

# Wiltshire

Annual Report  
2004–2005



## INTRODUCTION by the Chief Crown Prosecutor

I am pleased to report on our performance and activities in the year ending 31 March 2005 which was a year of both change and achievement.

One of the major events of the last year was our inspection by Her Majesty's CPS Inspectorate (HMCPSI), an independent body that looked at every aspect of our casework, advocacy management, inter-agency working and community engagement. I am proud to say that the published inspection report specifically highlighted:

- good standard of casework decisions and advocacy in all courts;
- handling of cases involving youth offenders is a strength;
- noted the success in tackling ineffective trials;
- the ethos of strong budgetary management and strong culture of providing value for money;
- in conjunction with CJS partners, the achievement of all the Public Service Agreement national targets;
- senior management are outward-looking and seek to engage with the community and media.

The Inspectorate made a number of recommendations on how to make a good prosecution service even better, and we are working on these so that we continue to improve. This report is testimony to the hard work, dedication and sheer professionalism of all CPS Wiltshire staff without whom the progress made this year would not have been possible. The Chief Inspector said, "The citizens of Wiltshire can be assured that they are being served by an efficient and effective prosecution service."

We were delighted to welcome the Solicitor General, Harriet Harman, in January 2005 to meet staff and local partners and see first hand the strong steps being taken to improve the rights of victims and witnesses who deserve the best treatment we can offer.

During the visit, a presentation was given on the new Witness Care Unit. Based in CPS offices, the Unit was launched in March and is staffed jointly by police and CPS staff and offers a single point of contact and a tailored response to the individual needs of witnesses.

It will mean a better deal for witnesses, who will get the support and information they need, a better deal for the criminal justice system, which will have more witnesses engaging with the system and appearing at court, and a better deal for the public as more offenders are brought to justice.



*CCP Karen Harrold.*

We have also made progress towards our aim of inspiring the confidence of the communities we serve. In November we published locally the revised Code for Crown Prosecutors — the document that sets out for prosecutors the general principles to be applied when making decisions about cases. This allows everyone — criminal justice partners and the public in Wiltshire — to see and understand the basis upon which our decisions are made.

We appointed a lead lawyer to work closely with the police, Crime & Disorder Reduction Partnerships and the community to ensure a united and consistent approach to combat anti-social behaviour. Together with CJS partners, a protocol has been agreed and is operating successfully to protect the public.

Racially motivated cases are some of the hardest to prosecute but our performance figures published in January show an excellent record of bringing offenders to justice, with a conviction rate of 93%. More race cases are being identified and successfully prosecuted than this time last year as we are taking a robust and proactive approach in all our hate crime cases, including domestic violence, racist, religious and homophobic crime.

We have continued to work closely with the police to develop the charging programme, where CPS prosecutors select the charge in all but the most minor cases.

Operating as a prosecution team, CPS lawyers advise in police stations on ways to improve the investigation, joint case management and prosecution of offenders so that the strongest possible case is brought before the courts, including recovering the proceeds of crime.

Prosecutors are rising to the challenges of becoming proactive, public prosecutors as we look to roll out the programme across the whole county and prepare for the move to the statutory scheme.

During the year, Wiltshire prosecutors have presented cases in the Crown Court and will continue to increase their experience as Higher Courts Advocates. Likewise we have continued to draw on the skills and experience

of designated caseworkers to prosecute guilty plea cases in the magistrates' courts.

I am confident that Wiltshire staff will play their part fully in meeting future challenges and will undertake their duties with independence, integrity, firmness, clarity and vigour.



**Karen Harrold**  
Chief Crown Prosecutor

## ABOUT CPS WILTSHIRE

### Area Management Team

The CPS Wiltshire Area Management Team comprises the Chief Crown Prosecutor, Karen Harrold, the Area Business Manager, Karen Sawitzki (until end Jan 05) and Kim O'Neill (current ABM), Head of the Trials Unit, Linda Cassidy (until end Dec 04), and Rob Willing, current Head of the Trials Unit, and Head of the Criminal Justice Unit, Guy Knell.

### CPS Wiltshire Vision Statement

Our current vision is to be a world class, independent prosecuting authority, at the heart of the Criminal Justice System, providing a valued public service that meets the needs of victims and the Wiltshire community, making a real difference to the lives of local people and helping to build a fairer and more decent society.

