Crown Prosecution Service

Annual Report 1986 - 87

Annual Report

Crown Prosecution Service

For the period April 1986 to March 1987
from the Director of Public Prosecutions to the Attorney General

Presented to Parliament in pursuance
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Sir Thomas Hetherington,
KCB, CBE, TD, QC,
Director of Public Prosecutions.

Introduction by Sir Thomas Hetherington

Letter to the Attorney General

The Crown Prosecution Service (CPS) has now been fully operational in all Areas for over six months; indeed, the Metropolitan Areas outside London have a complete year's experience behind them. This, my first annual report to you, describes how the Service was set up, what we have accomplished in the year 1986/87, and what plans we have for future development.

As you know, the CPS was created under the Prosecution of Offences Act 1985 to take over from the police the responsibility for the prosecution of crimes in England and Wales, and to establish itself as an independent and cost-effective service. In a very short space of time a new Department had to be created, bringing together the Director of Public Prosecutions' Department, the local authority Prosecuting Solicitors' Departments outside London and parts of the Metropolitan Police Solicitor's Department. These bodies had to be remoulded and restructured to enable the new Department to establish its identity and meet its new objectives; new staff had to be taken on to fill the gaps, working practices and organisational structure had to be decided; liaison arrangements had to be established between the CPS and other agencies in the criminal justice system; and while all this was going on, the essential demand-led prosecution service had to be provided without interruption.

It was apparent from the outset to me and to those working closely with me on the establishment of the Service that we were desperately short of time, particularly in respect of London. While I appreciated the desirability of an early commencement date, the foreseeable consequence was that the Service was not as fully prepared to commence operations in all Areas on 1st October 1986 as we would have wished, and in particular was inadequately staffed and resourced. A more effective, efficient and economic Service could have been achieved from the outset if the commencement could have been delayed. Extra strain was also brought to bear on the Service by the introduction of new concepts with considerable, and, in some instances, unexpected resource and manpower implications.

In these circumstances there inevitably followed a period during which our prevailing style could best be described as crisis management and our early problems received some media coverage which was by no means always well-deserved or well-balanced.

However, looking back over what has been accomplished in an astonishingly short space of time, I can confidently report that our achievements have been significant. It is not possible to mention all those who have contributed to setting up the CPS on a sound footing. We certainly could not have reached our present position without the commitment of staff from my previous Department, the DPP's Office, and of staff who joined us from the old Prosecuting Solicitors' Departments. From the beginning it was clear that the CPS could not function effectively without the co-operation of local police forces, the Bar, the Law Society, and agencies such as the Justices' Clerks' Society and the Magistrates' Association. All these organisations played significant roles in our first year operations. Throughout the year many

CPS staff at all levels put in long hours and wrestled with unfamiliar and in many cases untried systems. Without their commitment we could not have survived.

Our most serious problem continues to be the recruitment of lawyers, particularly in London, in Areas around London and in some Areas further afield. This problem applies not only to the CPS, but generally to employment in the Government Legal Service. However, it is particularly significant in relation to the CPS, because there were many more new posts to be filled in those Areas where there were few, if any, potential prosecutors already employed in the public sector. One of the most urgent needs therefore for the forthcoming year is to make strenuous efforts to create conditions which will attract a substantial number of new recruits in these Areas.

This report gives details of how the 31 CPS Areas and our London Headquarters are organised, how work is delegated to local offices and what is retained at Headquarters. It also describes our relations with other agencies in the criminal justice system, and the recruitment and training of CPS staff during 1986/87.

Ours is the first government department to be set up since the Financial Management Initiative (FMI) was adopted throughout the Civil Service. We have thus been able to design our systems to ensure that the resources we consume can be related to what we achieve and we have set up a comprehensive system of performance indicators. These measure, for example, the cost per case in both Crown Courts and Magistrates' Courts and the number of cases a CPS lawyer deals with per day. In accordance with FMI principles we have delegated to the lowest practicable level responsibility for managing budgets.

Towards the end of 1986 we felt that it was possible and desirable to build upon and learn from experience to date, and take a longer term view of the prospects and opportunities for the CPS.

I therefore engaged management consultants to work with me and other members of my central management group to prepare a strategy statement as the first such forward look. They consulted a selection of Chief Crown Prosecutors (CCPs) and their staff and others throughout the criminal justice system and together we defined an annual planning cycle and formulated our initial strategy statement. This initial statement will be used positively by budget holders in planning their activities for this year as well as for the future and it will be fleshed out as action plans when specific target dates are developed.

I am confident that we now have a sound basis and a coherent planning system which will allow us to develop into a thoroughly efficient and cost-effective prosecution service and to contribute significantly to the improvement of the criminal justice system.

CHAPTER 1

Planning the New Service

1.1 In 1984 the management consultants, Arthur Andersen & Co., were commissioned by the Home Office to advise on the structure and organisation of the Crown Prosecution Service. They worked in conjunction with a small team from that Department and from the Office of the Director of Public Prosecutions to make recommendations on:

- the appropriate structure, staffing and methods of work in local offices and at Headquarters;
- the siting of the local offices;
- the local factors most important to the efficiency of the Service;
- the management information necessary to monitor the Service's efficiency and effectiveness.

1.2 The consultants reported in April 1985 and copies of their report, "Setting a Direction for the Crown Prosecution Service", were sent to all Chief Prosecuting Solicitors in England and Wales.

1.3 I accepted most of their recommendations and their report formed the basis on which we set up the Service. In particular the report was used to determine the working practices in the local offices, the way in which England and Wales was divided into Crown Prosecution Service areas, the staffing levels throughout the country, and the organisation of the Service's Headquarters.

Figure 1: Crown Prosecution Service Areas

1 Inner London
2 London North
3 London South/Surrey
4 Avon and Somerset
5 Bedfordshire/ Hertfordshire
6 Cambridgeshire/ Lincolnshire
7 Cheshire
8 Cleveland/ North Yorkshire
9 Cumbria/Lancashire
10 Derbyshire
11 Devon and Cornwall
12 Dorset/Hampshire
13 Durham/Northumbria
14 Dyfed-Powys/North Wales
15 Essex
16 Gloucestershire/ Wiltshire
17 Greater Manchester
18 Gwent/South Wales
19 Humberside
20 Kent
21 Leicestershire/ Northamptonshire
22 Merseyside
23 Norfolk/Suffolk
24 Nottinghamshire
25 South Yorkshire
26 Staffordshire/ Warwickshire
27 Sussex
28 Thames Valley
29 West Mercia
30 West Midlands
31 West Yorkshire

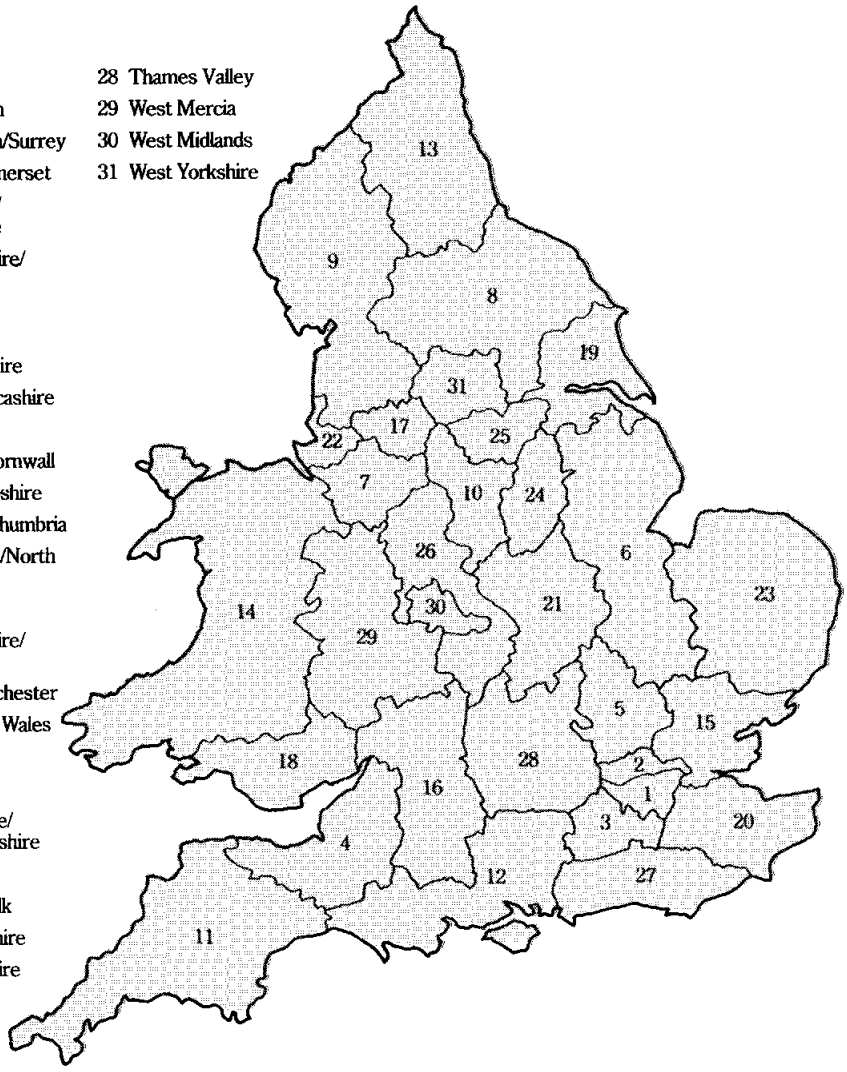
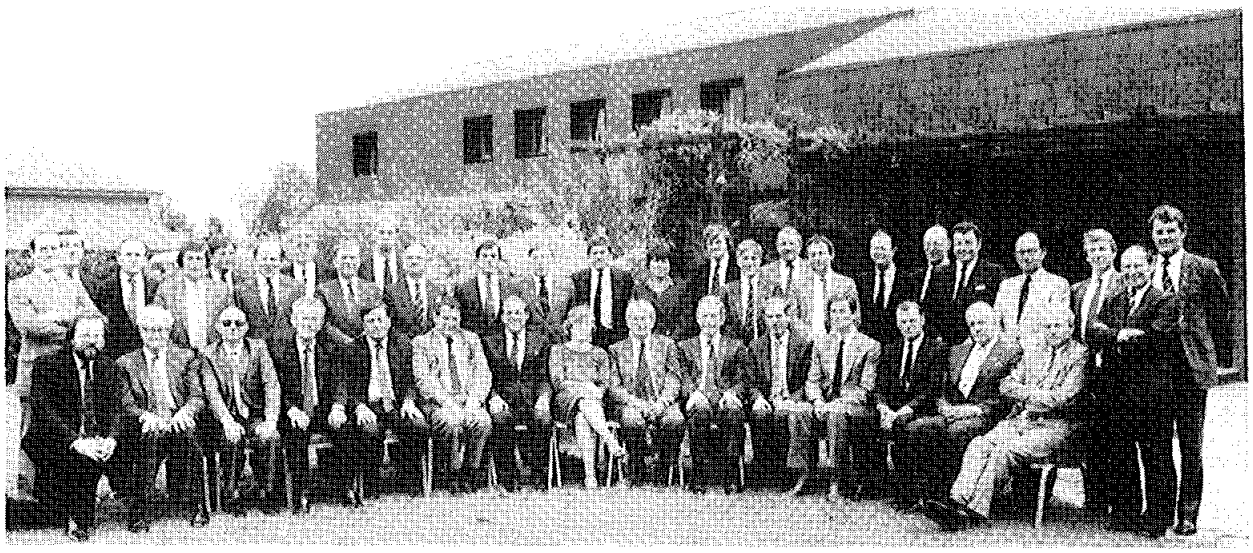


Figure 2: Original Chief Crown Prosecutors and other senior CPS staff



CHAPTER 2

The 31 Field Areas

2.1 Before the Prosecution of Offences Act 1985 came into force, there were some 36 prosecuting lawyers' offices in England and Wales. In six Police Authority areas there were no formal arrangements for prosecution and in the Metropolitan Police District the great majority of prosecutions were handled by police officers with only a small proportion being conducted by the Solicitor to the Metropolitan Police. Each of the 36 prosecuting lawyers' offices was organised on an individual basis acceptable to the local employing authority (usually the Police Authority) and in many cases the prosecuting lawyer's department was located at or near a Police Headquarters. The offices varied greatly in size and in organisation. Whilst ostensibly the relationship between the police and the prosecuting lawyers was that of client and solicitor, in reality this varied greatly, ranging from offices where the prosecuting lawyer enjoyed total independence, to others where the prosecuting lawyer was effectively a member of the Chief Constable's staff.

