. In its recent consultation document *Transforming the Crown Court*, the Court Service proposes introducing a system of case management in which each case will be individually managed by a case management officer, acting under a judge's supervision. From our discussions with court staff we identified two key factors that appeared to enhance the effectiveness of the work of case progression officers:

- the need for the work to be carried out by a member of staff with sufficient time to develop relationships with staff in other agencies;
- the need for whoever assumed the role to be sufficiently experienced and senior to be able to liaise effectively with professionals such as solicitors and the judiciary.

Examples of case progression work in the Crown Court centres visited

Figure 48

Crown Court	Case progression work
Nottingham	The case progression officer contacted the parties two weeks before the trial to check for compliance with directions made by the judge at the plea and directions hearing and to confirm that both parties were intending to proceed with their cases. The officer also provided comments to the listing officer on the likelihood of a case cracking, which enabled a reserve case to be scheduled if needed, and to the judge outlining the case progression work carried out.
Bristol	The case progression officer chased up the parties two weeks before the plea and directions hearing to ensure that they had completed the necessary forms. After the hearing, the officer monitored the readiness of the parties. The officer, based on personal experience, might refer a case to the judge if he or she considered that there had been an excessive delay.
Gloucester	The parties were expected to file a certificate of compliance with the magistrates' directions with the Crown Court in advance of the plea and directions hearing. A clerk in the Crown Court followed up non-returns and brought failures to the attention of the judge, although no sanctions were applied where the parties had failed to comply. The initiative has since ended following staff changes.

Recommendation

54. In drawing up its plans for the wider introduction of case management officers within the Crown Court, the Court Service should consider the need to deploy staff of sufficient calibre and seniority to take on the role effectively.

Part 6: Managing information

6.1 The handling of information by criminal justice agencies is a common theme running through this report. Efficient case progression is dependent on the different organisations providing and exchanging information accurately and on time; and relevant management information is required to evaluate and improve the performance of the system as a whole.

6.2 This part of the report examines how effectively agencies are working together to manage information across organisational boundaries within the criminal justice process and considers in particular:

- information technology and electronic links between organisations;
- performance information for managers and users.

Information technology and electronic links

6.3 In most of the areas we visited, the information necessary to progress a case was exchanged using documents through the post, by facsimile or by hand. We also found that there was substantial re-keying of the same core information in different organisations' computer systems. For example, for each case, the police, the Crown Prosecution Service, the magistrates' court and the defendant's solicitor all need to know at a minimum the name of the defendant and his or her address, the nature of the charge or summons, conditions of bail where appropriate, and witness statements.

6.4 If the exchange of information breaks down at any point, this has a knock on effect on the progress of the case. For example, in either-way cases, if the police do not produce a completed case file on time, the Crown Prosecution Service may be unable to provide advance information to the defence solicitor who, in turn, may be unable to prepare the case, leading to an ineffective hearing.

6.5 Some examples of information exchange and duplicate keying are given in Figure 49. Improving information exchange through electronic links would have the following benefits:

- reduced effort, for example in avoiding re-keying the same information into several different computer systems;
- reduced time taken to receive messages or documents;
- fewer ineffective hearings, such as those which arise because the court is waiting for details of a defendant's previous convictions;
- better quality justice, for example through more accurate and up-to-date information on the National Criminal Records Database;
- greater efficiency in using resources.

Figure 49

Examples of how information is currently exchanged, indicating the scope for speeding up and improving communication through electronic links

Information

How it is currently exchanged

Case details, such as defendant's name, nature of charge and bail conditions

In most areas there are no electronic links between police and Crown Prosecution Service computer systems, and this information is transferred on paper and re-keyed onto individual organisation's systems. We visited two locations - Durham and Gloucester - which were piloting electronic transfer and review of prosecution files.

In some areas the police also send case details to the court on paper. In others they enter details onto the court's computer system, but not directly from the police system, so the data have to be extracted manually and re-keyed.

In one of the areas we visited there were plans to enable defence solicitors to receive case information by electronic mail or computer disk.

Court results and criminal records

The National Criminal Records Database, known as Phoenix and held on the Police National Computer, holds details of previous convictions. The information is needed by the courts to inform sentencing, by the Probation Service for pre-sentence reports and by the Prison Service to determine a security category for prisoners.

With very few exceptions, courts' requests for this information have to be made via the local police force who interrogate the database. It may take up to three weeks for requests to be met. About one-third of prisons are able to interrogate the database directly.

continued ...

Figure 49**Examples of how information is currently exchanged, indicating the scope for speeding up and improving communication through electronic links *continued***

Information	How it is currently exchanged
Court results and criminal records <i>continued</i>	Because they have sole input access the police are responsible for entering court results, received on paper, onto Phoenix and for keeping criminal records up-to-date. Many forces achieve 50 per cent of data entry within three weeks of receiving information from the courts. However, in some areas performance is below this level. This means that information provided to courts may exclude recent results, especially for persistent offenders, and magistrates' may be at risk of making inappropriate decisions, for example on whether or not to grant bail.
Information on prisoners	Prisons need to receive details of defendants given custodial sentences from the courts. The courts need to see medical and psychiatric reports commissioned by the Prison Service.
Probation reports	In the majority of areas we visited case information is passed to the Probation Service on paper to enable a probation officer to prepare a pre-sentence report. The probation officer submitted a written report to the court. In one area the introduction of electronic mail between the court and the Probation Service had reduced the time taken to provide probation reports to the court from four to three weeks.
Road traffic offences	Where a court wishes to consider endorsement of a convicted offender's driving licence or disqualification from driving, it requires information from the Driver and Vehicle Licensing Agency (DVLA) about the licence held, details of any previous endorsements or disqualifications imposed. Up until recently few courts had direct links to the DVLA's computer system and they therefore had to wait for the information to be extracted manually and sent by post. This inevitably delays the completion of the large numbers of road traffic offences (45 per cent of all cases), which magistrates' courts handle. The majority of magistrates' courts now have a direct link to the DVLA and there are plans to extend this to nearly all areas by the end of 1999.
Crown Court committals	Information on cases committed from the magistrates' court to the Crown Court is transferred on paper through the post or by hand. All fines imposed by the Crown Court are collected and enforced in the magistrates' courts. Information on fines is transferred on paper through the post or by hand, and involves substantial re-entering of data.

