



INSTITUTIONAL IMPERATIVE: A COMPARATIVE ANALYSIS OF CPS DIRECT IN ENGLAND AND THE STRATEGIC NECESSITY OF REFORMING THE CHARGING PROCESS IN THE REPUBLIC OF UZBEKISTAN

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<https://doi.org/10.5281/zenodo.18160358>

ARTICLE INFO

Qabul qilindi: 04-yanvar 2026 yil
Ma'qullandi: 05-yanvar 2026 yil
Nashr qilindi: 06-yanvar 2026 yil

KEYWORDS

Crown Prosecution Service,
centralization, prosecutorial
oversight

ABSTRACT

This article is devoted to an analysis of the institutional mechanisms of charging in the criminal justice system, exemplified by the CPS Direct model operating within the Crown Prosecution Service (CPS) of England and Wales, and to justifying the need to introduce a similar institution in the Republic of Uzbekistan. It examines the structural, functional, and procedural features of CPS Direct, including its role in ensuring prosecutorial independence, procedural efficiency, and a balance between the parties in the criminal process. Through comparative legal analysis, the article identifies the key shortcomings of the current charging regime in Uzbekistan, associated with the concentration of procedural functions, the limited autonomy of the prosecutor, and the risks of formalism in criminal prosecution. The author argues that the institutional separation of the investigative and prosecutorial functions, modeled on the CPS, can enhance the quality of criminal justice, strengthen guarantees of individual rights, and bring the national system closer to international standards of a fair trial. The article concludes with proposals for reforming the legislative regulation of the charging process..

Introduction

The architecture of modern criminal justice systems increasingly rests on a fragile balance between investigative efficiency and the preservation of procedural integrity. In the United Kingdom, the shift from a charging model controlled by the police to one overseen by the Crown Prosecution Service (CPS) marked a tectonic shift in the constitutional landscape of criminal procedure. At the forefront of this evolution is CPS Direct—a specialized, technologically equipped unit that provides around-the-clock prosecutorial oversight and advice on charging decisions.

In turn, the Republic of Uzbekistan is undergoing a critical moment in its own judicial development. Pursuing an ambitious course under the “Digital Prosecution 2030” initiative, the

country is simultaneously battling systemic vulnerabilities rooted in its inquisitorial legacy. The need to create in Uzbekistan an institution analogous to CPS Direct is not merely a matter of administrative modernization; it is a fundamental condition for realizing constitutional guarantees, reducing human rights violations, and harmonizing national practice with international standards of justice.

Statutory Charging Reform in England and Wales

The establishment of the Crown Prosecution Service in 1986, in line with the Royal Commission on Criminal Procedure's recommendations, marked the beginning of a long-term project to professionalize the prosecutorial function in England and Wales. However, it was the subsequent passage of the Criminal Justice Act 2003 that fundamentally altered the relationship between the police and the prosecution.¹ This Act transferred the power to charge suspects for most crimes from the police to the Director of Public Prosecutions at the CPS. This reform was a direct response to the high attrition rate of cases in criminal courts, where proceedings often collapsed due to insufficient evidence or erroneous legal classification that should have been detected before formal charges were brought.²

The Criminal Justice Act 2003 created the framework for so-called *statutory charging*. Under this system, the police retain the power to charge for minor offenses, but all serious or complex cases – the vast majority of those heard in the Crown Court – must be referred to the CPS for charging decisions. This early involvement of the prosecution ensures that the *Full Code Test*, established by the Code for Crown Prosecutors, is applied before court resources are engaged. The Full Code Test requires, first, that there is a realistic prospect of conviction and, second, that the prosecution is in the public interest.³

Procedural stage	Before 2003	After 2003
Decision to charge	Taken by the police based on their own assessment of the evidence.	For the majority of serious cases, taken by a CPS prosecutor on the basis of the Full Code Test.
Role of the prosecution	Intervention usually at a later stage, after the police have charged.	Early and mandatory involvement at the pre-trial stage to approve charges.
Legal standard	A less strict threshold ("reasonable grounds to suspect") was often applied.	Strict compliance with the <i>Full Code Test</i> is required (realistic prospect of conviction and public interest).
Consistency and quality	Risk of weak or legally unfounded charges, leading to case "collapses" in court.	Increased consistency and legal soundness of charges, reducing the number of unsustainable cases.