2.2 Against this background it was necessary to decide how the boundaries of the Areas in the new Crown Prosecution Service would be defined and how its staff would be organised. Each Area had to be large enough to warrant a Chief Crown Prosecutor (CCP) of sufficient experience, skill, and stature to assume the delegated responsibilities and decision-making required of him. It also had to be small enough to allow the CCP to maintain personal contact with his staff and with other organisations in the local criminal justice system, particularly the police. Again, each Area had to be reasonably large while still bearing some relation to boundaries of organisations such as the police and the courts. It was finally decided that whilst it was feasible for a CCP to cover more than one police area it would not normally be efficient for one police area to be split between two CCPs.

CPS Areas outside London

2.3 The decision that CPS Areas should have common boundaries with the Police Service, raised the issue of how to break the mould of existing relationships and establish the independence of the new Service. The planning team felt that this could be achieved by new organisational arrangements and the remaining decision was how to combine police areas to create CPS Areas of appropriate size.

2.4 The principle of combining police areas was not new. In several parts of the country a single prosecuting solicitor's department covered more than one police area. In forming CPS Areas it was decided to combine:

Cleveland with North Yorkshire
Dorset with Hampshire
Gloucestershire with Wiltshire
Hertfordshire with Bedfordshire
Lancashire with Cumbria
Leicestershire with Northamptonshire
Lincolnshire with Cambridgeshire

Norfolk with Suffolk
Northumberland with Durham
North Wales with Dyfed Powys
South Wales with Gwent
Staffordshire with Warwickshire
and Surrey with London South

Along with the police areas of

Avon and Somerset
Cheshire
Derbyshire
Devon and Cornwall
Essex
Greater Manchester
Humberside
Kent
Merseyside
Nottinghamshire
Sussex
Thames Valley
West Midlands
South Yorkshire
West Mercia
West Yorkshire

this produced 28 CPS Areas outside London.

London Metropolitan Police District

2.5 Although it had been decided that, in general, no police authority should have to work to more than one Chief Crown Prosecutor, this was not realistic within the Metropolitan Police District. This district was so large that, if treated as a single CPS Area, its CCP would have been remote from many of his staff, and unacceptably complex systems would have been required. After considering a number of alternatives, it was decided that London should be divided into the following Areas:

Inner London
which covered the Inner London Commission of the Peace area and the City of London;

London North, and

Outer London South
which was combined with Surrey.

2.6 In total, these proposals produced 31 CPS Areas, fewer than either the police force areas or the number of prosecuting lawyers' offices in existence before the introduction of the new service.

Staff for the new Service

2.7 The new service had available to it the staff of prosecuting lawyers' departments developed by police authorities outside London, staff of the DPP's Office and those of the office of the Solicitor to the Metropolitan Police. This provided a substantial body of experienced and committed prosecuting lawyers without whom the service could not have begun to operate. This core of experience did not extend to the six police areas outside London where there was no prosecuting lawyers' office. These areas and London were staffed by blending together new recruits and experienced staff from existing offices. We also arranged to import a number of senior managers from the provinces to headquarters.

2.8 Although there were significant shortages, particularly of lawyers, with the help of outside agencies we had sufficient staff for the new Service to go live in the former Metropolitan counties on 1st April, 1986 and in the rest of England and Wales by 1st October. Finally it has to be said that whilst the Service continues to recruit, at the end of our first year of operation there are still substantial shortages of lawyers in some Areas.

Office Accommodation

2.9 In many Areas where there was an established prosecuting solicitor's office, to establish our independence we had to look for accommodation away from Police stations. In the Areas outside London where there was no existing prosecuting lawyer's service, and in London itself, new office accommodation had to be found. The Property Services Agency undertook this substantial task against a tight timetable and were able to identify, check and assign to the CPS, nearly 70 premises throughout England and Wales. In London itself there was no CPS office accommodation at the end of 1985: by the following August all the London offices had been provided and staff were in place in time for the new Service to go live on the 1st October, 1986.

CHAPTER 3

April and the Metropolitan Counties

3.1 The timetable for the introduction of the Crown Prosecution Service was complicated by the separate decision of Parliament to abolish the six Metropolitan Counties with effect from the 31st March, 1986. The Government's intention was that the Service should come into being universally on the 1st October 1986. However, applying this timetable to Greater Manchester, Merseyside, South Yorkshire, West Yorkshire, West Midlands and the police area of Northumbria would have resulted in the responsibilities for prosecuting going to a newly-invented residuary body for six months and then undergoing a further reorganization to operate on the 1st October. This was clearly not reasonable and it was decided that the Service would be introduced in the six CPS Areas of Northumbria, Durham and the other five Metropolitan Counties on the 1st April 1986. This meant that during a six month transitional period there were two prosecution systems operating in England and Wales as a whole; the Crown Prosecution Service in the six Areas above, and the previous system in the rest of the country.

Staffing Arrangements

3.2 We began work in earnest on setting up the Crown Prosecution Service in the six Metropolitan Areas during the Autumn of 1985, after I had designated the Chief Crown Prosecutors (CCPs) for those Areas. There were then extensive discussions between each CCP-designate, key staff in Headquarters and, in due course, the Treasury, to determine the appropriate organisational structure and the right complements of lawyers, law clerks and support staff. This exercise was followed by the equally demanding task of fitting staff to posts. On the 29th November, 1985, the Crown Prosecution Service (Transfer of Staff) Regulations 1985, were laid before Parliament. These required that by the 30th December, 1985 all staff eligible for transfer from a Metropolitan Prosecuting Authority to the CPS should have been identified, assigned to an appropriate post and grade within the new organization, and been served with a Notice of Transfer. This involved much detailed and time-consuming work, including discussions with trade unions and other interested parties. At the same time, arrangements had to be made to acquire and equip new premises, engage counsel and solicitor agents to appear in the Magistrates' Courts, pay witness expenses, and introduce all the other administrative and financial systems and procedures required by the new Service from the 1st April, 1986.

Liaison with other agencies

3.3 In all six Areas the CCPs-designate and their senior staff knew how important it would be to establish good working relationships with the police. They maintained regular contact with their respective chief constables in the run-up to the 1st April and collaborated closely with the police in setting up new procedures where necessary. These covered the delivery of case papers, resolution of complaints, consultation on proposals to discontinue proceedings, and many other matters where agreement and understanding between the police and CPS staff would be essential. We also liaised closely with Justices' Clerks, Circuit Administrators, local Law Societies and Bars, giving explanations and reassurances about the changes or absence of changes due to take effect on the 1st April.

3.4 Finally, the six CCPs-designate had to ensure that their staffs were familiar with the newly issued CPS Policy and Practice & Procedure Manuals. Internal instruction, guidance and training had to be prepared covering subjects such as performance of statutory duties and levels of decision-making, and systems for quality assurance and control had to be established.

3.5 The transition in the Metropolitan Areas passed with much less upset than we had at times feared. This was due both to the quality of Prosecuting Solicitors' Departments being replaced, and to the careful preparatory work that all concerned had put into setting up the new systems.

Some problems

3.6 It would be dishonest to pretend that there were no imperfections or problems in the Metropolitan Areas. Some areas of work such as those arising from the mass of road traffic and other minor prosecutions had either not been anticipated or their impact had been underestimated, and, as a result, insufficient staff had been allocated. This quickly became apparent and the situation was made worse when, subsequently, we had to call for substantial numbers of lawyers in each Metropolitan Area to volunteer for secondment to London. In addition, counsel and solicitor agents had to be used far more extensively than had been anticipated to man Magistrates' Courts. (Agents are lawyers in private practice paid by the session to represent the CPS in court.) This was a costly expedient and it did not relieve the burden of case review and other office work that had to be carried out by CPS lawyers. These staff kept their heads above water—though sometimes only just—by dint of much dedicated hard work.

3.7 The law clerks and support staff of the Metropolitan Areas had comparable difficulties. They had to cope with completely unfamiliar systems for managing cases and accounting for resources, often after only limited training. However these Areas survived their traumatic start and we were all able to learn from their experiences.

New practices

3.8 The Metropolitan Areas were, in fact, well equipped to absorb the impact, both of the new statutory prosecuting responsibilities and the transition from local to central government service. These Areas handled some of the biggest concentrations of crime outside London, and already had large and well-developed Prosecuting Solicitors' Departments. In some respects the culture shock of adopting civil service practices and procedures caused them more difficulty than adjusting to the new prosecution system.

3.9 The experience gained in the Metropolitan Areas between the 1st April and 30th September, 1986 was invaluable. It enabled new policies, systems and practices to be tried under considerable pressure, passed on if they worked, rejected and replaced if they failed and adapted appropriately where necessary.

CHAPTER 4

October and the Shire Counties

4.1 In order to become fully operational by the 1st October, 1986, we had to make an early start in those counties which did not have prosecuting solicitors' departments, namely Befordshire, Hertfordshire, Leicestershire, North Yorkshire, Staffordshire and Surrey (the "White Areas"). In those counties most prosecutions had been conducted by the police while more serious cases were handled by solicitors in private practice acting as agents for the police. Clearly new staff could not simply appear overnight and conduct all prosecution work from 1st October; there had to be a gradual phasing in. The CCPs for these Areas were designated well in advance, and a nucleus of other senior lawyers and support staff was recruited. These staff started work and began to forge the necessary links with all the agencies in the local criminal justice sytem.

4.2 With the agreement of Chief Constables, CCPs gradually took over prosecution work as staff become available to carry it out. This process was assisted by giving to the new Service work which the local police forces would normally have referred to the DPP's office in London.

