



HMCPsi

HM Crown Prosecution
Service Inspectorate

An inspection of legal casework in the Health and Safety Executive

**An inspection of the quality of legal
casework by the Legal Services
Division in the Health and Safety
Executive.**

November 2025

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large print or in languages other than English.

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Who we are

HMCPST inspects prosecution services, providing evidence to make the prosecution process better and more accountable.

We have a statutory duty to inspect the work of the Crown Prosecution Service and Serious Fraud Office. By special arrangement, we also share our expertise with other prosecution services in the UK and overseas.

We are independent of the organisations we inspect, and our methods of gathering evidence and reporting are open and transparent. We do not judge or enforce; we inform prosecution services' strategies and activities by presenting evidence of good practice and issues to address. Independent inspections like this help to maintain trust in the prosecution process.

Our vision

We are part of the solution to improving the Criminal Justice System through high quality inspection.

We have four priorities to enable us to deliver this vision:

- We hold the CPS and SFO to account for what they deliver (we make recommendations that drive improvement)
- Victims will be at the heart of inspection (where we can, we will use victim experience in our inspection)
- Using our 25 years of experience we will help public prosecutors improve (their legal casework)
- Inspection will identify and spread best practice

Our values

We act with **integrity**, creating a culture of **respect**, drive **innovation**, pursue **ambition**, and commit to **inclusivity** in everything we do.

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1. Chief Inspector's foreword

The Health and Safety Executive (HSE) serves as the United Kingdom's principal authority on workplace health and safety. It is responsible for safeguarding people and the environments in which they live and work, promoting a culture of safety and wellbeing across all sectors by preventing work-related death, injury and ill health. In addition to protecting workers, HSE plays a vital role in providing public reassurance and in some instances prosecutes individuals and companies.

In 2022, HSE set up a new Legal Services Division (LSD), subsuming and replacing the Legal Advisers' Office, the previous legal services within HSE which provided operational advice and performed a limited prosecution function.

With the creation of LSD, there was a fundamental change to how HSE prosecuted cases. The decision to prosecute moved from inspectors (investigators) to an in-house HSE lawyer (prosecutor), providing a degree of separation between the investigation and the prosecution stages.

New processes and ways of working were required to support the expansion and the fundamental change to how legal decisions were made. LSD requested this inspection to assess the changes it had made, whether the revised process was delivering effective and efficient prosecutions and whether the standard of decision-making was of high quality.

It takes a high degree of organisational maturity to invite an inspection. HM Crown Prosecution Service Inspectorate (HMCPsi) does not have a statutory remit to inspect the HSE. When I was approached by the Director of Legal Services and met the Chief Executive of the HSE to discuss the request for an inspection, I was struck by the desire to test how far they had come, what more they could do and the genuine interest in using inspection to continue to drive change.

The findings of the inspection are generally positive. We found the quality of decision-making was strong and the standard of case analysis and strategy outlined by enforcement lawyers was good. The report sets out a number of strengths which reflects the commitment of LSD senior managers and the support from the rest of the HSE that has been received as the expanded team has settled.

There are some elements that could be improved. More clarity of expectation is needed, both within LSD and also across operations. It is not surprising that there is still some confusion and misunderstanding given the recent change, but LSD senior management could do more to engage and drive clarity.

Given the rapid increase in the size of the team, there are some aspects of casework governance that could be improved. In inspection of the Crown Prosecution Service (CPS), we see that where there are focused casework

conversations, learning and development is much more effective. HSE would benefit from a more structured approach to the management and assurance of casework.

However, it is impressive, given the scale of change that LSD and HSE as a whole has made, that we find that the creation of LSD and the separation of legal decision-making from investigation has broadly been seen as a positive step by senior leaders across the organisation and our findings show that it is producing high-quality legal decisions.

A handwritten signature in black ink, appearing to read 'Anthony Rogers', with a stylized, cursive script.

Anthony Rogers
HM Chief Inspector

2. Summary

Summary

2.1. The Crown Prosecution Service Inspectorate Act 2000 sets out the statutory basis for His Majesty's Crown Prosecution Service Inspectorate (HMCPSI) and its core role in inspecting the Crown Prosecution Service (CPS) and the Serious Fraud Office (SFO)¹. The Act also permits HM Chief Inspector to provide assistance to other public authorities for the purpose of the exercise by that authority of its functions². Where a public authority seeks HMCPSI's assistance, this is an inspection by invitation.

2.2. The Legal Services Division (LSD) is relatively young, having been introduced in 2022 to replace the Legal Advisors' Office (LAO) which had a more limited function. The most fundamental change resulting from the creation of LSD was to move the decision to prosecute (DtP) from an HSE inspector (investigator) to an in-house HSE prosecutor. Lawyers are now responsible for independently reviewing the evidence, applying the Code for Crown Prosecutors ('the Code') and making the decision to prosecute.

2.3. The pace of change has been rapid since 2022 and, given our significant experience in assessing the quality of legal casework within the CPS and SFO, we were invited by the Health and Safety Executive's (HSE's) Director of Legal Services to provide assistance to LSD by conducting an inspection of the quality of their legal casework. We agreed that we would conduct an inspection by invitation to assess whether LSD is effective and efficient in delivering high-quality legal casework.

2.4. Understandably, at the point we were invited to inspect, given the recent creation of the expanded unit and substantial change to HSE's processes, LSD's focus had been on the decision to prosecute stage. Therefore, the focus of our inspection was on the period from the submission of a case file for a decision to charge from an HSE inspector through to the first court hearing.

2.5. Overall, our findings are positive. The creation of LSD has been a significant and positive development for HSE, improving the quality of legal decision-making and providing a structure for a consistent prosecution approach across the organisation. LSD prosecutes the right people and companies for the right offences, and we saw evidence of a strong thinking approach to prosecutorial decision-making. It is not surprising given that LSD (in its expanded form) is still in its early development stage that we identified two themes – consistency and communication – that need to improve. Our view is that with clearer communication both internally within LSD and across the wider HSE family that

¹ Following amendment in 2014 to expand the remit to the SFO

² Section 6(1) Crown Prosecution Service Inspectorate Act 2000 as amended by the Police and Justice Act 2006

systems and processes will improve and offer more consistency. Focusing activity on clarifying roles and responsibilities and expectations will assist LSD in its continued development and should be priorities for sustaining progress and embedding best practice. A forensic and structured approach to identifying casework quality issues, setting targeted actions to deal with them, holding those responsible to account for delivery and then assessing the impact of those actions will also provide a clear structure for improvement.

2.6. We found that HSE provides extensive guidance for dutyholders and inspectors, but resources tailored for lawyers remain limited and some operational guidance is outdated. Much of this is due to the fact that guidance is yet to be updated to reflect the creation of the wider remit of LSD. Efforts are underway to update these materials and ensure public-facing documents accurately reflect the separation between investigation and prosecution. Internally, LSD has developed resource pages and templates, but we identified gaps in the provision of both in content and ease of access, and also in the locating of documents. This is contributing to inefficiencies and inconsistent practices. Clear standards and expectations for all LSD staff are needed to streamline decision-making and support less experienced staff.

2.7. We found strong compliance with procedural requirements of the DtP process with all but one of the cases we examined meeting the 12-week deadline for charging decisions. We found that while most cases meet the 12-week key performance indicator (KPI) for charging decisions, many are completed close to the deadline, with lawyers feeling under significant pressure. This prompted some workarounds that bypass agreed processes, including lawyers accessing HSE inspectors' folders directly on the IT system to find missing material. A consequence of cases being reviewed close to the deadline is that where further work is necessary, it can result in a late conversion of the case into an advice file which is sent back to the investigating officer; this can cause frustration in operation divisions and highlights that there is more to do to address some of the cultural challenges between legal and operational teams.

2.8. Through the expansion of the paralegal role and with clearer role definitions across LSD, the division aims to improve efficiency, reduce administrative burdens on lawyers and enhance timeliness. The involvement of the paralegal role in the DtP process will assist in addressing some of the recurring issues we saw with the quality of file submissions, such as missing documents that can cause delay and inefficiency. Monitoring timeliness across all stages, including paralegal reviews, will be essential to identify and address delays.

2.9. We found that the lawyers are generally delivering good quality legal casework, with strong compliance with the Code. We saw high-quality case analysis and trial strategy in the majority of cases we reviewed. Disclosure duties

and ancillary matters were generally handled well, and sentencing considerations were properly applied in most cases.

2.10. Case progression after charge is supported by high-quality case summaries in the majority of cases. Clarifying the standards and expectations around content and timeliness of the case summaries will improve consistency and efficiency at the post-charge stage. Communication with the courts and the defence is effective, but we found some evidence of inconsistent engagement with HSE inspectors which risks undermining collaboration and case quality. We found evidence of clear audit trails in most of the cases examined, however guidance on the use of case record logs needs strengthening.

2.11. HSE's service to victims and witnesses is broadly compliant with the Victims' Code and Witness Charter, but awareness of roles and responsibilities among staff is uneven, and guidance is not easily accessible. Most cases properly considered special measures and Victim Personal Statements, with some gaps in relation to identifying vulnerable victims and ensuring timely communication.

2.12. Victim letters and Victims' Right to Review (VRR) responses show good practice in some areas but require simplification and clearer timelines. Consolidating guidance documents and revising templates will improve consistency and empathy in communications.

2.13. At an organisational level, LSD has strengthened strategic engagement internally with operational divisions and externally with the courts, and improved casework quality, though governance and assurance processes need further development. Current performance data is limited to operational efficiency and cost recovery and does not capture the quality of legal decision-making. Incorporating casework quality assurance findings into performance reports and sharing insights with operational divisions would enhance transparency and support continuous improvement.

2.14. Governance structures require clearer action tracking and accountability. Assurance mechanisms such as thematic reviews and individual quality assessments (IQAs) provide valuable insights but need systematic evaluation and consistency in feedback.

2.15. Adopting and embedding a more structured approach to identifying issues and following through actions to assure impact will support a targeted approach to improve quality, consistency and effective communication.

2.16. The Senior Enforcement Lawyer (SEL) role is pivotal. As frontline legal managers as well as being part of the senior leadership of LSD, the SEL is key to delivering consistent high-quality casework and development of the enforcement lawyer (lawyer) cadre. LSD needs to consider the current remit of the SEL role to

ensure that they can maximise the value of this critical role to achieve consistently high-quality casework and to build the capability and capacity of the lawyers.

2.17. Training and development initiatives are in place, including plans for a dedicated training lawyer and structured training plans, but practical application and evaluation of impact remain limited. Expanding practical examples and fostering cross-team shadowing between lawyers and inspectors will strengthen capability and drive improvement.

Recommendations, compliance issues, issues to address and strengths

Recommendations
1. By December 2026, LSD will: a. develop, implement and embed clear guidance on the identification of guilty anticipated plea cases and not guilty anticipated plea cases b. develop and deliver joint mandatory disclosure training c. ensure all relevant disclosure legislation, guidelines and policy are complied with in casework. [paragraph 5.40]
2. By March 2026, LSD to have set and clearly communicated timescales for lawyers' engagement with inspectors and investigators on cases. By June 2026, the approach to be embedded. [paragraph 5.97]
3. By December 2026, LSD will have developed, communicated and embedded clear standards and expectations for all lawyers and paralegal roles. [paragraph 5.112]
4. By March 2026, LSD to have clearly communicated that lawyers must inform inspectors of the outcome of first hearings. By June 2026, to have assured that this is happening consistently. [paragraph 6.17]
5. By June 2026, LSD to have reviewed their victim and witness resources to ensure that: a. guidance is accessible and contains all relevant internal and public-facing documents in one place b. template letters contain: I. simple and easy to understand language and an appropriate amount of empathy II. specific dates by which the reader is required to reply. [paragraph 6.27]
6. By June 2026, LSD to incorporate file quality issues and the quality of legal decision-making into their performance metrics and ensure the data is analysed and shared at meetings with operational division

colleagues to identify issues, agree actions and monitor outcomes. [paragraph 7.17]
7. By December 2026, LSD to have reviewed the Senior Enforcement Lawyer (SEL) role to ensure their responsibilities enable them to focus on an increased grip of casework, developing the enforcement lawyer cadre and corporate contributions in accordance with the standards and expectations to be set. [paragraph 7.34]
8. By December 2026, LSD to have: a) reviewed their individual quality assessment process to improve casework quality and grip b) implemented a formal process for regular dip sampling of IQAs by the Deputy Directors. [paragraph 7.51]

Compliance issue
1. In all cases where the decision is to charge, lawyers should complete case summaries at the same time as the decision to prosecute (DtP). [paragraph 5.92]

Issues to address
1. LSD should review the file submission checklist and clarify the minimum requirement for file contents to reduce ambiguity around file acceptance and rejection. [paragraph 5.30]
2. The decision to prosecute form should be reviewed to remove unnecessary duplication and repetition. [paragraph 5.63]
3. LSD should implement mechanisms to capture key discussion points and track actions in Senior Management Team, lawyer and paralegal meetings, including assurance of outcomes and impact to provide greater accountability for change at all levels. [paragraph 7.32]
4. LSD should embed evaluation of impact into assurance reviews, with plans that define how the impact of actions taken will be measured. [paragraph 7.40]

Strengths
1. LSD demonstrates strong compliance with the Code for Crown Prosecutors ('the Code').
2. LSD delivers high-quality casework in relation to discharging disclosure duties, dealing with applications, ancillary matters, venues and sentencing.

3. LSD drafts high-quality clear and persuasive case summaries.
4. LSD effectively communicates with HM Courts and Tribunals Service (HMCTS) and the defence, leading to timely guilty pleas and efficient hearings.
5. LSD has a structured training plan for 2025–26, including specialist topics and engagement with the Crown Prosecution Service (CPS) for shared learning.
6. LSD broadly complies with the Victims’ Code and Witness Charter with positive engagement at court and timely requests for Victim Personal Statements in most cases.

3. Background and context

The Health and Safety Executive

3.1. Prior to 1974, safety rules existed but were inconsistent and scattered across many different places. The Health and Safety at Work etc. Act 1974 (HSWA) introduced a new, more flexible system focused on goals-based regulations and supported by guidance and codes of practice³. HSWA also established the Health and Safety Commission (HSC), responsible for providing the overall strategic direction of health and safety legislation and regulation.

3.2. The Health and Safety Executive (HSE) was formed on 1 January 1975 as the operational arm of the HSC with a remit to enforce health and safety legislation in all workplaces, except those regulated by local authorities. In 2008, HSC and HSE merged their powers and functions to become a single entity retaining the name 'Health and Safety Executive'. The merger aimed to strengthen the links between strategic goals and the day-to-day operational delivery of health and safety regulations, improving effectiveness and public accountability.

3.3. Today, HSE serves as the United Kingdom's principal authority on workplace health and safety. It is a government-appointed body responsible for safeguarding people and the environments in which they live and work, promoting a culture of safety and wellbeing across all sectors by preventing work-related death, injury and ill health⁴. In addition to protecting workers, HSE plays a vital role in providing public reassurance, ensuring that individuals feel secure not only in their workplaces but also in their communities and everyday surroundings.

The creation of the Legal Services Division

3.4. Traditionally legal services within HSE were provided by the Legal Advisers' Office (LAO). The LAO was small, with approximately 24 members of staff including legal managers, lawyers and paralegals. The LAO provided operational advice and performed a limited prosecution function.

