

### Overview

1. This guidance is designed to clarify the role of prosecutors in the service of Initial Details of the Prosecution Case (IDPC) and the use of statements in court, and applies to all cases in magistrates' courts.
2. With the introduction of Transforming Summary Justice (TSJ), the provision of material to the CPS by the police is aligned with the new [National file Standard \(NFS\)](#), which has been appended to the Director's Guidance on charging.
3. The NFS sets out the components of the file that will be provided for GAP cases which will generally consists of the charge, summary and previous convictions, and the more comprehensive file that will be provided for NGAP cases.

### Service of additional material

4. Part 8 of the Criminal Procedure Rules governs the provision and content of the IDPC. In particular, Rule 8.3 covers the requirements for custody and bail cases. Paragraph 8.3 (iii) provides that IDPC must include:—

**'any written witness statement or exhibit that the prosecutor then has available and considers material to plea, or to the allocation of the case for trial, or to sentence'**
5. In any case where the prosecutor is satisfied that a statement, in the possession of the prosecutor, is material to plea, allocation or sentence it should be provided to the defence. For example, a statement of the victim in an assault case may provide important information about the background to the assault which may be relevant to the issue of self-defence or provide mitigating/aggravating features on sentence. This will be consistent with Rule 8.3 CPR 2015.
6. If a witness statement does not come within Rule 8.3 the prosecutor should explain this to the defence and the court and resist any application to adjourn the case.

### Use of statements in sentencing

7. Any material that the prosecutor intends to rely on in court in addition to what has already been served with the IDPC should be served on the defence especially if it is likely to affect the sentence the court could pass.

8. If the prosecutor deems that the MG5 summary is an inadequate description of the offence and intends to rely on part of a statement to support the summary or feels it necessary to use material in open court that hasn't been served on the defence, for example a more detailed description of the injuries from the victim, the defence should be advised of this by showing a copy of the statement and providing a copy if practical in advance.

### **Service at court**

9. Statements that come within Rule 8.3 can be e-mailed to defence via CJSM (Wi-Fi permitting) or alternatively printed off or otherwise shown to the defence and if necessary the case should be stood down so that the defence can take proper instructions. If appropriate and necessary the statement could be displayed by use of the Clickshare facility. The court should be supportive as it is also in their interest to avoid unnecessary adjournments or tactical not guilty pleas.
10. All documents will need to be checked before agreeing to serve them to ensure they do not contain any sensitive information or material that should not be disclosed.
11. Prosecutors should record on the HRS the decision to serve or refusal to serve any statement requested by the defence.

### **Operations Directorate**

25 July 2016