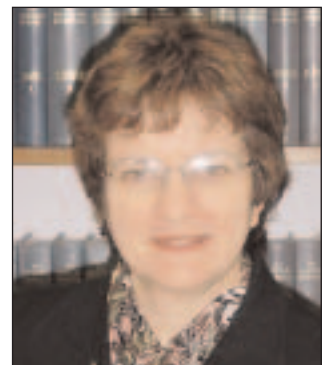
### The local area

The local prosecution service covers the geographical county of Wiltshire including the unitary authority of Swindon.

The three main magistrates' courts, dealing with criminal



**ABOVE (left): Karen Sawitzki; ABOVE (right): Linda Cassidy.**



**RIGHT: Rob Willing.**



**Guy Knell.**



**Kim O'Neill.**

matters in the county, are located in Swindon, Chippenham and Salisbury. These three courts have petty sessional boundaries, which are drawn along the same lines as the three police divisions. These are Swindon, North West Wiltshire and South East Wiltshire respectively. In South East Wiltshire some courts are also held in Devizes, and also one day per week in Andover.

More serious criminal cases are heard in the Crown Courts located in Swindon and Salisbury. However, the most serious cases are heard at Bristol and Winchester Crown Courts. Other cases are heard in Bournemouth and Portsmouth.

The Wiltshire Constabulary Headquarters is situated in Devizes (this is effectively in the middle of the Area) with Divisional Headquarters in Swindon, Melksham and Salisbury. Each division has a Criminal Justice Unit.

CPS prosecutors attend the police stations at Melksham and Salisbury regularly to give pre-charge advice under the Shadow Charging arrangements. The Wiltshire Area CPS Office is situated in the North West of the Area in the town of Chippenham, which itself enjoys good communication links.

There is a main line rail link to London and the West Country and the M4 is situated just north of the town. However, within the county, links are rather poor from north to south resulting in a two-hour round trip by road from the office to service the Salisbury courts.

The Crown Prosecution Service in Wiltshire employs a dedicated team of staff consisting of lawyers, designated caseworkers, Crown Court caseworkers and a team of administrators. The Area is divided into four departments.

There is the Criminal Justice Unit, which deals with cases in the magistrates' court, a Trials Unit, which deals with cases in the Crown Court, a Youth Unit, which deals with all cases involving young defendants and finally the Area Secretariat, which provides personnel planning, facilities management and finance services to the Area.

***CPS prosecutors attend the police stations at Melksham and Salisbury regularly to give pre-charge advice under the Shadow Charging arrangements***

## Current initiatives

### Charging initiative continues to be rolled out across Wiltshire

This year Shadow Charging continues to be enhanced across the Area following the Criminal Justice Bill in 2003. The Shadow Charging scheme means that duty CPS prosecutors are available to give police officers advice prior to an accused person being charged.



This will result in improvements in the investigation, case preparation, and prosecution of cases which, in turn, will help to reduce delays, increase the number of successful outcomes and improve the service we provide to victims and witnesses.

The scheme has been operating in Melksham (for North West Wiltshire) and Salisbury (for South East Wiltshire) and will be expanded to include Swindon in 2005.

In March 2005 a local tripartite agreement was signed between the Police, Crown Prosecution Service and Forensic Science Service.

The agreement provides for more efficient and cost-effective procedures for obtaining forensic evidence, including guidance on work prioritisation, time-tabling the preparation of evidence in line with court deadlines, and a clear structure for communications between the Forensic Science Service, Police and Crown Prosecution Service. The agreement supports the charging initiative in its aim to increase the number of successful outcomes.



***The agreement is signed between the Police, CPS and the Forensic Science Service.***

## Effective Trial Management (ETMP)

A multi-agency team has been established and is designed to help us reduce our ineffective trial rates by targeting lack of prosecution and defence readiness, non attendance at court by defendants and deal effectively with administration problems.

Dedicated Case Progression Officers (CPO) will be appointed during 2005 to improve case preparation and progression.

## Investors in People

Following the CPS Staff Survey 2004, CPS Wiltshire continues to meet the Investor in People standard (IiP) and adequately train and develop its staff.



INVESTOR IN PEOPLE

The Area has supported staff undertaking the Law Scholarship Scheme, which entitles caseworkers to read law, so that our caseworkers from diverse backgrounds can gain legal qualifications and fulfil their career path by qualifying as barristers and solicitors.



