



CPS

Core Quality Standards

March 2010

Preface

The Crown Prosecution Service (CPS) is the principal public prosecution service for England and Wales. In January 2010, it merged with the Revenue and Customs Prosecutions Office (RCPO). The service is headed by the Director of Public Prosecutions (DPP) who is also the Director of Revenue and Customs Prosecutions. The DPP exercises his functions independently, subject to the superintendence of the Attorney General who is accountable to Parliament for the work of the prosecution service.

In these standards, the term *prosecutors* is used to describe members of the prosecution service who are designated as Crown Prosecutors; prosecutors who are members of the RCPO; Associate Prosecutors who are designated under section 7A of the Prosecution of Offences Act 1985 and who exercise their powers in accordance with the instructions issued by the DPP; and other members of the RCPO who are designated by the DPP in his capacity as the Director of the Revenue and Customs Prosecutions under section 39 of the Commissioners for Revenue and Customs Act 2005. We use the term *advocate* to describe prosecutors and barristers or solicitors in private practice who conduct cases at court on our behalf.

Prosecutors are supported by paralegal staff who carry out much of the work required to implement their decisions, and by administrative staff who deal with tasks such as tracking the progress of cases, liaising with other agencies, matching incoming material to case files and copying and sending out documents.

In these standards, the expression *police or other investigators* is used to describe members of all those investigative agencies, including the Serious Organised Crime Agency and the UK Border Agency, who prepare and present cases to the prosecution service.

The police and other investigators are responsible for conducting enquiries into an allegation that a crime may have been committed. In more serious or complex cases, prosecutors decide whether a person should be charged with a criminal offence and, if so, what that offence should be. In other cases, the police may charge or summons a suspect, but prosecutors are responsible for deciding whether a case should continue. Although the prosecution service works closely with the police and other investigators, it is independent of them. The independence of prosecutors is of fundamental constitutional importance.

Members of the prosecution service must be fair, independent and objective. They must not let any personal views about the ethnic or national origin, gender, disability, age, religion or belief, political views, sexual orientation, or gender identity of the suspect, defendant, victim or any witness influence their decisions or actions. They must also have due regard to the legal obligation of public bodies to promote race, disability and gender equality when taking prosecution decisions.

In these standards, the term *suspect* is used to describe a person who is not yet the subject of formal criminal proceedings; the term *defendant* is used to describe a person who has been charged or summonsed; and the term *offender* is used to describe a person who has admitted his or her guilt to a police officer or other investigator or prosecutor, or who has been found guilty in a court of law.

The Core Quality Standards booklet is one of two key published and publicly available documents that explain the purpose and work of the prosecution service. The second is the Code for Crown Prosecutors. Only the Code is issued by law. Together, they let the public know what prosecutors do; how they take their decisions; and the level of service that the prosecution service is committed to providing in every key aspect of its work.

The Core Quality Standards booklet and the Code are available from the contact points listed on the back cover of this booklet.

Introduction

The fundamental role and purpose of the CPS and the RCPO is to protect the public, support victims and witnesses and deliver justice.

Protect the public: as prosecutors, we have a critical role to play in reducing crime and protecting the public. We will be visible and accountable; representative and diverse. We will deal in an open and honest way with the communities we serve. Our decisions will be informed by the public's concerns.

Support victims and witnesses: we will enable, encourage and support the effective participation of victims and witnesses at all stages in the criminal justice process.

Deliver justice: we will ensure that the right people take the right decisions about prosecution at the right time. We will fairly, appropriately and firmly deal with criminal conduct in the most effective and efficient way and in a way that is transparent so that the public understand why decisions are taken. We will help to make the court system as effective and as efficient as possible. We will respect and protect the human rights of all those affected by our decisions, including victims, witnesses, suspects and defendants.

Core Quality Standards

As prosecutors, we exercise powers on behalf of the public. We deliver a public service in accordance with a set of publicly facing **Core Quality Standards** that lay down the quality of service that the public are entitled to expect from those who prosecute on their behalf. They apply to all those who deliver the prosecution service.

The standards are important to victims, witnesses, suspects and defendants who depend on prosecutors to carry out their duties to a high standard. The police, the courts and other criminal justice agencies will also want to understand the standards because they rely on prosecutors to deliver an efficient and effective service. The public and those who superintend, audit and inspect prosecutors will want reassurance that the standards represent demanding and efficient means of delivering an important public service and will want to hold prosecutors to account for their delivery.

The standards draw upon good practice and reflect our legal and professional obligations. They are designed to ensure that we comply with the Criminal Procedure Rules¹. We have consulted with other prosecutors and criminal justice practitioners. We have sought the views of our community involvement panels and are making the standards publicly available so we can draw on the experience of those who come into contact with us and the wider public, who need to have confidence in the performance of their prosecutors.

The standards cover key areas of our work that have the greatest impact on the public. They are not intended to be an exhaustive list of everything that we do in our casework. They set out the functions that prosecutors perform and a number of specific and concise statements of a quality service. They represent the central thread of quality that

¹ These are rules approved by the Lord Chief Justice dealing with the way in which cases should be prepared by the prosecution and defence and how the court should manage cases. They are available on the Ministry of Justice website (www.justice.gov.uk) or from TSO Orders/Post Cash Department, The Stationery Office, PO Box 29, Norwich NR3 1GN.

should run through everything that the prosecution service does. In complying with them, we should always communicate with our partner agencies and the public courteously, respectfully and professionally. We expect the public, particularly those who come into contact with the prosecution service, to use these standards, together with our published performance information, to assess how well we perform.

The standards are supported by more detailed documents covering all aspects of our work, including guidance on how to deal with specific types of offence. Most of these documents are available on our website www.cps.gov.uk or on request (see back cover for details).

It is important to note that the prosecution service has a duty of confidentiality in respect of some documents referred to in the standards; for example, the records of charging decisions set out in standard 2.

