

# SECTION 4

## PROSECUTION TEAM SUPERVISION AND CASE MANAGEMENT

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## SECTION 4

# PROSECUTION TEAM SUPERVISION AND CASE MANAGEMENT

### 4.1 SUPERVISION

- 4.1.1 The effective supervision of a case file should ensure that the evidence is gathered in time and to the right standard, with the shared goal that case files are submitted right first time. It is important to note that this is a continuing obligation. The police and the CPS – the Prosecution Team – can achieve this goal through proactive participation by both services to achieve a successful outcome, impacting on sanctioned detections and/or offences brought to justice, thereby narrowing the justice gap and ultimately influencing the Public Service Agreement targets.
- 4.1.2 A case file will consist of evidence in the case and unused material.
- 4.1.3 Police supervision should support an investigation from the beginning, and should intervene to ensure that evidence is gathered in accordance with an investigation plan, and that there is early consultation with the CPS. Supervision by both services will ensure the effective progression of a case until the conclusion of the trial, having regard to the continuing obligations to disclose unused material.
- 4.1.4 It is essential that an officer in the case or a single point of contact is clearly identified whilst the investigation is ongoing and a case file is being built. The arresting officer is not necessarily the person who deals with the prisoner and compiles the case file from start to finish. Various named units have now developed for dealing with different segments of the process, namely that an arresting officer may hand over to a dedicated prisoner handling team, who may subsequently pass on the case building function to a separate administrative team in conjunction with the Criminal Justice Unit (CJU). In any event, responsibility and accountability for the case file is paramount.

### 4.2 REVIEW OF THE CASE FILE

- 4.2.1 Duty Prosecutors must apply the Code for Crown Prosecutors when reviewing any case received from the police, and continue to do so during the life of a case, to be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each defendant for each offence and that it is in the public interest to proceed. Crown Prosecutors must also consider any Human Rights issues that arise.
- 4.2.2 The police will have regard to the guidance issued by the Director of Public Prosecutions (DPP) concerning the decision on what charge to bring and what information must be sent to the Duty Prosecutor to enable a charging, or other decision, to be made. A copy of the guidance is to be found at Appendix A.

### 4.3 SUPERVISORY ENDORSEMENT OF FORMS

#### MG1 – File Front Sheet

The supervisor authorising the submission of the file should record their name and the date. This will ensure efficient and effective lines of communication with them.

The endorsement by the supervisor on the **MG1** is an indication that the supervisor is satisfied that:

- The evidence justifies the prosecution and the evidential content of the file is sufficient to support the charges preferred
- It is necessary in the public interest for the defendant to be prosecuted
- The file is correctly assembled and fit for the purpose of the hearing for which it has been prepared, with all the appropriate forms placed in numerical order, and
- Forms **MG6C**, **MG6D** and **MG6E** have each been correctly completed (if applicable) and signed and dated by the disclosure officer.

The supervisor should ensure that the officer submitting the case file has signed the declaration on the **MG1** regarding the obligation under common law disclosure (please refer to the criteria as outlined in the case of R v Lee at note 35 of the **MG6** in Section 3). Such information will be recorded on the **MG6**.

The supervisor should ensure a file is flagged correctly where the suspect has been identified as a Persistent Young Offender (PYO) or Persistent Offender (PO) to be referred to as a Prolific and Other Priority Offender (PPO) from 1 September 2004.

### **MG3 – Report to Crown Prosecutor for charging decision**

In all cases before charge where the police have sought advice or a decision by the CPS, the supervisor should be aware that the charging decision will be based upon the reports submitted to the CPS, and the police investigator seeking that advice or decision will be indicating on the **MG3** whether that named supervisor has been consulted.

Figure 2 in Section 2 gives interim guidance to the police and CPS on charging decisions. Supervisors should therefore be aware of the cases to which this table refers.

Supervisors should recognise their responsibilities and take into account any timeliness targets required for PO/PPO and PYO cases.

### **MG6 – Disclosure series**

It is not expected that supervisors will acquaint themselves with the details of all unused material in every case. What is required is the appropriate check to ensure that:

- The forms **MG6C** and **MG6D** contain a sufficient description of the items to enable the prosecutor to decide whether they are likely to require disclosure
- The form **MG6E** contains adequate information
- Any item that requires further examination by the prosecutor, is sufficiently identified.