3.5. The LAO's role was limited as the majority of HSE prosecutions were instituted and prosecuted in court by HSE inspectors. Those cases not suitable for an inspector to prosecute (for example, owing to complexity or a Crown Court trial) were handled by either LAO or, more usually, Solicitor Agents acting on behalf of HSE.

³ HSWA received Royal Assent on 31 July 1974

⁴ HSE is an executive non-departmental public body, sponsored by the Department for Work and Pensions

3.6. In 2022, HSE set up a new Legal Services Division (LSD). The first and fundamental change was to move the decision to prosecute (DtP) from the inspector (investigator) to an in-house HSE prosecutor. This provides a degree of separation between the investigation and the prosecution stages, providing an independent assessment by the LSD lawyer of the material gathered by the investigator during the course of the investigation. Lawyers are now responsible for reviewing the evidence, applying the Code for Crown Prosecutors ('the Code') and making the decision to prosecute.

3.7. The new approach required a much larger legal team, resulting in the initial recruitment of three senior enforcement lawyers (SELs), nine enforcement lawyers (lawyers) and three paralegals. Many of the lawyers recruited to LSD came from the Crown Prosecution Service (CPS). While they had experience in the criminal justice system and applying the Code, their experience in respect of Health and Safety law and the regulatory framework was limited.

3.8. In addition, the Business Support Unit (BSU) was created along with a new Head of Paralegal role to oversee both the paralegal teams and BSU.

3.9. To support the expansion and the fundamental change to the legal decision-making process, LSD had to implement new ways of working in several operational areas. These included the allocation of cases to lawyers and SELs, the allocation of project responsibilities through corporate contributions, the method by which cases were updated on IT systems and the expectations on how decisions would be recorded.

3.10. LSD also took on wider responsibilities to support the Freedom of Information (FOI) team, initially working on a backlog of internal review cases and subsequently assuming responsibility for dealing with civil disclosure orders. This required new processes and training to be put in place to ensure staff were able to deal with this type of work.

Context

3.11. The Director of Legal Services (DLS) is the head of LSD and is supported by four Deputy Directors, 12 SELs and one Paralegal Business Manager. Since joining HSE in January 2023, the DLS has prioritised enhancing the visibility and strategic role of LSD, both internally within HSE and to external stakeholders, and equipping staff with the necessary resources and tools to support efficient and effective service delivery.

3.12. Since its establishment in 2022, LSD has expanded significantly, forming an advisory team and recruiting across all grades. The DLS continues to foster collaborative relationships between LSD and other HSE divisions, with particular focus on the impact of LSD on the role of inspectors.

3.13. At the time of writing LSD has 74 members of staff⁵. This includes five SELs, 18 lawyers and 33 support staff. The enforcement team is currently carrying five vacancies: two SELs and three lawyers.

3.14. SELs line manage lawyers, carry their own caseload and have corporate responsibilities. Lawyers have responsibilities that extend beyond making decisions to prosecute; these include providing advice to colleagues in operations divisions on issues including statutory interpretation, application of regulations and the fee for intervention scheme. They will also deal with appeals brought by dutyholders who have been issued with prohibition and improvement notices, and fatality cases that are subject to the Work-Related Deaths Protocol (WRDP).

3.15. Following their creation, LSD initially concentrated on establishing internal standards and processes to support the fundamental legal decision in each case; whether to prosecute. This focus reflected the fact that approximately 95% of prosecutions result in a guilty plea, making it the most developed area of their work. Consequently, we focused our inspection on the pre-charge stage where we could add the most value, specifically from the submission of a file for a decision to prosecute through to the first hearing.

3.16. HM Crown Prosecution Service Inspectorate (HMCPSI) inspects organisations against their own internal standards rather than setting external benchmarks. This inspection encompassed key areas including the decision to prosecute, the service to victims and witnesses, LSD assurance mechanisms and training. While LSD's focus has since expanded to include early advice and post-charge case progression, our evaluation remained centred on the pre-charge phase to ensure a thorough and meaningful assessment.

⁵ In addition to the enforcement team there is an advisory team of ten lawyers who are responsible for statutory drafting and providing policy advice. There is also a Building Safety Division comprised of nine staff including senior lawyers, lawyers, a Paralegal Manager and paralegal officers. They include a professional disciplinary arm and provide advice to operations divisions and the policy team and are responsible for enforcement in this specialist area. They are soon to form part of the newly formed Building Safety Regulator.

4. Framework and methodology

The inspection framework

4.1. In line with our methods, each inspection has an inspection question that allows us to gather evidence to support our findings. The overarching question for this inspection was: Does the Health and Safety Executive (HSE) prosecute the right cases effectively and efficiently delivering high-quality casework?

4.2. As well as the high-level inspection question, we develop underlying inspection criteria to ensure that we can test our evidence and findings. In this inspection there were five criteria:

- Is the decision to prosecute process supporting the Legal Services Division to make high-quality and timely decisions?
- Does LSD properly deal with victim and witness issues in its casework, and is there effective communication with victims in accordance with the Code of Practice for Victims of Crime?
- How effective are LSD's internal and external strategic partnerships and what impact do they have on LSD's ability to deliver high-quality casework?
- How effective is LSD at training lawyers to deliver high-quality casework?
- Does LSD's internal quality assurance regime support improvement in case work quality?

4.3. Each criterion has sub-questions supporting the overall aim of the inspection. The full framework for this inspection is set out in annex A.

Methodology

Case file examination

4.4. We use a variety of methods to gather evidence to enable us to answer the specific inspection question. In this inspection, we were invited to assess the quality of LSD's legal casework, so we included an assessment of a selection of LSD's cases.

4.5. HSE LSD prosecutes approximately 300 cases per year, 95% of which result in early guilty pleas. To ensure a representative sample, our inspectors examined 20 cases where the anticipated plea was guilty. The cases examined were a mixture of recently finalised matters and some which were live at the time of inspection. In addition, inspectors also examined six cases where the decision was made to take no further action (NFA) at the pre-charge stage. Two cases involved a Victims' Right

to Review (VRR) and a further two included letters to victims. We assessed both the decision-making and the quality of victim communication⁶.

4.6. We selected cases that reflected the range of casework offences handled by LSD. Case examination enabled inspectors to assess the quality, recording and timeliness of legal casework and the effectiveness of case handling and victim issues.

4.7. To support our assessment of casework quality, we undertook training in health and safety law and the relevant regulatory framework. This training, combined with our extensive expertise in examining casework within the Crown Prosecution Service (CPS), enabled us to evaluate the quality of legal casework with confidence.

Interviews and focus groups

4.8. Interviews and focus groups were held with HSE staff and relevant external stakeholders. Inspectors conducted interviews with a number of strategic leads in the operational divisions including the Director of Investigations, Director of Office of Regulation, the Head of Regulatory Practice, Director of Energy Division, Director of Specialist Division, Director of Chemicals, Explosives and Microbiological Hazards Division (CEMHD) and the Director of the Engagement and Policy Division. Several focus groups were held with inspectors, the majority of whom worked in the investigations division, however we also spoke to inspectors working in the inspections division and CEMHD.

4.9. Within LSD we interviewed the Director of Legal Services, two Deputy Directors and the Head of Paralegal. We also carried out focus groups with senior enforcement lawyers (SELs), enforcement lawyers, paralegal managers and paralegal officers and assistants.

4.10. We also interviewed a defence solicitor and a District Judge who regularly deal with HSE prosecutions.

Document Review

4.11. In addition to examining case files and conducting interviews, documents were requested from LSD, both prior to and during the inspection. Inspectors examined material relating to the quality of legal casework, performance data, training, assurance and governance.

⁶ LSD complete charging decisions using a decision to prosecute (DtP) form. Since the creation of LSD there have been five versions of the form. Of the 26 files we examined, 13 were completed using version five, 10 using version four and one using version three. In the remaining two files the decisions to take no further action were completed on a specific NFA form (unlike the other four which were all completed on DtP version five).

4.12. This inspection was led by senior legal inspector Rachael Pavion. She was assisted by legal inspectors Giles Bridge, Gavin Hernandez and Helen Lee. The inspection was supervised by Deputy Chief Inspector, Lisa Morris, and supported by Shauna Compton and Ben Hayter.

5. Casework standards and expectations

Standards and expectations

5.1. Health and Safety Executive (HSE) lawyers make prosecution decisions within a defined legal framework. To evaluate the standards expected of them, we examined the context in which they operate and the information they use to guide their decisions.

HSE legislation and guidance

5.2. The Health and Safety at Work etc. Act 1974 (HSWA) is the cornerstone of occupational health and safety legislation in Great Britain. It is primary legislation which sets out the general duties of employers, employees and self-employed individuals.

5.3. In addition, there are many HSE Statutory Instruments, often referred to as regulations and known as secondary legislation, which are enforced by HSE to prevent work-related illness, injury and death⁷. Regulations cover specific matters including working at height, use of machinery, working on construction sites, control of asbestos and management of hazardous materials. Each regulation sets out the relevant legal duties and is usually accompanied by an Approved Code of Practice (ACOP) which provides practical advice for dutyholders on how to comply with requirements.

5.4. HSE has also published numerous guidance documents to support both dutyholders and their inspectors. Dutyholder guidance clarifies legal responsibilities and risk management, while operational guidance and circulars - some of which is publicly available - assists HSE inspectors with inspections and investigations. These documents often include legal context, practical advice and background information to support HSE investigations and inspections.

The Enforcement Policy Statement

5.5. HSE's approach to enforcement is set out in their Enforcement Policy Statement (EPS) which outlines the general principles that HSE employees (and local authorities) should follow when considering enforcement⁸.

5.6. The EPS emphasises that the purpose of enforcement is to prevent harm by requiring dutyholders to manage and control risks effectively. Risk is given a broad definition and includes a source of possible harm, the likelihood of that harm occurring and the severity of its outcome. There are five principles of enforcement: proportionality, targeting, consistency, transparency and accountability.

⁷ Secondary legislation is law created by ministers or other bodies under powers given to them by an Act of Parliament, in this case the Health and Safety at work etc. Act 1974.

⁸ [HSE - Enforcement Policy Statement](#) (EPS)

5.7. Health and safety duties are either specific and absolute, or conditional, requiring action only *so far as is reasonably practicable*⁹. HSE inspectors are expected to apply their professional judgement in determining what is reasonably practicable. This involves assessing the adequacy of protective measures and weighing the level of risk against the cost, time, and resources needed to mitigate that risk.

The Enforcement Management Model

5.8. HSE implements the EPS through the Enforcement Management Model¹⁰ (EMM). The EMM provides HSE inspectors with a framework to assist in making consistent enforcement decisions. It is also a tool through which managers can monitor the fairness and consistency of those decisions, as well as helping dutyholders and Legal Services Division (LSD) lawyers understand the principles followed by inspectors when deciding on a particular course of action.

5.9. HSE inspectors follow a process to assist them in determining what enforcement action to take. Enforcement options include the issuing of prohibition notices, improvement notices and prosecution. The higher the risk and the more serious the failure to meet a standard, the more likely a prosecution.

The Enforcement Guide

5.10. HSE has developed an Enforcement Guide for England and Wales, designed primarily for HSE inspectors and other agency enforcement officers. The guide outlines the relevant laws and legal practices concerning the criminal enforcement of health and safety duties.

5.11. At the time of writing, there were two versions of the guide in existence. An external version that could be accessed through the HSE public website directed the user to the national archives¹¹. The internal version was available for all employees through the HSE intranet. It was described as a key legal reference for all stages of the enforcement process that should be considered by everyone involved in health and safety enforcement work.

5.12. We compared the internal and external versions. While we would not expect them to be identical, as the internal version contains additional information on policies and procedures, the external version had not been updated since November 2021 (we are advised that this is because it is no longer in use and is now archived). Since then, there have been further developments in relation to disclosure and case management in the Crown Court. The internal version was revised in April 2025 to reflect the revisions to the Attorney General's Guidelines on Disclosure 2024 (AGGD)¹². LSD has recognised the risk and is currently working

⁹ Paragraph 5.5 EPS

¹⁰ [HSE - The Enforcement Management Model \(EMM\)](#)

¹¹ [HSE Enforcement Guide \(England & Wales\) - HSE](#)

¹² [Attorney General's Guidelines on Disclosure - 2024.pdf](#)

with the HSE's communications team to agree an approach to update the external-facing document. This should be completed as soon as practicable for accuracy and consistency.

The Code for Crown Prosecutors

5.13. HSE has adopted the Code for Crown Prosecutors (the Code) which provides guidance to prosecutors on the principles to be applied when making a decision to prosecute (DtP)¹³. Enforcement lawyers are required to apply the Full Code Test which consists of two stages: evidential and public interest. They must first decide whether there is sufficient evidence for a realistic prospect of conviction, before then considering whether a prosecution is in the public interest.

5.14. In HSE cases, the lawyer must also then consider a number of factors specific to HSE prosecutions, which, if applicable, indicate that it would be in the public interest to prosecute¹⁴. These include where a death was the result of a breach in the legislation, where there has been reckless disregard of health and safety requirements and where there have been repeated breaches which give rise to a significant risk, or persistent and significant poor compliance.

Principles and standards for HSE enforcement lawyers

5.15. In addition to the Code, HSE published a guidance document for lawyers on the public-facing website in May 2025, and on the HSE intranet in July 2025¹⁵. It outlines the high-level principles and standards legal teams are expected to work to when making decisions to prosecute and when selecting advocates to prosecute a case at court.

5.16. Within the guidance document there are a set of casework quality standards which lawyers are expected to follow. They must ensure they apply the relevant law and guidance correctly when deciding whether to authorise charges and when deciding which charges to select, and when reviewing cases and making decisions post-charge.

HM Crown Prosecution Service Inspectorate findings

5.17. HSE has developed a wealth of guidance and information to assist dutyholders and inspectors understand their legal duties and how to comply with requirements. There is much less guidance available that is specifically directed at lawyers. Some guidance that is accessible on the HSE website, aimed at supporting the operations divisions and dutyholders, is outdated and describes a prosecution process that no longer exists following the creation of the LSD, and was drafted when HSE inspectors were making decisions to prosecute. We understand that work is currently underway to update the guidance, led by the

¹³ [The Code for Crown Prosecutors | The Crown Prosecution Service](#)

¹⁴ Paragraph 16.0 EPS

¹⁵ [Principles and standards for HSE enforcement lawyers](#)

Director of Regulation in liaison with operations divisions to remove outdated guidance and update circulars.

5.18. LSD should ensure the separation between investigation and prosecution is accurately reflected in public-facing documents. This will enable dutyholders and the wider public to have a better understanding of what HSE does and how LSD prosecutes cases.

5.19. While LSD has developed a resource page on the HSE intranet containing training materials, case law, and templates to support legal and business staff, it lacks direct links to key HSE guidance and operational circulars essential to effective prosecutorial decision-making.

5.20. This gap reflects a broader issue identified during the inspection that is a theme throughout this report, and which is reflected in recommendation three: the absence of clear standards and expectations for lawyers. Providing structured access to relevant guidance would streamline decision-making, reduce time spent searching for documents, and promote consistency across DtPs. It would also support less experienced lawyers in delivering high-quality casework.