The standards are also supported by a set of published service delivery measures that will set the performance expected in respect of each standard. These measures use performance data routinely collected by the prosecution service. Any new performance measures will be carefully assessed to ensure they provide an accurate and cost-effective means of assessing performance. We will regularly report our performance in respect of these measures to the public.

The standards are of fundamental importance to the prosecution service. They guide us in organising our operations and devising the systems and processes that support our work. We expect the public to hold us to account if we fail to provide the service described in them, and we will judge our success as prosecutors by our ability consistently to deliver these quality standards.

Each of the 12 standards in this document covers a particular area of our work. A list of the standards appears on pages 6 and 7. Their content is set out in the pages that follow.

We will regularly review the standards to make sure they continue to describe a core quality service. We will also add to them as we identify further areas where standards will be important.

The Core Quality Standards

Standard 1: We will provide the police and other investigators with advice to assist in tackling crime effectively and bringing offenders to justice.

Standard 2: We will make timely, effective and fair charging decisions in accordance with the Code for Crown Prosecutors.

Standard 3: We will use out-of-court disposals as alternatives to prosecution, where appropriate, to gain speedy reparation for victims and to rehabilitate or punish offenders.

Standard 4: We will oppose bail for defendants where appropriate, taking particular account of the risk posed to victims and the public.

Standard 5: We will prepare all our cases promptly and in accordance with the Criminal Procedure Rules so that guilty pleas can be entered at the earliest opportunity, and fair trials can take place on the appointed dates.

Standard 6: We will present our cases fairly and firmly.

Standard 7: We will assess the needs of victims and witnesses, keep them informed about the progress of their case and seek appropriate support to help them to give their best evidence.

Standard 8: We will explain our decisions to victims when we stop cases or substantially alter the charge.

Standard 9: We will assist the court in the sentencing process and seek to confiscate the proceeds of crime.

Standard 10: We will consider whether to exercise our rights of appeal when we believe the court has made the wrong legal decision.

Standard 11: We will deal promptly and openly with complaints about our decisions and the service we provide.

Standard 12: We will engage with communities so that we are aware of their concerns when we make decisions.

Standard 1

We will provide the police and other investigators with advice to assist in tackling crime effectively and bringing offenders to justice

- 1.1 We advise the police and other investigators when they ask us, which may sometimes be before they are ready to arrest a suspect. This usually occurs:
 - a) in relation to suspects who are believed to represent a particularly serious risk to the public;
 - b) where important decisions are needed that might affect how evidence can be used at court;
 - c) where a particular community or group of people is affected by persistent offending or anti-social behaviour; or
 - d) where an unusual or sensitive offence is under investigation, such as corporate manslaughter or electoral fraud.
- 1.2 We aim to give high quality advice within an agreed strict time period.
- 1.3 Advice is given or confirmed in writing, with reasons, and, where relevant, a list of action points.
- 1.4 We advise on:
 - a) possible offences to charge or other ways of dealing with the offending, so that the investigation can be properly and efficiently focused;
 - b) likely lines of enquiry to produce as strong a case as possible;

- c) the likely admissibility of evidence;
- d) how evidence should be gathered so that it can be best presented in court;
- e) the potential need for expert evidence;
- f) how unused material should be collated;
- g) the potential for asking the court to make ancillary orders, such as Anti-Social Behaviour Orders, and the collection of the evidence needed to support the applications;
- h) the use of special powers that require a prosecutor's consent to secure the cooperation of witnesses or a court order to obtain evidence;
- i) the extradition of a suspect;
- j) the restraint of a suspect's assets; and
- k) how to obtain evidence from abroad.

Standard 2

We will make timely, effective and fair charging decisions in accordance with the Code for Crown Prosecutors²

- 2.1 We make decisions whether to charge a suspect in more serious or complex cases. In making decisions, we apply the tests and guidance set out in the Code for Crown Prosecutors. The detailed procedures followed by the police and prosecutors are described in The Director's Guidance on Charging³.
- 2.2 We aim to make our decision and inform the police or other investigator within agreed strict time periods.
- 2.3 We record the reasons for the charging decision, how the prosecution will put its case at court and how any weaknesses or likely defences will be dealt with. We also set out any further work that is required, including:
 - a) what specific additional evidence should be sought to strengthen the case, or to support applications for ancillary orders such as Anti-Social Behaviour Orders or Restraining Orders;
 - b) whether the case is suitable for confiscation of the defendant's assets so that the police can begin the necessary work in good time;
 - c) what evidence the advocate at court should seek to have agreed by the defence to avoid the unnecessary attendance of witnesses;

² and ³ Available on our website www.cps.gov.uk or on request (see back cover for details).

- d) finding out if there are any specific needs of witnesses and, if already known, outlining how they will be met, including what special measures are needed to enable vulnerable or intimidated witnesses to give their evidence effectively;
- e) what evidence will require the court's permission to use it (for example bad character evidence and hearsay evidence) if the defendant pleads not guilty at court; and
- f) what information that is already available should be included on schedules of unused material.

2.4 Where it is considered that it would be helpful in assessing the reliability of a witness's evidence or in better understanding complex evidence, an appropriately trained and authorised prosecutor should conduct a pre-trial interview with the witness in accordance with the relevant Code of Practice.

2.5 We also:

- a) set out whether bail should be opposed and, if so, the reasons, or, if appropriate, what conditions the advocate should ask the court to impose;
- b) indicate whether, if bail is granted in spite of prosecution objections, there is a right of appeal and whether the advocate should use it;
- c) identify whether the case is suitable to ask the magistrates to deal with it, or is so serious that the advocate should ask the magistrates to commit it to the Crown Court;

- d) outline any acceptable alternative guilty pleas, or basis of plea, taking care to ensure that the court can pass a sentence that matches the seriousness of the offending, particularly where there are aggravating features; and
 - e) identify any orders that the advocate should ask the court to make in addition to sentencing the defendant.
- 2.6 Where the decision is not to charge, the prosecutor outlines which elements of the offence cannot be proved, the reasons for this, or, where appropriate, why a prosecution is not required in the public interest.

