

National Case Progression Commitment

March 2021



Foreword

Our criminal justice system is staffed by professional, dedicated and highly skilled individuals who make a real difference to our communities and who should be proud of the work that they do. However, delay and inefficiencies in the progression of cases can have a significant impact on victims, witnesses and defendants which comes at a cost to the whole of the criminal justice system.

Case progression relies on each part of the system working together to ensure the timely and effective management of cases from the outset of the investigation through to trial.

This document sets out the joint commitment of the Crown Prosecution Service, National Police Chiefs' Council and the College of Policing to take action to drive improvement in case progression.

The Covid-19 pandemic has dramatically changed the circumstances in which the criminal justice system operates and has shone a light on the importance of timely, effective case progression. Working collaboratively with agencies across the criminal justice system has been vital to ensure a whole system response to issues raised by the pandemic. The need to continue to progress cases within the criminal justice system has produced some positive changes and innovative solutions. Making better use of technology has enabled court hearings to be conducted remotely. The number of police forces who now use a shared platform to upload and share digital material has more than doubled. Effective case progression will be, now more than ever, vital to the recovery process.

Ensuring the timely delivery of justice and minimising delay is a key priority for the criminal justice system; we are committed to working closely with partners to ensure early engagement, proactive case management, robust case progression and effective and timely decision making. This commitment is a joint undertaking that builds on work conducted by our organisations under the National Disclosure Improvement Plan (NDIP). We recognise that getting disclosure right is just one factor in ensuring meaningful, sustained improvement in case progression. Under this commitment we seek to address practical issues which present barriers to effective case progression as well as promoting a change in mindset towards proactive case management and progression.

The NDIP Delivery Board has been refreshed and renamed to meet this new aim. The Joint Operational Improvement Board has been created to provide oversight and drive improvements across disclosure, case progression and linked initiatives, including activities being delivered to improve outcomes in our RASSO casework. These individual work streams cannot be remedied in isolation and a system wide approach will allow for a coherent strategic plan for continuous improvement across the criminal justice system.



**Chief Constable Jo Farrell,
National Police Chiefs' Council**



**Sue Hemming CBE,
Crown Prosecution Service**



**Iain Raphael,
College of Policing**

Background

The Transforming Summary Justice (TSJ) and Better Case Management (BCM) initiatives were adopted by all criminal justice agencies from June 2015 and January 2016 respectively. The aim of both initiatives was to reform the way that criminal cases are handled in both the Magistrates' Courts and Crown Court, and to create a swifter system with reduced delay and fewer hearings. TSJ and BCM have significantly improved the way court work is delivered. However, both the police and CPS recognise that operationally there is still scope to advance case progression by driving improvement in file quality, timely provision of charging advice, holding fewer hearings per case and increasing the number of trials that go ahead the first time that they are listed. HMCPsi has raised concern about case progression in their Area Assurance reports and during thematic inspections¹. It is imperative that we collectively look for new and innovative ways to address backlogs, and to ensure we have a criminal justice system that delivers timely outcomes.

In August 2019, it was agreed by the then NDIP Board that work on identifying and overcoming barriers to effective case progression should be brought under the governance of NDIP. Work has been ongoing in relation to case progression and this commitment sets out the further work under the five themes common to NDIP: capacity, capability, leadership, governance and partnership. Under each we have identified the key stages where action can be taken to bring about necessary improvements up to and including the hearing when the trial date is fixed, the period between the fixing of the trial date to the day of trial;

- **File quality** - A file with missing items of evidence has an impact on the timeliness of when a meaningful review can be completed by the prosecutor. This results in dual pressures on both the CPS and police to review and then repair cases in time for the court appearance. Now, more than ever, reducing the back and forth of cases must be a key priority;
- **Processes and systems** for case reviews and workload allocation need to be critically examined so that timeliness of case reviews and charging advices is improved;
- **Defence engagement** – this needs to be encouraged at the earliest stage in proceedings to identify the issues and defence correspondence must be dealt with in

¹ <https://www.justiceinspectorates.gov.uk/hmcp/inspections/area-assurance-programme-composite-report-oct-19/>

a timely manner;

- **Victims and witness issues** – although witnesses are generally warned for court in a timely manner after the first hearing, witness issues frequently arise later in the case and more must be done to anticipate and deal with these and proactively support witnesses.