The decision to prosecute

Initial file submission

5.21. HSE inspectors must ensure LSD is sent all key evidence and relevant material when submitting a file for a charging decision. Inspectors and their seniors, known as principal inspectors (PIs), have regular discussions as investigations progress to ensure matters are carefully considered, including the pursuit of reasonable lines of enquiry and whether individuals should be treated as suspects or witnesses. Before submission of a file to LSD, the PI should confirm that the file contains all relevant material, that reasonable lines of enquiry have been completed, and that the evidential and public interest factors indicate a prosecution should be considered.

5.22. Inspectors are required to complete the Investigation Management, Planning and Capture Tool (IMPACT) to record key information and reviews throughout the life of an investigation. IMPACT contains a specific section to be completed on referral to LSD and is one of the key documents that must be sent to LSD when seeking a DtP.

5.23. Once a file is ready for submission it is passed to a Litigation Officer (LO) – where they are in place – or a member of the administrative support team who arranges the material into three bundles: bundle one contains supporting documents such as the IMPACT, an enforcement assessment record, site overview material, PNC checks, Companies House searches, the evidence matrix and relevant disclosure material. Bundle two contains statements and Bundle three contains exhibits.

5.24. Administrative support staff or LOs are then required to complete a file submission checklist to ensure they are sending through all relevant material, and to enable LSD to complete an initial file triage on receipt.

The triage process

5.25. Paralegal assistants (PAs) use the checklist to carry out an initial triage to ensure key material is present. This task is administrative, with no assessment of the quality of material received. If items are missing, the PA should notify the inspector, and the file will not be sent to a senior enforcement lawyer (SEL) for allocation. Missing material therefore risks delaying the DtP.

5.26. In our file examination, LSD accepted 22 out of 26 cases (84.6%) on initial submission, with most cases being accepted. As set out above, however, work is sometimes required post-charge to locate specific missing items. In the four cases that were not accepted, common issues included problems with the bundles and missing Police National Computer (PNC) checks.

5.27. Our review of LSD's internal documents confirmed these findings. They highlighted recurring omissions such as missing statements, exhibits and evidence matrices, unsigned inspector statements, missing disclosure schedules and an absence of rebuttable presumption material¹⁶. This is despite an LO or administrative review and checking by the PI.

5.28. The issue of unsigned inspector statements was raised by inspectors and lawyers during our focus groups and interviews. Historically, before there was any administrative triage, inspectors sent solicitor agents unsigned statements as a matter of course. Since the creation of LSD there is inconsistency, with some lawyers rejecting files where statements are unsigned and others not. This has created a degree of uncertainty and confusion between inspectors and lawyers.

5.29. We heard from PAs who often took a pragmatic approach to missing material, particularly if it was a single document or a minor issue. Instead of rejecting a file, they would contact the inspector directly to request the item, thereby shortening any delay in file progression. We saw evidence of this in our file examination when a PA noticed formatting issues with bundles; they emailed the PI directly and updated bundles were sent through the following day.

5.30. We also found examples of issues with files post-allocation that could have been resolved at triage. For example, in three cases the IMPACT document was missing, and in two cases the PI had not signed off the IMPACT as required.

¹⁶ Rebuttable presumption material refers to material gathered during an investigation that is usually relevant and often needs to be disclosed. Investigators and prosecutors should assume this material will be disclosable, unless that presumption can be rebutted by application of the disclosure test.

Issue to address
LSD should review the file submission checklist and clarify the minimum requirement for file contents to reduce ambiguity around file acceptance and rejection.

5.31. Lawyers also expressed some frustration about how bundles are put together, which can make it harder to review material. We heard examples of exhibits being upside down and evidence not properly referenced. This results in lawyers spending time reorganising documents and bundles rather than focusing on reviewing the material received. It is hoped that the expansion of the paralegal team, which we explore at paragraph 5.56, will resolve these issues.

5.32. When we spoke to senior managers in the operations divisions, there was an acknowledgement and acceptance that file quality is being adversely affected by a high turnover of inspectors, a lack of LOs and the limited experience and exposure inspectors have in file building. One particular aspect of file building that was a cause for concern for HSE related to the disclosure of unused material.

Unused material and disclosure duties

5.33. HSE inspectors gather material during an investigation, some of which will be presented in court as evidence. Unused material describes material that is relevant to the case but not used as evidence, and inspectors and lawyers have a legal duty to properly consider that material. The test set out in section 3 of the Criminal Procedure and Investigations Act (CPIA) 1996 is that any material that might reasonably be considered capable of undermining the case for the prosecution, or of assisting the case for the accused, is disclosed to the defence¹⁷.

5.34. In accordance with the AGGD 2024, investigators are required to pursue reasonable lines of inquiry and keep a record of all material relevant to the case, including that which will not be used as evidence in the prosecution case. Investigators must prepare disclosure schedules for review by the prosecution. The schedules should detail all relevant material, and descriptions of material must be clear and sufficiently detailed to enable lawyers to make an informed decision on whether the material should be disclosed.

5.35. Where investigators seek a charge on the Full Code Test and it is anticipated the defendant will plead not guilty; the schedules of unused material should be included in the file submission. If the anticipated plea is guilty, schedules are not required. We found no written guidance outlining how to identify anticipated guilty and not guilty plea cases. This has contributed to some

¹⁷ [Criminal Procedure and Investigations Act 1996](#)

tensions between inspectors and lawyers, with inspectors often of the view that the case should be built as an anticipated guilty plea and lawyers in some cases disagreeing, requesting disclosure schedules and encountering pushback. We also found a lack of clear communication from lawyers who were adopting inconsistent approaches when requesting disclosure schedules from inspectors: some insisted they were necessary, while others did not.

5.36. Some inspectors told us they lacked confidence and experience in dealing with unused material. This is understandable, particularly as most cases prosecuted by HSE result in early guilty pleas without the need for preparation of disclosure schedules. However, the AGGD 2024 is clear that consideration of disclosure issues is an integral part of the investigation and not something that should be considered in isolation¹⁸. Disclosure duties should be at the forefront of investigators' minds from the outset of an investigation.

5.37. LSD has taken a proactive approach to building knowledge and confidence for inspectors with lawyers designing and delivering various disclosure training events, including roadshows and a one-day disclosure course. The feedback from inspectors was mixed, with no attendees at one roadshow with voluntary attendance, and a perceived lack of consistency from those delivering sessions.

5.38. We understand that the current position between the operations divisions and LSD is that for complex and lengthy cases where the anticipated plea is not guilty, schedules do not have to form part of the file submission for a DtP but should be produced as soon as possible thereafter. We were told by LSD that this exception was being applied too broadly, including to cases that do not meet the criteria. Irrespective of this wider application, HSE's current position does not align with current legislation and guidance.

5.39. The lack of confidence and in some instances the inexperience of inspectors is not helped by lawyers adopting inconsistent approaches to disclosure expectations. Greater grip of disclosure is required, as there are clear and obvious risks to the effective administration of justice and public confidence if disclosure duties are not fully complied with.

5.40. It is important that a clear stance is taken on the identification of anticipated guilty and not guilty cases, and the expectations on disclosure moving forward. Setting and communicating clear standards and expectations with assurance, to ensure compliance, will mitigate the risk of non-compliance with disclosure duties.

¹⁸ AGGD 2024 paragraph 14

Recommendation 1

By December 2026, LSD will:

- a. develop, implement and embed clear guidance on the identification of guilty anticipated plea cases and not guilty anticipated plea cases
- b. develop and deliver joint mandatory disclosure training
- c. ensure all relevant disclosure legislation, guidelines and policy are complied with in casework.

Timeliness of the decision to prosecute

5.41. Once a file has been accepted following triage by a PA, it is sent to an SEL for allocation to a lawyer. LSD has set a 12-week key performance indicator (KPI) for the lawyer to reach a charging decision, which begins when the file has been accepted following triage.

The allocation process

5.42. At the time of writing there were five SELs working in LSD who met weekly to discuss the allocation of cases and any other managerial matters arising. At the time of writing, SELs had their own caseload, comprising the more complex matters referred to LSD.

5.43. Documents we reviewed outlined that allocation was based on several factors including the capacity of the lawyer, the nature and complexity of the case, any prior involvement the lawyer may have had, and where possible personal development objectives and individual preferences. To assess the complexity factor, DtP cases were graded A-D based on the nature of the case and given a score within that grade, which was dependent on certain criteria. This included the number of dutyholders, the likely plea and the volume of evidence¹⁹.

5.44. Our opinion is that the allocation process was reasonable and fair. We were informed that an allocation spreadsheet is available to all lawyers, and we reviewed monthly performance data showing individual caseloads. Training on the allocation process has been delivered, which should support transparency and

¹⁹ Grade A cases will be guilty plea, single or dual dutyholder cases with little or no complexity. Grade B cases include less complex not guilty plea cases, potentially with more than one dutyholder, or more complex guilty plea cases. Grade C cases involve more complexity, with a greater volume of evidence to consider and may involve legal or reputational risk and/or high-profile defendants. Grade D cases are the most complex and high-risk cases and may include politically sensitive enquiries or require assistance from overseas authorities or other corporate entities. They also include cases involving vulnerable individuals and single or multiple fatalities.

provide reassurance that work is being distributed fairly across the division. However, some lawyers described the process as confusing and secretive and commented that allocation was not routinely discussed in team meetings. We were told that some lawyers felt that the process was not consistently applied.

5.45. The allocation data we reviewed provided a general overview of the number and category of cases assigned to each lawyer. However, it did not include information on case grading or scoring for each lawyer. We recognise that allocation decisions may be dependent on individual circumstances, some of which may be confidential. The SELs have a role to play in engaging with their lawyers about allocation within regular one-to-ones in their role as frontline legal managers. Conversations with lawyers about their workload would not only help promote fairness in the allocation process but also help them to maintain a grip of casework and identify issues at an early stage. Our focus groups, interviews and document review did not assure us that there was this degree of grip and casework management by SELs.

Timeliness of allocation

5.46. We examined 26 LSD cases in this inspection. The average time from triage acceptance to allocation was four working days, ranging from the same day to seven working days. Five cases were allocated on the same day the case was accepted following triage, ten within five working days and 11 cases allocated at least five working days after triage acceptance. This means that some lawyers will be placed under more pressure than others to meet the overall KPI due to the timing of allocation. We understand that delays in allocation can result from factors including the volume of files submitted which LSD cannot control and limited time for SELs to allocate cases during their weekly one-hour meeting. Capacity at SEL and lawyer levels may also have contributed to delays.

Timeliness of DtP completion

5.47. We found that DtPs were timely, with 25 out of the 26 cases (96.2%) we reviewed compliant with the 12-week KPI. This is positive. The one case that missed the KPI did so by four days. Further analysis revealed that in ten of the 25 cases (40%) that met the KPI, the decision to prosecute was made very close to the time limit. In three cases, the DtP was sent on the 12-week date provided, and in seven cases it was sent on or after 11 weeks.

5.48. Some lawyers told us they felt under significant pressure to meet the KPI on their cases and indicated that they thought because of their current caseload they would exceed the KPI target as they had too much work. To reduce the risk of delay and not meeting KPIs, some lawyers were bypassing the agreed process and accessing inspectors' folders on the IT system if the bundles they received were missing material. While well-intended, workarounds such as these represent missed opportunities for inspectors to receive feedback on file quality that would

positively impact on future submissions and to build rapport with their colleagues on operations divisions.

5.49. Our findings, while positive in relation to the timeliness of DtP, highlight some issues that need improved management oversight of casework. Increased communication between the SEL and lawyer at the time of allocation to explain the case category, graded score and the SEL's estimated timeframe for DtP completion would support effective lawyer time management and be a further way to ensure SEL grip. Ongoing conversations through regular one-to-ones would also identify where lawyers had either capacity or capability issues affecting their ability to progress cases efficiently and effectively. These would provide opportunities for the SELs to coach, mentor and develop their enforcement lawyers as well as deal with specific 'pinch points'. We make a specific recommendation at 5.112 to address this matter.

Conversion of DtP to an advice file

5.50. If a lawyer cannot apply the Full Code Test following review, the case is converted from a DtP to an advice file. Actions are set by the lawyer for the inspector who should complete those actions before resubmitting the file for a DtP. The 12-week KPI is reset when a case is converted and there are currently no KPIs in place for the time taken by inspectors to complete the necessary actions. While LSD is monitoring the date the DtP file was received and the date it was then converted to an advice file, we found no evidence of communication between operations divisions and LSD to ensure files were returned for a DtP in a timely manner.

5.51. HSE inspectors told us of their frustration when receiving a decision from LSD close to the 12-week time limit to convert the case to an advice file. We found evidence of this in our file examination findings. Of the 26 files reviewed, five were converted to advice files before being resubmitted for a decision to prosecute. In four out of the five cases, the decision to convert was made after ten weeks, with one file returned two days before the 12-week KPI. Clearly, this has an impact on HSE inspectors managing their own workloads and can contribute to significant delay in cases that may have an impact on victims or bereaved families.

5.52. HSE's performance data supported our findings. We reviewed a spreadsheet that recorded the number of DtPs converted to advice files and noted that 11 out of the 24 cases (45.8%) listed were converted with less than a week until the KPI expiry²⁰. In five of those 11 cases (45.5%) the decision to convert was made on the 12-week KPI date provided, and in three cases the decision was made the day before the expiry of the KPI.

²⁰ The spreadsheet contained a list of cases up to 05.08.25

5.53. While it is important to highlight that the KPI is being met in the vast majority of cases, some inspectors perceive the lawyers to be waiting until the last minute to review the case and then deciding to convert it to an advice file, while lawyers explained feeling under pressure due to current caseloads. We also suggest that better grip by SELs and structured one-to-one conversations between SELs and enforcement lawyers will help LSD understand if resource challenges are leading to late conversion of DtPs to advice files.

5.54. This disconnect may be representative of a wider cultural issue following the restructuring at HSE and the creation of LSD. Increased communication between lawyers and inspectors and rapport building from the outset of a case will lead to better understanding of each other's roles and workloads which in time should improve both efficiency and quality. We discuss communication expectations further at 5.93 to 5.97.

Paralegal involvement following file submission

5.55. At the time of inspection, LSD was expanding its paralegal team to improve efficiency in the initial stages of the DtP process. This was in recognition that the process in place was not the most efficient or offering best value as lawyers and SELs were doing work that Paralegal Officers (POs) could do, and POs completing work that Paralegal Assistants (PAs) could do. This not only created inefficiencies but led to reduced morale, high PO turnover and a continuous cycle of staff induction and training due to limited PO development opportunities.

5.56. In the new process, PAs will complete an initial administrative triage. POs will then complete an initial assessment of the quality of material submitted, compile bundles for the lawyers and liaise with inspectors. Adopting the changes is likely to reduce PO turnover and mean that lawyers will be able to focus on reviewing files rather than spending time on administrative tasks. This should lead to more timely decisions to prosecute, increased capacity to deal with early investigative advice files and a more efficient service for victims and their families and have a positive impact on public confidence.

5.57. This is a positive development, promoting efficiency and value for money. It also provides an opportunity for LSD to review and clarify the roles, standards and expectations for its paralegal and legal staff. It should also support more and consistent feedback on file quality to operations divisions. This is particularly important given that not all divisions have dedicated LOs.

