

**Independent Assessor of Complaints  
for the Crown Prosecution Service**

Annual Report 2016-17

## Independent Assessor of Complaints for the Crown Prosecution Service: Annual Report 2016-17

<b>Contents</b>	<b>Page</b>
Introduction	2
Caseload	4
Themes from the casework	8
Case summaries	9
Annex 1: Terms of Reference	25

## 1. Introduction

1.1 For a fourth time, I am pleased to present my annual report as the Independent Assessor of Complaints (IAC) for the Crown Prosecution Service.

1.2 Two more annual reports will follow before my term in office concludes in May 2019. I devote approximately six days per month to my duties with the CPS.

1.3 My appointment was one of the outcomes of two very critical reports on CPS complaint-handling by HM Crown Prosecution Service Inspectorate in 2009 and 2013. It is therefore worth my repeating a message I have shared directly with the Director of Public Prosecutions and the CPS Board: that in my time in office I have seen significant improvements in the Service's approach to complaints and complainants. This is especially the case at stage 2 of the process where the reviews conducted by Deputy Chief Crown Prosecutors (DCCPs) are of a very high quality indeed. As the CPS itself acknowledges, there is still some progress to be made at stage 1, but here too I think the standard is improving – albeit my most recent complaints audit (an examination of a random selection of complaints that did not escalate beyond stages 1 or 2) showed some slippage in terms of timeliness.

1.4 I have benefited this year from being able to make presentations to CPS staff in the Areas and specialist casework divisions. This has been a very good way both of feeding back my overall findings on the Service's complaints handling, and in disseminating (and learning about) good practice.

1.5 This wider 'ambassadorial' role is one I very much welcome. I aim to complete the current programme of visits during 2017-18 or shortly thereafter.

1.6 The vast majority of complainants are victims of crime, and in most cases the trigger for their complaint has been a decision to offer no evidence, or an acquittal, or a sentence deemed insufficient. As a consequence, I am very conscious that in all too many cases I am unable to provide complainants with the resolution they seek. I cannot reverse the outcome in court, or offer anything else of direct assistance. In such circumstances, my aim is to tell the victim's story and to share it with those at the top of the CPS who receive my reports.

1.7 Most complainants also do not distinguish between the various arms of the criminal justice system. It is a matter of indifference whether the underlying action, inaction or decision was the responsibility of the police, the Witness Care Unit, the CPS, HM Courts and Tribunals Service, or the magistracy or judiciary.

1.8 However, complaints involving more than one criminal justice agency continue to cause me concern, and as the case studies reproduced later in this report show they frequently feature in my work. The responses to such complaints can often appear to the complainant to be an exercise in buck-passing, and wherever possible I would like to see a more joined-up approach (see also my comments at paragraph 2.23 below) . At the very least, complainants should be signposted to the complaints processes of the other agencies involved. In my view, the CPS is also sometimes too cautious in saying anything that could be construed as a criticism of decision-making in the courts.

1.9 I also see a number of cases where, notwithstanding the likelihood that it was an oversight by the police that led to a failed prosecution, complainants identify more with the police officer who investigated their case (whom they have met) than they do with the anonymous CPS lawyer who determined the charge and whether the evidence met the test in the Code for Crown Prosecutors.

1.10 My reviews would be much the weaker without the contributions made by DCCPs in preparing comprehensive Background Notes and in offering comments on my draft reports. I know full well how much time is invested by DCCPs – often working late into the evening or at weekends – and am grateful to them all. I would also like to thank Mr Derek Manuel, one of the Non-Executive Directors on the CPS Board, for the personal support and interest that he has shown in my work as IAC, and in the complaints function as a whole.

1.11 Finally, I am indebted to Mr Harlyn Collins, formerly Head of the CPS Parliamentary and Complaints Unit, and to all his team for their kindness and support throughout the year. I am particularly grateful to Ms Jade Whittle-Barnes and Mr Tony Pates who have served as Assistant to the IAC during the past year, and to Ms Mercy Kettle who held the reins in a temporary capacity before the appointment of Mr Pates was confirmed.