Standard 3

We will use out-of-court disposals as alternatives to prosecution, where appropriate, to gain speedy reparation for victims and to rehabilitate or punish offenders

- 3.1 Once a decision is taken that there is enough evidence to justify a prosecution, we should consider whether there is a suitable out-of-court disposal as an alternative to prosecution that is appropriate to the seriousness and consequences of the offending, and meets the aims of rehabilitation, reparation or punishment.
- 3.2 Whilst the police and other investigators administer certain out-of-court disposals themselves, they need the authority of a prosecutor before offering an offender a simple caution⁴ for an offence that is so serious that, if charged, it could only be dealt with in the Crown Court. We authorise cautions for these offences only in exceptional circumstances. We may also direct the police to offer a simple caution in other cases if the offender has clearly admitted his or her guilt or suggest, for example, the issue of a Penalty Notice for Disorder. The issue of a Penalty Notice for Disorder is, however, a decision for the police.
- 3.3 The police and other investigators also need the authority of a prosecutor before offering a conditional caution. In a conditional caution we set out the conditions with which an offender must comply.
- 3.4 In deciding whether to offer a simple caution or a conditional caution, we take into account the public interest factors set out in the Code for Crown Prosecutors, in particular the views of any victim, and the guidance given in the Director's Guidance on Conditional Cautioning and relevant Home Office Circulars.

⁴ Youth offenders cannot be given a simple caution. They may, however, be given a Reprimand or Final Warning. For convenience, we use the word caution in these standards to refer to these sanctions as well. Youth offenders may be given a conditional caution.

- 3.5 When deciding whether to offer a conditional caution, we also take into account:
- a) whether there is the opportunity for the offender to put right what they have done instead of being taken to court. For example, they may pay for damage to be repaired, or compensate their victim;
 - b) whether a requirement to attend a programme to help them to deal with the underlying cause of their offending (such as alcohol or drug misuse) would be likely to stop them committing offences;
 - c) whether it is in the interests of the suspect, the victim or the community; and
 - d) whether the offender should be required to pay a financial penalty or undertake unpaid work.
- 3.6 A conditional caution cannot be authorised for an offence of violence unless the case is minor and could, if charged, only be dealt with in a magistrates' court.
- 3.7 If the suspect fails to accept a simple caution or does not admit guilt when offered a conditional caution and agree to its conditions, he or she must be prosecuted for the original offence.
- 3.8 If the offender does not comply with the terms of any out-of-court disposal, we will reconsider the public interest and decide whether to charge him or her. Usually a prosecution should be brought for the original offence.
- 3.9 We can bring simple cautions and conditional cautions to the attention of the Court if the offender is later convicted of any further offence.

Standard 4

We will oppose bail for defendants where appropriate, taking particular account of the risk posed to victims and the public

- 4.1 Almost all defendants have a right to bail, unless one or more of a specified number grounds for withholding bail can be established⁵.
- 4.2 At every hearing, the advocate considers whether there are grounds to oppose bail, or to ask the court to impose conditions on the defendant's bail.
- 4.3 When making this decision we take into account:
 - a) whether the offence is one of a limited number in which there must be exceptional circumstances before a defendant can be granted bail;
 - b) the nature and strength of the evidence against the defendant;
 - c) the seriousness of the offence with which he or she is charged;
 - d) the defendant's previous convictions, including his or her history of complying with bail;
 - e) whether the defendant is already on bail for other offences;
 - f) any history of complaints of a similar nature;
 - g) any information that the defendant is likely to interfere with witnesses or evidence; and
 - h) anything else that is known about the defendant, such as the results of a drug test at the police station.

⁵ There are three main grounds, which may be summarised as there being substantial grounds for believing that the defendant would, if released on bail: fail to surrender to custody; commit an offence while on bail; or interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.

- 4.4 At the hearing, the advocate sets out the specific grounds on which we oppose bail or seek the imposition of conditions and outlines the available information to support each of the grounds, including any concerns expressed by the victim about the defendant being on bail.
- 4.5 Where the prosecution has a right of appeal against the grant of bail (that is where the offence carries a potential sentence of imprisonment), we decide in advance whether the risk to the victim or the public justifies an appeal if the magistrates grant bail. If the magistrates grant bail in a case where we have decided that it would be appropriate to appeal, the advocate immediately gives notice to the court that we intend to appeal, so that the defendant may be kept in custody until the appeal is heard.
- 4.6 Defendants have a right to appeal to a judge against the withholding of bail or the imposition of bail conditions by magistrates. We attend any appeal hearing to oppose the application or suggest appropriate conditions if the judge intends to grant bail or change the existing conditions.
- 4.7 Where a defendant is brought back to court for breaching his or her bail conditions or appearing to a police officer to be likely to breach his or her bail conditions, the advocate makes representations to the magistrates about whether his or her bail should be revoked or the conditions changed.
- 4.8 The advocate makes detailed notes on the case file setting out whether we opposed bail and, if so, the reasons we put forward for opposing bail or seeking conditions, and any submissions made by the defence about them. This helps us to deal with any later suggestion that circumstances have changed that might justify the grant of bail or a relaxation of any bail conditions, and to identify any likely defences to the charge(s).

Standard 5

We will prepare all our cases promptly and in accordance with the Criminal Procedure Rules⁶ so that guilty pleas can be entered at the earliest opportunity, and fair trials can take place on the appointed dates

The first hearing of a case in the magistrates' courts

- 5.1 All defendants make their first court appearance in a magistrates' court.
- 5.2 Advocates prepare for the first hearing by:
 - a) considering the charging decision and instructions and whether any further review of the case is necessary;
 - b) where the case has been charged by the police, satisfying themselves that the charges are appropriate and can be proved, and that the prosecution is required in the public interest;
 - c) if bail has been withheld by the police, determining whether to seek a remand in custody or appropriate conditions to be attached to a defendant's bail;
 - d) preparing any representations to be made to the court objecting to bail or regarding the imposition of bail conditions; and
 - e) taking steps to ensure progress can be made in the case and to avoid any unnecessary adjournments, such as ensuring

⁶ These are rules approved by the Lord Chief Justice dealing with the way in which cases should be prepared by the prosecution and defence and how the court should manage cases. They are available on the Ministry of Justice website www.justice.gov.uk or from TSO Orders/Post Cash Department, The Stationery Office, PO Box 29, Norwich NR3 1GN.

the defence and court have received initial details of the prosecution case.