In July an Area Training Day was held for all staff. The theme for the day was victims and witnesses.

Guest speakers included Mrs Rita Taylor of RoadPeace, the national charity for road traffic victims; Imran Golding from the Islamic Awareness and Education Project; Jackie Pennington, Swindon Women's Refuge and Martin Gear, Crime Scene Investigation Supervisor.

During January 2005, the Area has created a Learning and Investors in People committee to take forward training on new initiatives and legislation, as well as monitoring the development of staff and increasing staff awareness of learning and development.

In addition, the Area Business Manager and Area Training Officer are members of the Local Criminal Justice Board Joint HR/Training Committee to take forward joint training with our CJS partners in a number of wide ranging subjects.

## Improving public confidence in the work that we do

### STAR Conference

Our Area Business Manager and the Head of the Criminal Justice Unit attended the Swindon Town Against Racism event on 9 March 2005.

This event is organised by Swindon Police Community and Race Relations Department and provides an opportunity for the local community to drop in and see the displays or pick up literature from the various agencies. It also helps the criminal justice system agencies to network with local community groups.

### The HARBOUR Project — working with the community in Wiltshire

The Harbour project supports Swindon refugees and asylum seekers and provides a centre where they can obtain information and advice, practical support and access to education and training.

Our Area Business Manager is a member of the management committee and provides assistance with business planning and projects.

## Mock trial event — working with local schools

In November the Area led a multi-agency project to deliver a mock trial at St Paul's Primary School. The aim of the day was to help the children understand the criminal justice system and the roles of the criminal justice agencies.

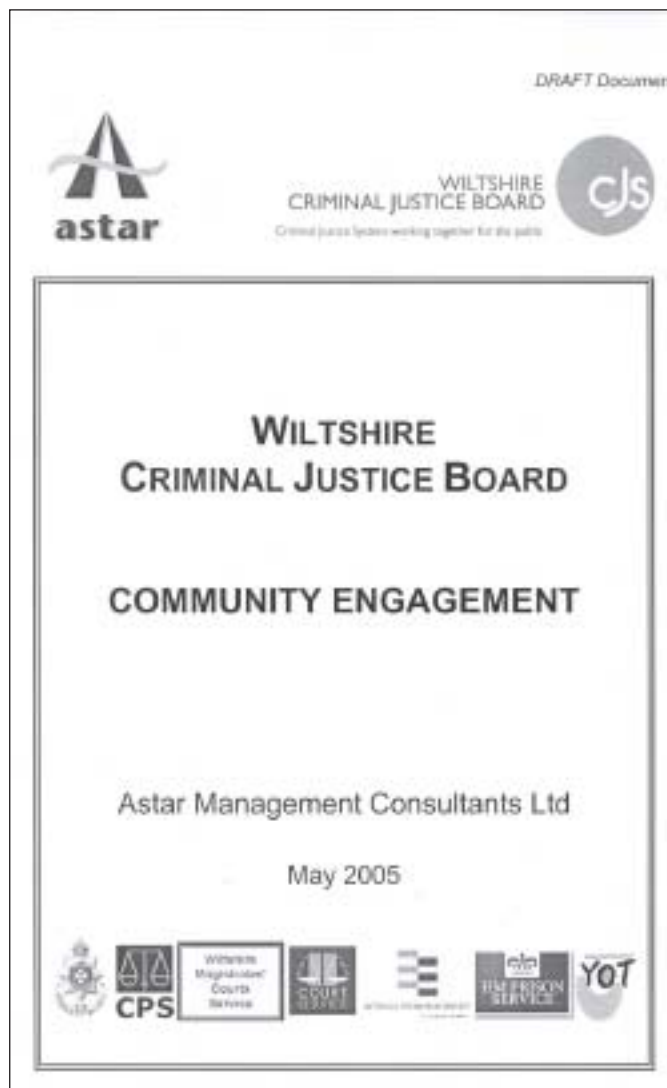
The mock trial was conducted using characters from the Harry Potter series of books and the children thoroughly enjoyed acting out the trial. The event was so successful that a similar event is planned at another primary school next year.