## 2. Caseload

2.1 I received a total of 69 complaints in the year to 31 March 2017. This compares with a total of 68 complaints in 2015-16 and 76 complaints in 2014-15.

2.2 There were 31 complaints in the first half of the year, and 38 in the second. This is the same pattern (a greater volume of complaints in the October-March period) as last year and in 2014-15.

2.3 There were 36 male complainants, 28 female, and five from male-female couples.

2.4 Three-quarters (52) of the complainants were victims of crime, including 12 victims of domestic violence and five victims of non-recent sexual abuse. Eleven complainants had been defendants or those considered for prosecution, and four had been witnesses. One complainant was a solicitor (whose grievance I felt should not have been pursued through the complaints process), and one complaint was from someone affected by a restraint order.

2.5 As I have reported previously, almost all complaints that reach me at stage 3 of the CPS complaints process follow proceedings in the magistrates' court not in the Crown Court.

2.6 A breakdown of the 69 complaints by CPS Area is shown in Table 1.

2.7 It will be seen that one-third of the complaints I reviewed came from just two CPS Areas: London and Wales-Cymru. The number from London will be of little surprise given the size of the Area compared to the rest of the country. However, I have tried to identify if there were any special factors that have resulted in a disproportionate volume from Wales-Cymru. I have identified no such factors from my caseload.

2.8 Likewise, I am unaware of any specific reasons why some Areas see so few complaints progressing to stage 3.

**Table 1: Stage 3 complaints accepted by CPS Area, 2016-17 and 2015-16**

CPS Area	Number of Complaints 2016-17	Number of Complaints 2015-16
CPS Direct	0	4
Cymru/Wales	10	8
East Midlands	4	7
East of England	9	6
London	13	9
Mersey Cheshire	1	3
North East	4	4
North West	3	5
Organised Crime Division	0	1
South East	2	3
South West	1	2
Special Crime and Counter Terrorism Division	1	0
Specialist Fraud	0	0
Thames & Chiltern	6	2
Wessex	2	3
West Midlands	7	2
Yorkshire & Humberside	6	6
Complaints involving more than one Area	0	3
<b>Total:</b>	<b>69</b>	<b>68</b>

2.9 Of the 67 cases received and closed in 2016-17, I upheld 22 complaints, part upheld 33 complaints, and did not uphold 12 complaints. (In total, 76 cases were closed in the year, including nine carried over from 2015-16.)

2.9 An uphold rate of over 80 per cent (combining full and part upholds as is the convention amongst Ombudsmen and other complaint assessors) is extraordinary at first sight. It is certainly much higher than would be found in the caseload of most complaints examiners. However, it reflects the fact that so many of the complaints at stage 3 have already been upheld at stage 2. In other words, the CPS has acknowledged a failure on its part, but the complainant has continued to escalate their grievance.

2.10 In some cases, this may be in the expectation of further redress, but I sense that in many cases it is simply that the complainant wants their grievance heard and understood at the highest level they can achieve.

2.11 I made recommendations in 30 cases. All recommendations were accepted.

2.12 The most frequently occurring recommendations were for a consolatory payment, advice to staff, an apology, and the sharing of my report with other parts of the criminal justice system.

2.13 Under paragraph 4.4 of my terms of reference, I can recommend the making of a consolatory payment where “there is clear evidence of uninsured material loss or severe distress caused by maladministration or poor service by the CPS”. I exercise this responsibility cautiously, and – in line with HM Treasury guidance – the sums involved are modest. In the cases closed during the year, I recommended a total of £3,050, and all but two of the payments were for £250 or less (one recommendation was for a payment of £400 and another for £500).

2.14 I welcome the fact that, following a recommendation I made in this annual report a year ago, CPS Areas are now advised by Headquarters to consider whether to offer a consolatory payment during their own consideration of a complaint at stages 1 and 2. I am particularly keen that this should be done in cases involving breaches of the Victims’ Code, to avoid complainants having to proceed to me or to the Parliamentary and Health Service Ombudsman (PHSO). There are cases where a breach of the Victims’ Code does not trigger a consolatory payment, but in every instance this option should be considered.

2.15 Most of my reviews are concluded by way of a formal report. However, I have continued my practice of closing some complaints by letter where this seems more sensitive, proportionate or appropriate in the circumstances.