Source: National Audit Office

6.6 Each organisation in the criminal justice system is independently responsible for developing its own business processes and information flows, and for identifying, developing and procuring information technology to support them. As a result information systems have historically been developed in isolation. Moves toward the automated exchange of information have been slow and constrained by the different number of systems in use, and the fact that they were not designed to communicate with each other.

6.7 The cross-departmental review of the criminal justice system (paragraphs 2.2 to 2.6) highlighted the need for greater co-ordination in the development of information systems. Following this review, a new inter-agency initiative for

Integrating Business and Information Systems (IBIS) across the criminal justice system was launched. It aims to ensure better integration of information systems, information technology and related business processes across the criminal justice system.

6.8 A management structure at three levels has been established for IBIS:

- The Ministerial Group chaired by the Home Secretary, has the Lord Chancellor, the Attorney General and the Chief Secretary to the Treasury as members, and is responsible for the overall direction of the initiative.
- The IBIS Board has senior officials from the Home Office, the Lord Chancellor's Department, the Crown Prosecution Service and the Police Information Technology Organisation, and is responsible for developing and implementing an information systems strategy for the criminal justice system as a whole. Each member of the Board is able to sign up their own organisation to deliver its part of the strategy.
- A programme management group supports the Board, comprising staff in criminal justice organisations with responsibility for the development of their new strategic systems.

A unit jointly funded by the Home Office, the Lord Chancellor's Department and the Crown Prosecution Service is carrying out a work programme set by the Board. The main initial objective is to prepare an information systems strategy for approval by the Ministerial Group. At the same time a joint review of casework information needs in the criminal justice system is being undertaken by all the criminal justice inspectorates – police, Crown Prosecution Service, magistrates' courts, probation, prisons and social services.

6.9 The IBIS strategy is being developed against the background of major investment in new computer systems and services by all the main criminal justice agencies, most of which have already entered into contracts. These are intended, among other things, to improve efficiency in progressing cases through the courts, and the availability, quality and timeliness of management information. The systems are specific to the particular organisations, but for the medium term the IBIS strategy is for electronic links to be developed between these systems and that these should be included in the individual organisations' contracts. The IBIS Board acknowledges that in some cases this will lead to additional costs. In the longer term, there will be opportunities to develop shared systems where appropriate.

6.10 There is also a need to improve information exchange and examination with defence practitioners. Electronic links could, for example, improve the speed of delivery of advance information and notifications by the defence to the court and Probation Service of likely guilty pleas.

6.11 Implementation of the systems currently under development is expected to take up to six years (Figure 50). Full implementation will depend on the willingness of local bodies such as police forces, which are operationally independent of central government, to adopt the systems being offered nationally. To maximise the benefits of the new systems and of information exchange as early as possible, the development of electronic links will need high priority. IBIS is considering whether local implementation of the strategic systems can be co-ordinated so that benefits from inter-agency links can be achieved in each local area as soon as possible.

Figure 50**Progress and plans for implementing computer systems in the criminal justice system**

Police	A contract has been let for a new case preparation system. Police forces cannot be compelled to adopt national systems, though a majority have indicated that they will take this system at some stage. Implementation is expected to take from 1999 to 2005.
Crown Prosecution Service	After delays in implementing a case tracking system started in 1990, the Crown Prosecution Service decided in December 1997 not to implement the system in all its branches on the grounds that the technology had become outdated. Existing systems are being maintained and the Crown Prosecution Service will be introducing new information technology infrastructure from 2000-2001. The Crown Prosecution Service expects to introduce a new case management system, as part of a new managed service provided by an external partner, from 2001-2002.
Magistrates' courts	A Private Finance Initiative contract for an information technology infrastructure and service has been let and the first implementation of the service is planned for July 2001. At present local courts are not compelled to take the service but have indicated that they are likely to. The Lord Chancellor also has reserve powers to enable him to require them to do so in the future. Implementation in all courts taking the service is expected by April 2004.
Crown Court	The Court Service has four years remaining on a 10-year Private Finance Initiative contract for its existing case preparation system which is available in all Crown Courts. It plans to replace the system and expects to identify the requirements during 1999, with implementation starting in 2000.
Probation Service	A case management system has been developed and implementation in all probation services was expected to be completed during 1999. Although probation services are independent bodies, the national system is effectively compulsory, because the bulk of the capital budget provided by the Home Office for information technology has to be spent on the system, otherwise it will be withdrawn. An independent review of the new system found that it did not meet the requirements of the Service. The Home Office is considering a redevelopment of the system.
Prison Service	The main systems and supporting infrastructure run by the Prison Service are outdated and need to be replaced, including the inmate information system which is of most relevance to the courts. The Prison Service expects to finalise a Private Finance Initiative contract for infrastructure upgrading and certain as yet unspecified applications before the end of 1999.

Source: National Audit Office

6.12 During our local visits we found frustration among staff at the delays in implementing new computer systems. For example, magistrates' courts currently operate one of three different systems that were originally developed around 15 years ago. The first implementation of the planned replacement service is not expected to start until July 2001, and is not expected to be implemented in all magistrates' courts until spring 2004, some 15 years after the need for a replacement was first identified (Figure 51). The magistrates' courts we visited identified three main inefficiencies arising from the continued delay:

- Much performance data, including on the timeliness of case progression, are not available from current systems and have to be extracted manually from case files and registers. This is time-consuming and means that information is sometimes available too late to inform decisions.
- Scheduling of cases has to be done manually or using separate systems, and up-to-date schedules are not readily available in the courtroom.
- Existing systems have limited facilities for sending or receiving documents electronically from other agencies, leading to inefficiency and duplication of effort.

Figure 51

Past and expected future progress in providing magistrates' courts with modern information technology

1989	The Home Office, which was responsible at the time for magistrates' courts, conducted a review of systems and decided to develop new nationally specified applications. A contract for the management of the project (the Magistrates' Courts Standard System or MASS) was placed with an external supplier.
1992	The Lord Chancellor's Department took over responsibility for the contract when it assumed responsibility for magistrates' courts in April 1992. In July 1992 the design and development of the system was found to be inadequate and the Department terminated the contract with the supplier.
1993	The Lord Chancellor's Department decided to manage the project itself, designing the system but sub-contracting its development to a new contractor.
1995	The Lord Chancellor's Department asked a senior official within the Home Office to review the project. The review concluded that the Lord Chancellor's Department had inadequate expertise and resources to take MASS through to a completed system in the magistrates' courts.
1996	After consultation with the courts, the Lord Chancellor's Department decided to terminate the existing contracts with suppliers and to develop a system for the magistrates' courts under the Private Finance Initiative.

continued ...