Reporting into the Joint Operational Improvement Board is a joint working group chaired by Sue Hemming, Director of Legal Services, and Chief Constable Jo Farrell, the National Police Chiefs' Council lead for case progression. This group is working to address the barriers to effective case progression in both organisations, promoting the benefits of a joined-up approach and identifying best practice and sharing innovative ways of working to improve outcomes.

Capacity

The impact of delays and collapsed trials can be significant for victims and witnesses and can undermine confidence in the system and negatively impact successful case progression. Improving capacity across the criminal justice system to deal with victims and witness issues throughout the life of the case is vitally important in ensuring successful case progression.

Effective management of witness care is critical throughout the life of the case and needs to be based on a prompt, transparent and supportive dialogue throughout. Witness Care functions are police led and structured in a number of different ways by different police forces or Police and Crime Commissioners, sometimes in standalone Witness Care Units (WCU) or combined with victim support services in a 'hub'.

Work has commenced with criminal justice partners to address victim and witness communications, to review the various roles and responsibilities of each agency, and to work with existing support mechanisms to help better inform the journey to trial.

As part of the activity under this theme of the commitment we will:

- Improve the sharing of information between police and prosecutors particularly in respect of the provision of special measures;
- Implement the introduction of core service standards, including a review of roles and responsibilities, to improve Witness Care Unit communication, in line with the first cross- Government Victims Strategy;
- Improve communications to victims and witnesses to ensure they understand key decisions made in the case and to keep them engaged in the process; and
- Support the work of the Ministry of Justice in revising the Victims Code of Practice and implementation of the new Code.

Capability

People will always be at the heart of the criminal justice process, but technology presents an opportunity for information to be shared and presented in a more efficient way, in order to support the criminal justice process. Issues with limited interoperability between systems are impacting on successful case progression, across the criminal justice system. It is recognised that further investment is required in digital innovation to deliver cross-CJS efficiencies.

Since 2017, the CPS has been working with police forces to share multimedia evidence on digital platforms, which is a critical part of case progression as the use of digital evidence grows. The vision is to have shared digital systems which support the court to actively manage cases and enable the parties to comply with their duties under the Criminal Procedure Rules and accord with the principles of Transforming Summary Justice (TSJ) and Better Case Management (BCM). Working in silos inhibits the early identification of issues and prevents cases being proactively managed. The digital case management tools for both agencies need to be more joined up, where possible, to facilitate effective partnership working.

We commend the exploration of innovative digital solutions that can be adapted to improve case progression. The CPS has already equipped prosecutors with the technology and knowledge required to undertake video hearings. The increasing move towards video enabled justice presents challenges and opportunities for our agencies and we recognise the benefits that this can bring to effective case progression. The MOJ Cloud Video Platform (CVP) enables participants to appear in a virtual courtroom hosted by HMCTS. This is the proposed long-term solution for all video enabled hearings with more than 100,000 hearings (at time of writing) across the magistrates' and Crown Courts having been heard using this technology. Police forces are increasing the use of digital evidence sharing platforms. CPS has already implemented cloud solutions that enable this evidence to be shared digitally with the defence, HMCTS and the judiciary.

The CPS, police forces and HMCTS have already worked together so that:

- Full end-to-end sharing solutions are in place, or being implemented, in almost all police forces and engagement is underway with the remaining forces to agree a way forward.
- The solutions can be extended to all other material previously served on disc e.g. large data files.
- Access has also been extended to District Judges in the Magistrates courts, in addition to the Crown Court.

As part of the activity under this theme of the commitment we will:

- Continue to explore the opportunities for technology to assist with digital tools for both the CPS and police to better manage and prioritise our work. All solutions need to be interoperable, and compatible with existing systems where possible;
- Complete and launch the new Digital Case File, which will replace the existing set of forms with structured digital information moving between police and CPS. This will assist case progression by increasing automation, building more guidance into the systems, and introducing shared action plans; and

- Review internal processes to identify any systemic blockers to better performance.

Leadership

Effective case progression depends on each part of the criminal justice system working together throughout the process. Examples of excellent leadership in relation to case progression matters are apparent in many areas in England and Wales, although we recognise that this is not consistent throughout. It is also vitally important to engage leaders from the defence community as well. Early engagement with the defence is crucial to ensuring that issues are identified at an early stage and effectively managed in advance of the trial.

At a strategic level, the fact that the defence is not represented by a single body means discussions about issues that may impact successful case progression on both sides are difficult. We need to consider how we can better engage with the defence to the benefit of both.