## Local Criminal Justice Board Race Equality Focus Group

Kim O'Neill, Area Business Manager, worked alongside other CJS agencies and consultants from ASTAR to produce a community engagement portfolio which provides guidance to all CJS agencies on the best way to take forward community engagement in the Wiltshire Area.

This portfolio will be the guide for all future multi-agency community engagement and consultation. The CJS can appear complicated and confusing to those who are not used to it. If you are in such a situation and you are bewildered or need help then let us know.

We will help you. Hopefully our selection of some of the most commonly asked questions with the answers will cover a lot of concerns.



## CASEWORK

### *R v Mensah & Others*

Operation Deft began on 20 August 2003, with the aim of conducting covert observations on drug dealers responsible for large-scale systematic distribution of drugs in Wiltshire.

Enquiries soon centred on Darren Mensah and revealed a conspiracy to supply cocaine and cannabis from June 2002-June 2004. Following investigations Mensah and eight associates were arrested and charged with conspiring to supply class A drugs and controlled drugs to others.

Caseworker Peter Lewis fulfilled a multitude of roles during the case including: providing assistance to police officers on running major operations; answering requests from defence teams; and keeping counsel informed of progress.

On 10 May 2005 seven defendants were convicted of one or both charges and sentenced to custodial sentences of between two and 11 years.

Following the trial Counsel commended Peter for his work, praising him for his "remarkable level of professionalism" and stating he was "a credit to the Crown Prosecution Service".



occurring I will end up having to go to court and talk in public

**The great majority of cases are dealt with without witnesses having to attend court.** Most defendants plead guilty. With many cases that are contested, the evidence of a number of witnesses is accepted by the defence so those witnesses do not have to go to court. However there remain some cases where the witnesses and victims have to go to court to give evidence.

If you have to go to court and give evidence there are lots of ways in which you can be helped. You can attend the court to see the courtroom in advance and there is a Victims and Witnesses walk through which is available via the CPS website ([www.cps.gov.uk](http://www.cps.gov.uk)).

At court you will be looked after by the Witness Service Staff and you will meet the CPS prosecutor or caseworker.

**It is important to remember that any of us can be a victim at any time (victims do not choose to be victims). If you were a victim you would want others who saw what happened to come forward and make statements.**

## EFFECT OF A CRIME:

- *If I have been a victim of crime — can I say what impact it has had on my life?*

Yes you can. All victims are able to make a **Victim Impact Statement**. This gives the victim the opportunity to explain what impact the crime has had for him or her.

The impact of a crime can go far beyond any physical impact on the victim.

Sometimes the full impact of a crime is not realised immediately but is realised later. Victim Impact Statements can be made at any time until an offender is sentenced.

## MAGISTRATES' COURT OR CROWN COURT?

- *Why do some cases go to the magistrates' court and some go to the Crown Court? What is the difference between the two?*

In the **magistrates' court** the case will be heard by two or three magistrates (who are not legally qualified but are trained and advised by a legally qualified advisor) or a Magistrates' Court Judge. They must decide whether the accused person is guilty or not, and if guilty, the appropriate sentence.

At the **Crown Court** the case will be heard by a judge and jury. The jury are members of the public and they decide whether the accused person is guilty. If they do then the Judge decides on the appropriate sentence.

A variety of laws set out where a case must be tried. The

vast majority (over 90 per cent) are dealt with in the magistrates' courts.

The most serious cases such as murder, rape and robbery, have to be dealt with at the Crown Court. There are then a range of offences which can be tried at either the magistrates' court or the Crown Court. These include cases of burglary.

With these cases the magistrates first decide whether they consider they have adequate powers to deal with the case but their decision will depend on the details of the actual offence. The person accused of the offence also has the right to elect to be tried at the Crown Court in these cases.

## THE COURT DATE:

- *How will I find out what date and time I have to be in Court? Do I need to tell someone if I can't make a particular date or time?*

If you are required to give evidence the Police Criminal Justice unit will contact you to get details of your convenient dates for attending court. Once the date of trial is set they will advise you of the date and court which you are required to attend.

**If you realise that some dates will not be convenient you should let the Police know at once so that this can be taken into account when Court dates are set.**

## READING YOUR STATEMENT:

- *It has been a long time since I made my statement to the police — will I be able to see it again before I go to court?*

When a witness is giving evidence the court wants to hear what they can remember of the incident. This means you are not able to read your statement if you are actually giving evidence. However **when preparing for court you can look at the statement which you made to the police.**

It is important to do this because at the time you made the statement the incident was obviously very fresh in your memory and you may have since forgotten some of the points you made at that stage.