2.16 All cases were closed within the 40-day time target to which I work.

2.17 As I have pointed out previously, the 40 days cover all stages of the complaint, including fact-checking by the CPS at Area and Headquarters. The actual time I have available is significantly less than 40 days, and this can present difficulties given the inevitable peaks and troughs in monthly referrals (in one month I received nine referrals; in another, I received just one).

2.18 However, I should also acknowledge that the clock only starts ticking when a case is passed for my personal attention. There was a short period in Autumn 2016 when staff shortages amongst those supporting my work in CPS Headquarters meant that cases were not passed to me as quickly as they should have been, and some complainants encountered a period of delay.

#### *Complaints audit*

2.19 In September 2016, I conducted a review of 40 complaints that had not reached stage 3. This annual audit is mandated under my terms of reference, and is the key process to deliver upon my responsibility as ‘guardian’ of the CPS complaints system.

2.20 The results from this year’s complaints audit have been published ([https://www.cps.gov.uk/contact/...complaints/.../iac\\_complaints\\_audit\\_2015\\_2016.pdf](https://www.cps.gov.uk/contact/...complaints/.../iac_complaints_audit_2015_2016.pdf)), so here I need note only the main headlines.

2.21 First, the findings from the audit were generally encouraging, in that the majority of complainants received timely, sensitive responses that engaged properly with the issues that had been raised. I found a higher uphold rate than previously, and believe this demonstrates not so much a deterioration in the service offered by the CPS but a greater willingness to admit error and to try to learn from it.

2.22 However, I did find cases where there had been a lack of empathy or little attempt to understand the complainants’ point of view. I argued that in many cases this could be remedied by a simple sentence such as: “I understand that this must have been a very difficult time for you.” A sympathetic tone and a demonstration of empathy are critical – and must not be seen as ‘un-lawyerly’ skills.



2.23 Finally, I drew attention to the inconsistency in approach to complaints involving more than one criminal justice agency between the Victims' Code and the relevant Principle of Good Complaint Handling advanced by the Parliamentary and Health Service Ombudsman. The advice given in the Victims Code is that: "Where a service provider (the initial provider) receives a complaint which should have been sent to a different service provider, the initial provider is responsible for ensuring that the complaint is directed to the appropriate service provider to respond." However, the relevant Ombudsman Principle is to: "Ensure, where complaints raise issues about services provided by more than one public body, that the complaint is dealt with in a co-ordinated way with other providers."

2.24 A further audit will be conducted in September 2017.

### **3. Themes from the casework**

3.1 In line with what I have said earlier, I am generally content with the quality of the CPS's complaints handling. However, basic failings (such as not sending holding letters in good time) still recur, and I regularly find errors in the entries on the CPS KIM database.

3.2 I am also critical of the last minute phenomenon – the issuing of stage 1 or stage 2 responses on the last possible day of the 20-day time-target. Like all written work, responses to complaints benefit from a period of reflection and a second look.

3.3 More significantly, a disappointingly large proportion of complaints I review reveal failures in case preparation by the CPS. Here again the last minute phenomenon is apparent, with case reviews being held too close to a hearing date for problems to be remedied.

3.4 Complaints concerning a failure to make an effective claim for compensation against the offender have been a feature of my caseload ever since I started in this role in 2013. The failure to ensure that a compensation claim form is in the prosecution bundle is not only unfair to victims but also makes a rod for the Service's own back. If the court decides on the basis of full information to make no compensation order, or orders a reduced sum, that is a question of judicial decision-making. If the CPS has failed to put the full facts before the court, few victims are likely to be persuaded that the eventual outcome would have been the same.

3.5 My reviews this year have also uncovered weaknesses in the service offered to vulnerable witnesses and those with special needs. There is a gap between the ideals of CPS policy documents, and the day-to-day reality in busy CPS offices and at court.