Figure 51**Past and expected future progress in providing magistrates' courts with modern information technology *continued***

1997	The Lord Chancellor's Department drew up a new business requirement (known as Libra) that is wider in scope than MASS and required the successful bidder to provide the computer hardware, training and support as well as the application software and full office automation, as an information technology infrastructure and service.
1998	In December 1998 the Lord Chancellor's Department awarded the contract for Libra to ICL. The value of the contract is estimated to be £183 million over ten and a half years, based on current workload.
1999-2000	In the first stage of the project ICL will design and build the applications.
2000-2001	Service acceptance at the first Magistrates' Courts Committee is planned for summer 2001.
2001-2004	Following acceptance, the service is planned to be implemented in all areas, completing in spring 2004.

Performance information for managers and users

6.13 One of the key objectives Ministers have recently set for the criminal justice process as a whole is to deal with cases with appropriate speed (Figure 8). Departments have set an interim national target to reduce the time from charge to sentence or other disposal in the courts for all offenders by at least two days by 31 March 2000. A senior official on the Strategic Planning Group (paragraph 2.6) has recently been appointed as a "target-champion" to promote liaison and performance in pursuit of the target. One of the early tasks of the champion will be to lead a project to consider the information required to measure performance against the target and the best way of collecting it. The Strategic Planning Group is also considering the scope of a wider review of the management information needs of the criminal justice system.

6.14 This section considers the issues Departments will need to address to improve management information within the criminal justice system and examines in particular:

- existing information on the time taken to progress cases through the courts;
- using information to evaluate and manage performance;
- cost information.

Information on the time taken to progress cases through the courts

6.15 Information on the time taken to progress cases through the courts is of particular importance. Victims, witnesses, defendants and other court users should be able to find out how long the case they are concerned with is likely to last. Those managing the criminal justice process need information to compare performance in different areas and over time, to set targets and monitor their achievement, and to help identify ways in which performance might be improved.

6.16 We found that a large amount of data on timeliness is currently collected by the different criminal justice organisations, but that there are problems with the quality, completeness, relevance and transparency of the information (Figure 52).

Figure 52

Summary of information and targets on the time taken to complete criminal cases

Time taken in the magistrates' courts

Information on the total time taken to complete cases in the magistrates' courts

- Data are generated by surveys of the cases completed in three sample weeks each year. One of the surveys includes all types of case; two cover indictable-only or either-way cases only.
- There is a risk that the data may not be representative of the year as a whole.
- Data are collected for three stages in the progression of a case - from offence to charge, from charge to first hearing, and from first hearing to completion in the magistrates' courts.

Statutory time limits in the magistrates' courts

- Defendants should not be held in custody for more than eight weeks between first appearance and trial in the magistrates' court, or for more than ten weeks between first appearance and committal to the Crown Court.

Targets for the total time taken to complete cases in the magistrates' courts

- There are no absolute targets for the total time taken to complete cases between initial charge/summons and completion.
- The Lord Chancellor's Department sets targets for magistrates' courts on the time from first hearing to case completion.
- The targets are currently split between indictable-only or either-way and summary cases. There is scope for greater disaggregation, for example to reflect the differences in the time usually taken to complete cases where the defendant pleads guilty, where there is a trial, or where the defendant is committed to the Crown Court.

Time taken in the Crown Court

Information on the total time taken to complete cases in the Crown Court

- No data are collected on the total time taken to complete cases in the Crown Court from the date of committal.
- Data are collected for all cases on the time between committal from the magistrates' court to the case first being heard in the Crown Court.

continued ...

Figure 52**Summary of information and targets on the time taken to complete criminal cases *continued*****Time taken in the Crown Court *continued***

Statutory time limits in the Crown Court

- Under Crown Court Rules, a trial is supposed to start within eight weeks of committal unless the Court has otherwise ordered.
- Defendants should not be held in custody for more than 16 weeks between committal and being brought before a judge.

Targets for the total time taken to complete cases in the Crown Court

- There are no targets for the time taken to complete cases in the Crown Court from the date of committal.
- The Court Service sets targets for the time between committal and the start of a trial in the Crown Court. These are in excess of the eight week statutory time limit.

Time taken in the magistrates' courts and the Crown Court

Information on the total time taken to complete cases which go from the magistrates' courts to the Crown Court

- No data are collected on the total time taken to complete cases that include time spent in the magistrates' court as well as the Crown Court.

Targets for the total time taken to complete cases which go from the magistrates' courts to the Crown Court

- There are no targets for the total time taken to complete cases that include time spent in the magistrates' court as well as the Crown Court.

Time guidelines

- Time guidelines agreed by all the criminal justice agencies have been in place since 1992, covering each stage of the process from the granting of police bail to the start of a Crown Court trial. Because the guidelines cover only separate stages of the process, there is no clear link between the guidelines and the total time taken to progress cases through the criminal justice system.
- The guidelines were intended to be maxima on which agencies should seek to improve, but have come to be regarded as standards.
- Some criminal justice agencies, including the Crown Prosecution Service and the Probation Service, have national targets for the timeliness of their work, most of which flow clearly from the agreed time guidelines. For example, the timeliness standard for police files is monitored jointly by the police and the Crown Prosecution Service (paragraph 3.9).
- The Crime and Disorder Act 1998 provides for statutory time limits to be set for the progression of young offender cases specifically covering each stage between arrest and completion. For adult cases, there is discretion to set limits for any stage of the proceedings between charge or summons and the start of a trial. The Departments are considering how this should be implemented.

Source: National Audit Office

6.17 Data on the progression of cases through the magistrates' courts are collected by individual courts and collated by the Lord Chancellor's Department. Similarly, individual Crown Court centres collect the data on the Crown Court, which is collated by the Court Service. While this information is published it reflects the individual organisations' priorities rather than attempting to measure timeliness across the criminal justice system as a whole.