- *Can I show my Witness Statement to anyone else?*

The statement is just for you and should not be shown to, or discussed with, anyone else who is a witness in the case.

**It is very important to appreciate that what the court is after is the individual account of each witness.**

If witnesses discuss incidents with other people who are also witnesses then there is a great danger that recollections will be affected by what the other people say about the incident.

## WAITING AT COURT TO GIVE EVIDENCE:

- *I am really nervous about attending court — can you tell me exactly what will happen when I get there? Will I be sitting in the same room as the defendant and witnesses for the defence while I wait to give my evidence?*

You are bound to feel nervous. You are doing something that is quite different to what you would normally be doing and something you are unlikely to have ever done before. Everyone at court understands that and will want to help you as much as they can.

**At all the courts there are rooms you can wait in which will keep you separate from the defendant and any witnesses called by the defence in the case.**

At court you will also meet members of the Witness Service who will look after you while you are waiting to give evidence. The **Witness Service** has been operating for some years and everyone who has dealings with them finds that they are an enormous help.

- *Will I have to wait long to give evidence?*

Unfortunately in most cases witnesses have to wait a while at Court before they give evidence. This is because it is impossible to know exactly how long each witness will take to give evidence. However the position is regularly checked and witnesses are kept informed of developments while they are waiting to give evidence.

Occasionally there can be considerable delays and witnesses are then allowed to leave court and return later in the day or the following day. Everyone concerned with the listing of cases appreciates the distress that hanging around causes to witnesses and everything that can be done to keep waiting to a minimum is done.

## GIVING EVIDENCE:

- *Giving evidence sounds nerve-racking — what does it actually entail? I am scared at the idea of standing up and talking in public.*

If you want to sit down rather than stand up that's no problem; you can give evidence sitting down.

When you give evidence you will be asked questions by the prosecutor and the defence lawyer.

Your job is to answer the questions truthfully and as fully as possible. You know what you saw or heard. The people in court were not there. Your job is to give them your account.

**If you are confused by a question, ask for it to be re-phrased.**

Do not just give the answer you think the person putting the

question wants if it is not the truth. Take your time. Ask for a break if you feel you need one.

Try not to panic. ***It's not surprising to feel scared at the idea of giving evidence. Most people will never have done it before.***

After a few questions most people feel calmer and relaxed... some even enjoy it!

- *Are there any special facilities available for particularly vulnerable witnesses or victims? I am concerned that an elderly neighbour won't attend court if she knows that she will be on view to the defendant in the courtroom.*

There are a number of **Special Measures** that are available to help certain groups of witnesses.

Firstly, those who are under 17 years of age at the time of the Court Hearing or because of their incapacity, for example if they are suffering from a mental disorder.

Secondly, those who are eligible because of the fear or distress they are likely to suffer in connection with giving evidence in the case.

Most victims of sexual crimes are likely to be eligible for special measures.

The special measures include the use of screens to shield a witness from the defendant; the giving of evidence away from the Courtroom by a live television link; the giving of evidence in private and sexual cases involving intimidation; video recording the witnesses account and then playing the video in Court.

## CONVICTED OR ACQUITTED

- *When all the evidence has been given in court, what happens next?*

In all trials the people deciding whether the person who is accused of the offence is guilty or not must consider all the different pieces of evidence (whether they come from the Prosecution or the Defence) and then reach a decision.

**In order to convict a person of an offence they must be sure that he or she did it.** This is much more than just thinking that the person may be guilty or thinking that it is more likely than not that they are guilty.

If they cannot be sure or have any doubts, then the person must be found not guilty. This means that in a number of cases the accused person is not convicted.

This does not mean that the victim or witness will not have been believed, it is simply the fact that the court is left with a doubt over whether the accused meant that he or she committed a criminal offence, and if that happens it is their duty to decide that the person is not guilty of the charge.

## About the CPS

### SENTENCING:

- *When a defendant had been found guilty when will he/she be sentenced? Who decides the sentence?*

If the person is convicted the court may sentence him straight away. In many cases however the case will be adjourned to a later date so that the Probation Service or Youth Offending Team can prepare a **pre-sentence report**.

