

Justice on hold?

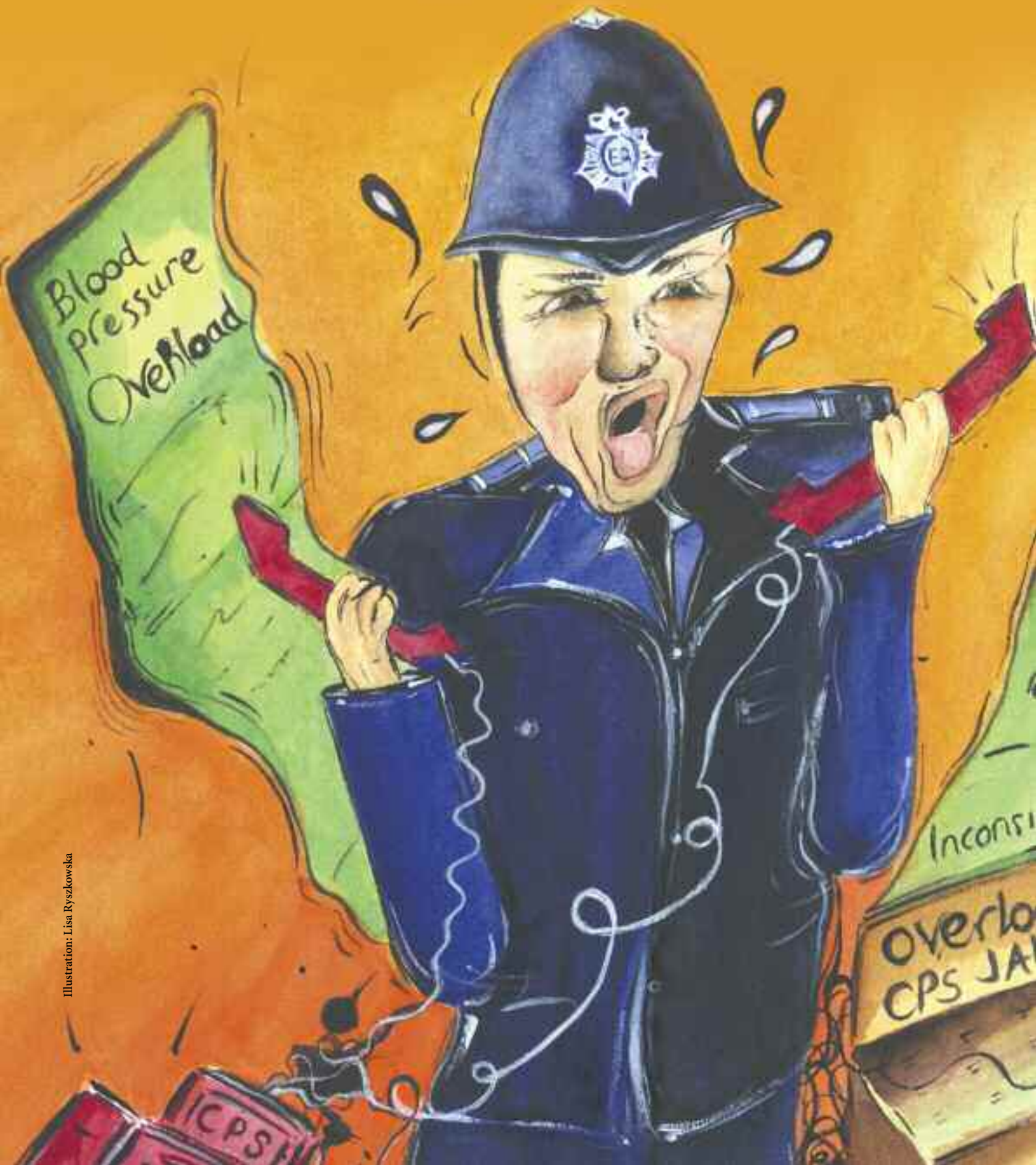


Illustration: Lisa Ryszkowska

Should officers take back the duty of charging for minor offences?

Complaints from police offices waiting by telephones or fax machines for the CPS has prompted the Federation to call for a u-turn.

Carol Jenkins reports

Thousands of officers applauded when an officer from Greater Manchester Police voiced frustrations at the Federation's annual conference about the lack of speed at which justice is being done.

Lance Thomas, from Manchester Police Federation, works in a busy volume crime team in Manchester city centre, and says that statutory charging, the system for charging defendants which brings in the CPS at an earlier stage to maximise chances of a successful prosecution, is overly bureaucratic and has led to unnecessary delays. "If a person is in custody and isn't worthy of being remanded in custody then we are forced to bail that individual and then book an appointment with the

CPS who would then decide whether he should be charged," he explained.