6.18 All cases that reach the Crown Court start in the magistrates' courts and go through all the stages from charge to disposal. Up until recently magistrates' courts data treated every case as disposed of, including those cases that go on to the Crown Court. Crown Court data cover only the period from committal to the start of a trial, and take no account either of the time already taken in the magistrates' court or of the time taken after trial for sentence. As a result, there is no accurate information on the total time it takes for these more serious offences to pass through the criminal justice system. Because the magistrates' courts data did not distinguish either-way cases which went on to the Crown Court from those that they tried themselves, there was no means of measuring the time taken to process these offences. Data has been collected in the magistrates' courts since February 1999 which separately distinguishes cases sent to the Crown Court but has not yet been published.

6.19 The data on progressing cases through the magistrates' courts do not cover all cases, but are collected by means of surveys during three sample weeks each year, and there is therefore a risk that the data may not be representative of the year as a whole. Only one sample week each year covers all types of case. The other two sample weeks cover only indictable-only or triable either-way cases and not summary cases. Several Justices' Clerks told us that because the survey weeks are known in advance it would be possible for courts to manipulate the results by ensuring that more straightforward and shorter cases are completed during the survey week.

6.20 We found that the way in which current information is handled can affect local management. For example, the data collected by the courts are collated centrally by the Lord Chancellor's Department and the Court Service, and it can take several weeks before information is available for circulation back to the courts, by which time it may be too late to influence performance. Routine local availability of more up-to-date data is impeded by the lack of modern information technology in the courts.

6.21 The lack of complete information on the timeliness of case progression impedes the identification of bottlenecks and management action to address them. For example, a special data collection exercise was required as part of the pilots of

the recommendations made in the Narey report (Appendix 4) to enable their impact to be measured. The data from the pilots will be used to help inform the setting of statutory time limits under the Crime and Disorder Act 1998 (Figure 52).

Using information to evaluate and manage performance

6.22 To manage performance effectively, organisations need to be able to evaluate their current position against appropriate measures. Up until recently criminal justice agencies set separate targets for the timeliness of their work in accordance with the priorities that each had, but there was no overall guideline or target for the total time from charge or summons to completion for adult cases that are completed in the magistrates' courts or in the Crown Court. The Victim's and Court User's Charters do not indicate the likely time different types of case should take to progress through the courts.

6.23 In 1992, all the criminal justice organisations agreed time guidelines covering each separate stage of the criminal justice process from charge or summons to the start of a Crown Court trial and from conviction to sentence (Figure 53). The guidelines were intended to be maxima on which agencies should seek to improve, but over time have come to be regarded as standards.

6.24 The targets and performance data collected by the Crown Prosecution Service and the Probation Service flow from these guidelines, but in the case of the courts the relationship is less clear. For example, the time guidelines are different depending on whether the defendant is on bail or in custody, but the information produced by the Lord Chancellor's Department on the actual time taken in the magistrates' courts does not transparently distinguish between bail and custody cases. Therefore existing information and performance measures do not identify transparently whether and how often time guidelines are breached.

6.25 Without clear links with management information on performance achieved, the guidelines are not able to operate as a means of influencing performance or of holding individual organisations to account. There is scope for confusion about what should be considered as the baseline for measuring performance. Unless organisations adhere to a common core of guidelines there is also a risk of inconsistency in target setting and the potential for performance indicators to conflict.

Figure 53**Jointly agreed time guidelines**

These time guidelines were agreed in 1992 by the Pre-Trial Issues Steering Group, the predecessor to the Trials Issues Group

Stage	Relevant Factors	Guidelines
Stage 1: From the defendant being charged or summoned to the case first being heard in the magistrates' courts		
<i>Summons cases</i>		
From completion of investigation or reporting to laying of information with the magistrates' court		3 weeks
From laying of information to first listing		5 weeks
<i>Charge cases (bail only)¹</i>		
From charge to first appearance	Abbreviated file	4 weeks
	Full file	5 weeks
of which, charge to receipt of file by the Crown Prosecution Service	Abbreviated file	2 weeks
	Full file	3 weeks
Stage 2: From the first hearing to the case being completed in the magistrates' court		
From first appearance to plea/mode of trial	Bail	4 weeks
	Custody	2 weeks
<i>Summary offences, and either-way offences heard in the magistrates' court</i>		
From not guilty plea to summary trial ²	Bail	8 weeks
	Custody	2 weeks
of which, plea to receipt of full file by the Crown Prosecution Service	Bail	3 weeks
	Custody	1 week
for prosecution preparation of case	Bail	4 weeks
From conviction to sentence	All cases	4 weeks
<i>Indictable-only offences and either-way offences committed to the Crown Court</i>		
From first appearance/mode of trial to committal hearing	Bail	8 weeks
	Custody	6 weeks
of which, mode of trial to receipt of full file by the Crown Prosecution Service	Bail	4 weeks
	Custody	3 weeks
receipt of full file to service of committal papers on the defence	Bail	2 weeks
	Custody	10 days
service of committal papers to committal hearing	Bail	2 weeks
	Custody	11 days
Stage 3: From the case leaving the magistrates' court to being completed in the Crown Court		
From committal hearing to start of trial in the Crown Court	Bail	16 weeks
	Custody	8 weeks
of which, committal to first listing	Bail	6 weeks
	Custody	4 weeks
From conviction to sentence	All cases	4 weeks

Notes: 1. In custody cases, the first court appearance is generally the day after charge.

2. Where the Crown Prosecution Service already has a full file, the guideline from plea to trial is 4 weeks.

Source: Pre-Trial Issues Steering Group

6.26 There is a similar lack of relationship between the statutory time limits for the Crown Court (paragraphs 5.4 & 5.5) and the Court Service's current target. The limits provide that a Crown Court trial must begin no later than eight weeks from the date of committal, but this has never been met for all cases. The Court Service now has a target that the trials of 75 per cent of defendants should start within 16 weeks of committal from the magistrates' court.

6.27 The Lord Chancellor's Department has set magistrates' courts two performance measures on the length of time taken to complete cases (Figure 54). They are intended to enable comparison between courts in a particular year but are difficult for users to understand. The measures are based on a comparison of courts' performance with a national norm. They express the number of cases completed as a percentage of the number which could have been expected to be completed if the court had matched the national average. The expected number is calculated to take into account variations in the types of case different courts deal with and in the proportion of defendants who plead guilty. The measures do not allow analysis of trends over time because as the national norm changes, they do not tell courts whether their performance has got better or worse in absolute terms.