3.6 However, my principal concern has been a continued failure of the CPS to deliver victims' entitlements under the Victims' Code (*Code of Practice for Victims of Crime*), or to identify during subsequent complaint reviews that those rights have been breached. As I have said on a number of occasions, I do not regard the Victims' Code as a well-drafted document, and the rights it guarantees may not be the most important ones for victims. For example, there is no overarching right to an effective prosecution process. Nonetheless, the Code has both a symbolic and practical status that means that breaches of its terms are especially serious. They are also the only subjects of complaint against the CPS that can proceed to the PHSO. **I recommend that CPS HQ consider in what ways it can improve the familiarity of its staff with the provisions of the Victims' Code.**

#### 4. Case summaries

4.1 I set out below summaries of selected cases received and closed in 2016-17. Some details have been removed or been subject to minor alteration to ensure anonymity.

**Ms AB was the victim of domestic violence at the hands of a man who had previously assaulted her. The man was charged with assault by beating but was acquitted by magistrates.** Ms AB argued that failures on the part of the CPS had led to this outcome. Photographs of the injuries Ms AB had sustained were not able to be used at the trial. In addition, the defendant's police interview was also excluded. For its part, the CPS has said that the effect of its mistakes could not be known for certain, but that it was likely that they had had a material impact. The CPS acknowledged a depressingly long list of failures in case preparation. In her response to the letter she received at stage 2 of the CPS complaints process, Ms AB said she was "astonished by the level of oversights by the CPS in handling this case". Quite frankly, so was I. The CPS has placed a special priority upon the successful prosecution of cases involving domestic abuse. It is therefore all the more disappointing that the case preparation in this instance was so poor. Some of the failings might have been remedied had the case review not been conducted on the Friday morning before a trial the following Monday. I recommended a consolatory payment of £400.

**Mr AB's car had been damaged while parked outside his home. The defendant was found guilty at trial but the court had made no compensation order.** It subsequently emerged that the reason the court made no order was that the agent prosecutor had said that no claim for compensation had

been made. This was despite the fact that her file included the police form MG19 (Application for Compensation) in which Mr AB had calculated his losses to cover the cost of repairs to his vehicle. (Mr AB had chosen to pay the costs outright rather than claim on his motor insurance policy.) Mr AB retained the ability to bring a civil claim against the offender, and my default position is that it is for the offender not the taxpayer to meet the costs of his or her wrongdoing. However, as so much time has been lost since the trial – it had taken the CPS seven months to ascertain from the agent prosecutor what had happened – and in light of the inconvenience Mr AB had already suffered, I recommended a consolatory payment of £250. (The CPS had pointed out that a common practice of the courts is to award compensation equivalent to the excess on an insurance policy.)

**Ms AB was also the victim of criminal damage. She complained that the Area did not keep her updated on progress with the case and that she was not awarded compensation.** My review focused on the latter issue in particular, as well as whether Ms AB's rights under the Victims' Code had been breached. I found that the CPS had made an application for compensation on the information provided by the police, and the court had decided not to make an order. Whatever view was taken about the court's decision, it was not possible to argue that the CPS had failed in its duty to Ms AB. In contrast, the CPS's failure to send her a (DCV) victim letter when a charge of assault was formally dropped was a breach of her rights under the Victims' Code. However, given that the dropping of the charge followed Ms AB's own retraction statement, and the evidence that she had been informed by telephone by a Witness Care Officer that the charge was not proceeding, I regarded the failure to send a victim letter to be more akin to a technical failure rather than one of substance, and concluded that the apologies offered and the management action taken represented appropriate and proportionate redress on this occasion.

**Ms AB had been assaulted in her own home. The two defendants were acquitted.** A DVD showing CCTV coverage of the defendants entering the house could not be played at court, and since the court refused an adjournment this significantly weakened the prosecution case. I found that the disc had become defective while in the CPS's possession, but was content that apologies at stages 1 and 2 did not need repeating. The disc had been mistakenly taken to his chambers by the prosecutor, and then had gone missing – probably in the DX system – for which the CPS could not be held responsible. The complaint handling had been excellent.

**Mr AB had been convicted and sentenced for three motoring offences.** He said that he had been treated unfairly and shown a lack of respect by the prosecutor during the hearing, but I judged that the prosecution's approach to the examination and cross-examination of witnesses was a legal

matter outside my jurisdiction. On the service issues, I found that there had been a delay (or a complete failure) to respond to three letters from the defence, and the stage 1 reply was dated several days before it was actually posted. However, I considered that the apologies Mr AB had received represented adequate redress. I did not endorse Mr AB's more general criticisms of the responses he had received.