The supervisor's comments on any of the above aspects of the case or deficiencies in the file should be made on an **MG6** case file information form. The **MG6** should also record the information necessary for common law disclosure.

The supervising officer should ensure that the case file information form **MG6** is completed to take account of all reasonable lines of enquiry and that relevant agreed targets for the capture/submission of evidence have been identified correctly.

### **MG7 – Remand Application**

Endorsement means the supervisor is satisfied that adequate information has been provided to the CPS and agrees with the recommendation for the type of remand sought and the grounds upon which it is based.

### **MG13 – Orders on Conviction (Anti Social Behaviour Order)**

Endorsement means the supervisor is satisfied that adequate information has been provided to the CPS and agrees with the recommendation for the order sought and the grounds upon which it is based.

### **MG20 – Further Evidence/Information report**

Where the police supply further information/documents to the CPS, the supervising officer will sign the **MG20** to show that such information is attached, legible and complete.

Where a file, or the provision of further information requested by the CPS or CJU, will not be submitted within the required timescale, the supervisor must ensure that there is an adequate explanation for the delay on the **MG20** and that this information is communicated to the CPS/CJU.

Supervisors will ensure the police respond to CPS requests within the appropriate timescale and facilitate the necessary resources and time to achieve this.

### **MGFSP – Submission of work for scientific examination**

The supervisor shows that they agree with the priority shown and authorises the submission of requests to the Forensic Science Provider (FSP). An additional budgetary authority is also required on the form and may be required from a different person to the reviewing supervisory officer.

Supervisors should be aware that if, for any reason, the circumstances of the case change or the case is discontinued, and the forensic evidence is no longer required, then the supervisor should ensure the FSP is informed immediately by facsimile or by e-mail to prevent the unnecessary use of resources and costs.

### **MGNFA – NFA Letter Template**

Signing the letter and notifying the accused that no further action is being taken in relation to a relevant offence(s) is the responsibility of the custody officer. The charging decision upon which this is based, however, remains the responsibility of the CPS. For non-relevant offences where the CPS is not required to make the charging decision, the custody officer will make the decision without referral.

## **4.4 FILE TYPE AND CONTENT**

- 4.4.1 The supervisor is responsible for ensuring that a file is fit for purpose, for the appropriate court hearing and is submitted in time for prior review.
- 4.4.2 In determining whether a case file is fit for purpose the supervisor should consider the nature of the hearing. The file submitted must be sufficient to enable the prosecutor to deal effectively with the hearing without seeking an adjournment.
- 4.4.3 It is vitally important that a police supervisor carries out a critical review of the case papers to ensure the content of the RIC file is correct. This is particularly important prior to an occasional court appearance where the Duty Prosecutor is likely to be from a different area or may be an agent acting on behalf of the CPS.
- 4.4.4 Where a defendant is in custody, the CPS will monitor any custody time limit (CTL) for each defendant. Supervisors should be aware that no extension of the CTL will be granted unless the prosecution can show that they have acted throughout with due diligence and expedition.
- 4.4.5 Supervisors will find information on the relevant file content and type within Table 1 in Section 1.
- 4.4.6 Targets set by Local Criminal Justice Boards have now replaced the previous pre-trial issues time guidelines. Supervisors should therefore be alert to the requirement to prepare case files according to those locally agreed targets.

## 4.5 CASE FILES INVOLVING MULTIPLE OFFENCES AND/OR OFFENDERS

4.5.1 It is important from the outset that investigators/case builders identify and correctly consider the number of files to be submitted to deal with the number and type of defendants and offences. The combinations which are likely to arise are:

- Single Offender, Multiple Linked Offences
- Single Offender, Multiple Non-Linked Offences
- Multiple Offenders, Linked Offences
- Multiple Offenders, Non-Linked Offences.

### 4.5.2 General Principles

Charges for any offences may be included in the same file with the same Unique Reference Number (URN) if those charges:

- Are founded on the same facts, or
- Form, or are a part of a series of, offences of the same or a similar character.

As a result, case files containing charges which are not linked in either of the ways mentioned above will need to be split into separate files, each with a different URN.