Performance measures on the time taken to complete cases in the magistrates' courts

Figure 54

Indictable-only or either-way offences

The indicator measures the number of indictable-only or either-way cases completed within 56 days as a proportion of the norm.

For example, a court handled 1,000 indictable-only or either-way cases during the period. Nationally 94 per cent of such cases were dealt with within 56 days. The court was therefore expected to complete 940 cases within 56 days. In fact the court completed 752 cases within 56 days. Its performance was therefore 80 per cent (752 as a proportion of 940). The higher the value, the better a court's performance.

Summary offences

The indicator measures the number of summary cases completed within 28 days as a proportion of the norm.

6.28 For the first time, the Lord Chancellor's Department has set a national target for magistrates' courts to reduce the average time from first listing to completion by two days during 1999-2000. However, performance in achieving the target will depend on the co-operation of other criminal justice agencies.

6.29 In their report on the *Crown Prosecution Service* (HC 526, 1997-98), the Committee of Public Accounts recommended that Crown Prosecution Service areas with similar characteristics be grouped into "families" so that meaningful comparisons of performance can be drawn and good practice shared. We consider that this suggestion could apply equally to magistrates' courts. The Lord

Chancellor's Department reports performance results at Magistrates' Courts Committee level as well as the level of clerkship, a subdivision of the Committee. Most of the courts we visited undertook limited comparison of their performance against other courts. The Lord Chancellor's Department groups clerkships according to volume of work but these groups do not take account of other factors, such as location, which makes meaningful benchmarking difficult. There is also no mechanism for grouping similar Crown Court centres to enable comparison, including the identification of good performance. Most courts we visited told us that there was no specific mechanism for promulgating good practice. For example, the Court Service produces a league table of the courts with the best and worst rates of cracked and ineffective trials, but the good performers are not encouraged to explain how their performance was achieved.

6.30 Respondents to our survey on local liaison most frequently identified the lack of cross-agency management information and targets as the main constraint on their effectiveness in working towards common goals (Figure 15). In about half of the areas we visited people shared some of the performance information that they routinely collected but in others people considered that there were limited benefits from exchanging information. Two courts that received information from other agencies said that they did not use it, while one Crown Court had refused a request from the Crown Prosecution Service to see data on cracked and ineffective trials collected by the local circuit judiciary.

6.31 We found some examples of local groups making good use of shared management information including, in Wakefield and Pontefract, the development of local objectives and indicators to measure the performance of the system (paragraph 2.28). However, there are a number of constraints to developing joint management. National organisations require local areas to collect data for over 60 measures (Figure 55). A lack of definitions and information standards across the criminal justice process mean that even basic data may be measured inconsistently (Figure 56). The Glidewell review noted the problems that were caused by the lack of consistency between Court Service and Crown Prosecution Service statistics and recommended that the agencies should agree the same methods of counting. A tri-lateral Departmental working group (the Criminal Justice Information Working Group) is developing a minimum set of comparable statistics for monitoring the performance of the criminal justice system in dealing with crime and the administration of justice.

Performance measures of the main criminal justice organisations

Figure 55

There are over 60 different performance measures requiring data to be collected by local criminal justice organisations

Crown Court	3 key measures and 8 other published measures
Crown Prosecution Service	4 objectives divided into 11 targets
Magistrates' courts	4 key measures divided into 33 sub-indicators ¹
Police	5 national objectives, supplemented by local objectives set by individual forces

Source: Court Service Agency, Crown Prosecution Service, Lord Chancellor's Department, Home Office

Note 1. Her Majesty's Magistrates' Courts Service Inspectorate has recommended a further 9 measures which build on the existing indicators

Example of the lack of common data in the criminal justice process: number of cases dealt with

Figure 56

There are no common agreed data on the annual workload in the criminal justice system

The Crown Prosecution Service, Lord Chancellor's Department and Home Office separately collect workload information for magistrates' courts. For 1997:

- The Crown Prosecution Service reported 1,327,000 "cases completed";
- The Lord Chancellor's Department reported 2,230,000 "proceedings";
- The Home Office reported 1,855,000 "defendants proceeded against".

Source: Criminal Statistics

6.32 We found that current measures do not provide agencies with the information they need to help identify the reasons for different levels of performance. Identifying the combined impact of different organisations' policies and procedures is complex. A more "joined-up" and strategic analysis would require local information on the criminal justice process as a whole to be collected showing the reasons for a range of different events and the factors determining the volume, timing of activities and outcomes. As a first step, however, agencies could monitor the length and cause of both standard procedural adjournments and ineffective hearings in the magistrates' courts and cracked and ineffective trials in the Crown Court. This would help identify problems in performance both within individual agencies and in liaison between them and could be used to decide priorities, set targets and monitor achievement.

Cost information

6.33 Each individual criminal justice agency has responsibility for ensuring it maximises the efficiency with which it uses the public resources it receives. But decisions in one organisation may affect costs and efficiency elsewhere in the process (Figure 57). Managers need information on costs across the process to ensure that their decisions are not only cost-effective for their own organisation, but that they take account of any impacts on other parts of the system.

Example of how decisions can impact on costs across organisational boundaries

Figure 57

The cost associated with police officers attending court to act as prosecution witnesses was estimated by the Home Office Police Research Group at £34 million per year in 1994. Almost £12 million of this was accounted for by over-time and day off in lieu costs where police officers were required to attend outside their normal working shifts.

A court may work more closely with local police forces to ensure that police witnesses are called to appear as far as possible in their normal working hours. However, this may in turn have cost and other impacts elsewhere, for example:

- cases may take more time to come to court because of greater scheduling difficulties;
- there may be additional prison costs for defendants held in custody whose cases take longer to come to court.

Source : National Audit Office

6.34 Section 95 of the Criminal Justice Act 1991 enables the Home Secretary to publish annual information to improve the awareness of people engaged in the criminal justice system of the financial implications of their decisions. In 1992, the Home Office published volumes on Crown Court and magistrates' courts' costs. The volumes noted shortcomings in the cost information provided, particularly where it relied on one-off research projects based on small samples, and in the information about some types of decision about which little was known. The Home Office intended to do further work to enhance the range and quality of information provided. However the original volumes have not been updated. Less extensive information on expenditure and costs is however published as part of the Home Office's digest of information on the criminal justice system.