**Mr AB was the victim of non-recent sex offences. The CPS had twice decided not to prosecute.** His complaint concerned the circumstances of a video-conference during which he said the CPS staff were rude and dismissive. I took the view that video-conferences are not the best way of imparting bad news, but are inevitable in an age of austerity when large distances are concerned. The CPS denied being discourteous, and the complaint amounted to one person's word against the other.

**Ms AB was another victim of non-recent sexual abuse. I found there had been a succession of failures in case-handling.** The decision to reinstate the charges against the defendant was too slow, and Ms AB was not kept properly informed. The Witness Care Unit (WCU) had failed to inform Ms AB of the date of the first hearing, which I noted was also a breach of her Victims' Code rights. A special measures meeting should probably have been held (albeit the CPS could not really be criticised for not doing so given the information it had to hand). The CPS did not check that Ms AB had had an opportunity to refresh her memory before the trial. And the CPS failed to chase for a Victim Personal Statement (VPS) – the right to make one being a further entitlement under the Victims' Code. While it was clear that there had been failures on the part of the police as well, aspects of the CPS's handling of this prosecution were weak and disappointing. Turning to the complaint handling, the holding letter to Ms AB and the stage 1 response itself were both late. However, I was impressed by the quality of both the stage 1 and stage 2 letters and believed they reflected well upon their authors and the Service they represent. However, Ms AB's Member of Parliament was correct to say that neither letter offered a remedy beyond an apology. In light of the reference to Ms AB seeking "recompense", I therefore considered whether this was a case where an apology – however genuine – was simply insufficient. (I should emphasise that consolatory payments are in no sense 'compensation' for the failure of a prosecution.) It seemed to me that this was a case where this clause in my terms of reference should be triggered. Although the CPS could not be held exclusively responsible for the errors and omissions that occurred (or for the two breaches of Ms AB's rights under the Victims' Code), the Area had acknowledged poor service and significant failures. That these had caused Ms AB severe distress was apparent from her correspondence.

**Mr AB had been the victim of a dangerous dog attack. He said that the CPS had failed to ensure special measures and/or an intermediary.** In a very long report, I found that the lofty aspirations of CPS policy documents on victims were not matched by day-to-day practice. The failure to progress Mr AB's request for an intermediary was particularly poor, and the CPS accepted that the consideration of other special measures was flawed. There had been a breach of the spirit of the Victims' Code, and possibly of the letter of the Code as it applies to vulnerable victims.

**Ms AB was the victim of non-recent sexual abuse. The defendant had been acquitted.** My review was inevitably much narrower than Ms AB may have anticipated. Issues such as whether the prosecutor should have intervened during Ms AB's cross-examination by the defence are regarded as 'legal' in nature since they relate to the conduct of the trial and the evidence that is presented. In any event, I was simply in no position to assess whether the prosecutor was "weak" as Ms AB had alleged, or whether he paid careful attention to her and other victims during the trial. Indeed, it was not entirely clear what contact the prosecutor had had with Ms AB on the day of the trial. There were clearly very different perceptions: the prosecutor saying he paid careful attention, Ms AB saying she had no opportunity to speak with him. As I frequently observe in my reviews, it is sadly inevitable that a victim's expectations of the degree of contact possible pre-trial may be greater than any prosecutor or the CPS as a whole can deliver. So far as the complaint-handling was concerned, the target for the stage 1 response was not met because of staff sickness, and for that reason was unavoidable. However, it should have been identified that the response was going to be late and a holding letter sent before the time target expired. An offer of a face-to-face meeting was good practice, but had led to further uncertainty and some rancour. As I had not met any of the parties, I did not think it would be wise to make a formal recommendation, but I said the Area might wish to consider if – even after the passage of many months since the trial – a face-to-face meeting would be helpful.