The sentence is decided by the magistrates or the judge dealing with the case. The prosecution does not say what it thinks the sentence should be.

- *Can the CPS appeal a sentence?*

No; there is no right for the prosecution to appeal a sentence. However with many of the offences dealt with in the Crown Court the Attorney General has the power to refer cases to the Court of Appeal if he considers that the sentence was unduly lenient.

The fact that a sentence may be regarded as lenient is not sufficient; it must be unduly lenient. In cases referred to it, the Court of Appeal has the power to increase a sentence if it thinks that it should.

CPS draws the attention of the Attorney General to any cases where we feel the sentence passed may be unduly lenient.

- *I don't think the sentence was hard enough? How does the Court decide what to give?*

Sentencing is an extremely difficult matter and people have different views about the appropriate sentence with most offences. The maximum sentence that is available for each offence is laid down by Parliament and there are then guidelines issued by the Court of Appeal for certain types of offences. These guidelines take account of views of members of the public.

In sentencing offenders the courts have a number of issues to take into account. In addition to punishing the offender they will also want to do all they can to avoid the offender committing further offences in the future.

**In every case that comes before the Courts the circumstances of the victim; the impact on the victim; the attitude of the offender; the background of the offender; will all be different and need to be considered by the Court when deciding on the correct sentence.**

The Crown Prosecution Service is headed by the Director of Public Prosecutions, Ken Macdonald QC. The Director is superintended by the Attorney General, who is accountable to Parliament for the Service.

The Chief Executive is Richard Foster, who is responsible for human resources, finance, business information systems, criminal justice policy and business development.

The CPS was set up in 1986 under the Prosecution of Offences Act 1985 to prosecute criminal cases investigated by the police in England and Wales. In undertaking this role, the CPS:

- Reviews cases submitted by the police;
- Advises the police on any need for further evidence;
- Decides on the appropriate disposal of the case;
- Decides on the appropriate charges in all but minor cases;
- Prepares cases for court;
- Keeps cases under constant review; and
- Presents cases at court.

The CPS has 42 Areas across England and Wales, matching police force boundaries (CPS London covers the Metropolitan and City of London forces).

Each Area is headed by a Chief Crown Prosecutor who is responsible for the delivery of a high quality prosecution service to his or her local community. Each Chief Crown Prosecutor is supported by an Area Business Manager.

The 43rd CPS Area is CPS Direct, which provides out-of-hours charging advice to police forces.

### Website

The CPS' website is at <http://www.cps.gov.uk> and is available in English and Welsh. It provides a considerable amount of information about our business, staff and structures.

### Leaflets and publications

The CPS publishes a range of leaflets and publications about its work that are available free of charge to members of the public.

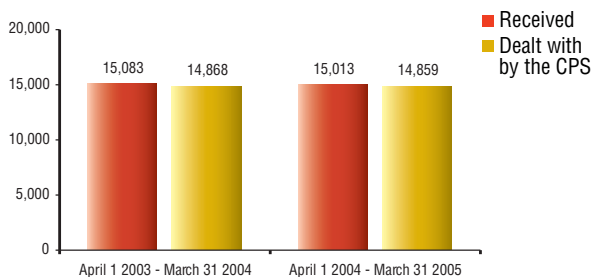
These are available to download from the website or in hard copy. For more information on all publications, and information on availability in other languages and alternative formats, contact the CPS Communications Branch, 50 Ludgate Hill, London EC4M 7EX; telephone: 020 7796 8442; e-mail: [publicity.branch@cps.gsi.gov.uk](mailto:publicity.branch@cps.gsi.gov.uk)

# Performance in the Magistrates' Courts and the Crown Court

All prosecutions start in the magistrates' courts. These include offences ranging from minor motoring matters to assaults and theft. Usually more serious cases proceed to the Crown Court.

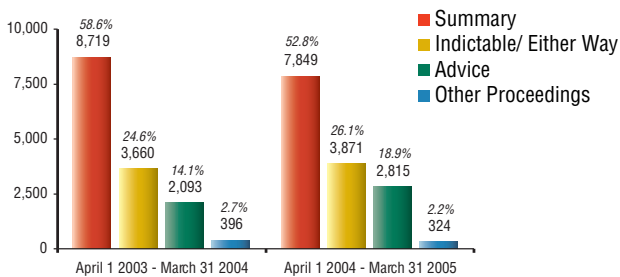
Some cases can only be tried in the Crown Court. Other cases go to the Crown Court either because the defendant chooses to be tried there or because the magistrates decide they are serious enough to need a Crown Court trial. If a defendant pleads not guilty, the case will be tried before a judge and jury.