6.35 In 1993 the Royal Commission on Criminal Justice commented on the "paucity of reliable information about the cost of the criminal justice system". Because of the large number of processes and their complexity, producing reliable cost information is a major challenge. Whilst projects have been undertaken to understand and collate the costs incurred by the various organisations involved in the criminal justice process, these only scratch the surface of the considerable work needed to improve the availability, accuracy and usefulness of cost and decision-making data.

6.36 There have been two recent initiatives to identify and measure costs in the criminal justice system. The Flows and Costs Model (Figure 58) estimates resource costs for the wider criminal justice system and is primarily used to measure the impact of proposed policy initiatives affecting criminal law and procedure. It is not designed to measure the cost of bottlenecks or delays, or to forecast the impact of changes in detailed administrative procedures, although it was used to provide an estimate of the average cost of an adjournment in the magistrates’ courts for the Narey review (Appendix 4), and we have used it as the best available data for this report (paragraph 4.23). Future development of the model will concentrate on improving the basis for estimating criminal justice process costs, including the use of better data on police costs as this becomes available.

Estimates of average costs in the criminal justice system derived from the Flows and Costs Model, 1997-98

Figure 58

Since 1993 the Home Office has been collaborating with the Lord Chancellor's Department and the Crown Prosecution Service to develop a computer model known as the Flows and Costs Model. Examples of overall costs or procedures identified by the model are shown below.

	£
The cost of a magistrates' court proceeding	550
The cost of a Crown Court proceeding	8,600
The cost of a prison sentence imposed at a magistrates' court	4,950
The cost of a prison sentence imposed at a Crown Court	30,500
The cost per person proceeded against in the courts (including sentence)	2,700

Source: Home Office Flows and Costs Model

6.37 In 1996 the Trials Issues Group commissioned a project focusing on the main costs in the Crown Court. The project sought to build up a costs and performance model which identified those activities that consumed the most resources, and those that caused high costs in other parts of the Crown Court trial process, either by creating bottlenecks in the throughput of cases or by causing inconvenience or disruption. It then sought to model the links between costs and how activities and working practices in one part of the process affected costs and performance elsewhere. The project collected data on only a small sample of relatively short cases in five Crown Court centres. Key findings of the model are shown in Figure 59. The Trials Issues Group is currently considering whether to develop the model further to capture data on a wider sample of cases and how the model might be used. There are no plans for a similar model to be developed for hearings in the magistrates’ courts.

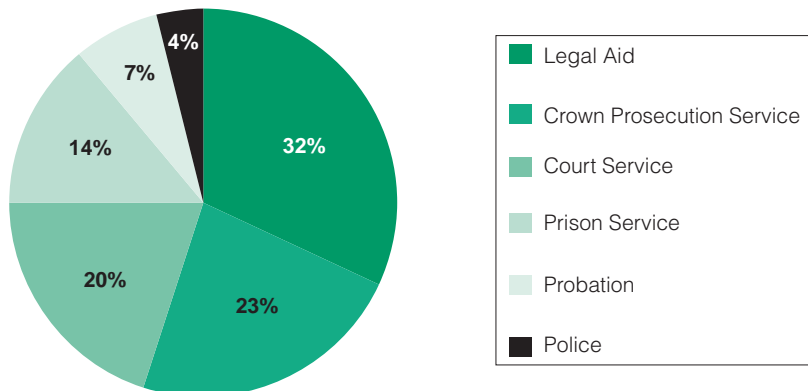
Examples of global costs and costs incurred by different organisations, as identified by the Crown Court Costs and Performance Model

Figure 59

The Crown Court Costs and Performance Model was developed at five Crown Court centres by groups of people representing the main participants in the process. It was built up using baseline information on costs and performance of all the key procedures in the trial process. Deliberate changes were then made in procedures in order to assess whether the model would be able to track movements in costs and performance.

The pie chart shows that three-quarters of the cost of a Crown Court trial is absorbed by the Court Service, the Crown Prosecution Service and legal aid paid to the defence.

	Cost range
Crown Court case	£1,477 in Gloucester and £3,663 in Inner London
Plea and directions hearing	£345 in Inner London and £547 in Norwich
Sentencing hearing	£273 in Inner London and £399 in Norwich
Effective trial hearing	£2,236 in Gloucester and £6,479 in Carlisle



Source : Crown Court Costs and Performance Model; proportion of different organisations' costs based on Carlisle Crown Court.

Note: The five sites examined were Inner London, Gloucester, Norwich, Carlisle and Merthyr Tydfil. Much of the range in costs can be accounted for by the different types of case sampled in each Court. Even with a larger and more representative sample of cases, it is probable that there is a genuinely large variation in costs per case.

Summary of issues to be addressed to improve management information and target setting

6.38 Figures 60 and 61 provide a summary of the key issues that need to be addressed to improve management information and target setting in the criminal justice system.

Figure 60**Improving management information in the criminal justice system: areas for action**

Information needs to be:	Examples of current problem
based on common definitions and standards	There are no common definitions or agreed standards on when and how a criminal case should be counted as having started or completed.
able to reflect the process as a whole	Information is not collected on the total time taken for the more serious cases to pass through the courts, but separately for magistrates' courts and the Crown Court.
relevant to management	Information is collected on the average number of adjournments per case in the magistrates' courts, but not on the reasons for adjournments which would help management to identify the action needed to reduce ineffective hearings.
consistent to allow comparisons to be made	Those areas which we visited that collected information on ineffective hearings did so in different ways which would make comparisons difficult.
as complete as possible	Information on the timeliness of cases in the magistrates' courts is collected by means of surveys during three sample weeks each year. Only one of the three samples covers all types of case.
accurate and validated	Survey data collected by the magistrates' courts is often not checked before it is submitted to the Lord Chancellor's Department which does not audit the returns.
reliable	Magistrates' courts' survey weeks are known in advance and it is possible for individual courts to manipulate the results by ensuring that straightforward and shorter cases are completed in the survey week.
meaningful and timely	Timeliness data is not available to local management until up to six months after the survey. This, together with the infrequency of the surveys, reduces its value to support action in response to trends in performance.
sufficiently precise to support targeted action	Information on the timeliness of case progression provided by the Lord Chancellor's Department to the magistrates' courts does not transparently separate custody and bail cases so that performance can be linked against the separate targets for these different types of case.
compatible year on year so that trends over time can be identified	This is difficult to achieve given frequent legal and administrative changes, information collected by means of survey and the lack of standard information systems.
transparent	Published statistics focus on activity rather than performance, with more than 150 statistical tables providing data on volumes of cases, details of defendants and case types. There is little published data relevant to management or performance, although since 1996 Departments have published a quarterly digest of information designed for managers and which focuses on performance issues.
able to demonstrate cost implications	Development of models to cost the steps in the criminal justice system is at an early stage (paragraphs 6.33 to 6.37).
where possible, collected by standard information systems	The information collected so far to measure joint performance between agencies has been under the auspices of groups such as the Trials Issues Group. The criminal justice system is some considerable way off having systems which would support routine reports for wider joint performance assessment (paragraphs 6.3 to 6.12).