**Mr AB complained about the way a prosecutor presented during a sentencing hearing. The key element was that she had read the Victim Personal Statement (VPS) in part not in full.** I found this was a breach of the Victims' Code and made two recommendations: for the CPS to offer advice to prosecutors that reading out a VPS in part is a breach of the Victims' Code, and a consolatory payment of £200. The stage 2 response was late and included an unfortunate reference to another case entirely.

**Ms AB had been subject to verbal abuse in the street.** Alternative charges (one including racial aggravation) had been laid against the defendant. However, Ms AB's statement had not been

provided by the police and she had not been warned to attend court as a witness. The CPS's attempts to obtain the statement (a single email) had been ineffectual. Moreover, when the defendant was found guilty of the charge without racial aggravation, the prosecutor did not read any of Ms AB's VPS. This was a breach of her rights under the Victims' Code. However, I noted that the complaint handling had been very good – in contrast to the casework decisions.

**Mr AB was a victim in a neighbour dispute.** On the day of the trial it became clear that the defence had not received all the unused material it had requested. In consequence, the District Judge said that he would exclude all of the Crown's evidence and that an adjournment would not be granted. The agent prosecutor decided she had no choice but to offer no evidence. The CPS told me that the District Judge had no power to exclude the Crown's evidence, but that he could have dismissed the prosecution on the basis of an abuse of process. It therefore argued that the agent prosecutor should have challenged the decision to exclude evidence and that, by formally offering no evidence, she prevented any legal challenge to the District Judge's actions. Mr AB criticised the CPS's trial preparation and the decision to offer no evidence. He also criticised the subsequent handling of his complaint, and asked for financial redress to enable him to fund civil action against his neighbour. The principal issues of poor case preparation and the agent prosecutor's decision to one side, Mr AB raised a number of other matters that in general I did not think held water. I shared the CPS's view that this was not a case where there were sufficient grounds for a consolatory payment, and the CPS could certainly not fund a civil action.

**Ms AB had been the victim of an assault by her former partner, who was now in prison.** The first trial was postponed because the court had failed to alert the prison authorities that the defendant needed to appear. However, the prosecutor failed to note on the Hearing Record Sheet that the new date was a full hearing and, in consequence, to require the WCU to warn the prosecution witnesses. On the second hearing date, the (second) prosecutor did not enquire why the witnesses were not present, nor request an adjournment, but simply offered no evidence. This was a sorry tale of two CPS errors resulting in justice being denied. Apologies had been offered but I suggested that the consequential breach of Ms AB's rights under the Victims' Code required a consolatory payment of £200. I also offered some criticism of the Area's standard letter that refers to the complainant having expressed "some dissatisfaction" with the outcome of the case.

**Ms AB's son was (along with other children) the victim of child cruelty at a specialist school.** The CPS determined that the charges should be dropped and designed a strategy to ensure all complainants and their parents were informed before the outcome was announced in court.

Unfortunately, the letter intended for Ms AB was delivered by the police to the wrong address (it was supposed to be hand delivered), and the letter wrongly referred to Ms AB's other son who had no involvement in the matter. (Ms AB found out the case had been dropped from a local newspaper.) A subsequent CPS letter had also gone astray, and I found minor flaws in the complaint handling.

**Mr AB had been involved in a car accident.** The other driver had been charged with offences relating to no insurance, and making false applications for insurance, but these were dropped at court when the prosecutor wrongly judged that evidence was not available. The CPS had accepted that a mistake had been made and had apologised. I noted that the stage 2 response contained several typographical errors that were not suggestive of the level of care and attention the complainant was entitled to expect. Moreover, while the letter indicated that the complaint “relates to the level of service that you received”, and could therefore be escalated to my office, I did not believe this was in fact the case. The DCCP told me that she considered the ‘service’ element of the complaint to be that the CPS “did not take sufficient care when deciding to withdraw the prosecution”. However, the absence of sufficient care does not alter the fundamental position that a decision not to proceed with a case is a legal matter that does not come within my terms of reference.

**Mr AB was an acquitted defendant.** Much of his complaint concerned legal issues, but correspondence he had hand delivered to the CPS had been lost, and his stage 1 complaint did not receive a reply for three months. He also said there had been failures to disclose material to the defence that had caused him to incur additional legal costs. He sought compensation. Although I acknowledged that there had been failures, I did not think it was for the CPS to make up for any shortfall in the cost orders made by the courts.