Working practices

4.3 In all Areas we had to conduct detailed negotiations to agree mutually acceptable working practices with local agencies, particularly the police and the Justices' Clerks. In view of the wide variety of arrangements which previously existed across the country it is scarcely surprising that no single blueprint suited all circumstances. Nevertheless, in all cases we reached pragmatic solutions which are still being refined in the light of experience.

4.4 It was particularly important to achieve consistent working practices in those Areas where CCPs became responsible for prosecutions emanating from more than one police force. Here, joint working parties between Chief Crown Prosecutors on the one hand and Chief Constables and other representatives of the forces involved proved very successful.

4.5 A common feature of almost all the Shire counties which had previously had prosecuting solicitors' departments, was that they employed few administrative staff and relied heavily on support from police prosecution or process offices. The new system eliminates advocacy by police officers and requires that case papers are reviewed by independent CPS lawyers who then decide on the propriety of continuing proceedings launched by the police. This, of course, has entailed the transfer of major support tasks from the police to the Service.

New staff

4.6 It was therefore necessary to recruit new staff to assemble and keep track of a vastly increased case load, to arrange the listing of cases with the staff of Justices' Clerks, to answer a whole range of enquiries—particularly from defending solicitors—and to deal with a multitude of pre- and post-trial tasks. Many of these staff could only be engaged on the appointed day itself and were very much thrown in at the deep end.

CHAPTER 5

London

5.1 The Greater London area posed particular problems. These stemmed from a number of causes: the high crime rate and associated heavy lists of court business; the complete change in the prosecution system with the start up of the CPS; the number of organisations involved in the system, all of whom had to adjust to new procedures; the particular difficulty of recruiting lawyers in London; and, as in other parts of the country, the tight time-table against which the Service came into operation.

5.2 In preparation for the complete change in the prosecution arrangements in London, a pilot scheme was launched in Bow Street Magistrates' Court in 1985. This however was limited to testing practices in London magistrates' courts and there was little preparation for the new prosecution system which involves lawyers in preparing all summary case work and all Crown Court work before committal.

Liaison with other agencies

5.3 Altering established procedures to allow for the changed role of lawyers was a daunting task. A large number of organisations—including the Metropolitan Police Services in London, the British Transport Police and the City of London Police Force—are involved in the business of London Courts. They all had to adjust their systems to allow for CPS lawyers and agents prosecuting entire lists and to accommodate the full preparation of Crown Court cases before committal for trial by Magistrates' courts. Many of those involved expressed reservations about the new Service and much time and effort had to be devoted to explaining the CPS objectives and procedures to those they affected.

Staff shortages

5.4 It was, and remains, particularly difficult to recruit sufficient numbers of trained and qualified staff in London. Even accepting that we would obtain little more than 50 per cent of our planned complement by 1st October, the competition for qualified lawyers in London meant that many of our recruits were newly qualified and had little professional experience. However the very pressure of work and the constant flow of complex cases produced its own stimulus and both new and experienced CPS staff rose to the challenge.

5.5 Because of these recruitment difficulties and because of the large backlog of work which we inherited from various agencies in the three London Areas, a phased introduction was necessary. This began in May 1986 and individual Magistrates' Courts Centres were still being phased in up to the point when the Statute came into force in London on 1st October, 1986.

5.6 It is to the credit of the Service and its staff that the original timetables were largely adhered to with only minor slippage in areas under particular pressure. The period was inevitably stressful for staff who saw their ranks filled to little more than 50 per cent and who worked in a climate of uncertainty resulting from large scale and previously untried systems. It must be said that some staff paid a high personal price for the commitment and loyalty they gave to the Service in its early months.

Deployment of lawyers

5.7 One dilemma we faced was the extent to which the short supply of qualified lawyers could be spared from case review work for advocacy in the Magistrates' Court. This was made more difficult because so many of our lawyers were newly qualified and had no previous experience of court work. Clearly a balance had to be struck and we decided that our most effective option was to concentrate on preparation and to use a pool of experienced outside agents, both solicitors and counsel, to handle much of the court work. This has resulted in less direct court room contact between professional CPS officers and magistrates and their staff than we would have wished. Some inroads have been made into this problem by setting up regular liaison groups with Magistrates' Court staff and by ensuring that senior CPS officers are available to meet stipendiaries and other magistrates in formal groups. The Inner London Magistrates' Court service has played a significant and helpful part in forging such links and the Chief Metropolitan Magistrate has given a constructive lead in this area.

CHAPTER 6

Early Problems

6.1 It is not possible to set up a new Government Department in the brief time which could be allowed to us without some problems. The CPS suffered from a number of serious problems in its first year, many of which received wide publicity.

Staff Shortages

6.2 Perhaps the most significant problem has been shortage of staff. In order to meet the intentions of the Prosecution of Offences Act we have had to recruit large numbers of lawyers for prosecution work and this could not be done overnight. Because of the time taken to recruit, particularly against the background of a national shortage of lawyers, many Areas have had to work, and some continue to have to work, with many fewer lawyers than they require. As a result those staff in post have suffered severe strain, we have incurred considerable extra cost (for example through the extensive use of Agents) and the quality of work has sometimes been lower than we would have wished. Throughout the year I have been continually impressed by the dedication and commitment shown by staff in simply getting the job done. Although every effort is being made to increase recruitment and some areas now have almost full complements, the net monthly increase in numbers is such that it will be some time before the deficiencies of the worst affected areas are resolved.

Secondments

6.3 The shortage of lawyers in London and some other areas has been so severe that I have had to ask for assistance from areas with serving lawyers in post. Although I made it clear from the outset that there would be no question of staff from the supplying areas being dragooned into secondment, we had to seek substantial numbers of volunteers throughout the year. The commitment of all those who volunteered, and also of those left behind who carried heavy additional burdens as a result of the secondees' absence, is worthy of the highest praise.

New Work

6.4 Our early difficulties were compounded by decisions which meant that CPS staff had to deal with considerably heavier workloads than the previous Prosecuting Solicitors' Departments.

6.5 Thus, for example, many thousands of minor process cases now fell to be prosecuted by the CPS instead of by the police. The administrative burden of simply handling the volume of paperwork involved and the task of tracking of these cases led to support staff having to work long hours of overtime. The need to review such cases absorbed a great deal of time of lawyers who would have been better employed on more exacting and interesting levels of case work. Provision was made in the Prosecution of Offences Act, 1985 for the actual disposal of such cases in Court to take place without the presence

of a Prosecutor where written pleas of guilty were intimated. However, for a number of reasons this procedure was not a success and in many areas it had to be virtually abandoned at an early stage.

6.6 Another decision which had a severe impact on administrative staff was that the Service would be responsible for payment of witness expenses. This also resulted in a flood of paperwork on offices with no previous experience of such a task. Devising new forms, establishing new procedures for their transmission between the Police and the Service and also within CPS areas, and setting up arrangements for processing and paying these witness expenses all had to be achieved in the shortest of times. As a result there were some serious early problems and for a time delays occurred in the payment of expenses. I am pleased to say, however, that as staff have gained experience in dealing with this work the system has become much more efficient.

Transition from Local Authorities

6.7 Other problems have arisen from the difficult transition from local authority employment arrangements to Civil Service employment arrangements. The Civil Service has its own tried and tested rules and CPS staff, as Civil Servants, are required to follow them. Smoothing the transition is not easy, however, and a number of difficulties have arisen on matters such as weekend working, provision of cars or recompense for use of private cars and differences in levels of pay. Concern over these matters coupled with the staff shortages have made their first year in the Crown Prosecution Service difficult for many staff.

6.8 A particularly vexed problem which emerged late in the year has been that of "pay anomalies". This is a shorthand expression for the situtation whereby a considerable number of staff who transferred from local authority service found themselves earning less than colleagues doing similar work. Without doubt this has proved to be the source of the greatest unrest within its ranks that the Service has faced so far. The main cause of the problem was the unfavourable interaction between the Parliamentary regulations which governed the pay of those transferring in to the Service and the latest Civil Service rules for pay following a promotion after entry. A particularly disturbing feature of this difficulty is that it affects the Senior Crown Prosecutor grade most adversely. These are key staff within the Service because of their demonstrated competence along with several years of experience and we can ill afford to risk losing them.

6.9 We continue to seek a solution which, within the constraints upon us, will remove as many of these anomalies as possible. At present there remains considerable unrest on this issue.

Publicity

6.10 The public perception of the fledgling CPS has been a considerable disappointment. Most of the publicity we have received through the media has been negative and there have been a number of instances during the year when the Service has been harshly criticised by Magistrates, Justices' clerks and the Police at various levels. I make no pretence that all of this criticism was unfounded. On a number of occasions, particularly in the beginning, we did fail to provide an acceptable level of service. Nevertheless, I equally make no apology for condeming much of the criticism as ill-considered, unjustified and often sententious. Inevitably "bad news" made good copy for the press and the Service often found it difficult to obtain coverage of its denials and corrections where these were appropriate.

The Future

6.11 Despite this list of difficulties, I do not wish to paint too black a picture. Some of the more difficult transitional problems have now been resolved and possible solutions to others are being discussed. I am hopeful that next year will be a less difficult year for staff and will produce a more favourable industrial relations climate than has prevailed thus far in the new Service. In a more settled environment and with greater experience of new systems the Service should be able to improve its public image significantly in the coming year.

CHAPTER 7

Headquarters Structure

7.1 Following the Arthur Andersen report, mentioned in chapter 1, the Headquarters of the new Service was arranged into three commands each reporting to the Director. First, "Legal Services" was set up to handle those cases which continued to be dealt with at Headquarters. Essentially it carried on what remained of the work of the old DPP's Office and was staffed primarily by officers from that Department. Second, a small "Field Management" group of senior managers was created to co-ordinate work in the 31 Areas and provide a link with Headquarters. Third, a "Support Services" group provided the essential financial and personnel services required by the Department.

7.2 The heads of these three groups joined me in a "Central Management Group" which met weekly and formed the top management group for the Crown Prosecution Service.

7.3 These arrangements worked well and played an essential part in setting up the new Service. Towards the end of the period of this report the Central Management Group concluded that, as the implementation phase drew to a close, a slightly modified management structure would better serve the next period during which we build on and consolidate what has been achieved so far. Consequently, in March, 1987 I announced that Legal Services and Field Management at headquarters would merge, and a regional tier of field managers would be created. The merged group is headed by a new post entitled Deputy Director and Chief Executive. Four regional director posts have been set up with Areas allocated to the regions as set out in Annex A. A new post of Director of Headquarters Casework was also established to manage those cases still referred to the Headquarters of the service. In this way the unified nature of the Service has been emphasised by bringing all legal work under one command and a more effective link between the 31 Areas and Headquarters has been created by the new regional director posts. The old Central Management Group has been superseded as the top decision-making body of the Service by a new Board of Management under my chairmanship. This comprises the Deputy Director and Chief Executive, the Head of Support Services, the four Regional Directors and the Director of Headquarters Casework.