There is commonly little or no engagement with the defence before the first hearing and any discussions with a view to resolving issues generally takes place with the advocate at court. As a result, engagement only starts to take place in court at the first hearing and correspondence begins after the first hearing once the evidence has been fully considered. Early engagement should be encouraged and requests made of the prosecution team dealt with in a timely manner.

As part of the activity under this theme of the commitment we will;

- Review the national strategy for engaging with the defence and provide best practice to Areas;
- Reinvigorate local engagement meetings between CJS partners to ensure that there is a forum to discuss and resolve local issues, monitor performance and where necessary work together to implement national areas of work; and
- Make constructive defence engagement part of the review process as set out in Annex to the revised Disclosure Guidelines.

Partnership

The joint approach to improving disclosure is being replicated to review and improve case progression. As with so much of our work, we can only address areas of concern through effective partnership, and CPS and the police share a desire to improve the pace at which cases are able to move through the system. While our overall caseload volume has reduced, the increasing complexity means that joint working from an early stage is often the best way to ensure the right cases are pursued, and to focus the investigation and case preparation as effectively as possible.

Issues cannot be solved in isolation and requires a system wide plan for continuous improvement. More is needed to support partnership working between police and prosecutors in preparing cases for court hearings and for trials. This issue must be tackled at a local level and there must be shared local accountability for local outcomes.

The timely provision by the police of high-quality case material to the prosecution has always been critical to effective case progression. The National File Standard was jointly developed to improve the quality and consistency of file submissions and sets out the standard and agreed contents required for any file submission by the police to the CPS. The CPS and police jointly developed a National File Quality Assessment tool which is an assessment of file quality completed by the prosecutor at the time of their review. The results were intended to be used to jointly identify common trends and issues with file submission and allow for the benchmarking of performance and exchange of best practice both locally and nationally. This tool and process are being reviewed by the CPS and Police to ensure it is fit for purpose and is a truly joint measure which can be effectively used to manage case quality throughout the life of a case.

A joint file quality improvement plan has been developed between every police force and the CPS Area with which they work, which is a joint commitment between the Chief Constable and Chief Crown Prosecutor. In addition, we have agreed nationally consistent escalation processes to be followed when requests are not dealt with timeously.

As part of the activity under this theme of the commitment we will:

- Jointly review the National File Standard to ensure that file submission supports current evidential and disclosure requirements, drives improvement and consistency in file quality, and sets clear guidance for submission of further material in cases.
- Jointly review the File Quality Assessment process to ensure the data is utilised consistently, both locally and nationally, to improve the quality and timeliness of file submissions and so that data on performance can be used to hold work to account.
- Work jointly to develop the file quality requirements for the Digital Case File to ensure that the interface enhances the quality of file submission.
- Review the National File Quality Assessment tool and process to ensure it is fit for purpose and is a truly joint measure which can be effectively used to manage case quality throughout the life of a case.
- The CPS will ensure that, once a case is accepted at the triage stage, charging advice to the police is provided in a timely manner and cases where an action plan is set for the police are effectively monitored.

Governance

Paramount to the commitment to case progression is improvement in case oversight and management of the volume of work, moving away from a culture of working to trial dates, and instead moving towards being proactive

Work is on-going to develop a Case Progression Dashboard which will include the joint performance metrics that are considered critical to case progression and which is intended to support analysis of case progression performance.

Currently Prosecution Teams hold Performance Meetings (PTPM) as a way to review relevant performance data, identify and address issues in relation to key areas where the Police and CPS interface, ensure focus on both Police and CPS activity and to assess quality of investigation and file submission. The overriding objective of the PTPM is to maximise joint continuous improvement in delivering just outcomes for all cases. However, whilst this joint engagement is clearly needed, the time is right to look again at this regime to ensure that these meetings result in increased efficiency relating to case progression and they assist in driving improvement.

As part of the activity under this theme of the commitment we will:

- Review the use of local police/prosecution team performance meetings (PTPM) to ensure local accountability for local outcomes relating to case progression and to drive improvement;
- Review progress against this commitment by the Director of Legal Services and National Police Chiefs' Council Lead on Case Progression; and
- Ensure that delivery against the commitments in this plan will be overseen by the Joint Operational Improvement Board including the National Police Chiefs' Council, the Director of Public Prosecutions and the College of Policing.