## 1. Caseload in the Magistrates' Court



**Chart 1** shows the number of defendants whose cases the Area received from the police and the number of defendant's cases that were finalised in each of the last two years. Our caseload depends on the number of cases the police send to us. Several factors affect this, such as the level of arrest and the number of people the police caution.

## 2. Magistrates' Court Case Categories



**Chart 2** shows the different types of work dealt with over the last two years. They are:

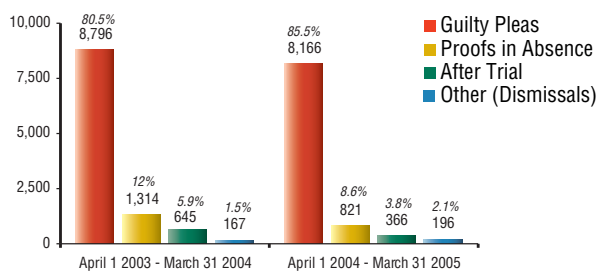
**Summary** — cases that can only be tried in the magistrates' courts for example motoring offences such as speeding and careless driving.

**Indictable/Either Way** — Indictable only offences (such as robbery & murder) must be tried in the Crown Court but either way offences (such as theft) may be tried in either the magistrates' court or in the Crown Court.

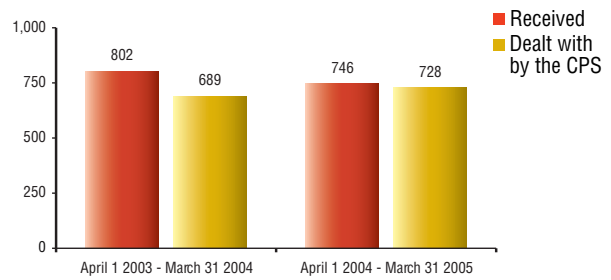
**Advice** — these are both cases where the police ask the CPS whether there is enough evidence to charge a defendant and whether proceedings should be started.

**Other Proceedings** — non-criminal matters, including driving disqualification matters.

## 3. Magistrates' Court Case Results

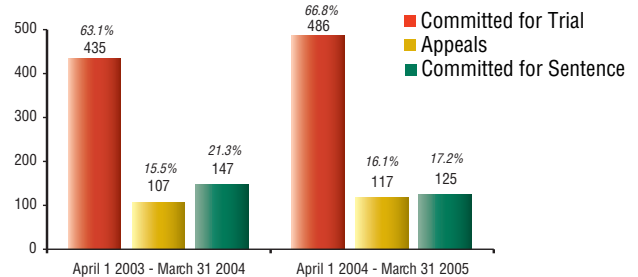


## 4. Caseload in the Crown Court



**Chart 4** shows the number of defendants who came before the Crown Court and the number of cases was dealt with in the last two years.

## 5. Crown Court Case Categories

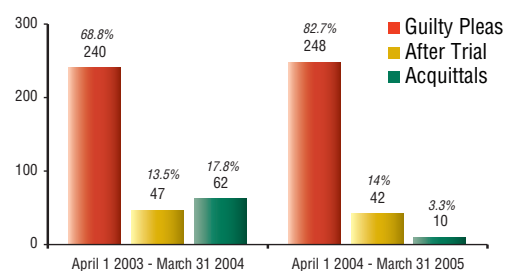


**Chart 5** shows the categories of cases handled at the Crown Court. They are: **Committed for Trial** — whilst the indictable only cases are now sent "sent for trial" to the Crown Court rather than committed, they now feature in this category, as do either way cases where the defendant has elected Crown Court trial or the magistrates have directed this course.

**Appeals** — defendants tried in the magistrates' court may appeal to the Crown Court against their conviction and/or sentence.

**Committed for Sentence** — some defendants tried and convicted by the magistrates' court are committed to the Crown Court for sentence if the magistrates decide that a greater punishment than they can impose is required.

## 6. Crown Court Case Results



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