CHAPTER 8

Delegation of DPP Work to Local Offices

The old arrangements

8.1 Before the Crown Prosecution Service was established, cases "of importance or difficulty" had to be referred to the Director of Public Prosecutions.[1] This meant that Chief Officers of Police were required to submit reports to the Director in such cases as murder, attempted murder, manslaughter, abortion, rapes involving more than one victim or defendant, large scale drug or immigration conspiracies and perjury. Additionally, the consent of the Director was required before prosecutions could be pursued for a wide cross-section of offences—many of them by no means grave—where Parliament felt that this was necessary to secure proper consistency in prosecution policy. For example, the Police and Criminal Evidence Act 1984 required Chief Officers to send to the Director's office reports on the investigation of all but the most minor complaints against police officers by members of the public.[2] Also, various other Acts of Parliament and administrative arrangements led to the Director's office handling small numbers of other cases—such as election petitions under the Representation of the People Act 1983, substantial frauds, cases involving criminal bankruptcies, extradition proceedings and cases involving obscene publications or exhibitions.

Some fears about a national prosecution service

8.2 While the reform of the prosecution system was being discussed, there was some apprehension that a unified system would lead to too many cases being handled at the national headquarters. In January 1981 the Royal Commission on Criminal Procedure expressed some general fears about excessive centralisation in a national prosecution service. In its report recommending the establishment of a national service,[3] the Working Party on Prosecution Arrangements stressed the need to guard against the concentration of an insupportable burden of cases at the service's headquarters;—"It will be essential to introduce safeguards against this centripetal tendency" (paragraph 16). Further fears of the excessive centralisation of casework were expressed when the Prosecution of Offences Bill had its Second Reading in the House of Lords in November 1984.

8.3 Prompted by these anxieties, in December 1984 the Attorney General issued a White Paper—"Proposed Crown Prosecution Service—the distribution of functions between the Headquarters and Local Offices of the Service".[4] The extent of delegation of casework foreseen by that White Paper proved to be reassuring to Members of both Houses of Parliament as the bill passed through its remaining stages.

The new arrangements

8.4 The broad structure of the Prosecution of Offences Act 1985 is to require the DPP, as head of the CPS, to take over the conduct of criminal proceedings instituted by the Police (save for some minor traffic offences where written pleas of guilty are entered) and to advise the police on matters relating to criminal offences. The powers and functions of the DPP in relation to the institution and conduct of proceedings are, in law, exercisable by all Crown Prosecutors. This provides considerable flexibility and I attach great importance to

[1] *Under the Prosecution of Offences Act 1979 and the Prosecution of Offences Regulations 1978.*

[2] *Section 90 of this Act which replaced Section 49 of the Police Act 1964.*

[3] *Annexed to the White Paper "An independent Prosecution Service for England and Wales—Cmnd. 9074.*

[4] *Cmnd. 9411.*

delegating as many cases as possible to local offices and issuing careful policy guidance on the various categories of offence so that we achieve proper consistency.

8.5 In addition to avoiding an insupportable burden of cases at Headquarters, this produces substantial benefits to the courts, the police, defendants, and the public in terms of the more efficient and expeditious handling of the work. The Working Party on Prosecution Arrangements felt that there was no reason why the number of cases referred to the Headquarters of the Service need *exceed* that dealt with by the DPP's Department. In practice we have achieved a considerable *reduction.*

8.6 The overwhelming majority of cases (including, for example, offences of homicide, attempted murder, rape and perjury) are now referred to Headquarters only if the CCP in the Area concerned considers this to be necessary in particular circumstances. He may regard the case as one of particular difficulty or exceptional public concern, or he may feel that there are factors (such as the involvement of a local councillor or official) which render it necessary to avoid suggestions of improper local influence. Only a handful of offences must always be referred to Headquarters: for example, treason, all prosecutions requiring the consent of a Law Officer and incitement to commit such offences, certain prosecutions requiring DPP consent, abortion, large scale drug and immigration conspiracies, criminal libel, election petitions and criminal bankruptcies. Alleged motoring offences by police officers (unless a fatality is involved) are now handled in local offices, and the extent to which other complaints against the police should be reported to Headquarters is under review. The more substantial fraud cases are handled at Headquarters although some of these will shortly be taken over by the Serious Fraud Office.

8.7 The following table shows illustrative comparisons between the numbers of cases submitted to the DPP's Office during 1985–86, the numbers submitted to CPS Headquarters in the first year of the Service's operation, and an estimate of the likely caseload in 1987–88:

Cases submitted to DPP's Office and CPS Headquarters 1985–88

	Fraud cases	Complaints against the Police	Other cases	Total
1985–86	580	6,350	4,120	11,050
1986–87	560	4,950	2,040	7,550
Estimated 1987–88	500	3,800	1,000	5,300

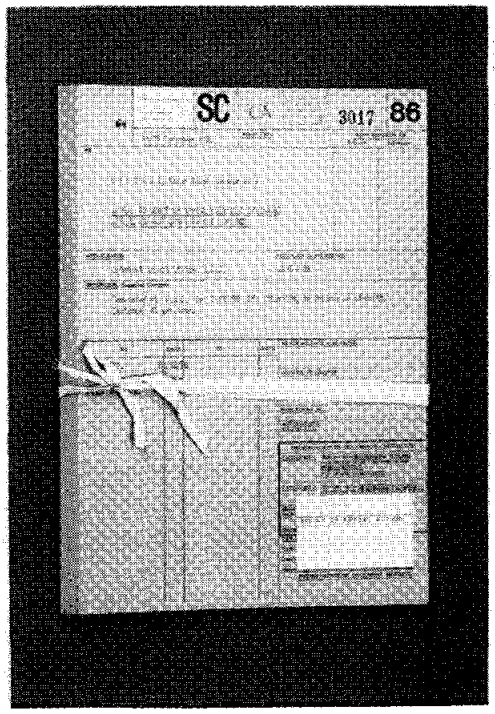
CHAPTER 9

Some cases handled at Headquarters

9.1 As well as cases of exceptional public concern or exceptional difficulty referred to headquarters by CCPs, a number of categories of offence are normally prosecuted from headquarters. These include cases under the Official Secrets Act, terrorist and "supergrass" cases, incitement to racial hatred, extradition cases, major commercial fraud in the Metropolitan Police district and cases of particularly large and complex fraud.

9.2 During the year fraud cases handled at headquarters have included a number of widely reported ones such as the Johnson Matthey Bank case and that arising from the Guinness takeover of The Distillers Company. Headquarters lawyers have also been called upon to guide the investigation of cases arising from multiple applications for shares in British Aerospace, Britoil, British Gas, British Airways and the TSB. Criminal proceedings have started on cases arising from the TSB share issue and others are expected soon.

9.3 Terrorist cases in 1986/87 included that of Hindawi, the El-Al bomber who put a bomb in his girl-friend's suitcase as she was about to board a flight to Israel. Had his attempt succeeded the bomb would have exploded while the aircraft was in mid-air, killing all passengers and crew. He was convicted at the Central Criminal Court in October, 1986 and sentenced to 45 years imprisonment.



A CPS case file

9.4 Headquarters lawyers also handled the case of Patrick Joseph Magee and other IRA terrorists whose trial at the Old Bailey featured both the bombing at the Grand Hotel, Brighton during the Conservative Party Conference in 1984, and also a thwarted campaign to set off bombs in London (the Rubens Hotel) and English seaside resorts in July and August, 1985. The trial ended with the conviction of Magee and other members of his "Active Service Unit".

9.5 A complicated case handled at Headquarters was that of Ranuana and other defendants who were charged with conspiracy to murder Rajiv Gandhi. They were discharged at committal proceedings in May 1986 as the undercover police officers giving evidence refused to comply with the magistrate's order that they supply their names and police force to the defence. Prosecution proceeded by obtaining leave to prefer a Bill of Indictment from a High Court judge. At trial, lasting over two months, Ranuana and Gill were convicted of the conspiracy and sentenced to 15 and 13 years respectively.

Complicated cases generate a lot of papers

9.6 During the year we have handled at Headquarters a number of cases resulting from tension between police and the black community: for example the case of Mrs Cherry Groce who was shot and permanently paralysed when her house was raided by police officers who were looking for her son. This case and its outcome led to the riots in Brixton during which a press photographer was killed.

9.7 Another case involving racial tension was that of Mrs Cynthia Jarrett who collapsed and died of a heart attack while police were searching her house. Local residents wrongly thought that police were

responsible for her death and rioting broke out on the Broadwater Farm Estate. During the riot PC Keith Blakelock was stabbed to death. His killers and a number of people concerned with the rioting were subsequently prosecuted.

9.8 Applications for extradition are also handled at headquarters. During the year the alleged IRA terrorist William Joseph Quinn who is accused of murdering the off-duty police officer, PC Stephen Tibble, has been extradited from the USA and is currently awaiting trial at the Old Bailey.

9.9 These few cases have been mentioned by name not because headquarters casework is more significant or noteworthy than that done in the Areas. The vast majority of CPS cases—including many which have featured prominently in the media—are now prosecuted locally. However it would be impossible to select any representative set of cases from the 31 Areas for inclusion in this report, and this handful of headquarters cases has been chosen merely as particular examples of CPS work.