- 5.3 In good time before the court begins, advocates make themselves available to meet the court's legal adviser, defence solicitors and officers from the Probation Service or Youth Offending Service to identify cases which are likely to result in a guilty plea so that, where possible, pre-sentence reports can be prepared on the day to enable the court to sentence the offender without a further appearance.
- 5.4 When a defendant pleads guilty, the advocate:
- a) outlines the facts of the case, including, where appropriate, any visually recorded material and Victim Personal Statement, to the magistrates so that they may pass a sentence that fully reflects the seriousness of the offence;
 - b) draws attention to any previous convictions and, where appropriate, simple cautions or conditional cautions recorded against the offender⁷;
 - c) ensures that the court is aware of its sentencing powers, including any sentence or order that it is required to pass by law; and
 - d) asks the court to consider any appropriate ancillary orders such as compensation or an Anti-Social Behaviour Order or Restraining Order that may restrict the offender's ability to offend in the future. We say more about the prosecutor's role in the sentencing process in standard 9.
- 5.5 When magistrates commit an offender to the Crown Court for sentence (because they consider that the maximum sentence

⁷ Youth offenders cannot be given a simple caution. They may, however, be given a Reprimand or Final Warning. For convenience, we use the word caution in these standards to refer to these sanctions as well. Youth offenders may be given a conditional caution.

that they could pass is inadequate), we send copies of the evidence and a list of any convictions, simple cautions or conditional cautions recorded against the offender to the Crown Court so that the judge can prepare for the sentencing hearing.

- 5.6 If the defendant indicates that he or she intends to plead not guilty, and the case is one that can be dealt with in either a magistrates' court or the Crown Court, the advocate lets the court know whether the prosecution considers the case is suitable for them to deal with, or is so serious that it should be committed to the Crown Court for trial.
- 5.7 If the case is to be tried in a magistrates' court, the advocate:
- a) discusses with the defence advocate what evidence can be agreed without the need for the relevant witnesses to attend court;
 - b) helps the court to identify the issues that are to be tried;
 - c) ensures the court is aware of trial dates that are inconvenient for prosecution witnesses;
 - d) asks the court to give directions about the timetable for trial preparation, including applications for special measures to help witnesses to give their evidence effectively and notices to use bad character or hearsay evidence; and
 - e) records on the file what further work the prosecution will need to do to be ready for the trial and the timescales for doing it.
- 5.8 If the case has to be sent to the Crown Court⁸, or the magistrates decide that it is so serious that it should be tried in the Crown

⁸ Some very serious cases can only be dealt with by the Crown Court. They are sent there promptly by a magistrates' court under a special procedure without the need for committal proceedings.

Court, or the defendant chooses to be tried in the Crown Court in a case in which he or she is allowed to do so, we assist the magistrates in setting a date for the next hearing by estimating how long we and the police or other investigators will need to complete the work required for the next hearing.

Preparing for trials or committal proceedings in magistrates' courts and first hearings of cases sent to the Crown Court

- 5.9 As soon as possible after a defendant pleads not guilty in a magistrates' court or the case is adjourned for committal proceedings or sent to the Crown Court, we decide what extra steps are necessary for the next hearing in the case.
- 5.10 Within a strict time period, we ask the police or other investigators:
- a) to send us a file containing the evidence and other material gathered during the investigation and to complete any outstanding actions from the original charging decision;
 - b) to send us any necessary additional evidence or information needed for the next hearing, including plans or photographs to make the case easier for the court to understand;
 - c) to carry out any other specific work identified at the previous court hearing; and
 - d) to send us a schedule of relevant unused material collected during the investigation so that we can comply with our legal duty to disclose to the defendant any material or information that may undermine the prosecution case or assist the defence case.

- 5.11 Where the case is to be tried in a magistrates' court, within a strict time period we ask the Witness Care Unit⁹ to tell witnesses who need to give evidence at court the date of the trial and to discuss with them what help they may need at court and before the trial. In Crown Court cases, we ask them to do this after the defendant pleads not guilty.
- 5.12 We aim to deal with new material submitted by the police or other investigators and correspondence from the defence within a strict time period of receipt.
- 5.13 When preparing the case for trial, committal or the first Crown Court hearing, we:
- a) assess whether there is still sufficient evidence to provide a realistic prospect of conviction and whether a prosecution is still required in the public interest, identifying what has changed since the case was first considered by a prosecutor;
 - b) decide whether additional evidence should be sought to strengthen the case;
 - c) if the charged offence can no longer proceed, consider any alternative offence that can be proved and for which a prosecution is required in the public interest;
 - d) prepare a note for the advocate in all but the most simple cases, setting out how each element of the offence will be proved including the strengths and weaknesses of the evidence, how the defendant's likely defence should be dealt with and whether a prosecution is still required in the public interest;

⁹The prosecution service and police have set up joint Witness Care Units to arrange for prosecution witnesses to attend court, to assess their needs so that they can give their evidence effectively and to keep them informed about the progress of their case and its outcome.