### 4.5.3 Single Offender, Multiple Linked Offences

If the offences are based on the same facts, or form a series of offences of the same or similar character, they may be submitted as one file with a single URN.

*Example: A defendant is charged with four offences, (a) possessing a Class B drug with intent to supply, and (b) three assaults occasioning actual bodily harm. The prosecution case on the drugs matter was that when police executed a search warrant at the defendant's home address they discovered a large quantity of cannabis divided into wraps, plus pipes, scales and other ancillary items. During the course of the search the defendant assaulted three police officers.*

Such a case may be submitted as one file with a single URN, as the offences are based on the same facts.

### 4.5.4 Single Offender Multiple Non-Linked Offences

If the offences have no link, either factually or being of the same or similar nature, they must be submitted as separate files, each with a different URN.

*Example: A defendant is charged with four offences, (a) possessing a Class B drug with intent to supply, and (b) three assaults occasioning actual bodily harm. The prosecution case on the drugs matter was that, when police executed a search warrant at the defendant's home address they discovered a large quantity of cannabis divided into wraps, plus pipes, scales and other ancillary items. The assaults are unconnected as they occurred some days earlier when the defendant was involved in a disturbance and was arrested for obstruction and assaulting police officers.*

The offences are not founded on the same facts, nor are the offences of a similar character. Separate files, each with a different URN, should be submitted to deal with the different offences.

- File 1: Drugs offence
- File 2: Assaults. (The 3 Assaults may be submitted on one file, as they are based on the same facts, and in this example, form part of a series).

#### 4.5.5 Subsequent Offences

It would be appropriate to include on the same file charges that flow as a result of each other.

*Example: A defendant suspected of assault, during the course of an investigation, whilst on Part IV Bail, offers money to the complainant to retract the complaint. This may be charged as an attempt to Pervert the Course of Justice. The Assault and Pervert the Course of Justice could properly be submitted together, on one file with a single URN.*

In such cases, however, the more usual scenario would be for the defendant to have been first charged with assault, prior to the offer of money. A file would already have been submitted for the assault. When the Pervert the Course of Justice is charged it should be submitted as a separate file with a different URN. The CPS might then decide it appropriate to merge the cases.

#### 4.5.6 Multiple Offenders, Linked Offences

##### Same Offence

Offenders charged with the same offence may be submitted on the same file, with the same URN.

*Example: Three offenders arrested during the course of a burglary. Each could be charged with a joint offence of burglary, and one file would be submitted with a single URN.*

If a new offender was subsequently charged with the same offence, the file for that new offender should be submitted under a new URN. However, the Crown Prosecutor may then merge the related files.

*Applying the example above, some days after the arrest of the 3 burglars, a fourth is located who was acting as lookout. The fourth offender's file should be submitted as a separate file with a different URN.*

##### Different Offences

As a general rule, it is not appropriate to include on the same file, with the same URN, more than one offender when there are no offences to link them together, even though there may be a factual link.

*Example: D1 and D2 are both arrested living in the same squat. Both have been identified from shop CCTV as stealing from shops at different times and dates. There is no evidence that they offend together. The fact that they have been arrested together is not sufficient for them to be included on the same file with the same URN.*

Sometimes it may be appropriate to include two or more defendants on one file, even though they are not charged with the same offence, if the offences separately alleged against them are, on the evidence, so closely related by time or other factors.

*Example: In a Public House D1 assaults V1. V2 assists V1 and is assaulted by D2. Even though D1 and D2 have not acted jointly together to enable them to be charged with a Joint Assault on V1, it is one incident closely related by time (and probably other factors, location, witnesses, etc) and it is appropriate to submit one file with one URN.*

If the case is more complex, either in terms of the number of offences or offenders then more than one file should be submitted.

*Example: Following a League football match a number of hooligans become involved in incidents with visiting supporters who are escorted by police to the railway station. A number are arrested at points along the route, and others after the visiting supporters have left the area. A variety of offences of Public Disorder and Minor Assault are charged. On the definition above, this is such a case in which the offences alleged are closely related by time or other*

factors, such as location, and witnesses. The complexity is such that separate files to deal with individual defendants, or smaller groups for specific incidents should be submitted, each with a different URN.

