



A public consultation on Core Quality Standards

The purpose of this consultation is to seek a wide range of views on the proposed Core Quality Standards (CQS).

It will be a key document for the CPS and will sit alongside the Code for Crown Prosecutors and the Statement of Ethical Principles. The CQS set out, for the first time in once place, what constitutes a quality prosecution service.

Consultation questions

A. General comments

In your general comments, please consider the following:

- Are these the right standards and do they reflect what a good prosecution looks like?
- Have any important parts of the process been missed out?
- Are any of the standards inappropriate and should be removed?
- Are the standards in plain English and easy to understand?

This is a response by the Criminal Bar Association.

These are helpful 'standards' and include all of the major considerations for a prosecution service.

Standard 6 should contain more information on the selection and instruction of the advocate and, in particular, the criteria for instructing an advocate in a particular case. We have included below our suggestions on the instruction of advocates.

Standard 6.16(c) is a challenging requirement and we doubt that CPS staffing levels would permit the time necessary for this to be implemented effectively.

The standards are readily understandable.

B. Comments against each standard

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 use out of court disposals, where appropriate, to gain reparation and compensation for victims, to restore damage, to secure a paid penalty or to rehabilitate offenders.

Standard 3: We will engage with communities so that we are aware of their concerns when we make decisions.

Standard 4: We will make timely and effective charging decisions in accordance with the Code for Crown Prosecutors.

Paragraph 4.4 – With regard to additional evidence, particular attention should be paid to the possible need to obtain expert evidence. It is helpful for the court to be aware of the potential for such evidence at an early stage to enable it to make realistic listing and trial management decisions.

Standard 5: We will oppose bail for defendants where appropriate, taking particular account of the risk posed to the public.

Standard 6: We will prepare all our cases promptly so that guilty pleas can be entered at the earliest opportunity, and fair trials can take place on the appointed dates.

See attached at page 4.

Standard 7: We will present our cases fairly and firmly.

Paragraph 7.1 c. – The words ‘where appropriate’ should be inserted. Invariably, cross-examination is best prepared after the prosecution witnesses have given evidence and the detail of the defence case has been revealed by defence counsel’s questions. Where there has been a ‘no-comment’ interview, it might not be possible to prepare cross-examination until the defendant gives evidence. Paragraph 7.2 – This suggests that the advocate will not have the assistance of a caseworker, which is undesirable at the start of a trial when there are many demands on the advocates time.

Standard 8: We will assess the needs of victims and witnesses, keep them informed about the progress of their case and help them to give their best evidence.

Standard 9: We will explain our decisions to victims when we stop cases or substantially alter the charge.

Standard 10: We will assist the court in the sentencing process and seek to confiscate the proceeds of crime.

PSR - It would be best practice for the the CPS to obtain a copy of the PSR and ensure that the advocate has it in advance of the hearing. This would enable the advocate to check it for inaccuracies in how the Probation Service has assessed the nature and severity of the Crown’s case – which can obviously effect sentence.
Costs – The advocate should be provided with the figure in advance of the hearing and with a breakdown where the figure is exceptional.

Standard 11: We will exercise our rights of appeal when we believe the court has made the wrong legal decision.

Standard 12: We will deal promptly and openly with complaints about our decisions and the service we provide.

Standard 6: We will prepare all our cases promptly so that guilty pleas can be entered at the earliest opportunity, and fair trials can take place on the appointed dates.

STANDARD 6 - COMMENT

Paragraph 6.12 – Where appropriate, consideration should be given to joinder of other persons and/or other allegations. The court should be informed of any complexities in the case that may mean longer than usual trial preparation and the need for additional case management procedures.

Paragraph 6.16 – The advocate(s) must be instructed sufficiently early for them to provide advice in time for it to be acted upon.

The advocate's instructions should detail all previous court orders and whether they have/have not been complied with.

The advocate must be of sufficient experience and with the requisite expertise for the type of case. Should two (or more) prosecuting advocates be required, this requirement must be identified and acted upon in good time.

Where necessary, but particularly in serious and/or complex cases, one or more case conferences should be held. These should take place at such a time and in such a place that, so far as possible, all of those required are able to attend.

Contact details (email and telephone) of the police officers(s) with conduct of the case could be provided to the advocate to facilitate the expeditious preparation of the case and in the event of last-minute requirements/changes. Communications between police officers and the advocate(s) should be recorded and notified to the CPS prosecutor and/or caseworker.

Unused material – At present there is no reference to the requirement that unused material should be assessed with regard to the defence case. There should be a clause stipulating that the defence will be pursued for their DCS – to enable effective secondary disclosure and to prevent 'ambush defences' at trial.

The advocate should be kept informed of the 'continuous review' of disclosure, with updated schedules of unused material (and the views of the prosecutor) being sent to the advocate.