5.58. LSD currently captures timeliness data for PA triage, lawyer allocation and lawyer review. To strengthen this process, the scope should be expanded to include timeliness of PO reviews. Monitoring this data would then enable LSD to identify where any delays were occurring and address issues in a focused manner.

Quality of the decision to prosecute

5.59. It is of the utmost importance that every decision to charge or take no further action is of high quality, and we looked at several aspects of the decision to prosecute during our file examination. Lawyers evidence their decisions by completing a specific form, referred to as the DtP, which has been the subject of revision and update since the creation of LSD²¹.

5.60. The current DtP form (version five) is a comprehensive document divided into two sections: overview and application of the Code. These contain prompts and guidance to help ensure all relevant information and decision-making rationale is included. Substantial changes have been made to the narrative and structure of the form since its inception, particularly in relation to the decision-making process.

5.61. At 12 pages, the template is a lengthy document. The consensus from lawyers during focus groups was that they found it cumbersome due to the amount of repetition. Our file examination findings on the quality of the DtP review are largely positive and while the document is substantial, it clearly includes the standards and expectations in relation to lawyer action needed.

5.62. Senior leaders expressed the view that the template as drafted was needed, given the findings of an internal assurance exercise conducted in November 2024 which examined decisions to take no further action and revealed that there were inconsistencies in approach. The inclusion of standards and expectations in the document serve as a reminder of what is required on each decision.

5.63. While we accept including standards and expectations in the DtP form is necessary, there are some areas of repetition within the form. This repetition is mainly in relation to inputs required for the offences charged and alternatives, and details of sentencing and applications. This is unnecessary and an inefficient use of lawyers' time.

Issue to address
The decision to prosecute form should be reviewed to remove unnecessary duplication and repetition.

²¹ Version one was used from April 2022 until January 2023, version two from January – June 2023, version three from June 2023 – June 2024, version four from June – December 2024 and version five from January 2025 onwards.

Application of the Code

5.64. As stated above, HSE has adopted the Code for Crown Prosecutors ('the Code') and considers additional regulatory public interest factors when making decisions to prosecute. There is an expectation that the DtP will include specific reference to the Full Code Test, clearly stating whether there is a realistic prospect of conviction.

5.65. In our file examination we found the Code was properly applied in 19 out of the 20 cases (95%) that were charged, and in all six no further action (NFA) cases. This is positive evidence that the work done to improve application of the Code following the NFA review has had a direct impact on the quality of the DtP.

Evidence of case strategy and analysis

5.66. In addition to applying the Code and making the correct charging decision, lawyers should demonstrate a thinking approach in their reviews, including high-quality analysis of material and a clear case strategy.

5.67. Guidance within the DtP form requires lawyers to evaluate the strengths and weaknesses of the evidence for each charge against each defendant. Prompts include the need to consider reliability, credibility and compellability of witnesses, how this impacts the strength of the evidence, an analysis of any evidential gaps or conflicts in the evidence, issues of admissibility, any admissions or defences raised as well as the impact of any material which may undermine the prosecution or assist the defence.

5.68. In our file examination we found that most lawyers demonstrated a thinking approach to their casework; we did not assess any of the 26 cases we examined as not meeting the standard. This is a significant finding. We would have assessed a case as not meeting the standard at all if there was minimal or no trial strategy or where the case analysis was poor, e.g. failing to address the admissibility of the evidence of key witnesses or likely defences.

5.69. We assessed that 15 out of 26 DtPs (57.7%) contained high-quality analysis and a clear case strategy and therefore fully met LSD's required standard. We assessed the remaining 11 cases (42.3%) as partially meeting the standard, as there were either some omissions deemed less critical to the trial strategy or analysis, or areas where more clarity was required.

Case Study

In a case we assessed as fully meeting the required standard for case analysis and strategy, the dutyholder was a waste recycling company and the injured party (IP) was employed to carry out vehicle maintenance. On the day of the incident, the IP was working on a hydraulic loading shovel that had a leak. He

asked the driver to raise the shovel and then turn off the ignition. While working on the leaking pipe the shovel came down, crushing him between the shovel arm and the wheel, causing multiple fractures.

The allocated lawyer produced a careful and thorough review of the evidence, making clear reference to relevant case law and including a sensible and persuasive explanation as to why a section 2 HSWA 1974 offence was made out, as well as articulating a coherent case strategy. They included appropriate consideration of regulation 3 Management HSW Regulations 1999 and highlighted that while a regulatory offence was made out, the case was best reflected with a single encompassing section 2 HSWA charge, which allowed the case to be presented in the clearest and simplest way while giving the court sufficient sentencing powers. This demonstrated a logical approach to the circumstances of the case.

5.70. Twelve of the 20 charged cases (60%) we examined met the standard for high quality analysis and clear case strategy and eight (40%) partially met it. In seven of the eight cases assessed as partially meeting, this was because lawyers had not considered the prosecution of individuals under sections 36, 37 or 7 HSWA. In five of those seven cases (71.4%) there was no consideration, and in the remaining two cases although there was reference to potential offences, we found insufficient rationale to explain decisions not to charge certain offences²².

5.71. Guidance in the DtP requires lawyers to ‘address all offences considered/recommended in IMPACT and detail the points to prove for each offence’. In six of the seven cases (85.7%) we assessed as partially met, HSE inspectors had included consideration of offences against individuals on the IMPACT and some rationale as to why offences were not appropriate. However, this did not result in sufficient subsequent consideration by the lawyers in the DtP. In the remaining case, the inspector did not consider an offence against the individual when it was reasonable to do so and nor did the lawyer.

5.72. This raises questions as to whether there is too much reliance by lawyers on the proposed charges set out by inspectors, and whether lawyers are adopting a thinking approach to their decisions and the level of influence and support from SELs. While our findings are strong, improvements in case analysis could be made by lawyers demonstrating consideration of offences against individuals and including clear rationale in the DtP that should not be dependent on whether the inspector has referred to them in their IMPACT form or not.

5.73. Of the six cases we reviewed where no further action was taken, half fully met the standard for high quality analysis. The remaining three cases partially met

²² The remaining case was marked down due to factors not including consideration of offences against individuals.

this standard, primarily due to limited evaluation of evidential strengths and weaknesses, and insufficient reference to the outcomes of reasonable lines of enquiry.

Charge selection: consistency and rationale

5.74. Currently, there is no HSE guidance to assist lawyers in determining whether to charge a regulatory breach or an offence under sections 2 or 3 HSWA 1974. The Full Code Test is often satisfied for either, and where sentencing powers are equivalent, inconsistency in charge selection is a risk.

5.75. Within the 20 charged cases in our file sample there were four falls from height, ten cases of incidents with machinery and two cases involving asbestos²³. It was positive that we did not find inconsistencies in relation to charge selection. While incidents can be of the same category, the specific circumstances are often very different. The focus should therefore be on ensuring the DtP contains clear rationale for charge selection.

5.76. In that regard, while there is some room for improvement, the overall picture is positive with 14 out of the 20 cases (70%) charged containing a clear rationale for charge selection. In both asbestos-related cases and in three of the four falls from height cases, the lawyer clearly set out their rationale for charge selection. In one case the rationale for charge selection and points to prove stood out, as did a thinking approach. The lawyer clearly explained why they endorsed charging an offence contrary to section 3(2) HSWA 1974 rather than the identified regulatory breaches. They included relevant case law in support and set out the regulatory provisions and accompanying guidance.

5.77. In five out of the ten cases (50%) involving machinery, the DtP clearly set out charge selection rationale. Of the five remaining cases, three partially dealt with charge selection and two cases did not refer to it at all. One of those two related to a case where there was an issue with machine guarding which resulted in injury to an employee. The lawyer authorised a charge contrary to regulation 11 of the Provision and Use of Work Equipment Regulations 1998 (PUWER) with no consideration of why that was preferable to a section 2 HSWA offence. No reference was made to the fact the company had since installed guarding and introduced safer work processes, which demonstrated it would have been reasonably practicable for them to have altered the guard and trained their staff better prior to the incident. This omission was of significance, as it enabled the defence to minimise the supervision element in their submissions at the sentence hearing.

²³ The remaining four cases included an excavation collapse, patients injured while in hospital, a shooting during ammunition trials and a case with multiple regulatory breaches.

Other aspects of the decision to prosecute

Disclosure

5.78. In 23 of the 24 applicable cases (95.8%) disclosure was dealt with appropriately by lawyers. This supports our findings from focus groups and interviews with lawyers and inspectors that lawyers were largely experienced and confident about discharging their disclosure duties, which contrasted with some inspectors who were candid about gaps in their knowledge.

Applications and ancillary matters

5.79. There were six cases in our file sample that required consideration of applications such as bad character²⁴ or hearsay²⁵. In all six applicable cases, they were considered appropriately.

Venue

5.80. Lawyers are expected to outline whether the case is suitable to be dealt with in the magistrates' courts or whether HSE should make representations that the case should be heard at the Crown Court. In addition, they should also specify whether the case needs to be heard before a District Judge who is specifically authorised to deal with HSE matters. We found that venue was properly considered in 19 out of the 20 cases (95%) charged. This is a strength.

Sentence

5.81. The Sentencing Council has published a definitive guideline on sentencing health and safety offences²⁶. To assist the court, lawyers are required to use the guidance to assess culpability and harm and identify aggravating and mitigating features of the offence(s) charged. Lawyers are also expected to cite relevant sentencing authorities and distinguish them based on the specific circumstances of the case. In 95% of applicable cases (19 out of 20) we found that the DtPs properly considered culpability and harm. This is a strength.

Case Progression

5.82. Once a decision to prosecute has been made, proactive steps are taken to ensure the case progresses efficiently and that the first court hearing is effective. To support this, it is vital that LSD maintains clear and consistent communication channels both internally and externally. This enables timely transmission of key

²⁴ Bad character is evidence of previous bad behaviour, including convictions for earlier criminal offences. Normally, bad character cannot be included as part of the evidence in a criminal trial. To be allowed, either the prosecution and defence must agree it can be used, or an application must be made to the court, based on specific reasons set out by law.

²⁵ Hearsay refers to a statement not made in oral evidence that is evidence of any matter stated. It is inadmissible in criminal proceedings except in certain circumstances. The law on hearsay is set out in the Criminal Justice Act 2003 (CJA) sections 114-136.

²⁶ [Health and safety offences, corporate manslaughter and food safety and hygiene offences](#)

documents to the defence and the court and facilitates appropriate discussions that contribute to the smooth progression of the case.

The Case Summary - quality

5.83. At the time of reviewing a case for a DtP, where they intend to prosecute, lawyers are also required to draft a case summary document as part of the pre-charge process. This is included in the initial bundle of key material sent to the defence and magistrates' court prior to the first hearing²⁷.

5.84. While there is no prescribed way the case summary should be drafted, there is some guidance available to lawyers on the HSE intranet that includes expectations of content headings²⁸. In addition, lawyers have access to a 'precedent' folder of case summaries which have been helpfully separated to reflect categories of offences, such as cattle trampling, gas safety and falls from height.

5.85. We were told by lawyers that feedback from the judiciary confirmed case summaries being generally of good quality. This was corroborated by a member of the judiciary during an interview who described the summaries as being of very good quality. During file examination, we found that 16 out of the 20 applicable cases (80%) contained summaries that were clear and persuasive and assessed them as fully met. Of the four remaining cases, we assessed three (15%) as partially meeting the standard and one case (5%) as not meeting the standard.

5.86. Case summaries that we marked down were superficial in nature, including where aggravating features relevant to sentence were not properly set out, where content did not properly reflect the offending behaviour, and where the case was presented in a disproportionately generous way to the defendant.

5.87. These findings support the overall positive perception of case summary quality while also highlighting that there is still some room for improvement.

The case summary – timeliness

5.88. As mentioned above, the case summary must be included in the initial bundle that is served on the defence and court prior to the first hearing. In addition, it must be supplied to the court to obtain a hearing with an authorised District Judge. Delays in drafting case summaries can therefore have implications on timeliness and case progression.

5.89. We identified inconsistent expectations regarding lawyers' timeliness in submitting the case summary. The majority of lawyers drafted the case summary at

²⁷ The initial bundle is known as the Initial Details of the Prosecution Case (IDPC)

²⁸ Suggested headings include factual background, offences, relevant law, defence submissions/mitigation, allocation, sentencing guidelines and representations on culpability and harm, ancillary orders and costs

the same time as the decision to prosecute while the case was still fresh in their minds, which avoids duplication. However, we heard mixed views as to whether the 12-week KPI for DtP also applied to case summaries, and not all the lawyers we spoke to thought that the case summary had to be sent to the court for a case to be listed. Consequently, there are instances when lawyers make the decision to prosecute within the KPI but draft the case summary at a later date. This is inefficient and a duplication of effort as the lawyer will need to revisit the case again to ensure the accuracy of the information in the case summary. Although senior managers stated expectations had been set, we found no documented guidance to support this.

5.90. POs have four weeks from receiving the DtP to draft the information, prepare the initial court bundle and confirm the first hearing date provided. We heard from paralegal managers that the main issue to them achieving this KPI is missing case summaries.

5.91. Performance data from LSD from April 2024 to March 2025 shows the four-week KPI being met 86.5% of the time²⁹. In March 2025 there were two cases where KPIs were missed, one of which was due to late drafting of the case summary.

5.92. While performance is largely strong, our findings highlight the need for clarification of timescales for completion of the case summary to enable lawyers and paralegals to plan their time effectively. The time taken to draft the case summary is another factor LSD may want to consider following paralegal involvement at the DtP stage and any impact this may have on the 12-week KPI.

Compliance issue
In all cases where the decision is to charge, lawyers should complete case summaries at the same time as the decision to prosecute (DtP).

Communication between lawyers and inspectors

5.93. To strengthen collaboration between LSD and operational divisions, Deputy Directors have set expectations: lawyers should contact the inspector within two weeks of case allocation and hold a case conference meeting within six weeks to discuss the case.

5.94. Our conversations in lawyer focus groups revealed low awareness of these expectations. While most SELs knew about the two-week contact, they were unaware of the six-week meeting requirement. Most lawyers were unaware of both. Some lawyers stated it was not always necessary to have a conference, particularly

²⁹ The target is 80%

if the case was straightforward and therefore took an ad hoc approach to making contact and arranging meetings.

5.95. The lack of awareness of the two-week contact was borne out in our file sample. While we found evidence of initial contact between the lawyer and inspector in 18 of the 26 files examined (69.2%), contact within two weeks of allocation occurred in only six of those 18 cases (33.3%).

5.96. We found evidence of conferences (meetings) in 11 of the 26 cases reviewed (42.3%). Of those 11, conferences were held within six weeks in seven cases, which appeared coincidental and not as a result of adherence to the expectation from the Deputy Directors.

5.97. In identifying the awareness gap around expectations for contact between lawyers and inspectors, there is an opportunity for LSD to review their expectations about timeliness and the mandating of contact. We encourage meaningful and proportionate engagement between lawyers and inspectors to help build rapport and strengthen working relationships.

Recommendation 2

By March 2026, LSD to have set and clearly communicated timescales for lawyers' engagement with inspectors and investigators on cases. By June 2026, the approach to be embedded.