"In some instances we have been waiting three or four weeks for a CPS appointment when the custody sergeant could have made an instant decision. If the custody sergeant decided to bail the suspect then he would be able to bail him with conditions. At the moment, they are being bailed without conditions, are back into the community and free to commit crime again."

PC Thomas also raised concerns about the amount of time officers were kept holding on the line when they contact CPS Direct for out of hours charging advice. "In some cases we have to fax over 40 pages to the CPS Direct prosecutor and then wait on the line for two hours while they read the material," he told *Police magazine*.

Statutory charging powers were transferred from the police to the CPS five years ago with the aim of speeding up the justice process, improving the conviction rate and reducing the amount of trials that do not proceed because the prosecution offer no evidence. For the first time, CPS prosecutors were given the responsibility of determining whether an individual should be charged in all but the most minor of crimes. The more minor crimes are still dealt with by the custody sergeant.

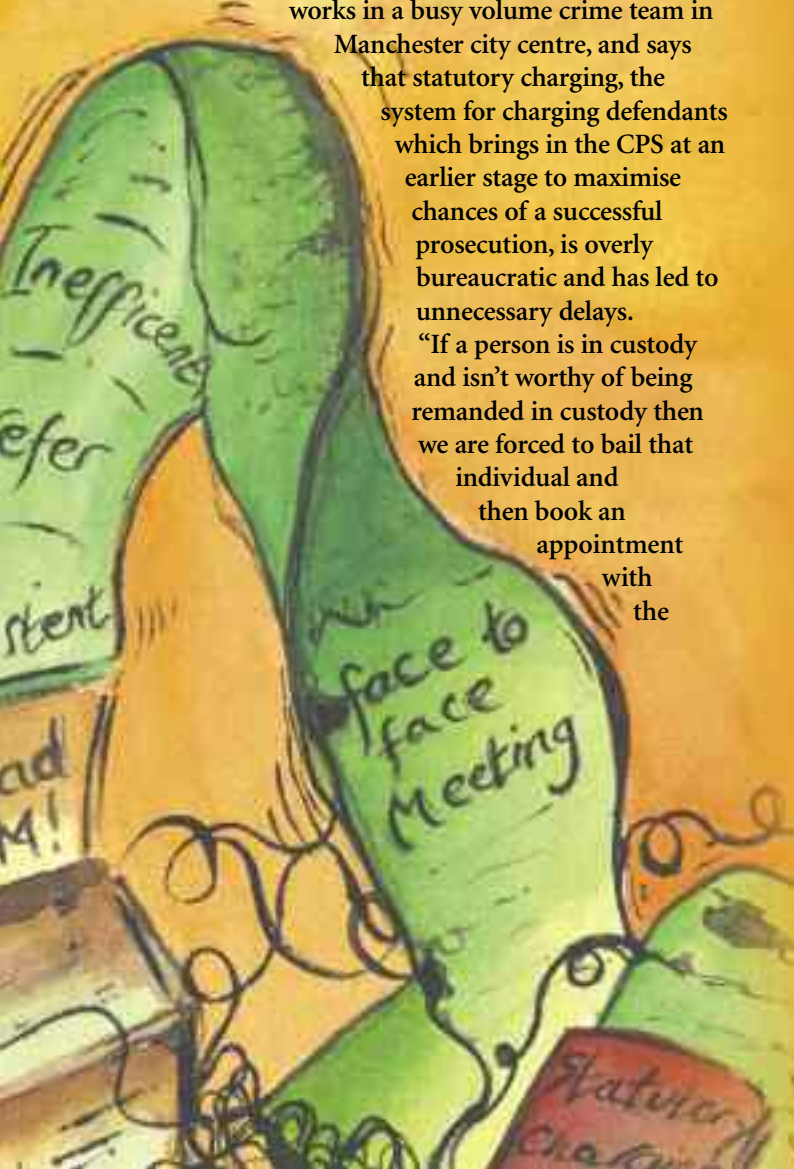
It was hoped that their expert advice would provide real benefits to the justice system and lead to a fairer deal for victims and witnesses amid concerns that their confidence in the justice system had become eroded. A joint HMIC/HMICPS thematic review into the charging arrangements released in November found that the scheme had "delivered benefits to the criminal justice process".

It found: "It has required close partnership working between the CPS and the police service at both senior and operational levels. It has facilitated progress within the criminal justice system in relation to linked projects improving criminal case management and reducing delays in court."

Other benefits include the fact that discontinuance of cases now occurs earlier on in the process, thus preventing weak cases from entering the court system. Statutory charging has also been helpful in managing serious and complex cases.