Figure 61

Improving target setting in the criminal justice system: areas for action

Issue to be addressed	Example of current problem
Managers need to know clearly to which targets they are working.	In some areas such as timeliness of case progression managers have best practice guidelines, statutory requirements, their own agency targets, as well as Trials Issues Group guidelines and standards to work to, many of which are different.
Tension between agencies because of targets set by an individual agency within the system.	The pressure on magistrates' courts to meet targets for the timeliness of case progression may lead them to set dates for hearings which are unrealistic for the prosecution and the defence to meet. This can lead to unnecessary adjournments.
Wherever possible timeliness indicators need to be linked to quality.	Timeliness may be achieved at the expense of quality, and vice versa. The joint performance monitoring of police file case preparation between the Crown Prosecution Service and the police is a good example of linking the measurement of quality and timeliness.
Targets need to reflect the process from the user's point of view, not just that of the individual agencies.	The police have a target relating to the timeliness with which witnesses are informed of a court hearing. Targets expressed in terms of the amount of notice provided to witnesses would better reflect the witnesses' perspective of what is important.
Unless regularly reviewed, targets may become counter-productive.	Time guidelines agreed in 1992 (Figure 53) were intended to be maxima on which agencies should seek to improve, but over time have come to be regarded as standards.
Managers need comparators.	There is no formal mechanism for grouping Magistrates' Courts Committees or Crown Court centres to enable local managers to evaluate their relative performance with other areas with similar characteristics.
Managers need to have clear responsibility for delivery against targets.	Where magistrates' courts fail to meet targets, lack of management information about the action of all those involved in a case will still make it difficult to hold anyone to account for the failure.

Recommendations

-
55. Departments should continue to work together to develop common information standards and definitions for use throughout the criminal justice system. There should be a single definition of “case”, comparable across the criminal justice system.
 56. The Board of the new inter-agency initiative for Integrating Business and Information Systems (IBIS) across the criminal justice system should ensure that links with defence solicitors are fully covered in the strategic plans for integration.
 57. Departments should bring together key performance statistics from Criminal Statistics, Judicial Statistics and other Departmental and agency publications in the proposed annual report on the criminal justice system.
 58. The Lord Chancellor’s Department should review the case progression timeliness targets and indicators it sets for magistrates’ courts to ensure that they:
 - provide for transparent measurement over time;
 - provide incentives to those courts which are already performing better than the existing national target.
 59. The Lord Chancellor’s Department and Court Service should group similar courts together for performance monitoring, to allow local managers to make meaningful comparisons in performance data.
 60. Until more regular and timely information on the timeliness of case progression is available through new computer systems, the Lord Chancellor’s Department should take steps to improve the usefulness of the current data it collects by:
 - asking internal audit to undertake sample verification of local returns;
 - distinguishing more transparently bail from custody cases.
 61. The Departments should consider how to develop the work started by the Flows and Costs Model and the Crown Court Costs and Performance Model so that improved information on the unit costs across the criminal justice process can be made available.
 62. To improve management information and target setting in the criminal justice system, Departments and local agencies need to address the issues set out in Figures 60 and 61 of this report. These include the need to ensure information is based on common definitions and standards, is reliable, accurate and validated, reflects the process as a whole, and is able to demonstrate the cost implications of different procedures.
 63. Local agencies should agree frameworks to govern the core or key management information that needs to be collected in order to meet local and national targets and how it should be presented to promote joint working and understanding.
-

Appendix 1

Methodology

Survey of the causes of adjournments in the magistrates' courts

1 Existing national data on the magistrates' courts do not identify the causes of adjournments or differentiate between those due to standard procedures or ineffective hearings. In view of the lack of data, we carried out a survey of adjournments in ten magistrates' courts in order to establish:

- the proportion of adjournments that were part of standard court procedures and the length of delay;
- the proportion of adjournments that were a result of ineffective hearings and the length of delay;
- the reasons for ineffective hearings and the agencies responsible.

2 We selected the courts surveyed to ensure coverage of the four demographic categories of court that the Lord Chancellor's Department uses to group Magistrates' Courts Committees (Inner London, Outer London, Metropolitan and Non-Metropolitan). We also weighted the coverage to ensure that a number of larger courts were covered, giving a total of six categories shown in Figure 62.

3 Sampling was carried out in two stages. In the first stage we selected ten clerkships, which are the basic administrative unit of Magistrates' Courts Committees, covering between one and eleven courthouses. No more than one clerkship was selected from any Committee area. A sample was selected manually in the proportions shown in Figure 62.

Selection of sample

Figure 62

Category	Number of clerkships selected
Inner London	1
Outer London	1
Metropolitan (largest 25 per cent)	1
Metropolitan (remaining 75 per cent)	1
Non-Metropolitan (largest 25 per cent)	3
Non-Metropolitan (remaining 75 per cent)	3

Note: The split between Metropolitan and Non-Metropolitan clerkships reflects the proportion of each type nationally.

4 In the second stage, one courthouse was chosen from each of the clerkships selected, giving the following courts:

Brighton	Caerphilly	Gloucester
Liverpool	Maidstone	Newark
Sale	Southend	Thames
Wimbledon		

5 The survey was piloted in two courts not included in our sample, Bridgwater and Huddersfield. After changes made as a result of the pilot, the main survey was carried out during one week in October 1998.

6 For each hearing during the survey week where the case was not finalised, the clerk completed a survey form identifying the reason for the adjournment and the date of the next hearing. The courts returned 1,792 completed survey forms of which 1,788 identified the reason for the adjournment. We undertook analysis of the reasons to identify the proportion of adjournments that were due to standard court procedures and ineffective hearings and to determine, where possible, the agency responsible.