#### 4.5.7 Multiple Offenders, Non-Linked Offences

In some cases offenders are charged with linked offences and the investigation reveals that individual offenders have committed other offences. In such a case separate files should be submitted:

- a file that deals with the linked offence
- a number of other files as necessary to deal with the individual offences.

*Example: D1, D2, D3 are arrested stealing from a shop. Upon being searched they are found to be in possession of other property identified as being stolen from two other local stores.*

*PACE searches at their homes reveal the following:*

*D1: property stolen in a burglary.*

*D2: property stolen in an unrelated burglary.*

*D3: drugs.*

*In such a case, files should be submitted as follows:*

*D1, D2, D3: Joint Shop Thefts.*

*D1: Burglary/Handling as appropriate.*

*D2: Burglary/Handling as appropriate.*

*D3: drugs offences.*

Thus, one investigation results in the submission of four files, each with a separate URN.

#### 4.5.8 Post File Submission

Any decision to split or merge a case after it has been submitted to the CPS will be taken by a Duty Prosecutor.

When submitting a file, an investigator/supervisor who is aware of a possible link to another case should inform the Duty Prosecutor of that fact so that a decision as to merging the cases may be taken at an early stage.

## 4.6 PERFORMANCE MONITORING

4.6.1 Supervisors should be prepared to give feedback on performance to address any issues identified by the police or CPS, with a view to improving performance on a range of issues arising from content and evidential sufficiency of case files. Supervisors should also be proactive in anticipating performance issues when case files are prepared by investigators.

4.6.2 In the light of recent changes in the Criminal Justice System, Joint Performance Management (JPM) nationally is under review. Arrangements are being developed on an outcome basis to reflect these changes for the Prosecution Team. The main objectives of the new system will be:

- To provide measures consistent with the outcome focus of Local Criminal Justice Boards' targets, e.g. offences brought to justice
- To complement changes of process, e.g. charging and the use of **MG3** pre-charge bail, etc.
- To use existing data sources to relieve any burden on data collection
- To relate to Prosecution Team performance at a Basic Command Unit (BCU) level.

4.6.3 It is envisaged that these measures will be implemented in 2005. As an interim measure, forces should continue to operate their existing arrangements where they are providing valuable information to improve performance.

#### 4.7 CASE PROGRESSION OFFICERS (CPOs)

4.7.1 The importance of progressing a case has been recognised by the Effective Trial Management Programme (ETMP). The function of a CPO can be achieved in various ways from area to area. Some will perform all or part of the role, but in each case CPOs will address any delays with a view to more cases being effective at court.

#### 4.8 AT COURT

4.8.1 The CPS will ensure that there is an in-house lawyer at each court centre, and that a lawyer will be available in advance of the court sitting to deal with any issues concerning the progress of cases that day.

4.8.2 Local arrangements should be made for the efficient service of Advance Information to the defence. This may be undertaken at point of charge where CPS makes the decision to charge. The CPS should ensure the defence sign for receipt of any Advance Information, particularly audio/visual recordings served.

4.8.3 At the end of any breach of bail conditions hearing, the prosecutor should complete the bottom of the **MG8**, and ensure prompt delivery to the relevant police station and CPS office.

4.8.4 The CPS lawyer should notify the police immediately after court of any requirement to upgrade a case file, and in any event within 24 hours.

4.8.5 The CPS will alert the court to any offences taken into consideration (TICs) listed on the **MG18**. Where such information is not available at the first hearing, the CPS prosecutor should apply to the court for a short adjournment to enable such information to be provided.

#### 4.9 DISCONTINUANCE

4.9.1 The reviewing lawyer should consult with the police before reaching a decision to terminate a case or substantially alter the charge.

4.9.2 Whenever a decision is made to terminate a case, reduce or substantially alter a charge, the CPS will notify the police and the victim of the reasons for the decision.

4.9.3 If the police have indicated that they do not wish to be consulted, either by local arrangements about types of case or in a specific case, then there is no requirement on the CPS reviewing lawyer to consult before making the decision, although confirmation of the reasons should nevertheless be given.

4.9.4 Form **MG1** provides a box to be ticked if consultation is not required.