- e) outline any acceptable alternative guilty pleas, or basis of plea, taking care to ensure that the court can pass a sentence that matches the seriousness of the offending;
- f) serve on the defence copies of any extra evidence that we intend to rely on;
- g) if not already done, prepare written applications or notices for any special measures to enable witnesses to give their evidence effectively and for permission to use any evidence that requires the court's permission;
- h) decide whether any unused material should be disclosed to the defence because it may undermine the prosecution case or assist the defence case;
- i) decide whether any material that may undermine the prosecution case or assist the defence case is so sensitive that the court should be asked whether it can be withheld;
- j) send a schedule of all the non-sensitive unused material that we have considered to the defence with copies of any material to be disclosed or instructions on where it can be inspected. We say more about this in paragraphs 19 to 25 of this standard;
- k) ensure that the victim has been given an opportunity to prepare a Victim Personal Statement to be used at the sentencing hearing if the defendant is convicted;
- l) where possible, arrange for a witness whose video-recorded interview is to be played to the court to see the recording before the trial to refresh their memory before they give evidence; and

- m) check that any other needs of witnesses are being dealt with and that appropriate steps are being taken to ensure that witnesses attend court.
- 5.14 We ask the police or other investigators and the defence to respond to outstanding matters as quickly as possible.
- 5.15 If for any reason it is likely that the case will not be able to go ahead on the appointed date, we ask the court to consider setting a new date.

Additional work needed when preparing cases for the Crown Court

- 5.16 When a case is to be heard in the Crown Court, we prepare an indictment which sets out the allegations against the defendant in the formal terms required by the Crown Court.
- 5.17 We also prepare written instructions to the advocate who will present the case at the Crown Court. All advocates who are approved to represent the prosecution in the Crown Court are supplied with a set of standard instructions entitled: *CPS Instructions for Prosecuting Advocates*¹⁰. In addition, we:
- a) enclose copies of all the evidence collected in the case, the non-sensitive unused material schedule setting out the prosecutor's decisions on disclosing the material to the defence and all relevant correspondence with the court, the police and the defence solicitors itemised in a list;
 - b) provide copies of any written applications or notices to use evidence that needs the permission of the court, such as special measures to enable witnesses to give evidence

¹⁰ Available on our website www.cps.gov.uk or on request (see back cover for details).

- effectively, hearsay or bad character evidence, or set out why none of these applications appear to be necessary;
- c) outline how the case should be presented in order to prove all the elements of the offence alleged and how any likely defences or weaknesses in the case can be dealt with;
 - d) provide a copy of the prosecutor's charging decision, or in cases where the police charged the defendant without permission from a prosecutor, the prosecutor's decision to accept the case;
 - e) point out any unusual legal provisions that affect the case;
 - f) explain what further work we have put in hand;
 - g) ask the advocate to advise promptly on any further steps that he or she considers would strengthen the case or help to present it more clearly to the court;
 - h) indicate what, if any, alternative pleas we are prepared to accept from the defendant; identify any particular features of the case that require the advocate's attention before trial, such as applications to obtain or protect confidential information;
 - i) outline whether the defendant is in custody and any custody time limit or, if he or she is on bail, what conditions have been imposed by the court;
 - j) explain whether a witness summons or witness warrant is likely to be required to secure the attendance of any witness at court, or the reasons why they are not likely to be required;

- k) ask the advocate to decide the order in which prosecution witnesses will give their evidence so that they do not have to attend court for longer than necessary;
- l) set out dates by which any outstanding evidence is expected to be received, particularly scientific or other expert evidence; and
- m) give contact details of the prosecutor and the paralegal officer responsible for the case.

5.18 We carry out any extra work that the advocate advises is needed to ensure that the case is thoroughly prepared.

Disclosing information to defendants to ensure a fair trial

5.19 The police and other investigators are required to prepare schedules of all relevant material collected during an investigation which is not used as part of the prosecution evidence and to supply the schedules to us.

5.20 We consider the schedules to decide whether any of the items listed:

- a) should be used as part of the prosecution evidence;
- b) might undermine the prosecution case;
- c) might assist the defence case; and
- d) whether any of it is so sensitive that it should not be disclosed to the defence.

- 5.21 We ask the police or other investigator for copies of any items that may fall into one of these categories so that we can consider them further.
- 5.22 We record our decision for each item on the schedules, giving reasons for it. We send the schedules to the defence so that they are aware of all the available material, except any that is so sensitive that its existence should not be disclosed.
- 5.23 We provide the defence as early as practicable with copies of any of the non-sensitive unused material that might undermine the prosecution case or assist the defence case, or, if it is not practical to copy it, invite them to inspect it, usually at a police station.
- 5.24 Where information is so sensitive that it should not be disclosed to the defence, and it might undermine the prosecution case or assist the defence case, we ask the court to decide whether it should be disclosed to them or can be withheld.
- 5.25 We keep the question of disclosure under review throughout the life of the case, and afterwards, if any new information comes to light that might have undermined the prosecution case or assisted the defence case. We reconsider our disclosure decisions when the defence tell us about their case, including asking the police or other investigator to comment on information from the defence.

Custody time limits

- 5.26 Defendants can be kept in custody pending committal for trial or trial for only a limited period of time unless the court agrees to extend the time.

- 5.27 Where a defendant is remanded in custody, the advocate at the first hearing and each subsequent hearing will announce to the court the date on which the relevant custody time limit expires.
- 5.28 We note this information on our case file and then record it in our custody time limit diaries.
- 5.29 We prioritise the preparation of custody cases to make sure that the trial can start or the committal can take place within the custody time limit, or that we can say that we have acted with all due diligence and expedition if it becomes necessary to ask the court to extend the time limit.
- 5.30 We review the custody time limit diaries and our computerised case management system to check when any custody time limit is approaching. A nominated legal manager or senior prosecutor considers any cases identified by these checks at least weekly. Within a strict time period before the limit expires, we serve notice on the court and the defence if it appears that the case may not start within the time limit so that the court can consider whether to grant an extension. We provide a chronology of events to help the court to decide whether the prosecution has acted with all due diligence and expedition.
- 5.31 Managers check compliance with the systems weekly and provide a written assurance about the systems being operated to their Chief Crown Prosecutor.