However, the report commented that "some aspects of the scheme need to be substantially refined in order to be fully effective." It found that police and CPS processes are "inconsistent, overly complex, inefficient and lacking in pragmatism in too many instances often leading to avoidable delays and frustrations."

It concluded that the practice of delivering advice in a face-to-face meeting is not providing the anticipated benefits in all cases but also that police file quality needs to be more robust and that there needs to be a greater consistency of approach by



prosecutors in the level of information required to make a charging decision.

Former federation chairman and now Independent Reducing Bureaucracy Advisor, Jan Berry, highlighted her concerns over the effectiveness of statutory charging in her Reducing Bureaucracy in Policing interim report released in February which looked at police bureaucracy.

Her report highlighted the fact that some investigators were concerned about the consistency of advice and charging decisions and so were selecting the prosecutors they thought would provide the best advice.

"I have witnessed officers waiting unacceptably long times to meet with CPS solicitors to discuss very simple, albeit it contested cases which were at the time not admitted," said Mrs Berry in her report.

She is now calling for a pilot project to be set up in one force to extend police charging powers to include all summary offences, regardless of plea and possibly further offences subject to trial at either magistrates' court or crown court.

Steve Evans, Secretary of the Federation's Professional Standards Committee, echoed these sentiments and called for charging decisions in all summary offences to be returned to the custody sergeant.

"The issue for us is that the sheer volume of cases that are going through the CPS means that officers are waiting an inordinate amount of time to see a prosecutor and get a charging decision," he said.

"In effect, we are taking officers off the streets to wait for a decision that could have been taken more swiftly. The only way to resolve it is to look for short cuts in the system or make the CPS more available and that's just not going to happen because of the serious cost implications."

He rejected the idea that the federation wanted to see a complete reversal of powers.

"What we are saying is that the more serious offences such as major crime should stay with the CPS as there is no doubt this is having a positive impact," he said.

"But what we do want to see is all summary charges to be returned to the custody officer and all triable either way offences should be split according to their seriousness."

He said this would help improve the system and free up experienced lawyers to work on the more serious cases. He believes that one of the fundamental reasons that charging has been so problematic is that both police and CPS have separate and sometimes conflicting performance targets and are responsible to different government departments.

"It is proving very difficult for both police officers and CPS lawyers to provide a joined-up service when they are working to different targets. There needs to be much more joined up thinking if charging is to work in the long-term."

Mike Kennedy the Chief Operating Officer for the

Crown Prosecution Service echoed the findings of the thematic report in that charging was proving successful. "If you look at the data then it is clear that there has been a significant increase in the number of convictions and the numbers of cases that have resulted in no further action have fallen," he said.

"We have also seen an improvement in performance and cost savings have been made."

Mr Kennedy acknowledged that although charging had produced positive results some aspects of the service could be improved.

"We need to focus our people on dealing with those cases that really need legal input. There are a lot of cases that are coming to us from the police that don't necessarily need to. Ideally, 65 per cent of cases should still be charged by the police but what we are finding is that cases are being unnecessarily referred to us."

In order to address this, the CPS is currently producing revised guidance setting out the criteria of cases that need to be referred to prosecutors.

The issue of CPS availability is also being addressed by the organisation as it is keen to ensure that prosecutors are available at the earliest opportunity.

"We've looked at this issue and to be frank we have found that there have been slots in diaries much sooner than people have said.

"Part of the problem is that there is an inconsistency in the way diaries are managed – in some cases they are being managed by the police and in others by the CPS."

The CPS is also running trials in London, West Midlands, South Yorkshire, Humberside and West Yorkshire to provide immediate charging advice to officers by phone, in addition to the existing CPS Direct service, in an attempt to reduce delays. A member of CPS staff has also been seconded to Jan Berry's office to help ensure that any problems are addressed and that the system is improved said Mr Kennedy.

Taking on board the concerns about officers being required to fax large quantities of information to CPS Direct lawyers, the CPS is also looking to use electronic files which will speed up the time it takes for officers to provide vital case information. Mr Kennedy said his organisation was keen to work with staff associations such as ACPO, the Federation the Superintendents' Association to improve the system.

"We are determined to do that," he said.

Former Home Secretary Jacqui Smith said recently she had no plans to reverse the policy of statutory charging. In response to a recent parliamentary question by Shadow Home Secretary Chris Grayling, Mrs Smith said: "A recent joint HMIC/HMCPSI inspection reported that statutory charging has delivered good quality final charging decisions by prosecutors and had caused weak cases to be discontinued earlier, thereby saving time and cost for the police service, CPS and the courts."