¹ <https://hansard.parliament.uk/commons/2004-03-01/debates/0620ce84-4242-4701-8344-01e5849c8acf/CpsDirect>

² TY - JOUR AU - Brownlee, I.D. PY - 2004/11/01 SP - 896 EP - 907 T1 - The statutory charging scheme in England and Wales: Towards a unified prosecution system? VL - JO - Criminal Law Review ER

³ <https://www.cps.gov.uk/publication/code-crown-prosecutors>

Procedural stage	Before 2003	After 2003
Division of authority	The police combined the functions of investigation and charging.	Clear separation: the police investigate, the prosecution authorizes charges.

The implementation of this new charging role required that the CPS make its services available precisely when and where needed – namely in police custody suites where suspects were being held under the legal detention time limit (the “custody clock”). This procedural requirement led to the creation of CPS Direct. CPS Direct was launched as a pilot project in September 2003, initially covering several police areas including Humberside, West Yorkshire, and parts of London. The pilot tested the viability of a nationwide telephone service capable of providing charging advice during “out-of-hours” – at night, on weekends, and on public holidays when local CPS offices were closed. By February 2004, over 6,800 written charging decisions had been made during the pilot, confirming the high demand for immediate legal oversight.⁴

CPS Direct: Establishment and Operation

CPS Direct’s operational effectiveness was built on the early adoption of remote-working technologies and advanced telecommunications systems. Experienced prosecutors, working from home via secure links to police databases, could review case materials and provide written charging recommendations (recorded on the MG3 form) within minutes of a police referral. This ensured that there were no delays in the custody process following the transition to statutory charging. As the system was refined, CPS Direct expanded its operations to achieve full national coverage and eventually became a round-the-clock charging service for “urgent cases” for all 43 police forces in England and Wales.⁵

The modern operation of CPS Direct is governed by a strict prioritization system, often referred to as the **“Red/Green cases” model**. This system ensures that the most urgent cases – those where the suspect is in custody and a charging decision is required before the legal detention limit expires – receive immediate attention.

• **Red cases:** Cases where the suspect is in custody. Between 5:00 pm and 9:00 am on weekdays, and around the clock on weekends, CPS Direct is responsible for making the charging decisions. The average time to make such decisions is often measured in hours, reflecting the pressure of the custody time limit.

• **Green cases:** Cases where suspects have been released on bail or are under investigation. These are typically handled by local CPS units during standard working hours, although CPS Direct provides “standby support” and assistance during peak periods.

In 2021, the sixth edition of the Director’s Guidance on Charging (DG6) further enhanced these processes. DG6 mandates a “digital-first” approach, requiring the police to provide a complete digital case file – including summaries of digital evidence and body-worn camera

⁴ <https://hansard.parliament.uk/commons/2004-03-01/debates/0620ce84-4242-4701-8344-01e5849c8acf/CpsDirect>

⁵ <https://www.cps.gov.uk/publication/cps-response-hmcpsi-report-inspection-quality-and-timeliness-charging-decisions-made>

recordings – before a prosecutor will even consider charging. ⁶This requirement has had a transformative impact on the quality of the evidence available, although it has also increased the burden on investigators, leading to longer preparation times before files are submitted to the CPS.⁷

Regular inspections by His Majesty's Crown Prosecution Service Inspectorate (HMCPSI) consistently note the excellent quality of legal analysis provided by CPS Direct prosecutors. In reports from 2020 and again in 2025, inspectors highlighted that CPS Direct's specialization in pre-charge decision-making – unburdened by the need to sustain cases in court or participate in trials – allows for a more structured and analytical approach to evidence assessment. This "added legal effect" is crucial for identifying cases that should not be brought to court, thereby avoiding the human and financial costs of unsuccessful prosecutions.⁸

Implications for Uzbekistan

The Republic of Uzbekistan is currently undertaking one of the most significant judicial-legal reforms in its post-Soviet history. Guided by the *Uzbekistan-2030 Strategy*, the state seeks to transition from a system characterized by strong investigative autonomy and centralized prosecutorial oversight to one based on the rule of law, protection of human rights, and adversarial justice⁹. One of the main arguments in favor of the CPS Direct model is its positive impact on case progression and efficiency. ¹⁰In England and Wales, the CPS applies the Full Code Test, which poses two questions: Is there a realistic prospect of conviction, and whether prosecution required in the public interest.