Survey on local inter-agency liaison arrangements

7 We obtained the views of local managers on inter-agency liaison arrangements by means of questionnaire survey. The questionnaire asked managers to identify:

- the groups in which they liaised with other agencies;
- the frequency of meeting and the issues discussed;
- which group they considered to be the most important;
- the main benefits of the group;
- factors constraining the effectiveness of liaison;
- how liaison might be improved.

8 The survey covered managers in 30 locations selected at random. The agencies comprised the magistrates' courts, the Crown Court, the Crown Prosecution Service, the local police force and defence solicitors. The overall response rate of criminal justice agencies was 90 per cent. Defence solicitors' response rate was 42 per cent.

Local visits

9 We visited 11 magistrates' courts and six Crown Court centres and examined, in discussion with key staff, the process for progressing cases, liaising with other agencies, and information needs. Six of the magistrates' courts we visited also carried out our survey of adjournments. In two locations we also visited the Crown Prosecution Service and the local police.

10 Local courts covered by our visits and surveys are shown in Figure 63.

Figure 63**Courts covered by visits and surveys**

Magistrates' courts visited	Crown Court centres visited	Adjournment survey	Liaison survey
Bexley	Bristol	Brighton	Bedford
Bristol	Croydon	Caerphilly	Birmingham
Durham*	Durham*	Gloucester	Bolton
Gloucester*	Gloucester*	Liverpool	Coventry
Horseferry Road (London)	Merthyr Tydfil	Maidstone	Dudley
Liverpool	Nottingham	Newark	Grantham
Maidstone		Sale	Hexham
Northampton		Southend	Houghton Le Spring (Sunderland)
Southend		Thames	Ipswich
Thames		Wimbledon	Isle of Wight
Wimbledon			King's Lynn
			Lampeter (Dyfed)
			Lavender Hill (London)
			Manchester
			Middlesbrough
			Newtown (Powys)
			Nuneaton
			Peterborough
			Pontypridd
			Richmond-upon-Thames
			Sheffield
			Slough
			Southampton
			St Albans
			St Helens
			Stratford (London)
			Telford
			Torquay
			Wakefield
			Worthing

* Areas where we also visited the Crown Prosecution Service and the police.

Appendix 2

List of external bodies and individuals consulted

- The Association of Chief Officers of Probation
- The Association of Chief Police Officers' Crime Committee
- The Association of Justices' Chief Executives
- The Association of Magisterial Officers
- The Rt Hon Lord Justice Auld, Senior Presiding Judge for England and Wales
- The Central Council of Magistrates' Courts Committees
- The Criminal Bar Association
- The General Council of the Bar
- The Justices' Clerks Society
- The Law Society
- Liberty
- The London Criminal Courts Solicitors' Association
- The Magistrates' Association
- The Police Federation
- The Police Superintendents Association of England and Wales
- Victim Support

Appendix 3

Expert panel members

- Peter Dawson, retired Justices' Clerk
- Anthony Edwards, Defence Solicitor
- Kate Flannery, Local Government Studies Directorate, The Audit Commission
- Anne Fuller, Chair, The Magistrates' Association
- Carol Kellas, Narey Pilots Project Manager, Home Office
- Peter Lewis, retired Crown Court Chief Clerk
- Colin Monson, Her Majesty's Magistrates' Courts Service Inspectorate
- Paddy Tomkins, Her Majesty's Inspectorate of Constabulary
- Stephen Wooler, Crown Prosecution Service Inspectorate

Appendix 4

Main changes to the criminal justice process arising from the Narey report and the Crime and Disorder Act 1998

The *Review of Delay in the Criminal Justice System* (the Narey report) was published by the Home Office in February 1997 and made 33 recommendations aimed at expediting the progress of cases through the system. The Government accepted most of the recommendations and, where necessary, legislative provision was made in the Crime and Disorder Act 1998. The key changes were piloted in six areas and most are being introduced nationally from November 1999. The main changes relating to the areas covered by this study are summarised below.

Getting cases to court more quickly

For defendants granted bail, the Act obliges the police to bail the defendant to appear at the magistrates' court at the next available hearing, which will usually be within one or two days. If the defendant has indicated that he or she is likely to plead guilty, the hearing will be an Early First Hearing at which a sentence can be passed and the case disposed of provided no pre-sentence report is required. Otherwise the hearing will be an Early Administrative Hearing at which the court will take a plea and deal with issues such as legal aid and bail.

Crown Prosecution Service staff working alongside police in police stations

To enable cases to be brought before the court more quickly, Crown Prosecution Service staff will work in police administrative support units to help the police with the preparation of case files and ensure that the necessary evidence is included. The staff will also be responsible for informing the court of the types of hearing needed each day.

Lay review and presentation of straightforward guilty plea cases

The Act gives the Director of Public Prosecutions the power to designate caseworkers without a legal qualification to review files in straightforward cases where the defendant is expected to plead guilty, and to present such uncontested

cases and certain motoring cases in the magistrates' court. The use of these designated caseworkers is expected to release lawyers to work more closely with the police and to concentrate on more complex cases.

Case management

The Act provides for a magistrate sitting alone or, subject to regulations made by the Lord Chancellor, a justices' clerk to exercise certain powers (for example, making directions on a timetable for the conduct of a trial) to expedite the progress of a case through the court. These powers may be exercised at an Early Administrative Hearing or at a later hearing such as a pre-trial review where the arrangements for the trial (for example, which witnesses are required to give evidence) are agreed.

Evaluation of the pilot schemes

Prior to the pilots the Home Office conducted a review of completed cases to obtain data to make comparisons with performance during the pilots. The evaluation of the pilot schemes then examined some 2,750 cases across the six sites by tracking cases with first hearings during November 1998.

The evaluation found that the average time between charge and disposal in the pilot areas reduced from 85 days to 30 days for adult cases and the number of hearings per case fell by 1.2. The evaluation did not consider the possible knock-on effect on cases not covered by the initiatives, such as summons cases.

Reports by the Comptroller and Auditor General, Session 1999-2000

The Comptroller and Auditor General has to date, in Session 1999-00, presented to the House of Commons the following reports under Section 9 of the National Audit Act, 1983:

Improving VAT Assurance.....	HC 15
The Newcastle Estate Development Project.....	HC 16
Criminal Justice: Working Together	HC 29