Communication with the court and defence

5.98. Within our file sample, we found that LSD engaged with the defence and court effectively to ensure progress at the first hearing in 19 out of the 20 cases (95%) charged. Performance was just as positive when the court or defence sent LSD correspondence, with responses assessed as effective and timely in 18 out of 19 cases (94.7%).

5.99. During focus groups and interviews, we heard how lawyers and paralegals have built rapport with defence solicitors by taking a proactive approach to engagement, which was corroborated in our file examination. In one case, the lawyer's proactive approach resulted in an early meeting with the defence, agreement in relation to the case summary and a timely guilty plea. Dealing with a small number of firms has helped develop strong working relationships. Communication with the court and defence is a strength.

Additional considerations

5.100. Following a decision to prosecute, material and information may come to light which requires the allocated lawyer to complete a further review of the case. For example, the defence may send a basis of plea for consideration, or request a charge is stopped. In our file sample, we assessed whether events such as these were properly considered. We found that in nine out of the ten applicable cases (90%) appropriate actions were taken and value added to the case as a result. Additionally, we found that lawyers accepted pleas appropriately and in accordance with relevant guidance in all nine applicable cases.

5.101. In some cases, it will be necessary to request additional material from inspectors after charge and before the first hearing. We found that in all 11 cases where requests were made, requests were appropriate.

5.102. In 18 of the 20 cases charged (90%), we found that all relevant material had been served on the court and defence in a timely manner to ensure the first hearing progressed effectively.

The first hearing

5.103. At the first hearing, the defendant is expected to enter a plea of either guilty or not guilty. Generally, if a guilty plea is entered the case is adjourned for a sentence hearing. In our file sample, we found that effective first hearings took place in all 19 applicable cases³⁰.

Case audit trail and record log

5.104. Case audit trails provide LSD with a chronological record of key events, decisions, and actions, serving both as a means of verifying completed work and as a tool for identifying opportunities to improve processes. We are aware of the limitations of the IT system within which LSD are working, which means that manual upload of documents and emails is required. Nonetheless, in 21 out of 26 cases (80.8%) examined we found a clear audit trail of key events, decisions and actions. Three of the five cases (60%) that did not contain clear audit trails were those where a decision was made to take no further action (NFA) on the case.

5.105. All decisions to NFA must be approved by an SEL, and if a proposed decision to NFA a case is one involving a fatality, the decision must also be approved by a Deputy Director. With much of this liaison inevitably carried out by email exchanges, there is more of a risk that not all relevant email trails will be uploaded to the system, which was evident in one of the NFA cases we examined. In the other two, we found that a letter to the next of kin had not been uploaded, and in the remaining case, communication between the lawyer and inspector following a request for further information by the SEL had not been uploaded onto

³⁰ At the time of writing one case is yet to have had its first hearing (30.9.25 hearing date provided)

the system. Improvements need to be made to ensure all relevant communications are uploaded onto the case management system for all cases, including NFA cases.

5.106. We also assessed completion of the case record log, a lengthy document uploaded to cases that contains several parts for completion including a case progression checklist, action and decision sheet, pages of evidence, court hearings and conference record sheet.

5.107. In addition, a cost schedule has been embedded at the end of the case record log. This requires the relevant user to enter the date provided, their grade, the work completed, and the time taken. This enables an accurate cost application to be made to the court in the event of a conviction.

5.108. There is currently an expectation rather than a requirement for lawyers to complete the case record log. In eight out of the 26 cases examined (30.8%) lawyers had made entries under the actions and decisions section of the log. This reflects what we heard in focus groups, where there was inconsistency amongst lawyers about completion of the log. However, in 25 out of the 26 cases (96.2%) we examined, the cost schedule had been completed and in all but one case, entries were of a high standard.

5.109. In light of our positive findings in relation to audit trails, LSD managers may want to review the necessity of the case record log and whether the time taken to properly complete adds sufficient value to outweigh the time taken to do so, particularly in the light of the casework pressures voiced by lawyers in focus groups. By their very nature, the entries on the cost schedule provide a timeline of events. We also encourage LSD to provide clear guidance to lawyers about completion of the costs schedule on NFA cases, as we found an inconsistent approach.

5.110. To ensure effective delivery and support for lawyers and paralegals, there is a pressing need for greater consistency and the establishment of clear expectations across key areas of casework. Expectations must be clearly defined regarding the use and accessibility of guidance documents, the identification of anticipated guilty and not guilty plea cases and compliance with disclosure duties. Transparency in case allocation, clearer communication protocols with inspectors and improved oversight of timeliness in relation to DtP completion and those cases which are converted to advice are all essential.

5.111. In addition, there is scope to strengthen decision-making in casework, particularly around the rationale for prosecuting individuals, decisions to take no further action and ensuring that DtPs contain sufficient rationale for charge selection.

5.112. Setting clear standards and expectations and ensuring these are consistently and effectively communicated to lawyers and paralegals will promote casework improvements and support the development of lawyers, paralegals and, indirectly, inspectors.

Recommendation 3

By December 2026, LSD will have developed, communicated and embedded clear standards and expectations for all lawyers and paralegal roles.

6. The service to victims and witnesses

The service to victims and witnesses

6.1. Overall, the Health and Safety Executive (HSE) provides a good service to victims, witnesses and bereaved family members.

6.2. As a prosecuting authority, HSE is required to follow the Code of Practice for Victims of Crime³¹ (Victims' Code), which outlines the minimum standards to be provided to victims of crime in England and Wales.

6.3. Under the Victims' Code, HSE must provide victims with:

- clear information about the case and their rights
- regular updates on the progress of investigations and prosecutions
- support services, including referrals to organisations that offer emotional and practical assistance
- opportunities to make a Victim Personal Statement (VPS), which allows victims to explain how the crime has affected them
- information about outcomes, including sentencing decisions and appeals.

6.4. In addition, HSE must comply with its obligations under the Witness Charter³², which sets out the level of service witnesses to a crime should expect to receive from law enforcement agencies.

6.5. As well as public-facing information in relation to their obligations to victims, witnesses and bereaved families³³, HSE has produced several internal operational documents available on their intranet, which provide useful guidance to staff on the application of the Victims' Code, recording reasons for decisions, the VPS, the Victims' Right to Review (VRR), contact with bereaved families and meeting with victims and witnesses at court.

6.6. In addition, the Legal Services Division (LSD) has created a legal resources section on the HSE intranet, within which there are additional guidance documents and templates for writing letters to victims. These include a nine-page guidance document on the Victims' Code which contains a section on enhanced rights³⁴. It

³¹ [Code of Practice for Victims of Crime in England and Wales \(Victims' Code\) - GOV.UK](#)

³² [The Witness Charter: standards of care for witnesses in the criminal justice system - GOV.UK](#)

³³ [Victims who have suffered harm at work and bereaved families - HSE](#)

³⁴ Enhanced rights provide more specialist support to victims who are deemed particularly vulnerable or intimidated and include earlier and more frequent contact from service providers.

emphasises that while it is less likely investigations will deal with intimidated victims, inspectors and lawyers should be aware of the possibility, and if they form the view that a victim is experiencing intimidation or is vulnerable, enhanced rights must be extended to them.

6.7. While the factors to consider for an intimidated witness are explained, considerations for vulnerable witnesses are not specifically referred to. A victim is considered vulnerable and entitled to enhanced rights under the Code if:

- they are under 18 years old at the time of the offence, or
- the quality of their evidence is likely to be affected due to:
 - a. suffering from a mental disorder within the meaning of the Mental Health Act 1983
 - b. having a physical disability or suffering from a physical disorder.

6.8. HSE often prosecutes cases without a victim, but many investigations follow incidents that leave individuals with long-term and sometimes life-changing injuries. LSD will want to review their guidance to include specific reference to vulnerable victims to ensure they are properly identified in relevant cases and receive the service they are entitled to.

6.9. We also saw a Victims' Code timeline document which sets out roles, responsibilities, actions and timescales from investigation to the conclusion of a case. It confirms that the inspector or visiting officer (VO) is responsible for all contact with victims during investigation, and once the case is passed to LSD and a decision to prosecute (DtP) made, the inspector or VO should continue to provide regular updates on the progression of the case, including the outcomes of hearings. LSD lawyers are responsible for informing victims if pleas are accepted, substantial changes are made to the charge(s), and when decisions are made to stop proceedings.

6.10. Some inspectors and lawyers we spoke to lacked awareness of their roles and responsibilities to victims as a case progressed through the system. While the guidance documents referred to above are useful, they are currently not as accessible or visible as they could be, as they are kept in multiple sub-folders. In addition, it would be of benefit if the public-facing guidance was included in the legal resources section, so that there was one place where lawyers could easily find all relevant information they need on victims and witnesses.

Applications to support victims and witnesses

6.11. Support for victims and witnesses should be at the forefront of lawyers' minds when they are making decisions to prosecute.

6.12. As part of our file examination we reviewed whether proper consideration was given to victims and witnesses by way of special measures to support vulnerable or intimidated victims, and witnesses, give their best evidence, and whether the victim or their family wanted to make a victim personal statement (VPS) about the impact the offence had on them^{35 36}.

6.13. Of the 20 charged cases reviewed, we found that in four of the five applicable cases (80%), the DtP properly considered relevant applications and ancillary matters to support victims and witnesses.

6.14. We found that in 13 out of 16 applicable cases (81.3%) a VPS was requested and/or obtained in a timely manner prior to the first hearing. Having the VPS at the first hearing ensures the advocate can communicate the impact the offence had on the victim if the court proceeds to sentence.

Contact with victims and witnesses at court

6.15. Prior to the creation of LSD, lawyers and inspectors would regularly attend court. However, with lawyers now making the DtP, we heard that lawyers are attending court less and while there is an expectation on inspectors to attend the trial and sentence hearing, they are no longer expected to attend the first hearing. The timeline document referred to above indicates there is joint responsibility on the inspector, lawyer and paralegal officer (PO) to meet with victims and witnesses at court. We heard from some inspectors who had attended hearings and witnessed very good engagement between lawyers and victims, and lawyers and bereaved family members. However, the current arrangements create a risk that obligations to victims and witnesses may be missed, which is a particular issue in cases where the victim has died and bereaved family members may attend court.

6.16. As the responsibility for liaising with victims, witnesses, and bereaved families primarily rests with the inspector or Victim Officer (VO), it is essential that LSD keeps them informed of court hearings and outcomes, and there is an expectation that lawyers will inform the inspector of the outcome of the first hearing. If inspectors are unaware of a hearing, they cannot attend or prepare, and they must be notified well in advance to ensure relevant information is communicated appropriately.

6.17. We have identified this as area requiring improvement following file examination. Of the 19 applicable cases we assessed, we found evidence of communication with inspectors in seven cases (36.8%). We marked three cases

³⁵ The Youth Justice and Criminal Evidence Act 1999 provides for a range of special measures to enable vulnerable or intimidated witnesses in a criminal trial to give their most accurate and complete account of what happened. Measures include giving evidence via a live TV link to the court, giving evidence from behind screens in the courtroom and using intermediaries

³⁶ If a defendant is found guilty, the court will take the VPS into account, along with all other relevant evidence, when deciding on an appropriate sentence.

down where there was an indication the inspector had attended the first hearing, but no confirmation. As it is an expectation for lawyers to notify the inspector of the outcome of the hearing, it is our view this should happen regardless of their attendance at court. We heard of one instance where a hearing was brought forward, and although LSD had known for two weeks, the inspector was not informed. The inspector only discovered the change by contacting the lawyer the day before the hearing. As a result, the bereaved family, who were not local, had to alter their plans at short notice to attend court on time. It is good practice to communicate the outcome of the hearing, especially if they are tasked with specific actions. It also represents another opportunity to build rapport with colleagues and strengthen working relationships.

Recommendation 4

By March 2026, LSD to have clearly communicated that lawyers must inform inspectors of the outcome of first hearings. By June 2026, to have assured that this is happening consistently.

6.18. The introduction of the paralegal team, in-house advocacy units (which we outline at 7.24) and a more geographical approach to case allocation provides LSD with the tools to ensure sufficient processes and safeguards are in place so that victims and witnesses are given the service they are entitled to, and inspectors are kept properly informed of court hearings.

Victim letters

6.19. There was no requirement to send letters to victims in the 20 cases we reviewed that were charged. Of the six cases where decisions were made to take no further action (NFA), two cases did not require letters as there were no injured parties. The remaining four cases required, and did contain, letters. We assessed both timeliness and quality of those letters. In all four cases the letters were sent in a timely manner, and two letters sent were of a high quality. Of the letters we assessed as of good quality, one was very detailed and contained a clear rationale for the decision not to prosecute by highlighting the evidential gaps. A proportionate amount of empathy was shown which was important, as this was a case where the victim had unfortunately died. In the two cases we assessed as not being of quality, explanations for decisions contained technical language which could have been simplified to make it easier for the reader. In addition, in neither case did we find evidence of consideration of translation of the letter for bereaved family members where it was required.

6.20. Templates have been created to assist lawyers writing letters to victims. This is good practice as it ensures a degree of consistency in the quality of communication. However, we found that some of the wording within these

templates could be simplified; an introductory paragraph in a number of the templates uses the phrase ‘it is our remit to promote compliance’, and in a standard paragraph containing empathy the word ‘difficult’ is missing a letter. We understand LSD are currently in the process of updating the templates.

6.21. Letters which instruct the reader of their rights under the Victims’ Right to Review scheme (VRR) provide a timeline for a response which could be clearer. For example, in the letter sent to victims when the lawyer has decided not to charge any offences and to take NFA, the template requests the reader respond, ‘as soon as possible and no later than ten working days after the date provided of this letter’. Some victims, who may have suffered significant and/or life-changing injury may be distressed after reading a letter where a decision has been taken to take no further action. In addition, some letters will be sent to bereaved family members who will be navigating their grief. It is good practice, as developed by the Crown Prosecution Service (CPS), to include the specific date by which a response is required to avoid the recipient having to work it out for themselves and then potentially writing after the relevant date.

6.22. Some lawyers explained to us that they did not receive regular feedback on the quality of the letters they send through. While we have seen some evidence of quality assurance from senior enforcement lawyers (SELs), this does not automatically mean lawyers are receiving direct feedback on how to make improvements.

The Victims’ Right to Review

6.23. LSD deals with very few requests under the VRR scheme³⁷. We were told of two since the creation of LSD, and at the time of inspection a third was ongoing.

6.24. There are several VRR templates for lawyers to use. We note that the initial acknowledgement letter sent to victims or bereaved family members does not contain an empathy prompt and saw an email sent to a bereaved family member that acknowledged receipt of the request for VRR without demonstration of any empathy.

6.25. In contrast, we reviewed two VRR letters as part of our document request, both of which contained an appropriate level of empathy and demonstrated good practice by outlining the outcome of the request at the outset, ensuring the reader was not waiting until the end of the letter to find out whether charges were authorised.

6.26. One letter contained technical language that could have been made simpler, and we make similar observations as above in relation to the references to

³⁷ This scheme provides victims of crime with a specifically designed process to exercise their right to review certain legal decisions not to start a prosecution, or to stop a prosecution.

timelines which could be made clearer by including the actual date provided rather than the number of working days.

6.27. To help ensure the service provided to victims is treated as a priority, we recommend that a review of the victim letter templates takes place, and that resources available to lawyers are collated and made more easily accessible.