Standard 6

We will present our cases fairly and firmly

Conducting trials¹¹

6.1 Before the hearing, the advocate:

- a) considers the full history of the case, including the trial review note, to ensure that everything has been prepared correctly;
- b) discusses, where possible, the case with the investigating officer to make sure that he or she is aware of the full background to the case;
- c) prepares, in all but the most simple cases, a brief opening speech or outline of the evidence to help the magistrates or jury understand what the case is about or, if the defendant pleads guilty, to assist the magistrates or judge in sentencing the offender;
- d) prepares a provisional plan of cross-examination of the defendant and any known defence witnesses;
- e) prepares a written outline of any legal argument to be presented to the magistrates or the judge; and
- f) decides the order in which prosecution witnesses will give their evidence in Crown Court cases and magistrates' court cases that are likely to last more than one day, so that they do not have to attend court for longer than necessary.

¹¹ The prosecution service has set out the standards expected of advocates who appear in court on its behalf in National Standards of Advocacy, which is available on our website www.cps.gov.uk or on request (see back cover for details).

- 6.2 The advocate arrives at court in time to meet witnesses and:
- a) introduce himself or herself to them;
 - b) show them, or arrange for a representative of the Witness Service¹² to show them, their witness statements (or their video-recorded interview if this has not already been done) so that they can refresh their memories before giving evidence;
 - c) explain what will happen during the day, including the effect of any special measures that have been agreed by the court to assist them to give their evidence; and
 - d) answer any questions they may have so far as the law allows.
- 6.3 By the rules of their profession, however, advocates cannot discuss a witness's evidence with them, or tell them what evidence other witnesses may give.
- 6.4 During the court day, the advocate:
- a) presents the prosecution case openly, honestly and with integrity, acting in the interests of justice and not with the sole aim of obtaining a conviction;
 - b) keeps prosecution witnesses informed - either directly, or if he or she cannot leave the courtroom, via an assistant or a court official - of the reasons for any delays;
 - c) treats witnesses and defendants in court respectfully and asks the court to intervene to stop inappropriate questioning of prosecution witnesses; and

¹² The Witness Service is part of a national charity that provides support to witnesses before and during a criminal trial.

- d) asks the court for permission for prosecution witnesses to leave the court as soon as they have given their evidence, if they wish to do so, unless there is a compelling reason why they should stay.
- 6.5 The advocate also personally or through an assistant:
- a) arranges for the production of exhibits at the relevant time;
 - b) liaises with prosecution witnesses so that they are available to give evidence at the right time and keeps them informed about any delays; and
 - c) carries out any last minute editing of documents required as a result of the court's decisions on legal arguments.
- 6.6 If the defendant is convicted, prosecuting advocates assist magistrates or the judge with the sentencing process and, where sentence is to be adjourned, with decisions about whether to keep the offender in custody pending sentence. We say more about the prosecutor's role in sentencing in standard 9.

Dealing with offers of guilty pleas¹³

- 6.7 Many defendants offer to plead guilty to some of a number of offences, a different offence, or on the basis of a particular version of events. This often occurs at the last moment, frequently just before the trial is due to start. Whenever this occurs, we:

¹³ The *Attorney General's Guidelines on The Acceptance of Pleas and the Prosecutor's Role in the Sentencing Process* provides detailed guidance to courts, prosecutors, defence lawyers and the public on this matter. It is available at www.attorneygeneral.gov.uk or on request (see back cover for details).

- a) take into account any views expressed by the victim or their family when deciding whether it is in the public interest to accept the offer;
- b) ensure that the court can pass a sentence that matches the seriousness of the offending, taking into account the implications of the proposed pleas for the availability of appropriate ancillary orders. We make sure that the proposed basis of plea is not based on a misleading or untrue set of facts and is not detrimental to the victim's interests. If agreement cannot be reached on a basis of plea, the advocate may ask the court to hear evidence so that it can decide the basis on which to sentence the offender; and
- c) make sure that any agreed basis of plea is written down and signed by the defence advocate and prosecuting advocate.

Standard 7

We will assess the needs of victims and witnesses, keep them informed about the progress of their case and seek appropriate support to help them to give their best evidence¹⁴

- 7.1 In our dealings with victims and witnesses, we pay particular attention to our duty to promote equality of access to justice.
- 7.2 A Witness Care Officer, or in special cases, a police officer or a Family Bereavement Officer¹⁵, is allocated to each case as a single point of contact for the victims and witnesses from first appearance to the end of the case. He or she keeps victims and witnesses informed about the case's progress at all stages of the court proceedings, and seeks to ensure that their needs are met. He or she also ensures that the victim has made, or has been asked if they wish to make, a Victim Personal Statement to be read to the court if the defendant pleads guilty or is convicted.
- 7.3 Where a defendant pleads not guilty, a Witness Care Officer:
- a) notifies witnesses required to give live evidence of the date of the trial within a strict time period of receiving this information from the prosecution service;
 - b) following a not guilty plea, offers lay witnesses who are required to attend court a full needs assessment. This provides them with an opportunity to discuss their concerns about attending court, including, for example, help with childcare and transport issues. It also enables the Witness

¹⁴ See also the Prosecutor's Pledge, the CPS Policy Statement on Victims and Witnesses, the Code of Practice for Victims of Crime and the Witness Charter, all available on our website www.cps.gov.uk or on request (see back cover for details).

¹⁵ Family Bereavement Officers (sometimes known as Family Liaison Officers) are specially trained police officers who provide a link between investigators, prosecutors and the victim's family in cases involving a death.