Data from the HMCPSI indicate that early involvement of prosecutors significantly reduces the time from "crime to charge". Reports in 2025 noted that cases in which Early Investigative Advice (EIA) was obtained progress through the system more quickly than those where the police charge first and consult later. Statistics show that nearly 30–40% of cases are initially returned to investigators for additional work. Without a direct advice line, such cases can circle for months between the investigator and the prosecutor. ¹¹In Uzbekistan, where an "audit procedure" for reviewing cases in court was recently introduced, the CPS Direct model could prevent low-quality cases from reaching trial, thereby reducing the burden on the courts, including regional economic and criminal courts.

Moreover, there is a pragmatic benefit to this structure within Uzbekistan's law enforcement system. Law enforcement personnel – from frontline officers to others involved in crime prevention – may encounter complicating circumstances that can negatively affect the

⁶ <https://www.cps.gov.uk/prosecution-guidance/dg6-desktop-guide>

⁷ <https://www.instituteforgovernment.org.uk/publication/performance-tracker-2025/criminal-justice/overview>

⁸ <https://www.cps.gov.uk/publication/cps-response-hmcpsi-report-inspection-quality-and-timeliness-charging-decisions-made>

⁹ <https://timesca.com/opinion-from-reform-to-rights-strengthening-uzbekistans-legal-foundations/>

¹⁰ <https://unsdg.un.org/sites/default/files/2025-05/Uzbekistan%20Cooperation%20Framework%202026-2030%20Results%20Framework.pdf>

¹¹ <https://www.cps.gov.uk/publication/cps-data-summary-quarter-1-2025-2026>

quality of their work and, worse, can harm citizens and their rights. Having a single institution ready to advise law enforcement on matters related to their professional duties would represent a turning point in strengthening the justice system and the rule of law in Uzbekistan.

Conclusion

The comparative examination undertaken in this article demonstrates that CPS Direct is not merely an ancillary operational unit within the Crown Prosecution Service, but a structurally significant institution that redefines the logic of pre-trial decision-making in a modern adversarial system. Its value lies in the systematic relocation of legal judgment to the earliest feasible stage of the criminal process, where prosecutorial expertise can exert a decisive filtering effect. By embedding the Full Code Test into real-time charging decisions and coupling it with continuous availability, CPS Direct mitigates the structural risk inherent in police-led charging models—namely, the initiation of proceedings that are evidentially weak, legally misconceived, or misaligned with the public interest. The English experience illustrates that procedural efficiency and enhanced rights protection are not competing objectives, but mutually reinforcing outcomes of well-designed institutional architecture.

For the Republic of Uzbekistan, the relevance of this model extends beyond questions of technical modernization or digital transformation. The analysis shows that the current concentration of investigative and accusatory functions, even when moderated by prosecutorial supervision, generates systemic incentives toward formalism and post hoc correction rather than *ex ante* legal evaluation. In this context, the introduction of an institution functionally analogous to CPS Direct would constitute a qualitative shift in the role of the prosecutor—from a retrospective overseer to an active guarantor of legality at the point where procedural momentum is first established. Such a shift would not only reduce the flow of inadequately prepared cases into the courts, but would also recalibrate the balance of power between investigation and prosecution in a manner consistent with the principles of adversarial justice and the presumption of innocence. Ultimately, the strategic significance of adopting a CPS Direct-type model in Uzbekistan lies in its capacity to operationalize constitutional and policy commitments that otherwise risk remaining declaratory. By institutionalizing early, independent, and professionally insulated charging decisions, the system would acquire a built-in mechanism for safeguarding individual rights, conserving judicial resources, and enhancing public confidence in criminal justice outcomes. In this sense, CPS Direct should be understood not as a transferable administrative template, but as a normative benchmark: an illustration of how institutional design can translate abstract guarantees of fairness and legality into daily prosecutorial practice.

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