Recommendation 5

By June 2026, LSD to have reviewed their victim and witness resources to ensure that:

- a. guidance is accessible and contains all relevant internal and public-facing documents in one place
- b. template letters contain:
 - I. simple and easy to understand language and an appropriate amount of empathy
 - II. specific dates by which the reader is required to reply.

7. Leadership and governance

Introduction

7.1. We found that the creation of the Legal Services Division (LSD) and the separation of legal decision-making from investigation has widely been seen as a positive step by senior leaders across the Health and Safety Executive (HSE) and amongst the judiciary. In-house legal decision-making presents a real opportunity to achieve quality and consistency and a ‘one prosecution team’ approach, through easily accessible channels of communication, the sharing of good practice and a clear understanding of how to drive improvement.

7.2. There is a recognition at strategic level of the importance of building strong working relationships across the divisions, while appreciating that some tensions remain between inspectors and lawyers. This is understandable, as the creation of LSD marked a significant transition for HSE. In addition, it is important to note the context in which the operational divisions are working, having gone through significant restructure themselves since 2023 following a decision to move from having a Fieldwork Operations Division and a Construction Division to Inspection and Investigations teams. Inspection teams focus on raising the standards of health and safety management before someone suffers ill-health, injury or death, while investigating inspectors hold dutyholders to account following illness, injury or death.

LSD and the wider organisation

7.3. We found that LSD has sufficient opportunity to engage with the wider organisation at both a strategic and operational level through their attendance at various forums across the organisation. The Executive Committee (ExCo) is the highest-level strategic decision-making body which supports the HSE Board. Meanwhile, the Operations and Regulation Committee (ORCO) has responsibility for reviewing and improving the performance and effectiveness of operational divisions and the Regulatory Operations Meeting (ROM) brings together the operational directors with a standing invite for LSD. LSD also attend the Operations Liaison Group (OLG) where the focus is on learning and ensuring strong communication between divisions.

7.4. We found that LSD has strong working relationships with the Chemicals, Explosives and Microbiological Hazards Division (CEMHD) and heard how effective communication has resulted in requests for early advice from lawyers. This is because CEMHD has more capacity to plan and be proactive due to having less prosecutions than other divisions. Opportunities have arisen with multiple cases against several dutyholders, and early liaison between LSD and CEMHD has ensured continuity of lawyers. This has improved case handling and led to a better understanding of how LSD are presenting risk levels when making decisions to prosecute and how they approach cases with multiple dutyholders. More widely, operational divisional heads told us that the quality of decisions to prosecute has

improved since the creation of LSD, which accords with the findings from our case file examination of good quality casework.

7.5. More could be done to learn from the no further action (NFA) cases. While the LSD NFA review improved demonstration of lawyer compliance with the Code for Crown Prosecutors, there remained a disconnect between LSD and operations in relation to themes and patterns, lessons learnt and how to drive improvement for NFA decisions.

7.6. Decisions to take no further action can cause tension between inspectors and lawyers, with inspectors taking the view there is sufficient evidence to prosecute, and that it is in the public interest, but the lawyer disagreeing. Therefore, where decisions to take no further action are made, it is important lawyers clearly explain why the Full Code Test and/or the public interest test is not met.

7.7. We examined six NFA cases and found that three cases contained high-quality rationale, with the remaining three cases requiring more explanation for the decision not to prosecute.

7.8. We repeatedly heard of particular tensions around decisions not to prosecute child farm fatalities and a perception from some operations divisions that LSD do not consistently apply the regulatory public interest (PI) factors. Some inspectors and strategic leads think the PI factors demonstrate a presumption to prosecute unless there are reasons not to, while LSD considers each case on its merits and utilises the CPS guidance on road traffic fatalities (where a family member is a suspect) to assist in determining whether it is in the PI to proceed.

7.9. HSE's Engagement and Policy Division (EPD) provides sector-specific policy insight, including in agriculture, to support proportionate health and safety regulation. LSD were aware of one child farm fatality with evidential issues; however, the lawyer concluded the PI test was not met in any event, a decision with which EPD disagreed. While LSD stand by the decision, they acknowledged limited awareness and understanding of EPD's role, expertise and the support they can provide to lawyers. Given the tension this has caused, it is our view that LSD should establish effective links with EPD to enable informed contributions in future cases.

7.10. The introduction of case outcome reports provides an opportunity for inspectors and lawyers to reflect on cases and identify any lessons learnt which could then be collated for discussion at OLG meetings. We are aware that LSD are monitoring the volume of NFA decisions but did not find evidence they are identifying trends to assist in driving improvement.

7.11. LSD and operational divisions need to work together to better understand the reasons why NFA decisions are made, as well as any other issues connected to decisions to prosecute that impact on performance. Senior leaders across HSE

expressed a desire for transparency in relation to LSD's performance metrics, which is an indication that those at strategic level are not always being provided with information to assist in driving improvement.

7.12. LSD needs effective assurance processes, which we discuss further below, to help them identify patterns, trends and opportunities to share good practice and learn lessons. These can then be taken to the wider strategic meetings to increase transparency and drive improvement across the organisation.

Performance data

7.13. The lack of a digital case management system limits the ability of LSD to easily collate performance data. Consequently, staff are required to input information into Excel spreadsheets, from which monthly performance reports are produced and used in various meetings.

7.14. We reviewed performance data for April 2024–March 2025 which shows an upward trend in operational efficiency and assurance. Key measures such as decision to prosecute (DtP) completion rates and compliance with first hearing requests have steadily improved.

7.15. We noted that during this period LSD received a total of 389 DtP requests, of which 290 were completed. To ensure data integrity and continued efficiency in delivering high quality casework, LSD's senior leadership team (SLT) will want to continue to monitor and assure themselves of timely DtP completion, particularly when the KPI spans two reporting years.

7.16. LSD maintained strong cost recovery rates, with 90% of claimed costs awarded across both LSD managed cases, reinforcing financial accountability. As the number of new cases and advice submissions have increased since the creation of LSD, so too have the volumes of closed cases, which together with additional recruitment suggests improved throughput and resilience³⁸.

7.17. Performance data is typically quantitative by nature and the performance data we reviewed does not include any metrics that relate to the quality of legal decision-making. While LSD does collect information on file quality and legal decision-making through assurance methods (see 7.35 to 7.58), adding qualitative elements to performance data would help LSD to identify patterns and areas for improvement, supporting more focused action through individual quality assessments (IQAs) and thematic assurance reviews. Sharing these insights with colleagues in operational divisions would also enhance transparency and contribute to improving overall casework quality.

³⁸ Advice requests are submitted to LSD on a Legal Advice and Assistance Request Form

Recommendation 6

By June 2026, LSD to incorporate file quality issues and the quality of legal decision-making into their performance metrics and ensure the data is analysed and shared at meetings with operational division colleagues to identify issues, agree actions and monitor outcomes.

LSD relationships with the defence, counsel and the court service

Defence

7.18. LSD engages with the Health and Safety Lawyers' Association, a professional association for prosecution and defence solicitors, barristers and lawyers who practice in areas of health and safety law. LSD has several floating memberships which have enabled staff to attend various conferences and seminars. This offers LSD opportunities to engage with defence practitioners to further strengthen working relationships and ensure continued mutual understanding.

Counsel

7.19. LSD often instructs barristers to prosecute cases on their behalf. They have recently updated their briefing principles, a copy of which is publicly available on the HSE website, within the document entitled 'Principles and standards for HSE enforcement lawyers'³⁹. The overriding objective is to ensure the right advocate is instructed for the right case. To achieve that objective, LSD should select advocates from a regulatory list containing the names of 250 barristers who are suitably qualified and experienced to deal with HSE work, unless there are exceptional reasons to select alternative counsel. HSE also aims to deliver good quality, effective advocacy and ensure equality of opportunity between all advocates, demonstrate value for money and support the development of advocates at all levels.

7.20. During focus groups and interviews we heard that where lawyers need to instruct counsel, they often ask each other for recommendations rather than make selections from the regulatory list. We were not made aware of any monitoring of the selection or performance of advocates, and there is currently no data collation to drive service improvement. These factors may impact LSD's ability to ensure the briefing principle of equality of opportunity.

³⁹ [Principles and standards for HSE enforcement lawyers](#)

HM Courts and Tribunals Service

7.21. The HSE prosecutes approximately 300 cases each year, and while small in volume compared to other Crown prosecuting authorities, their work is no less important. Establishing strong ties with HM Courts and Tribunals Service (HMCTS) is crucial to ensure cases are listed efficiently and court hearings are effective. This can be challenging when there are a small number of cases listed across multiple courts in England and Wales, especially as some cases need to be heard before a District Judge who has the authority to hear HSE cases.

7.22. To ensure a consistently efficient approach to case progression, the Director of Legal Services (DLS) has been working with the Chief Magistrate and the Magistrate Liaison Group to create six specialist court centres across England and Wales to hear HSE prosecutions. It is the plan that each court will have an SEL allocated as a single point of contact to build rapport, facilitate liaison, address any issues and attend court user group meetings. At the time of writing, roll out of this revised model is imminent.

7.23. Linked to the dedicated courts is a drive to realign legal teams so that they are closer to court centres and inspectors. We found evidence that supports this ambition in the North East, where a one-team ethos has been successfully embedded, resulting in inspectors, paralegals and lawyers coordinating their attendance on office days. They spoke highly of each other during focus groups. Spending time together has contributed to an increased understanding of each other's roles and pressures with a resulting mutual respect for the work they do.

7.24. In-house advocacy teams are in the process of being recruited and will be based near the specialist court centres to reduce travel times and help advocates build relationships with court staff.

7.25. HSE has registered for the Common Platform⁴⁰ and is currently finalising plans to use it. This is a positive step, as we heard that HMCTS cannot save HSE bundles on their system as they are too large.

7.26. It is positive that a holistic approach is being taken by HSE. Establishing meaningful links with court centres, together with the move to geographical alignment of teams, should drive improvement in the 'one HSE team' culture, case progression and casework quality.

⁴⁰ The Common Platform is a bespoke digital case management system, designed and developed by HMCTS for the magistrates' and Crown Courts in England and Wales.

Governance within LSD

7.27. Overall, we found evidence that LSD leadership is engaged and responsive, but governance mechanisms need strengthening to ensure consistency, clarity and impact. We acknowledge that a lot of hard work and effort has gone into the creation of LSD and while there is a clear desire to continue to improve, it is important that the systems and processes that make up the foundation of the division are strong.

7.28. The SLT meet monthly. This meeting includes the Director of Legal Services, Deputy Directors (DDs) and Head of Paralegals. From the interviews held and minutes of meetings reviewed, we identified a culture of accountability and a desire to drive improvement. A recent Government Internal Audit Agency (GIAA) audit highlighted positive feedback on capability, management information and general good practice, which reflects a commitment to governance and performance management.

7.29. We found evidence of an intent to support staff development and training through a proposed mentoring scheme, and by seeking feedback from the Staff Engagement Group (SEG). To ensure these initiatives are fully effective there must be clear mechanisms to support meaningful implementation and evaluation. Documents reviewed also outlined discussions about staff turnover and sickness absence which demonstrate an awareness by SLT of issues and challenges, while highlighting there may be a need for more proactive health and wellbeing strategies.

7.30. The Senior Management Team (SMT) also meets monthly. Attendees at SMT include the Director, DDs, Senior Enforcement Lawyers (SELs) and the Paralegal Business Manager. We found that SMT has taken steps to foster an inclusive environment by involving paralegal managers, enhancing their operational insight.

7.31. We found evidence of effective local leadership by virtue of the North East and Yorkshire team event in March 2025. The structured agenda and collaborative sessions reflect strong governance at a regional level. As the move to align casework and resources geographically continues, we encourage LSD to hold similar events across England and Wales in the future.

7.32. Paralegal and lawyer teams meet regularly; however, we found that governance structures around these meetings need strengthening. Inconsistency in relation to the presence of agendas and action logs and the taking of minutes mean there is not always a clear mechanism for tracking decisions, measuring accountability or evaluating the impact of leadership decisions. This subsequently risks undermining transparency in decision-making and weakening organisational learning. Adopting and embedding a more structured approach to identifying issues, and following through actions to assure impact, will support a targeted approach to improve quality, consistency and effective communication.

Issue to address

LSD should implement mechanisms to capture key discussion points and track actions in Senior Management Team, lawyer and paralegal meetings, including assurance of outcomes and impact to provide greater accountability for change at all levels.

7.33. We also found evidence of tensions within the SEL cadre due to their current responsibilities which are creating a disconnect between strategic commitments and frontline realities. SELs have line management responsibilities, corporate contribution expectations and carry their own caseload, which include some of the most complex cases referred to LSD⁴¹.

7.34. SELs reported competing priorities in relation to corporate contribution expectations, their own casework and line management responsibilities. This has resulted in a lack of focus on quality and assurance and is having a negative impact on morale and job satisfaction, with some SELs reporting feeling disempowered and eager to have more autonomy. As frontline legal managers and members of the senior management team, the SEL role is pivotal in delivering consistently high-quality casework and development of the lawyer cadre. LSD should consider the current remit of the role, including whether SELs should carry caseloads of complex cases, to ensure that the value of the SELs is maximised to have a grip on casework, to ensure consistency and compliance with standards and expectations and to build the capability and capacity of the lawyers they manage.

Recommendation 7

By December 2026, LSD to have reviewed the Senior Enforcement Lawyer (SEL) role to ensure their responsibilities enable them to focus on an increased grip of casework, developing the enforcement lawyer cadre and corporate contributions in accordance with the standards and expectations to be set.

Assurance

7.35. LSD has introduced a variety of assurance methods to assess whether casework quality standards and expectations are being met. While we found examples of assurance mechanisms that add value, we also found an inconsistent approach to their implementation and a lack of systematic analysis which limits

⁴¹ Each SEL carries has specific corporate contribution responsibility. This includes liaison with the specialist division, liaison with operations divisions, disclosure and corporate training.

the effectiveness in identifying both good and poor legal decision-making. A more focused approach would help drive improvement.

Thematic Assurance Review

7.36. The thematic reviews carried out to date have been completed by DDs and provide an opportunity to carry out a deep dive in a particular aspect of legal casework to identify themes and good practice and take action to make improvements. There is an expectation reviews will be carried out once every six months by two DDs, with 15 to 20 cases selected.

7.37. As we have set out earlier in this report, an internal review in 2024 of 30 cases where no further action was taken at the charging stage identified clear issues in relation to how lawyers were applying the Code for Crown Prosecutors to cases. Findings were shared with operational divisions and LSD, a review of training took place and the decision to prosecute form was updated to include more guidance and structure for lawyers. In addition, the decision was made to increase managerial oversight in NFA cases. SELs now approve all decisions to NFA, and cases involving fatalities require approval at DD level.

7.38. While we were not provided with any evidence of direct evaluation of the actions taken following the NFA review, we found that in 25 out of the 26 cases examined there was a proper application of the Code. This offers support for the fact that the actions taken following the review have been successful in improving this aspect of casework quality. We also saw some evidence of SELs and DDs adding value to the decision-making process for those cases where decisions to take no further action were made.