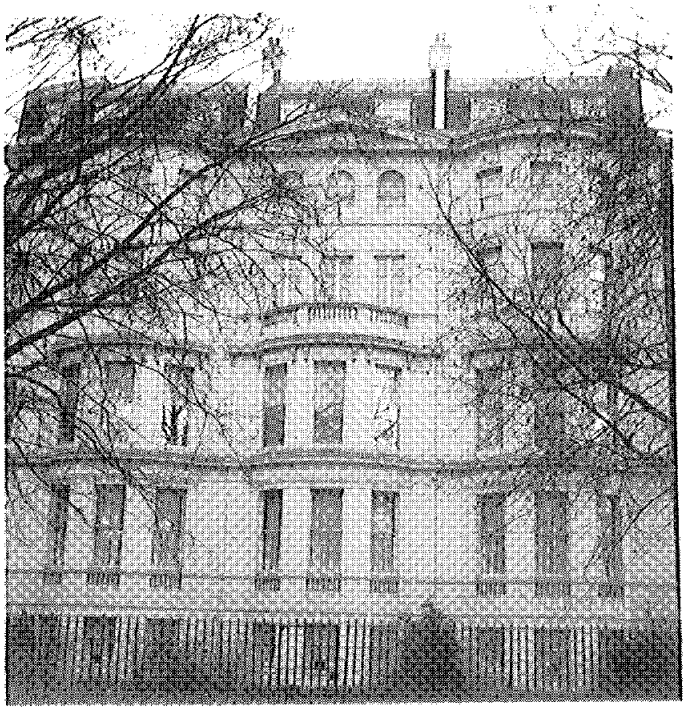
The original Central Management Group

Sir Thomas Hetherington

John Wood

David Gandy OBE

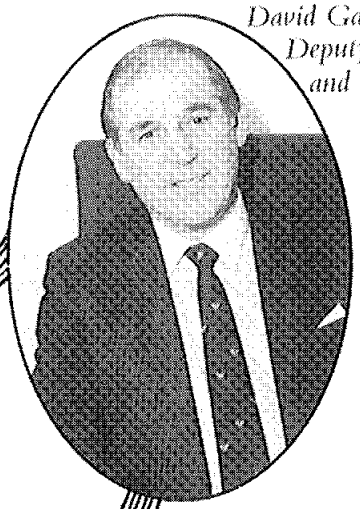
John Merchant



Headquarters from St. James's Park

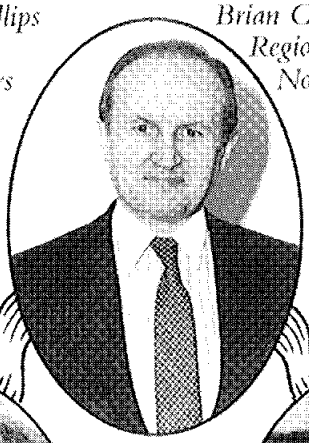
Board of Management

Sir Thomas Hetherington
Director



David Gandy
Deputy Director
and Chief Executive

Mrs Marisa Phillips
Director of
Headquarters
Casework



Brian Crebbin
Regional Director,
Northern

Richard Williamson
Regional Director,
Midlands

John Merchant
Principal Establishments
and Finance Officer

Colin Hoad
Regional Director,
South and West

Robert Gwilliam
Regional Director,
London and South East

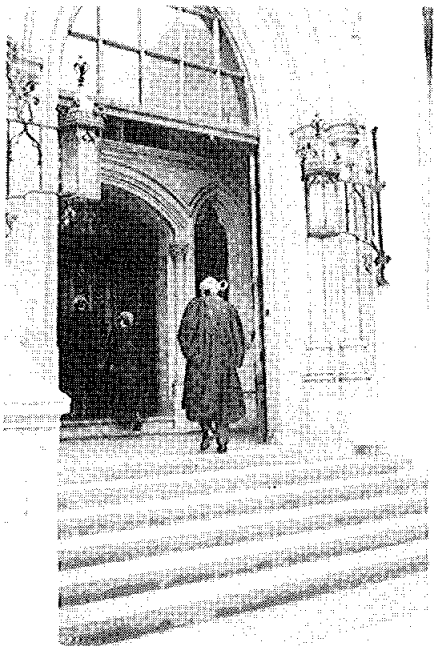
CHAPTER 10

Relations with the Bar and the Law Society

10.1 While we were preparing and planning for the new Service, it was essential for us to work closely with solicitors and barristers practising in the criminal courts. This was important both at local level—to agree day-to-day procedures and establish local contacts—and at national level, to agree overall strategy and policy. We had to resolve issues as mundane as the arrangements to supply committal papers to the defence and case files to those acting as agents for the Service, as well as more heady matters such as the levels of fees to be paid to those instructed by the Service, and the independence of the Bar.

10.2 All this took place amidst great upheaval and, on some issues, with great passion. The fact that these issues were resolved, and for the most part with good humour, speaks well for the flexibility of the legal profession and the genuine desire of all concerned to reach agreement and maintain good relations.

10.3 Though the work and cooperation which went into establishing local arrangements and day-to-day practices must not be undervalued, some of the more significant country-wide arrangements involving the Service and the legal profession are outlined below.



Selection of Counsel

10.4 A selection procedure for counsel to be instructed by the new Service was established after consultation with the Bar. This was achieved through Circuit Sub-Committees working in close consultation with Circuit Leaders to establish procedures which would ensure that selection was objectively based on merit and that briefs would be distributed fairly amongst those competent and willing to undertake the work.

Post Admission Training Regulations 1985

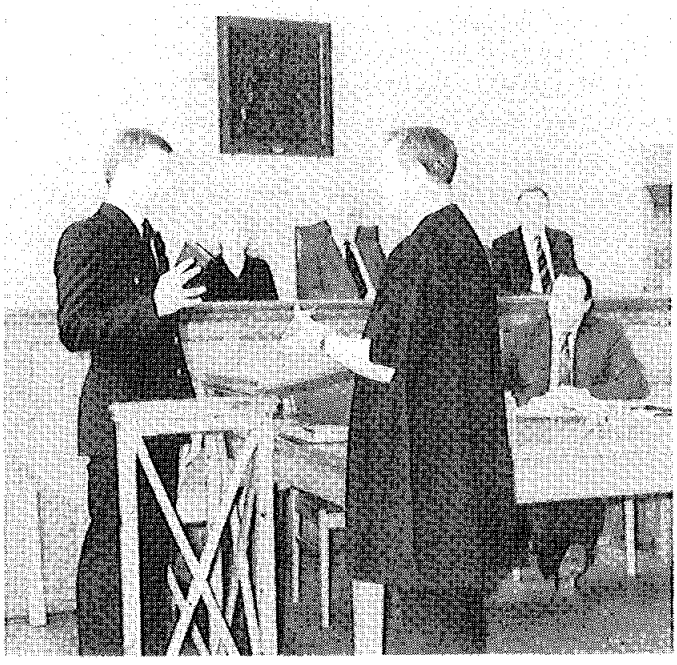
10.5 Under Law Society regulations any solicitors admitted on or after 1st August, 1985 are required to attend a certain number of approved training courses.

10.6 Clearly this regulation applied to a number of new CPS staff and we successfully negotiated with the Law Society to have some of our in-house courses recognised as qualifying under these regulations. Our aim was of course to ensure that staff received training relevant to the needs of the Service as well as to their professional development.

Advocacy in the Magistrates' Courts

10.7 The methods and speed of recruitment to the new Service inevitably left gaps in the ranks of Crown Prosecutors and it was essential that solicitors and barristers in private practice came forward to act as advocates for the Service in the magistrates' courts. Their services were also necessary to cover peaks of work in those courts. We therefore had to agree appropriate scales of fees with the Bar and the Law Society.

10.8 For the most part, we planned that private practitioners would undertake "whole-list", advocacy and agreeing fees for a half or full day session seemed the most efficient method of remuneration.



10.9 Reaching agreement on the levels of fees was not easy. While the rates for solicitors were left to be resolved locally (since these were more closely influenced by local conditions), those for barristers were the subject of national negotiation and we could find no mutually

acceptable levels of fees. In the event, rates were set by the Service and, though the Bar was dissatisfied, it nevertheless agreed that it was a matter for individual counsel to decide whether to accept work at the rates set by the Service. It was however agreed that the rates should be reviewed each year.

Counsel Fees for Crown Court Work

10.10 Agreeing the structure and levels of fees for Crown Court work undertaken by counsel proved a more demanding and intractable task. Existing disquiet over the prevailing levels of fees (taxed and paid by the Crown Court), and legal proceedings involving the Lord Chancellors Department concerning legal aid remuneration, further complicated the situation and in this climate it was some time before any real progress could be made. There was, however, very early consensus in principle that fees should be agreed in advance wherever possible. This led eventually to agreement that the fees of counsel instructed in the Crown Court should be standard (ie fixed) for the large majority of short, straightforward cases; pre-marked by negotiation for the longer and less simple cases; and that "ex-post facto" assessment should be available where pre-agreement was not possible. The right of counsel to seek a final assessment by a Taxing Master was preserved where agreement could not be reached at the end of the day.

10.11 The scheme of fees finally agreed came into operation on 1st October, 1986. It has proved remarkably succcessful and by the end of the year most early disputes had been resolved. The first annual review of the scheme and levels of fee to take effect from 1st April, 1987 was also negotiated and agreed during this period and it was only in the last few days of the year that the first application to a Taxing Master was lodged when a fee could not be agreed.

The Independence of Counsel

10.12 A committee was set up by the Bar under the chairmanship of the Hon Mr Justice Farquharson to consider and report on the duties and obligations of counsel when conducting a prosecution. The committee looked in particular at counsel's responsibilities in presenting the Crown case to the jury, and at whether counsel should accept the advice or instructions of the judge or of the prosecuting solicitor in making a decision to offer no evidence against the accused or to accept pleas of guilty to less serious offences alleged in the indictment. These issues were of considerable concern to the CPS in its relationship with prosecution counsel. The report's conclusions were broadly welcomed by the Service and provided a sound basis on which counsel and the Crown Prosecutor would work together.

CHAPTER 11

Relations with other Agencies

The Senior Liaison Committee

11.1 From the outset, those involved in planning the CPS gave high priority to arrangements for reaching a better understanding of the role of other agencies involved in the criminal justice system, for resolving conflicts of interests, and maintaining good working relationships. One such initiative was the setting up of the Senior Liaison Committee. This consists of senior representatives of the main agencies in the criminal justice system: the CPS, the Law Officers' Department, the Home Office, the Police, the Justices' Clerks' Society and the Magistrates Association. The Committee evolved from a steering group set up by the Home Office while the CPS was being planned and I took over the role of chairman when the Service went live.

11.2 The Committee meets quarterly and has provided a forum to discuss broad issues of common interest and agree national procedures and practice. It also acts as a sounding board for local views and opinion and has provided a meeting point where issues which have proved beyond local resolution can be resolved and where anxieties can be discussed and mitigated. A measure of the Committee's success and influence lies in the common agreement that such meetings should continue for the foreseeable future.

Tri-lateral meetings

11.3 It was also clearly necessary to work closely with the other government departments which form a major part of the criminal justice system. During the planning period and in our first year of operation I maintained regular contact with the permanent secretaries of the Home Office and the Lord Chancellors' Department. Our meetings—which have become known as tri-laterals—proved constructive and valuable. These meetings will also continue for the foreseeable future and will be supplemented by similar meetings between officials at other levels of the three departments.

CHAPTER 12

Code for Crown Prosecutors

12.1 Section 10 of the Prosecution of Offences Act 1985 required the Director of Public Prosecutions to issue a Code for Crown Prosecutors, giving guidance on general principles to be applied by them when taking specified key decisions in the prosecution process namely:

(i) The decision whether or not to institute proceedings;

(ii) Where proceedings have been instituted, whether they should be continued;

(iii) What charges should be preferred;

(iv) Considerations affecting the mode of trial i.e. whether, where there is a choice, the prosecution should ask for trial at the Magistrates' Court or for jury trial at the Crown Court.

12.2 The purpose of the Code (reproduced in full at Annex B) is both to provide a basis for efficient and consistent decision-making and, by describing and explaining the criteria which prosecutors must take into account, to develop and maintain public confidence in the quality of the decisions made. The Code reaffirms the spirit of the Attorney General's criteria for prosecution, which before the CPS was set up had guided all those who prosecuted on behalf of the public, and it constitutes a public statement of the fundamental principles upon which the Service performs its statutory duties. The Attorney General has commended the new Code to other prosecuting authorities as well as to those such as the police who are responsible for initiating criminal proceedings.

12.3 The Code also recognises the special status of juveniles in the criminal justice system. In explaining the philosophy of the Service's approach to juveniles, it unequivocally adopts and endorses the spirit of the Home Office Cautioning Guidelines[1] as a major plank of its policy.