Care Officer to explore with the witnesses whether there is a need for special measures to enable them to give their evidence effectively;

- c) makes special arrangements, if required, for disabled witnesses, witnesses with medical conditions and those who require communication aids such as an interpreter, seeking the court's permission where necessary;
 - d) where appropriate, refers a witness to another agency, such as a relevant support group, which offers more specific, tailored help; and
 - e) puts witnesses in touch with the Witness Service¹⁶, which provides them with practical and emotional support in the lead-up to the trial, on the day of trial and, in appropriate cases, afterwards, including providing witnesses with an opportunity to visit the court before the trial date to help them to gain a better understanding of the court process and to make them feel more at ease on the day of trial. Some of this support may be provided by Victim Support.
- 7.4 Witness Care Officers carry out similar functions when a witness is required to attend a higher court for an appeal hearing.
- 7.5 When a case is concluded, a Witness Care Officer informs victims and lay witnesses of the outcome by their preferred means of contact within a strict time period of receiving the result from the court. They also ask them if they need help from any relevant support service.
- 7.6 In appropriate cases prosecutors offer to meet witnesses personally to discuss their need for special measures.

¹⁶ The Witness Service is part of a national charity that provides support to witnesses before and during a criminal trial.

- 7.7 In some very exceptional cases we ask the court for permission to withhold the identity of a witness where this can be justified.
- 7.8 In cases involving a death, prosecutors offer to meet the victim's family from an early stage to explain how the case will be handled and what is expected to happen at each court hearing¹⁷.

¹⁷ This is known as the Victim Focus Scheme. More details are available on our website www.cps.gov.uk or on request (see back cover for details).

Standard 8

We will explain our decisions to victims when we stop cases or substantially alter the charge

- 8.1 When proposing to stop a case, or to alter the charges substantially, we consult the police or other investigators, unless it is impracticable to do so, before reaching a final decision. When the proposed decision is based on public interest grounds, we take into account any views expressed by the victim about the impact that the offence has had. In appropriate cases, for example, a case of homicide or where the victim is a child or an adult who lacks capacity as defined by the Mental Capacity Act 2005, prosecutors should take into account any views expressed by the victim's family.
- 8.2 Where a prosecutor decides to stop a case or to make any substantial alteration to the charges faced by the defendant, he or she writes to the victim within a strict time limit to explain the reasons for his or her decision. The letter is tailored to the needs of the victim and the specific circumstances of the case.
- 8.3 The advocate should speak to vulnerable or intimidated victims face-to-face if they are at court on the day the decision is made, before we write to them.
- 8.4 Prosecutors offer to meet victims of certain specific offences in person to answer their questions about our written explanations.
- 8.5 Similar principles apply in serious or complex cases when we decide not to authorise the police or other investigators to charge a suspect, although in most cases the police or other investigators provide the explanation.

Standard 9

We will assist the court in the sentencing process and seek to confiscate the proceeds of crime¹⁸

- 9.1 Sentencing is the responsibility of the court. The role of the prosecution in sentencing is to assist the court in the sentencing process by making it aware of all relevant information.
- 9.2 Before the sentencing hearing:
- a) we supply the Probation Service or Youth Offending Service with a summary of the case so that they can prepare a realistic pre-sentence report for the court;
 - b) a Witness Care Officer asks or arranges for a police officer or other investigator to ask the victim if they wish to make a Victim Personal Statement or update an earlier one;
 - c) in cases in which the sentencing issues are likely to be complex or unfamiliar, or where the court asks us to do so, we prepare written submissions to the court outlining the relevant sentencing provisions and guidelines, any available ancillary orders and any other relevant information not yet known to the court; and
 - d) where necessary, we prepare written applications for any appropriate ancillary orders such as Anti-Social Behaviour Orders or Restraining Orders.
- 9.3 At the hearing the advocate:

¹⁸ The *Attorney General's Guidelines on The Acceptance of Pleas and the Prosecutor's Role in the Sentencing Process* provides detailed guidance to courts, prosecutors, defence lawyers and the public on this matter. It is available at www.attorneygeneral.gov.uk or on request (see back cover for details).

- a) outlines the facts of the case to the court, drawing attention to any aggravating features of the offence and any mitigating factors that are apparent from the prosecution case;
 - b) provides the court, where appropriate, with a list of other offences that the defendant wishes to have taken into consideration, so that the court can reflect them in the sentence¹⁹;
 - c) informs the court of any previous convictions, simple cautions²⁰ or conditional cautions recorded against the offender, drawing particular attention to those that are for similar offences;
 - d) informs the court of the results of any drugs test carried out at the police station; and
 - e) checks whether the pre-sentence report is based on an accurate assessment of the evidence and, if not, draws this to the attention of the court.
- 9.4 The advocate also draws attention to the impact of the offender's behaviour by:
- a) presenting a Victim Personal Statement to the court, where available;
 - b) asking the court to order the offender to pay compensation to the victim, where appropriate; and

¹⁹ Where the defendant declines to admit an offence at court that he had previously indicated that he would ask the court to take into consideration, prosecutors consider whether he should be charged with it, explaining to the defendant's advocate that the offence may be subject to further review.

²⁰ Youth offenders cannot be given a simple caution. They may, however, be given a Reprimand or Final Warning. For convenience, we use the word caution in these standards to refer to these sanctions as well. Youth offenders may be given a conditional caution.

- c) providing evidence of the impact of the offending on a community, where appropriate.
- 9.5 The advocate makes sure that the court considers the full range of sentencing options available to it by:
- a) asking the court to consider ancillary orders that can be made against the offender to reduce the chances of future offending or to protect a victim from future offending. These include Anti-Social Behaviour Orders, Restraining Orders, driving disqualifications and Sexual Offences Prevention Orders;
 - b) challenging any defence mitigation that is derogatory to a victim's character, false or irrelevant to proper sentencing considerations;
 - c) asking the court to consider ordering the destruction of any items such as drugs or weapons which have been under the control of the offender or which were used in the offence;
 - d) assisting the court generally with the sentencing process, drawing the court's attention to any relevant legal provisions, sentencing guidelines and guideline cases, including pointing out the circumstances, such as where the offence is a Hate Crime, where the law requires the court to announce any increase in sentence it has imposed as a result; and
 - e) the advocate may also help the court by outlining, in light of the factors mentioned in paragraphs 9.3 and 9.5, the sentencing range in which the current offence falls.
- 9.6 In addition the advocate asks the court to order the offender to pay all or part of the cost of bringing the case to court, unless there is a good reason not to do so.