7.39. At the time of writing, an internal thematic assurance review on disclosure had just been completed following examination of 17 cases. Individual lawyer feedback will be provided by SELs and the DDs will then communicate headline findings and themes to operational divisions and identify recommendations and actions, including an assessment of training and coaching needs.

7.40. Thematic assurance reviews are a useful tool to drive improvement, and we support their continued application. However, thought needs to be given from the outset as to how actions taken following findings and recommendations will be allocated, reviewed and evaluated. LSD may also want to consider using the SELs to support some of this assurance work to drive casework improvement.

Issue to address
LSD should embed evaluation of impact into assurance reviews, with plans that define how the impact of actions taken will be measured.

Individual quality assessments

7.41. Individual quality assessments (IQAs) are completed by SELs on lawyers they line manage. Their aim is to develop and maintain consistent processes that result in accurate and useful legal advice. SELs are required to complete four IQAs per lawyer each year on an element of a lawyer's written work, including the DtP form, case summary, disclosure, sentencing submission and Victims' Right to Review (VRR) letters.

7.42. A baseline standards spreadsheet has been developed to provide a framework for individual quality assurance. Sections on topics contain specific questions with accompanying guidance for the SEL to consider when completing the IQA form. Managers are required to confirm whether the work being assessed satisfies the baseline criteria and provide examples in support of their decision.

7.43. As part of our document request, we reviewed 32 IQAs completed between November 2024 and April 2025. They comprised 17 DtPs, 13 case summaries, two combined assessments involving a DtP and sentencing submission, and a case summary and sentencing submission.

7.44. The quality of work assessed revealed several consistent themes. In terms of strengths, SELs found that many documents demonstrated a clear and logical structure, with appropriate use of headings, paragraph numbering, and legal language. There were also positive findings on the legal reasoning and grip shown by lawyers, particularly in charge selection and application of sentencing guidelines. Good practice was noted where evidence was clearly linked to points to prove, and where feedback was presented in a structured or tabular format. Sentencing notes in some cases were described as exemplary, with one referred to as a "model of clarity."

7.45. In addition, several areas for improvement emerged across the assessments. A recurring issue was the lack of reference to venue and allocation in the case summary, which was noted in multiple cases. While some SELs acknowledged that this had not previously been a formal requirement, its absence was flagged as a gap. Another common theme was insufficient detail in setting out points to prove, with some DtPs failing to clearly articulate what needed to be established and which evidence supported each element of an offence. Additionally, written submissions from dutyholders were inconsistently used, with some SELs highlighting confusion around their role in cases where no guilty plea had been entered.

7.46. The format and structure of feedback varied significantly between SELs. Some used embedded Excel spreadsheets or structured headings, while others provided narrative summaries. In several instances, SELs identified training needs for the wider legal team, including the application of sentencing guidelines and culpability assessments, and the consideration of ancillary orders and

compensation. These training needs feature in the training plan documents we reviewed, however it is not clear whether that is as a direct result of the SEL feedback.

7.47. The variance in feedback was mirrored during focus groups with lawyers, some of whom clearly valued the constructive comments made on the IQA form, while others received general feedback without specific examples.

7.48. Overall, the assessments provided useful insight into both the strengths and developmental areas within the legal drafting and review process. Our findings suggest that while baseline standards are generally being met, there is scope to improve consistency, depth of analysis and the practical value of feedback provided to lawyers. Feedback that is specific and example-driven is more beneficial than generic comments. Best practice would be for this feedback to be given individually through a case conversation. This would allow for a coaching and mentoring-type discussion to take place aimed at supporting development of the enforcement lawyers to increase learning, confidence and capability.

7.49. During inspection activity we were told that identification of IQA themes and findings were in the process of being collated, but that this was a work in progress due to competing priorities of the SELs. There is a risk that IQAs become a tick box exercise rather than an opportunity to provide meaningful feedback on casework quality, either individually or across the teams.

7.50. Moving forward, LSD intends to recruit an additional SEL to increase the resource to support the delivery of their role. As set out above, we recommend a review of the remit of the SEL role to ensure it adds maximum value across LSD, particularly in developing the lawyer cadre.

7.51. In addition, LSD should consider introducing DD dip sampling of the assurance forms. It would enable senior managers to get an insight not only into the quality of work from the lawyers but of the SELs they line manage, helping achieve consistency of approach.

Recommendation 8

By December 2026, LSD to have:

- a. reviewed their individual quality assessment process to improve casework quality and grip
- b. implemented a formal process for regular dip sampling of IQAs by the Deputy Directors.

Case management panels

7.52. LSD guidance states that case management panels (CMPs) are convened to provide support and challenge to the prosecution decision-making process, and to highlight high-risk casework and identify ways to mitigate any risks. The panel should meet monthly and be chaired by the DLS, with no fewer than two DDs in attendance. Case selection criteria includes complex areas of law, multiple linked cases and cases deemed high profile or likely to attract media interest, or cases with a risk of reputational damage. Material to be considered includes the DtP form, the case summary, the disclosure schedule and any previous CMP action plan.

7.53. Some lawyers had limited awareness of the panels and were not sure of the process involved in case selection to the panel. Others expressed a view that CMPs may add more value at the pre-charge stage given the high conviction rate in HSE cases.

7.54. We reviewed two CMP action logs and found inconsistencies in the clarity and accountability of action planning. In the first log, actions were clearly listed with designated lead owners, but lacked timescales for completion and it was unclear how progress would be monitored. The second log lacked lead ownership altogether and actions were generic with no timelines or follow-up mechanisms. These gaps highlight a need for more structured and accountable actions to ensure effective implementation and oversight.

7.55. CMPs can be a useful tool to drive casework quality. When they work well, as we found in a recent inspection of CPS Yorkshire and Humberside⁴² where they are used for less complex casework as well, they are a very useful learning and development tool, providing senior managers with the opportunity to impart their knowledge and develop the legal skills of legal managers and lawyers, while gauging their training needs.

Case outcome forms

7.56. A case outcome and evaluation form (also referred to as a case review) should be completed at the conclusion of a case. Part A requires entry of case details, a summary of the facts and the outcome at court. Part B asks two questions: what went well, and what could have been done better and why. This part should be completed on conviction or acquittal following a discussion with the prosecution team (inspector, principal inspector, paralegal and lawyer), including external counsel who should also be given the opportunity to provide feedback. Guidance on the form indicates that where a meeting is not held, part B should be circulated across the case team for them to add comments. We heard that

⁴² [Area Inspection Programme Phase 3 – CPS Yorkshire and Humberside – HM Crown Prosecution Service Inspectorate](#)

paralegals take responsibility for completing part A which is then placed on the IT system for all to view.

7.57. We reviewed eight forms where part B had been completed. An area of strength repeatedly identified was that of teamwork, with examples provided of strong working relationships between inspectors, lawyers, paralegals and counsel. Several cases cited delay as an area for improvement, which included delay in the investigation, delays in obtaining a first hearing date provided, and delay in the prosecution generally and the time taken for the case to reach court.

7.58. We understand that LSD have introduced a process of providing quarterly feedback to OLG to ensure the good practice and lessons learnt from relevant cases can be shared more widely with operational divisions. This should promote a culture of shared learning and accountability which then drives improvement. Approaching shared learning in a more structured manner will help drive the benefits through the business in a managed and consistent way.

Training

7.59. On joining HSE, lawyers attend a high-level introductory course for all new starters which broadly outlines the work of HSE and the wider Civil Service. Following this, LSD has created an induction package for lawyers. We have had sight of numerous PowerPoint presentations that cover various aspects of HSWA 1974, commonly used regulations, disclosure of unused material and sentencing in health and safety cases.

7.60. Overall, the training presentations we have reviewed provide a comprehensive guide to health and safety legislation and relevant case law, but they are limited in their capacity to assist lawyers in understanding how to properly apply that information when making a decision to prosecute. Some lawyers and SELs expressed a desire for guidance on factors to consider when deciding whether to charge an offence under HSWA 1974 or a breach of regulation, stating this would have been particularly useful when they joined HSE.

7.61. We did find an example of practical application in the disclosure training slides, which outlined the roles and responsibilities of inspectors and lawyers before linking this to the DtP form. There was also a section on common disclosure queries with reference to the Investigation Management, Planning and Capture Tool (IMPACT) form, the Enforcement Management Model and specialist reports. Practical examples like this are helpful tools that should be incorporated into training material wherever possible.

7.62. Linking to the importance of practical application of training, LSD staff may benefit from time spent shadowing inspectors on operational divisions as part of

their induction, and vice versa. This would provide an insight into respective roles and help colleagues understand the wider context in which they work.

7.63. We also reviewed the LSD training plan for 2025–26 which provides a structured approach to training for both lawyers and paralegals. It includes sessions on piercing the corporate veil which is well placed and accords with our file examination findings that some DtPs did not fully consider the criminal liability of individuals. We understand that a staff engagement group has considered training needs and influenced the subject matter of sessions.

7.64. In addition, while some training must remain bespoke due to health and safety legislation, DDs are proactively engaging with the CPS Learning Services to explore shared training opportunities for lawyers, including sessions on disclosure, advocacy, and bereaved family meetings.

7.65. We have not seen any evidence of evaluation of training. Moving forward, LSD may want to focus on how they measure success through obtaining feedback from attendees, conducting thematic reviews or dip sampling cases so that they can establish clear links between the training sessions delivered and improvements in legal casework quality.

7.66. The lack of evaluation of training links into a broader need we identified for LSD: to set out what good looks like. We heard from lawyers and SELs that on joining the team, they are largely reliant on their managers and colleagues for support and guidance. Lawyers will send their initial DtP forms to their manager for feedback, and arrangements are ad hoc. There is a recognition from SLT of the pressure placed on SELs to upskill the lawyers, and that some SELs are themselves not very experienced in relation to HSE legal casework. They also need sufficient support and training to improve their confidence and ability to coach and develop those they line manage.

7.67. The legal resource section on the intranet contains a repository of documents and material for lawyers and at the time of writing is managed by two lawyers. We found numerous case summaries that could be used to assist lawyers but heard that not all lawyers were aware the folder existed. While there are example case summaries, there is no equivalent for DtPs or sentencing notes, which would also be of assistance to lawyers, particularly new starters.

7.68. In May 2025, HSE published a document entitled ‘Principles and standards for enforcement lawyers’⁴³. In addition to general principles in relation to the independence of prosecutors and the duties of HSE lawyers, casework quality standards have been developed that represent the benchmarks of quality for victims and witnesses, legal decision-making, casework preparation and

⁴³ [Principles and standards for enforcement lawyers - HSE](#)

presentation. We believe LSD can use this document as a starting point from which to link practical examples of what good looks like.

7.69. At the time of writing LSD are in the process of recruiting a specific lawyer who will be responsible for training. This is a positive step and provides an opportunity for an individual to take ownership of legal training, roll out a training plan that includes practical application, have oversight of the legal resources on the intranet to ensure they are kept updated, raise awareness across the team of the existence of resources and their location and use findings from assurance mechanisms to identify and deliver training. LSD may want to include in this role a responsibility for the evaluation of training and the impact it has on casework quality.

Annex A

Inspection framework

Annex A inspection framework

The framework for this inspection consists of an overarching inspection question and five criteria. There are several sub-criteria for each criterion.

Inspection question

Does the Health and Safety Executive (HSE) prosecute the right cases effectively and efficiently delivering high-quality casework?

Criteria and sub-criteria

1. Is the decision to prosecute (DtP) process supporting LSD to make high quality and timely decisions?

- 1.1 How effective is the triage process in ensuring first submission file quality?
- 1.2 Are decisions to prosecute timely?
- 1.3 Are lawyers properly applying the Code for Crown Prosecutors and Health and Safety Executive (HSE) casework quality standards when completing the DtP review?
- 1.4 Are lawyers identifying and articulating appropriate reasonable lines of enquiry (RLE) to investigators to ensure efficient case progression?
- 1.5 Do any additional lines of enquiry identified by lawyers add value?
- 1.6 Does the case strategy set out in the DtP clearly and concisely deal with: venue, unused material, applications (bad character, special measures), acceptability of pleas, sentencing guidelines and orders on conviction?
- 1.7 Are levels of authority consistently applied when dealing with cases involving a fatality

2. Does LSD properly deal with victim and witness issues in its casework, and is there effective communication with victims in accordance with the Code of Practice for Victims of Crime?

- 2.1 Did the DtP consider victim and witness issues? Where this is not done, what steps are being taken to improve performance?
- 2.2 Were victims updated in accordance with the Code of Practice for victims of crime? In fatal cases, was a meeting offered?

2.3 What evidence is there of how the Victims' Right to Review (VRR) scheme is operating?

3. How effective are LSD's internal and external strategic partnerships and what impact do they have on LSD's ability to deliver high quality casework?

3.1 Do LSD have effective working relationships with other HSE divisions, particularly inspections, investigations and regulations, to improve the quality of cases submitted for DtP?

3.2 Are relationships with the defence effective to enable efficient progress of cases up to and including the first hearing?

3.3 Do LSD have effective relationships with HM Courts and Tribunals Service (HMCTS)/the judiciary to support the effective and timely first listing of cases?

3.4 Is there effective partnership working with chambers and counsel to secure the right counsel for the right case?

3.5 What is the evidence of performance in relation to postal requisition key performance indicator (KPI)? What is the evidence of how effective and efficient progression of cases is up to and including the first hearing?

4. How effective is LSD at training lawyers to deliver high quality casework?

4.1 What training is available to lawyers at LSD and how is its effectiveness evaluated?

4.2 How are training needs identified?

5. Does LSD's internal quality assurance regime support improvement in case work quality?

5.1 Does LSD's internal quality assurance regime support improvement in casework quality?

5.2 How are the findings of assurance processes acted upon and disseminated to make improvements?

5.3 How effective are line managers at providing support to lawyers?

Annex B

File examination data

This table includes ‘not applicable’ results.

HM Crown Prosecution Service Inspectorate (HMCPPI) house style is to round figures to a single decimal point so where percentages are cited, they may not always total 100%.

Key

FM – fully met

PM – partially met

NM – not met

NA – not applicable

		Charge		No Further Action (NFA)	
Question	Response	Number	%	Number	%
1. Was the initial file submitted converted to an advice file? ⁴⁴					
	Yes	2	10.0%	3	50.0%
	No	18	90.0%	3	50.0%
Total		20		6	
1.1 Date of referral to Legal Services Division (LSD) by inspector.					
	NA	18	90.0%	3	50.0%
	Date provided	2	10.0%	3	50.0%
Total		20		6	
1.2 Did Business Support Unit (BSU) accept the file following first initial submission by an inspector?					
	Yes	17	85.0%	5	83.3%
	No	3	15.0%	1	16.7%
	NA	0	0.0%	0	0.0%
Total		20		6	

⁴⁴ Note, if the answer to Q1 was ‘yes’, questions 1.1 -1.7 applied

1.3 Date of file acceptance email from BSU to inspector (post-triage).	NA	18	90.0%	3	50.0%
	Date provided	2	10.0%	3	50.0%
Total		20		6	
1.4 Date of allocation to lawyer.	NA	18	90.0%	3	50.0%
	Date provided	2	10.0%	3	50.0%
Total		20		6	
1.5 Date lawyer requested conversion to advice file.	NA	18	90.0%	3	50.0%
	Date provided	2	10.0%	3	50.0%
Total		20		6	
1.6 Date of resubmission/response by the inspector to the allocated lawyer.	NA	18	90.0%	3	50.0%
	Date provided	2	10.0%	3	50.0%
Total		20		6	
1.7 Date of acceptance of file by lawyer (confirmation the file will convert back to a decision to prosecute (DtP)).	NA	18	90.0%	3	50.0%
	Date provided	2	10.0%	3	50.0%
Total		20		6	
2.1⁴⁵ Date of referral to LSD by inspector.	NA	2	10.0%	3	50.0%
	Date provided	18	90.0%	3	50.0%
Total		20		6	
	NA	2	10.0%	3	50.0%

⁴⁵ Note: there was no Q2.