[1] *Home Office, Circular 14/1985: The Cautioning of Offenders.*

CHAPTER 13

Recruitment and Training

13.1 When the first Areas went live in April, 1986, there were about 1,300 CPS staff. These were joined by substantial numbers of staff from local authorities in October and during our first year of operation, over 1,000 new staff were recruited. There have, of course, been some resignations and currently we number roughly 3,500. This has involved considerable efforts in recruiting both lawyers and support staff.

13.2 Recruitment to the CPS is, of course governed by established Civil Service practice. This means that clerical and support staff (including the secretarial group) are recruited locally in accordance with central guidance, while all other grades are recruited through national open competitions run by the Civil Service Commission.

13.3 Throughout the year the Commission maintained a rolling programme of monthly competitions for the recruitment of lawyers. These competitions were confined largely to entry at Crown Prosecutor level, although in London, where recruitment proved particularly problematic, lawyers were also recruited at Senior Crown Prosecutor level.

13.4 Recruitment of support staff was particularly successful with recruitment throughout the year being used mainly to replace natural wastage or to meet increases in complement. A significant number of executive posts in London and Headquarters were filled by inviting applications from staff in other government departments. This enabled the CPS to start with a number of experienced staff in areas such as Finance, Personnel, Audit and Management Services.

13.5 The CPS continues to attract large numbers of applications for posts in virtually all grades and we are therefore able to apply rigorous selection standards, appointing only well qualified candidates.

13.6 The combined figures for local and central recruitment for the period 1st April, 1986 to 31st March, 1987 are as follows:

Category	*Number recruited*
Clerical and Support Staff (including secretarial group)	519
Executive Support Staff	280
Crown Prosecutors	215
Senior Crown Prosecutors	40
Total	*1,054*

13.7 To supplement our existing recruitment arrangements we are preparing a programme to publicise and promote careers within the department. We aim to establish links with schools, colleges and universities by providing recruitment and career pamphlets. We will also participate actively in both local and national careers conventions and similar events.

Training

13.8 We have begun a substantial training programme in the CPS and since April, 1986 we have organised 199 training courses. These have included short seminars (for example, the staff appraisal system for job-holders and an introduction to the CPS for new administrative staff); a variety of 2-day courses (eg Promotion Board Interviewing, Finance, Personnel); a series of 5-day management courses for various grades of staff and 10-day courses for new lawyers. In total we have organised over 6,000 trainee days.

Trainee days by category of training* and grade of staff

Grade	*Category of training* Management	Vocational	Induction	*Total*
1 and 2	2	4	—	6
3	15	3	16	34
4	31	17	28	76
5	283	50	154	487
6	344	100	309	753
7 and equiv	206	145	439	790
CP and SEO	138	1,169	477	1,784
HEO	406	346	273	1,025
EO	401	276	473	1,150
AO and AA	—	87	146	233
Total	1,826	2,197	2,315	6,338

* Induction:	Standardisation courses; five days introduction to law clerk work; induction for administrative staff.
* Vocational:	Initial training (10 days) for lawyers; Industrial relations; Finance, Personnel, Legal Seminars; staff appraisal for job holders; committee secretaries.
* Management:	Management; Staff Appraisal reports; Staff Appraisal interviewing; Promotion and Recruitment Board interviewing.

13.9 Management training has received particular attention. Over 200 staff, including over 100 of the most senior managers, have attended a 5-day course and nearly 600 managers have been trained in the new staff appraisal reporting system.

13.10 In addition to a 10-day course for new lawyers, we have arranged courses and seminars on specific legal topics such as public order, drug trafficking legislation and training for staff specialising in casework including juvenile defendants.

13.11 Over 1,800 staff have now attended courses and many of these, particularly Chief Crown Prosecutors, Branch Crown Prosecutors and Chief Administration Officers, have attended several.

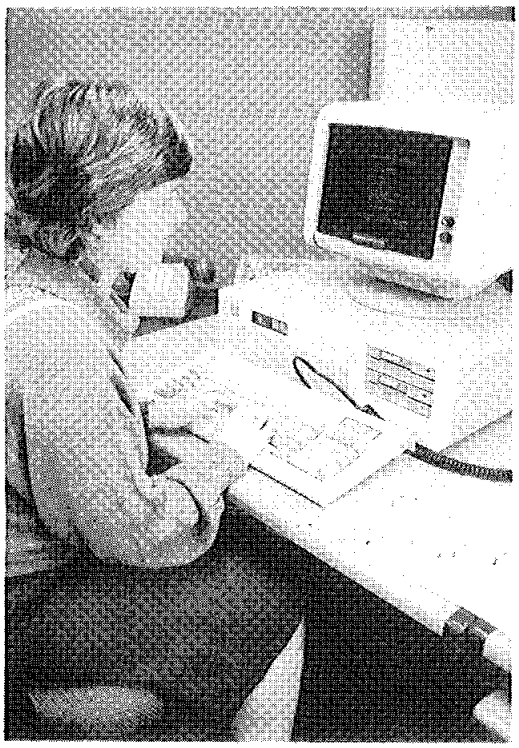
13.12 Our future priorities are to develop more advanced courses for lawyers and to extend and develop the management programme for senior staff.

CHAPTER 14

Information Technology and Performance Indicators

Information Technology

14.1 The early plans for the CPS envisaged that the new department would make full use of information technology (IT) to support its operations and administrative activities. This would ultimately include fully integrated casetracking and performance monitoring systems as well as standard accounting and payroll systems. For an entirely new organisation covering England and Wales this is a major undertaking. A first step has been to establish a five-year strategy for IT development in the Department.



14.2 An IT strategy study was carried out in mid 1986 with the help of a consultant from the Central Computer and Telecommunications Agency (CCTA). I accepted the recommendations in this report and they were also endorsed by the Treasury. The recommended framework for the management and control of IT in the Department has been implemented and an Information Technology Steering Committee chaired by the Principal Finance Officer has been established.

14.3 The report proposed an IT development strategy which involves

- taking interim measures in 1987 and 1988 (the limited use of simple low cost computer systems, such as the initial casetracking system CATS, to meet essential requirements for computer support);

- giving top priority to working towards standard CPS-wide systems from late 1988 (the widespread use of standard systems designed to meet CPS needs more fully);

– giving next priority to the development of a data telecommunications infrastructure linking the CPS HQ, Area HQ offices and Chessington Computer Centre by the end of 1987;

– working towards the full integration of criminal justice system computer developments in the 1990s (use of systems that allow direct, electronic exchange of information between computer systems in the CPS, the courts and the police).

14.4 Substantial progress has been made on the interim phase. Computerised financial accounting and payroll systems were in place from the start of the new service using the Treasury computer at Chessington. Computerised casetracking systems are installed or planned for 24 of the 31 Areas. Work is now starting on the standard casetracking system for use across the service as part of the mid phase of the strategy.

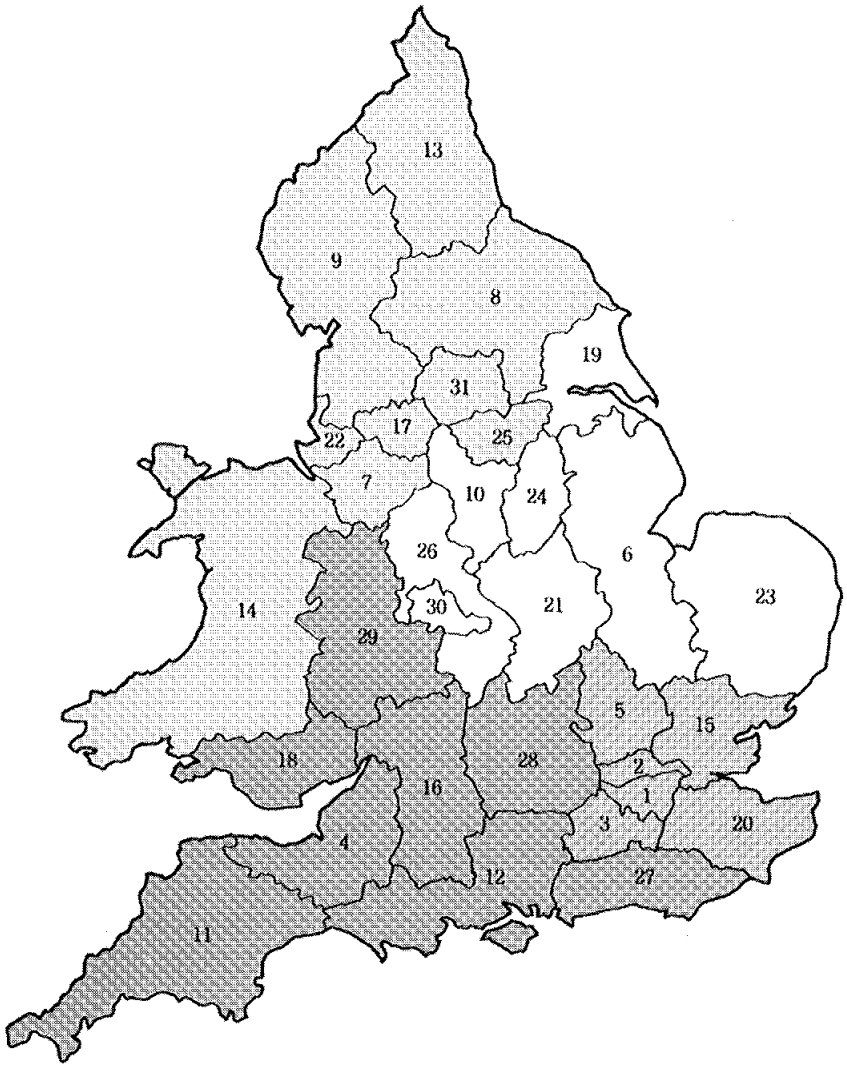
Performance indicators

14.5 An early management priority has been the introduction of a system for monitoring the performance of the service in its key sphere of activity, the review and prosecution of cases referred by the police. A CPS led team which included experts from H M Treasury and the Cabinet Office (MPO) developed in close consultation with senior CPS managers an agreed series of performance indicators and a system for collecting the necessary supporting data.

14.6 This system was successfully installed and the task of recording the appropriate data commenced in the first quarter of full CPS operation, October to December 1986, thanks to a very considerable effort by local managers and their staff. Information is being presented to local management monthly and quarterly reports are submitted to headquarters. Key indicators include unit costs for the main areas of work (case review and Magistrates and Crown Court activity), rejection, prosecution and dismissal rates and average processing delay.

14.7 Work is continuing to improve the way this information is presented to management and to integrate performance indicators and targets into the Department's planning and budgeting system. Further performance indicators are being developed to cover all areas of the CPS's headquarters and field activity.