- 9.7 The prosecution does not have power to appeal against sentences. But in a limited range of Crown Court cases, the Attorney General can refer the sentence to the Court of Appeal as unduly lenient - in other words, that the sentence is outside the range that a judge could reasonably consider appropriate. As soon as possible after a sentence, we decide whether to ask the Attorney General to do so. The Attorney General can also consider a referral on his or her own initiative or on a request by the victim or a member of the public. Where the Attorney General decides to refer the sentence, he or she must do so within 28 days of the sentence.
- 9.8 A Witness Care Officer notifies any victims and lay witnesses of the sentence imposed by the court within a short period of time, including an explanation in plain language of what the sentence means.

Confiscating the proceeds of crime

- 9.9 Where a suspect or defendant in certain cases appears to have benefited from his or her crime, and there is a fear that he or she will use or dispose of assets, we ask a judge to make a Restraint Order within a short timeframe of a request from the police or other investigators, in order to prevent the suspect or defendant dealing with or disposing of them. We also advise the police or other investigators when we consider that a Restraint Order may be appropriate. As soon as possible after the Order is made, we send a copy of it to the suspect or defendant and relevant organisations, such as banks and building societies, which are in a position to stop the suspect or defendant using his assets. Sometimes, we ask the police or other investigators to do this for us.

- 9.10 We consider whether other cases received from the police or other investigators may be suitable for confiscation of the proceeds of a defendant's offending. If a case appears to be suitable, we immediately ask the police or other investigator to find out whether he or she has sufficient assets to justify asking the court to confiscate them.
- 9.11 When a defendant is convicted, and it appears appropriate to seek confiscation of the proceeds of his or her offending, we ask the court to set a timetable for the confiscation proceedings, unless the case is straightforward and confiscation can take place at the same time as the offender is sentenced.
- 9.12 As soon as possible after a timetable is set, we ask the police or other investigator to finalise their enquiries into the offender's financial and property position.
- 9.13 Before the confiscation hearing, we send to the court and the offender a summary of the discovered assets so that any disputes about their ownership or value can be decided by the court. We ask the court to decide how much the offender should pay.
- 9.14 Whilst court staff are responsible for collecting the confiscated sum in some cases, we carry out this work in more difficult cases; for example, where property has to be sold to raise cash. This may involve the appointment of a Receiver.
- 9.15 We use our powers to take cases back to court where the offender tries to delay or avoid payment.

Standard 10

We will consider whether to exercise our rights of appeal when we believe the court has made the wrong legal decision

- 10.1 The prosecution has limited rights of appeal. We decide whether to appeal court decisions in the following circumstances:
- a) immediately, in serious cases where magistrates grant bail and we consider that the defendant should be remanded in custody pending re-consideration of bail by a Crown Court judge;
 - b) within 24 hours, with the approval of a Chief Crown Prosecutor or the Head of the relevant Headquarters Division, where a judge stops a case before a jury is allowed to consider the evidence, so the case can be re-considered by the Court of Appeal as soon as possible; and
 - c) within a strict period of time after the sentence in the limited range of cases where we can ask the Attorney General to refer a sentence to the Court of Appeal as potentially unduly lenient. We will also refer the case to the Attorney General where someone contacts us to say that they believe the sentence is unduly lenient, unless we consider that it is not unduly lenient, when we inform the person concerned of his or her right to complain to the Attorney General directly. We also notify the victim or his or her family of his or her right to ask the Attorney General directly to refer the sentence to the Court of Appeal.
- 10.2 We also consider whether to use certain other appeals where we think that the court has not followed the correct procedure, made a decision that is very seriously wrong, or the law needs clarifying by a higher court.

- 10.3 Where a defendant appeals against a decision of a court, we allocate an advocate to represent us or assist the court, except in appeals against sentences in the Court of Appeal, when we would appear if there is a compelling reason to do so.
- 10.4 When the Court of Appeal has made a decision, and we wish to appeal the decision further, we decide whether to ask the Court of Appeal to certify that there is a point of law of general public importance in the case that should be decided by the Supreme Court. We also appear in the Supreme Court to assist it in deciding cases brought to it by a defendant.
- 10.5 We keep victims informed of the progress of any appeal, and explain the effect of the court's decision to them.

Standard 11

We will deal promptly and openly with complaints about our decisions and the service we provide

- 11.1 We aim to deal with complaints about the standard of service that we provide as quickly as possible.
- 11.2 If we can resolve the complaint immediately we will do so; if not, the complaint is formally recorded and then dealt with on a staged approach, initially at a local level.
- 11.3 We record and acknowledge complaints at each stage as quickly as possible, and provide a full response as soon as possible, within a strict overall time limit.
- 11.4 We decline to deal with complaints made more than 6 months after the relevant events unless there is a good reason for the delay.
- 11.5 We answer complaints openly and frankly, avoiding jargon or technical language, providing a comprehensive response that deals with all material issues. Where appropriate, we acknowledge fault and offer an apology. We also outline any lessons learned and any steps that are being taken to prevent a recurrence.
- 11.6 Where the complaint raises issues concerning another agency, such as the police or the courts, we try to agree our reply with the agency concerned, or agree with them that they will reply directly to the relevant points and tell the complainant who will reply.

Standard 12

We will engage with communities so that we are aware of their concerns when we make decisions

- 12.1 We explain our role to our local communities and consult them about what our priorities should be through community groups and panels.
- 12.2 The groups and scrutiny panels²¹ provide feedback on the way in which the communities are likely to view our decision-making and our case handling procedures.
- 12.3 We use feedback to review how we conduct our cases.
- 12.4 We work with the police and local authorities to respond to the priorities that emerge in neighbourhoods and communities, such as anti-social behaviour.

²¹ You can find out more about these groups and panels on our website www.cps.gov.uk or on request (see back cover for details).

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