2.2 Date of file acceptance email from BSU to inspector (post-triage).	Date provided	18	90.0%	3	50.0%
Total		20		6	
2.3 Date of allocation to lawyer.	NA	2	10.0%	3	50.0%
	Date provided	18	90.0%	3	50.0%
Total		20		6	
3. Has the allocated lawyer changed between initial allocation up to and including first hearing?	Yes	0	0.0%	0	0.0%
	No	20	100.0%	6	100.0%
	NA	0	0.0%	0	0.0%
Total		20		6	
4. Date of initial contact between the lawyer and inspector	No evidence of contact	6	30.0%	2	33.3%
	Date provided	14	70.0%	4	66.7%
Total		20		6	
5. What date was the case conference between the inspector and lawyer?	Late October	1	5.0%	0	0.0%
	No evidence of conference	0	0.0%	0	0.0%
	NA	12	60.0%	3	50.0%
	Date provided	7	35.0%	3	50.0%
Total		20		6	
6. The DtP was completed within 12 weeks of allocation.	Yes	20	100.0%	5	83.3%
	No	0	0.0%	1	16.7%
Total		20		6	

7. Was the initial file submission evidentially complete?					
	Yes	7	35.0%	3	50.0%
	No	13	65.0%	3	50.0%
Total		20		6	
7.1 If no, what was missing?					
	Exhibits	1	5.0%	0	0.0%
	IMPACT report (+ EMM1)	1	5.0%	2	33.3%
	Rebuttable presumption material	0	0.0%	1	16.7%
	NA	7	35.0%	3	50.0%
	PI sign off on IMPACT	2	10.0%	0	0.0%
	PNC	1	5.0%	0	0.0%
	Statements	8	40.0%	0	0.0%
Total		20		6	
7.2 Is there evidence on Content Manager⁴⁶ that the lawyer identified any issues with the file?					
	Yes	7	35.0%	3	50.0%
	No	7	35.0%	2	33.3%
	NA	6	30.0%	1	16.7%
Total		20		6	
7.3 If material was missing, did the lawyer request the relevant documents/information?					
	Yes	7	35.0%	3	50.0%
	No	4	20.0%	2	33.3%
	NA	9	45.0%	1	16.7%
Total		20		6	
8. The Health and Safety Executive (HSE) lawyer applied the Code for					
	Yes	19	95.0%	6	100.0%
	No	1	5.0%	0	0.0%

⁴⁶ Content Manager was the IT system used by LSD to manage casework at the time of inspection.

Crown Prosecutors ('the Code').	NA	0	0.0%	0	0.0%
Total		20		6	
9. The DtP included high quality case analysis and a clear case strategy.	FM	12	60.0%	3	50.0%
	PM	8	40.0%	3	50.0%
	NM	0	0.0%	0	0.0%
	NA	0	0.0%	0	0.0%
Total		20		6	
10. Did the lawyer send an email to the inspector requesting further material/information at the time of making the DtP?	Yes	12	60.0%	0	0.0%
	No	1	5.0%	1	16.7%
	NA	7	35.0%	5	83.3%
Total		20		6	
11. The DtP dealt appropriately with unused material and disclosure issues.	Yes	19	95.0%	4	66.7%
	No	1	5.0%	0	0.0%
	NA	0	0.0%	2	33.3%
Total		20		6	
12. The DtP properly considered relevant applications and ancillary matters. ⁴⁷	Yes	6	30.0%	0	0.0%
	No	0	0.0%	0	0.0%
	NA	14	70.0%	6	100.0%
Total		20		6	
13. The DtP properly considered relevant					

⁴⁷ For the six NFA cases examined, we answered NA to questions 12 to 25 inclusive as those questions are only applicable to the 20 charged cases we assessed.

applications and ancillary matters to support victims and witnesses.	Yes	4	20.0%	0	0.0%
	No	1	5.0%	0	0.0%
	NA	15	75.0%	6	100.0%
Total		20		6	
14. The DtP properly considered venue.	Yes	19	95.0%	0	0.0%
	No	1	5.0%	0	0.0%
	NA	0	0.0%	6	100.0%
Total		20		6	
15. The DtP properly considered sentence.	Yes	19	95.0%	0	0.0%
	No	1	5.0%	0	0.0%
	NA	0	0.0%	6	100.0%
Total		20		6	
16. Did the prosecutor draft a clear and persuasive case summary which would assist or would be likely to assist the court and parties to progress the case?	FM	16	80.0%	0	0.0%
	PM	3	15.0%	0	0.0%
	NM	1	5.0%	0	0.0%
	NA	0	0.0%	6	100.0%
Total		20		6	
17. HSE engaged with the defence and court effectively to ensure progress at court at the first hearing(s).	Yes	19	95.0%	0	0.0%
	No	1	5.0%	0	0.0%
	NA	0	0.0%	6	100.0%
Total		20		6	
18. Any correspondence from the defence or court	Yes	18	90.0%	0	0.0%

was dealt with effectively and in a timely manner.	No	1	5.0%	0	0.0%
	NA	1	5.0%	6	100.0%
Total		20		6	
19. Any significant event which occurred post-charge and up to and including the first hearing was properly considered, and appropriate actions taken which added value.					
	Yes	9	45.0%	0	0.0%
	No	1	5.0%	0	0.0%
	NA	10	50.0%	6	100.0%
Total		20		6	
19.1 Where required, any consideration or action in relation to a significant event post charge and up to and including the first hearing was carried out in a timely manner.					
	Yes	10	50.0%	0	0.0%
	No	0	0.0%	0	0.0%
	NA	10	50.0%	6	100.0%
Total		20		6	
20. Any pleas accepted were appropriate, with a clear basis of plea and in accordance with any guidance.					
	Yes	9	45.0%	0	0.0%
	No	0	0.0%	0	0.0%
	NA	11	55.0%	6	100.0%
Total		20		6	
21. Appropriate requests were made to inspectors/investigators for additional relevant material post-charge.					
	Yes	11	55.0%	0	0.0%
	No	0	0.0%	0	0.0%
	NA	9	45.0%	6	100.0%
Total		20		6	

22. All material was served on the court, defence and other parties in sufficient time to ensure the first hearing progressed effectively.					
	Yes	18	90.0%	0	0.0%
	No	2	10.0%	0	0.0%
	NA	0	0.0%	6	100.0%
Total		20		6	
23. The first hearing was effective					
	Yes	19	95.0%	0	0.0%
	No	0	0.0%	0	0.0%
	NA	1	5.0%	6	100.0%
Total		20		6	
24. LSD notified the inspector of the outcome of the first hearing.					
	Yes	7	35.0%	0	0.0%
	No	12	60.0%	0	0.0%
	NA	1	5.0%	6	100.0%
Total		20		6	
25. The victim personal statement (VPS) was requested and/or obtained in a timely manner prior to the first hearing.					
	Yes	13	65.0%	0	0.0%
	No	3	15.0%	0	0.0%
	NA	4	20.0%	6	100.0%
Total		20		6	
26. There was a timely letter to the victim when required by the Victims Code.					
	Yes	0	0.0%	4	66.7%
	No	0	0.0%	0	0.0%
	NA	20	100.0%	2	33.3%
Total		20		6	
26.1 The letter to the victim was of a high standard.					
	Yes	0	0.0%	2	33.3%
	No	0	0.0%	2	33.3%

	NA	20	100.0%	2	33.3%
Total		20		6	
27. There was a clear audit trail of key events, decisions, and actions.					
	Yes	18	90.0%	3	50.0%
	No	2	10.0%	3	50.0%
Total		20		6	
28. The lawyer completed the case record log.					
	Yes	20	100.0%	5	83.3%
	No	0	0.0%	1	16.7%
Total		20		6	
28.1 If yes, this was completed to a high standard.					
	Yes	20	100.0%	4	66.7%
	No	0	0.0%	1	16.7%
	NA	0	0.0%	1	16.7%
Total		20		6	

Annex C

Glossary

Ancillary Orders and applications

Matters about which the prosecution can ask the court to make orders – for example, to admit a piece of evidence that would otherwise not be allowed, or to admit bad character or reprehensible conduct of a defendant that would not otherwise be allowed, or to make orders at sentencing, for example director disqualification.

Bad character/bad character application

Evidence of previous bad behaviour, including convictions for earlier criminal offences. Normally, bad character cannot be included as part of the evidence in a criminal trial. To be allowed, either the prosecution and defence must agree it can be used, or an application must be made to the court, based on specific reasons set out by law.

Basis of plea

Sets out the basis upon which a defendant pleads guilty to an offence.

Casework Quality Standards

The Legal Services Division (LSD) have drafted a set of standards that represent the benchmarks of quality for victims and witnesses, legal decision-making, casework preparation and presentation.

Code for Crown Prosecutors (the Code)

The Code for Crown Prosecutors 8th edition was issued in October 2018 by the Director of Public Prosecutions under section 10 of the Prosecution of Offences Act 1985. The SPA applied the Code to all decisions to prosecute. It sets out the two-stage test for prosecutors to establish whether there is sufficient evidence for a realistic prospect of conviction and whether it is in the public interest to prosecute. In Health and Safety Executive (HSE) cases the lawyer must also then go on to consider several factors specific to HSE prosecutions, which, if applicable, indicate that it would be in the public interest to prosecute.

Compliance issues

Issues where the inspected body is not complying with its own policy, guidance or operating procedures.

Counsel

Barristers instructed by LSD to appear in court and prosecute cases on behalf of HSE.

Decision to prosecute (DtP)

The process by which LSD decide whether there is sufficient evidence and whether it is in the public interest to charge a dutyholder with a particular offence. Lawyers at LSD are required to complete a DtP form for every charging decision they make.

Defendant

Someone accused of and charged with or convicted of a criminal offence

Director's Guidance on Charging/DG6

Guidance issued by the Director of Public Prosecutions in relation to charging decisions. It sets out guidance for the police and CPS about how to prepare a file so that it is ready for charging, who can make the charging decision, and what factors should influence the decision. It also sets out the requirements for a suspect whom the police will ask the court to keep in custody to be charged before all the evidence is available, which is called the threshold test. The latest edition (the sixth, also called DG6) came into effect on 31 December 2020. HSE have adopted the Code.

Dutyholder

The primary responsibility for managing risk to health and safety lies with the dutyholders. A dutyholder is the person or organisation that creates the risk. They are legally responsible for managing and controlling risks under health and safety law.

Disclosure/unused material

Investigators have a duty to record, retain and review material collected during an investigation. If it is relevant but not being used as evidence, they must reveal it to the lawyer. The lawyer then has a duty to provide the defence with copies of, or access to, all material capable of undermining the prosecution case and/or assisting the defendant's case.

Enforcement Guide

This is a document developed by HSE that outlines relevant laws and legal practices concerning the criminal enforcement of health and safety duties.

Enforcement Lawyer

Lawyers who work within LSD with a range of responsibilities including making decisions to prosecute, providing early investigative advice to inspectors, dealing with appeals brought by dutyholders who have been issued with prohibition and

improvement notices, and overseeing fatality cases that are subject to the Work-related Deaths Protocol.

Enforcement Management Model

The Enforcement Management Model (EMM) is a framework used by inspectors to assist them in making consistent enforcement decisions. It is the mechanism by which HSE implements the EPS.

Enforcement Policy Statement

The Enforcement Policy Statement (EPS) is a document produced by HSE that outlines the general principles their employees should follow when considering enforcement.

Health and Safety Executive

The HSE is the United Kingdom's principal authority on workplace health and safety. It is a government appointed body responsible for safeguarding people and the environments in which they live and work, promoting a culture of safety and wellbeing across all sectors by preventing workplace injury, illness and death.

Investigation Management, Planning and Capture Tool

The Investigation Management, Planning and Capture Tool (MPACT) is a document completed by inspectors to record key information and reviews during an investigation. It is one of the key documents that must be sent to LSD when seeking a decision to prosecute.

Individual quality assessment

An individual quality assessment (IQA) is an assessment of a piece of work done by a lawyer. The assessment will be carried out by a manager and feedback on the assessment given to the member of staff.

Legal Services Division

The Legal Services Division (LSD) was created in 2022 to facilitate the decision by HSE to separate the investigation and prosecution stages of the legal decision-making process.

No further action

HSE inspectors and investigators can decide at any stage during an investigation that there is insufficient evidence to proceed and will therefore take no further action (NFA). Alternatively, they may refer a case to LSD who may advise the

inspector that no further action should be taken, either because there is not enough evidence or because a prosecution is not in the public interest.

Reasonable lines of enquiry

When conducting an investigation, the Code of Practice on disclosure says that the (police) investigator “should pursue all reasonable lines of inquiry, whether these point towards or away from the suspect. What is reasonable in each case will depend on the particular circumstances”.

Recommendation

This is normally directed towards an individual or body and sets out steps necessary to address a significant weakness relevant to an important aspect of performance (i.e. an aspect for improvement) that, in the view of the inspectorate, should attract highest priority

Senior Enforcement Lawyer

Senior Enforcement Lawyers (SELs) are responsible for line managing enforcement lawyers and currently carry their own caseload and have corporate contributions.

Special measures

There are a range of special measures to help vulnerable or intimidated witnesses in criminal trials to give their most accurate and complete account of what happened. Measures include the facility to give evidence via a live TV link to the court, to give evidence from behind screens in a courtroom and the use of intermediaries. A special measures application is made to the court within set time limits and can be made by the prosecution or defence.

Strengths

Strengths are aspects where the body being inspected performs particularly well. They are usually characterised by consistently good work achieved by operating or applying existing systems and processes.

Victim Personal Statement

A Victim Personal Statement (VPS) is a statement which the victim can make, providing them with an opportunity to explain to the court how a crime has affected them. If a defendant is found guilty, the court will take the VPS into account when deciding on an appropriate sentence.

Victims' Code

The Code of Practice for Victims of Crime in England and Wales sets out a victim's rights and the minimum standards of service that organisations must provide to victims of crime. Its aim is to improve victims' experiences of the criminal justice system by providing them with the support and information they need.

Victims' Right to Review

The Victims' Right to Review (VRR) scheme provides victims of crime with a specifically designed process to exercise their right to review certain decisions not to start a prosecution or to stop a prosecution. If a new decision is required, it may be appropriate to institute or reinstitute criminal proceedings. The right to request a review of a decision not to prosecute applies to decisions made by every prosecutor, regardless of their grade or position in the organisation. It is important to note that the "right" referred to in the context of the VRR scheme is the right to request a review of a final decision. It is not a guarantee that proceedings will be instituted or reinstituted.

Witness Charter

Document setting out the level of service witnesses to a crime should expect to receive from law enforcement agencies.

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