Annex A Crown Prosecution Service Areas by Region



NORTHERN REGION

7 Cheshire
8 Cleveland/North Yorkshire
9 Cumbria/Lancashire
13 Durham/Northumbria
14 Dyfed Powys/North Wales
17 Greater Manchester
22 Merseyside
25 South Yorkshire
31 West Yorkshire

MIDLAND REGION

6 Cambridgeshire/Lincolnshire
10 Derbyshire
19 Humberside
21 Leicestershire/Northamptonshire
23 Norfolk/Suffolk
24 Nottinghamshire
26 Staffordshire/Warwickshire
30 West Midlands

LONDON & SOUTH EAST REGION

5 Bedfordshire/Hertfordshire
15 Essex
20 Kent
1 Inner London
2 London North
3 London South/Surrey

SOUTH & WEST REGION

4 Avon/Somerset
11 Devon/Cornwall
12 Dorset/Hampshire
16 Gloucestershire/Wiltshire
18 Gwent/South Wales
27 Sussex
28 Thames Valley
29 West Mercia

Annex B

Code for Crown Prosecutors

Introduction

1. This Code is issued pursuant to Section 10 of the Prosecution of Offences Act 1985, and as provided for in Section 10(3) of the Act will be included in the Director's annual report to the Attorney General. In accordance with Section 9 of the Act, the report will be laid before Parliament and published. The Code, therefore, is a public declaration of the principles upon which the Crown Prosecution Service will exercise its functions. Its purpose is to promote efficient and consistent decision-making so as to develop and thereafter maintain public confidence in the Service's performance of its duties. Amendments to the Code may be made from time to time.

2. The principles endorsed by the Attorney General's criteria for prosecution, which have hitherto guided all who prosecute on behalf of the public, have been drawn upon to indicate the basis upon which decisions are to be made. Having regard, however, to the specific statutory duties with which the Service is charged, it is right that the Code should be, and be seen to be, an independent body of guidance designed for and aimed directly at those who prosecute in its name.

3. Crown Prosecutors at every level in the Service will have great scope for the exercise of discretion at various stages of the prosecution process and in respect of many different functions. The responsible use of that discretion, based on clear principles, can better serve both justice, the interests of the public and the interests of the offender, than the rigid application of the letter of the law. The misuse of discretionary powers, on the other hand, can have severe consequences not only for those suspected of crime, but also for the public at large and the reputation of justice and the Service itself.

The evidential sufficiency criteria

4. When considering the institution or continuation of criminal proceedings the first question to be determined is the sufficiency of the evidence. A prosecution should not be started or continued unless the Crown Prosecutor is satisfied that there is admissible, substantial and reliable evidence that a criminal offence known to the law has been committed by an identifiable person. The Crown Prosecution Service does not support the proposition that a bare prima facie case is enough, but rather will apply the test of whether there is a realistic prospect of a conviction. When reaching this decision the Crown Prosecutor as a first step will wish to satisfy himself that there is no realistic expectation of an ordered acquittal or a successful submission in the Magistrates' Court of no case to answer. He should also have regard to any lines of defence which are plainly open to, or have been indicated by, the accused and any other factors which in his view would affect the likelihood or otherwise of a conviction.

5. The Crown Prosecutor in evaluating the evidence should have regard to the following matters:—

(i) In respect of any evidence, having regard to the requirements of the Police and Criminal Evidence Act 1984 and Codes of Practice, are there grounds for believing that breaches of the requirements may lead to the exclusion of the evidence under Part VIII of the Act? The Act and its Codes of Practice contain provisions for the

detention, treatment and questioning of persons by the police which are designed to ensure the proper treatment of people in police custody and the reliability of evidence derived from confessions or other statements made to the police. Crown Prosecutors will wish to satisfy themselves that confession evidence has been properly obtained and is not exposed to the suggestion of oppressive behaviour. In considering other evidence, Crown Prosecutors will need to consider whether it has been obtained improperly and, if it may have been, whether a court might feel it right to exclude it on the grounds that its admission would have an adverse effect on the fairness of the proceedings. The possibility that certain evidence might be excluded should be taken into account when the sufficiency of evidence to justify the proceedings is initially reviewed and, if it is crucial to the case, may substantially affect the decision whether or not to proceed.

(ii) If the case depends in part on admissions by the accused, are there any grounds for believing that they are of doubtful reliability having regard to the age, intelligence and apparent understanding of the accused?

(iii) Does it appear that a witness is exaggerating, or that his memory is faulty, or that he is either hostile or friendly to the accused, or may be otherwise unreliable?

(iv) Has a witness a motive for telling less than the whole truth?

(v) Are there matters which might properly be put to a witness by the defence to attack his credibility?

(vi) What sort of impression is the witness likely to make? How is he likely to stand up to cross-examination? Does he suffer from any physical or mental disability which is likely to affect his credibility?

(vii) If there is conflict between eye-witnesses, does it go beyond what one would expect and hence materially weaken the case?

(viii) If there is a lack of conflict between eye witnesses, is there anything which causes suspicion that a false story may have been concocted?

(ix) Are all the necessary witnesses available and competent to give evidence, including any who may be abroad?

(x) Where child witnesses are involved, are they likely to be able to give sworn evidence?

(xi) If identity is likely to be an issue, how cogent and reliable is the evidence of those who purport to identify the accused?

(xii) Are the facts of the case such that the public would consider it oppressive to proceed against the accused?

(xiii) Where two or more defendants are charged together, is there a realistic prospect of the proceedings being severed? If so, is the case sufficiently proved against each defendant should separate trials be ordered?

6. This list is not of course exhaustive, and the factors to be considered will depend upon the circumstances of each individual case, but it is introduced to indicate that, particularly in borderline cases, the Crown Prosecutor must be prepared to look beneath the surface of the statements. He must also draw, so far as is possible, on his own experience of how evidence of the type under consideration is likely to 'stand-up' in Court before reaching a conclusion as to the likelihood of a conviction.

The public interest criteria

7. Having satisfied himself that the evidence itself can justify proceedings, the Crown Prosecutor must then consider whether the public interest requires a prosecution. The Crown Prosecution Service will be guided by the view expressed in a House of Commons debate by Lord Shawcross when he was Attorney General, and subsequently endorsed by his successors:—

> "It has never been the rule of this Country—I hope it never will be—that suspected criminal offences must automatically be the subject of prosecution. Indeed the very first Regulations under which the Director of Public Prosecutions worked provided that he should . . . prosecute 'wherever it appears that the offence or the circumstances of its commission is or are of such a character that a prosecution in respect thereof is required in the public interest.' That is still the dominant consideration." (H.C. Deb., Vol. 483, col. 681, January 29th 1951)

He continued by saying that regard must be had to 'the effect which the prosecution, successful or unsuccessful as the case may be, would have upon public morale and order, and with any other considerations affecting public policy.'

8. The factors which can properly lead to a decision not to prosecute will vary from case to case, but broadly speaking, the graver the offence, the less likelihood there will be that the public interest will allow of a disposal less than prosecution, for example, a caution. Where, however, an offence is not so serious as plainly to require prosecution, the Crown Prosecutor should always apply his mind to the public interest and should strive to ensure that the spirit of the Home Office Cautioning Guidelines is observed. If the case falls within any of the following categories this will be an indication that proceedings may not be required, subject of course to the particular circumstances of the case.

(i) *Likely Penalty*
When the circumstances of an offence are not particularly serious, and a Court would be likely to impose a purely nominal penalty, Crown Prosecutors should carefully consider whether the public

interest would be better served by a prosecution or some other form of disposal such as, where appropriate, a caution. This applies particularly where the offence is triable on indictment when Crown Prosecutors should also weigh the likely penalty with the likely length and cost of the proceedings.

(ii) *Staleness*
Regard must be had not only to the date when the last known offence was committed, but also the length of time which is likely to elapse before the matter can be brought to trial. The Crown Prosecutor should be slow to prosecute if the last offence was committed three or more years before the probable date of trial, unless, despite its staleness, an immediate custodial sentence of some length is likely to be imposed. Less regard will be paid to staleness, however, if it has been contributed to by the accused himself, the complexity of the case has necessitated lengthy police investigation or the particular characteristics of the offence have themselves contributed to the delay in its coming to light. Generally, the graver the allegation the less significance will be attached to the element of staleness.

(iii) *Youth*
The stigma of a conviction can cause irreparable harm to the future prospects of a young adult, and careful consideration should be given to the possibility of dealing with him or her by means of a caution.

(iv) *Old age and infirmity*

(a) The older or more infirm the offender, the more reluctant the Crown Prosecutor should be to prosecute unless there is a real possibility of repetition or the offence is of such gravity that it is impossible to overlook. In general, proceedings should not be instituted where a Court is likely to pay such regard to the age or infirmity of the offender as to induce it to impose only a nominal penalty, although there may be exceptional circumstances, such as where the accused still holds a position of some importance, when proceedings are required in the public interest regardless of what penalty may be imposed.

(b) It will also be necessary to consider whether the accused is likely to be fit enough to stand his trial. The Crown Prosecutor should have regard to any medical reports which have been made available by the defence solicitor and may arrange through him for an independent medical examination where this is necessary.

(v) *Mental illness or stress*

(a) Whenever the Crown Prosecutor is provided with a medical report to the effect that an accused or a person under investigation is suffering from some form of mental illness or psychiatric illness and that the strain of criminal proceedings may lead to a considerable worsening of his condition, such a

report should receive anxious consideration. This is a difficult field because in some instances the accused may have become mentally disturbed or depressed by the mere fact that his misconduct has been discovered and the Crown Prosecutor may be dubious about a prognosis that criminal proceedings will adversely affect his condition to a significant extent. Where, however, the Crown Prosecutor is satisfied that the probable effect upon the defendant's mental health outweighs the interests of justice in that particular case, he should not hesitate to discontinue proceedings. An independent medical examination may be sought, but should generally be reserved for cases of such gravity as plainly to require prosecution but for clear evidence that such a course would be likely to result in a permanent worsening of the accused's condition.

(b) The Crown Prosecutor should not pay as much regard to evidence of mental instability not coupled with a prognosis as to the adverse effect of proceedings, as such instability may increase the likelihood that the offence will be repeated. The accused mental state will, of course, be relevant in considering any issue of mens rea or fitness to plead.

(vi) *Sexual offences*

(a) Whenever two or more persons have participated in the offence in circumstances rendering both or all liable to prosecution the Crown Prosecutor should take into account each person's age, the relative ages of the participants and whether or not there was any element of seduction or corruption when deciding whether, and if so in respect of whom, proceedings should be instituted.

(b) Sexual assaults upon children should always be regarded seriously, as should offences against adults, such as rape, which amount to gross personal violation. In such cases, where the Crown Prosecutor is satisfied as to the sufficiency of the evidence there will seldom be any doubt that prosecution will be in the public interest.

(vii) *Complainant's attitude*

In some cases it will be appropriate for the Crown Prosecutor to have regard to the attitude of a complainant who notified the police but later expresses a wish that no action be taken. It may be that in such circumstances proceedings need not be pursued unless either there is suspicion that the change of heart was actuated by fear or the offence was of some gravity.

(viii) *Peripheral defendants*

Where an allegation involves several accused, as a general rule the Crown Prosecutor should have regard to the need to ensure that proceedings are continued only against those whose involvement goes to the heart of the issue to be placed before the Court. The inclusion of defendants on the fringe of the action and whose guilt

in comparison with the principal offenders is minimal can lead to additional delay and cost, as well as unnecessarily clouding the essential features of the case.

9. Finally, if, having weighed such of the above factors as may appertain to the case, the Crown Prosecutor is still in doubt as to whether proceedings are called for, he will throw into the scales the attitude of the local community and any information about the prevalence of the particular offence in the area or nationally. Should doubt still remain, the scales will normally be tipped in favour of prosecution as if the balance is so even, it could properly be said that the final arbiter must be the Court.

Discontinuance

10. The use by the Crown Prosecutor of his power to terminate proceedings whether by using the procedure under Section 23 of the Prosecution of Offences Act 1985 or the continuing power to withdraw or offer no evidence, is in many ways the most visible demonstration of the Service's fundamental commitment towards ensuring that only fit and proper cases are taken to trial. Unless, of course, advice has been given at a preliminary stage, the police decision to institute proceedings should never be met with passive acquiescence but must always be the subject of review. Furthermore, the discretion to discontinue is a continuing one, and even when proceedings are under way Crown Prosecutors should continue to exercise their reviewing function. There may be occasions when time and other practical constraints limit the depth of the initial review of the case. It is important that cases should be kept under continuous review, not least because the emergence of new evidence or information may sometimes cast doubt on the propriety of the initial decision to proceed. Crown Prosecutors must be resolute when made aware of evidence or information of this nature and should not hesitate to bring proceedings to an end in appropriate cases. Public confidence in the Service can only be maintained if there is no doubting its commitment to taking effective action at whatever stage whenever it is right to do so. Prosecutions instituted in circumstances apparently falling outside the spirit of the Home Office Cautioning Guidelines should be queried with the police and may be discontinued where the Crown Prosecutor is satisfied that proceedings would not be in the public interest. It will be the normal practice to consult the police whenever it is proposed to discontinue proceedings instituted by them. The level of consultation will depend on the particular circumstances of the case or the accused, but the final decision will rest with the Crown Prosecutor.

11. The broad heading of discontinuance also includes the question of the acceptance of pleas. To a large extent this area is bound up with charging practice—the selection of charges will sometimes affect the scope of the discretion to accept pleas, but equally there will always be occasions calling for the judicious exercise of that discretion. This could include, for example, the situation where charges are preferred in the alternative or where the defendant is prepared to admit part only of the ingredients of a particular offence itself amounting to another offence; burglary reducing to theft by virtue of a denial of the element of

trespass is a common example. The over-riding consideration will be to ensure that the Court is never left in the position of being unable to pass a proper sentence consistent with the gravity of the defendant's actions; having accepted a plea, the Crown Prosecutor must not then open the case on the basis that what the defendant actually did was something more serious than appears in the charge. Administrative convenience in the form of a rapid guilty plea should not take precedence over the interests of justice, but where the Court is able to deal adequately with an offender on the basis of a plea which represents a criminal involvement not inconsistent with the alleged facts, the resource advantages both to the Service and the Courts generally will be an important consideration.

Charging Practice

12. It is axiomatic that there must be available admissible evidence which supports all the ingredients of the offence or offences charged. The Service will exercise its discretion on the choice of charge on the basis of the following principles:—

(i) Every effort should be made to keep the number of charges as low as possible. A multiplicity of charges imposes an unnecessary burden on the administration of the Courts as well as upon the prosecution, and often tends to obscure the essential features of the case. Where the evidence discloses a large number of offences of a similar nature, the use of specimen charges should always be considered. Where numerous different types of offence are disclosed, the ability to present the case in a clear, simple manner should remain a key objective.

(ii) Multiplicity of charging should never be used in order to obtain leverage for the offering of a plea of guilty.

(iii) The charges laid should adequately reflect the gravity of the defendant's conduct and will normally be the most serious revealed by the evidence. Provided, however, that the offence charged is not inappropriate to the nature of the facts alleged and the Court's sentencing powers are adequate, the Crown Prosecutor should take into account matters such as speed of trial, mode of trial and sufficiency of proof which may properly lead to a decision not to prefer or continue with the gravest possible charge. The Crown Prosecutor should also take into account probable lines of defence when exercising his discretion.

Mode of Trial

13. Where an offence is triable either on indictment or summarily, the Magistrates' Court must consider which mode of trial appears more suitable, having regard to the matters mentioned in Section 19(3) of the Magistrates' Court Act 1980 and any representations made by the prosecutor or accused. The aim of the Crown Prosecutor when making representations as to venue should be to assist the Court in the exercise of its judicial discretion and in making such representations he should focus on those matters to which the Court is obliged to have regard, namely:

(i) The nature of the case;

(ii) Whether the circumstances make the offence one of serious character;

(iii) Whether the Magistrates' powers of punishment would be adequate; this must not, of course, extend to any expression of view by the Crown Prosecutor as to the nature or range within which the punishment should fall.

(iv) Any other circumstances which appear to make the offence more suitable for trial in one way than another.

While the attraction of an expeditious disposal should never be the sole reason for a request for summary trial, the Crown Prosecutor is entitled to have regard to the delay in the administration of justice likely to be occasioned by proceeding on indictment, together with the additional cost and possible adverse effect upon witnesses.

14. Where the case involves co-accused additional considerations may apply. As a general principle it will be in the interests of justice for all co-accused to be tried at the same Court. Accordingly, if the Court decides that one accused should be tried on indictment, the Crown Prosecutor should generally urge that mode of trial for his co-accused. Summary trial in these circumstances is only likely to be requested by the Crown Prosecutor rarely and will generally arise where the role of one defendant in the offence or offences is out of all proportion to that of his co-accused and where his absence seems unlikely to have any adverse effect on their trial or sentence.

Juveniles

15. It is a long standing statutory requirement that the Courts shall have regard to the welfare of the juvenile appearing before them, in criminal as in civil proceedings. It is accordingly necessary that in deciding whether or not the public interest requires a prosecution the welfare of the juvenile should be fully considered.

16. There may be positive advantages for the individual and for society, in using prosecution as a last resort and in general there is in the case of juvenile offenders a much stronger presumption in favour of methods of disposal which fall short of prosecution unless the seriousness of the offence or other exceptional circumstances dictate otherwise. The objective should be to divert juveniles from court wherever possible. Prosecution should always be regarded as a severe step.

17. The Home Office has issued guidelines to the police on cautioning juvenile offenders and on related decision making. Where the police are unable to make an immediate decision to caution, the guidelines suggest that there may be advantages in their seeking the advice and views of other interested agencies, such as the Social Services Department, the Probation Service and the Education Welfare Service, on whether to caution or institute proceedings. Where the Crown Prosecutor decides that the public interest does not require the institution or continuation

of proceedings against a juvenile and it appears that there has been no prior consultation, the Crown Prosecutor should consider whether to ask the police to bring the circumstances of the individual's involvement to the attention of the appropriate agency. Crown Prosecutors should be aware of the general arrangements and procedures for inter-agency consultation in their areas and are encouraged to contribute their experience to the development and improvement of such arrangements. Crown Prosecutors must satisfy themselves that the spirit of the Cautioning Guidelines has been applied before continuing a prosecution instituted by the police against a juvenile. The Crown Prosecutor should, taking account of the views of all the agencies concerned of which he is aware and having regard to the Cautioning Guidelines, refer back to the police any case where he considers that a lesser disposal for example a caution would be an adequate response and, in the final analysis, will not hesitate to exercise his power to discontinue proceedings where he is satisfied that a prosecution is not required in the public interest. When considering whether or not to continue proceedings, the Crown Prosecutor should have regard to the circumstances of any previous cautions the juvenile may have been given by the police. Where these are such as to indicate that a less formal disposal in respect of the present offence would prove inadequate, a prosecution will be appropriate.

18. It will never be right to prosecute a juvenile solely to secure access to the welfare powers of the court. Where the Crown Prosecutor thinks that there may be grounds for care proceedings and that this might better serve the public interest and welfare of the individual he should invite the police to put this possibility to the local social services authority.

Mode and venue of trial considerations affecting juveniles

19. (i) Juveniles charged alone: Where the juvenile has attained the age of 14 and is charged with certain grave offences (as defined by Section 53(2) of the Children and Young Persons Act 1933) other than homicide, it is the Court's duty, having heard representations, to consider whether it ought to be possible to sentence the juvenile up to the maximum adult sentence. (Section 24(1)(a) Magistrates' Courts Act 1980). Accordingly, the Crown Prosecutor should put the relevant facts dispassionately before the Court and generally assist as required by the Court.

(ii) Juveniles charged with adults: A charge against a juvenile may be heard in an adult Magistrates' Court if an adult is charged at the same time where either is charged with aiding, abetting, etc the other's offence, or where the juvenile is charged with an offence arising out of circumstances which are the same as, or connected with, those giving rise to an offence with which the adult is charged at the same time. There is also a discretion to commit for trial where the juvenile is chargd with an indictable offence jointly with an adult and the Court considers it necessary in the interests of justice to commit them both for trial. In making representations as to venue in these circumstances, the prime task of the Crown Prosecutor will be to assist the Court in its judicial considerations.

In reaching his decision as to the mode of trial to be requested, the Crown Prosecutor will wish to take several factors into account. These will include, for example, the respective ages of the adult and the juvenile, the seriousness of the offence, the likely plea, whether there are existing charges against the juveniles before the Juvenile Court and the need to deal with the juvenile as expeditiously as possible consistent with the interests of justice.

Annex C
Resources for the Crown Prosecution Service

Table 1 Cost of running CPS 1986–87

	April–Sept 1986*	*Oct–March 1986–87*	*£ million Total+*
Administration Costs			
Salaries	8.38	20.22	28.60
General admin.	3.11	7.92	11.03
Accommodation	0.25	7.03	7.28
Capital	0.58	1.79	2.37
Sub-total (1)	12.31	36.97	49.28
Prosecution Costs			
Counsel/agents' fees	2.81	18.75	21.56
Witness expenses	0.33	1.81	2.14
Costs against CPS	0.06	0.06	0.12
Other prosecution	0.12	0.35	0.47
	3.32	20.96	24.29
– Costs awarded to CPS	– 1.20	– 4.93	– 6.13
Sub-total (2)	2.12	16.03	18.16
Total costs			
Total+ (1 + 2)	14.4	53.0	67.4

* Only six Areas and headquarters were operational in April 1986. Other Areas were phased in throughout the following 6 months and all were fully operational by 1 October 1986.

+ Numbers have been rounded for clarity of presentation. As a result totals do not always balance.

Table 2 CPS staff in post 1986–87

	Lawyers	*Other Staff*	*Total*
April 1986*	585	775	1,360
October 1986	1,213	1,909	3,122
April 1987	1,245	2,129	3,374

* Due to rapid recruitment and considerable movement of staff between Areas in the early months of CPS operations, staff in post figures for April 1986 are approximate.

Table 3 Provision* for next 3 years

	1987–88	*1988–89*	*1989–90*
Administration costs (£m)	107.0	117.0	123.7
Prosecution costs (£m)	44.9	49.1	50.3
Manpower (no. of posts)	4,430	4,560	4,590

* from Government's Expenditure Plans1987–88 to 1989–90.

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