**Ms AB's daughter had been assaulted by her father (from whom Ms AB was divorced). At trial he had been acquitted.** Her complaint engaged legal issues regarding the evidence relied upon, and her concerns for her daughter's future safeguarding. However, there had been a breach of the Victims' Code in that Ms AB had not been told the trial outcome within one day (Ms AB had had to chase), and there were wider lessons about the support offered to child witnesses in the magistrates' court. Like so many of my reviews, this one engaged more than one part of the criminal justice system.

**Mr AB is a defence solicitor. He complained about aspects of disclosure in respect of a case.** The CPS had accepted that it had failed to comply with a direction of the court (albeit a direction it now said the court had no power to make but which it had not challenged at the time), and that the editing of a taped interview had been conducted tardily. However, I was not certain that this correspondence should have been dealt with under the terms of the CPS's complaints policy. It was not manifest that the solicitors were still representing their client, and the formal complaints process is not intended to cover professional exchanges between the defence and the prosecution.

**Ms AB complained about the outcome of a trial in which her daughter was the victim.** She said that the prosecutor had said the jury would acquit and had offered very little support or explanations. She also said she and her daughter had been 'sent home' after giving evidence and had not been told they could attend the rest of the trial. I could reach no view on the support offered by the prosecutor or the exact words he had said. However, I was disappointed that Ms AB had not been told she could stay, albeit this was principally the fault of the Witness Service at court not the Crown Prosecution Service. CPS advice on the internet makes clear that witnesses can attend court proceedings after they have given their evidence.

**Mr AB's son, who has Asperger's Syndrome, had been prosecuted for harassment.** The CPS had acknowledged a failure to handle the prosecution in line with its policy on mentally disordered offenders. More positively, the Area had identified important learning points. As well as providing awareness training for CPS staff in autism and Asperger's Syndrome, I was particularly struck by a proposal in similar cases "to identify a trial advocate at the earliest opportunity and that the case be reviewed and presented by a lawyer that has experience in dealing with stalking offences, has a good understanding of how to deal with defendants suffering from mental health disorders and has an understanding on how to conduct a trial where there are intermediaries involved in supporting others to give evidence in court."

**Mr AB's son also has autism. He had been prosecuted but acquitted.** The CPS Area in this case had also acknowledged that there had been a failure to apply the policy on mentally disordered offenders (albeit the outcome might have been the same anyway). In carrying out this review and the earlier one, I discovered that the policy link on the CPS website to the National Autistic Society was broken. But overall I found much to applaud in the actions taken in light of the two complaints.

**Mr AB's wife (whom he was divorcing) was accused of driving over his foot. At trial, Mr AB's wife was acquitted.** Much of his complaint focused upon the police or on legal decisions by the CPS that



are not within my jurisdiction. However, Mr AB also criticised the prosecutor as having been unprofessional and uninterested, and the CPS had acknowledged that it had failed to write to him after two other charges were stopped. For that reason, I was surprised that the CPS Area concluded that Mr AB's complaint was solely 'legal' in nature – all the more so after the Chief Crown Prosecutor's stage 2 letter had expressly referred to my role. I also noted that there were minor service failures in respect of the CPS's complaint-handling: the letters at both stages 1 and 2 were outside the time target (albeit only marginally in the case of the stage 2 letter, and for reasons that were entirely pardonable in respect of stage 1), and a promised second holding letter at stage 1 had not been forthcoming. Turning to the substance of Mr AB's complaint, I did not think I could sensibly offer any opinion on whether the prosecutor sounded uninterested in the case, or ill-prepared, or did not explain the process/put him at his ease. Nor could I say to what extent Mr AB's medical needs were taken into account by the prosecutor, although I was pleased to note that a successful application had been made for him to give his evidence from behind a screen. On the other hand, the CPS has accepted that the prosecutor was not in possession of a hard copy of Mr AB's statement which meant he had less time than he would have liked to refresh his memory of its contents. And the CPS has also acknowledged that there was a failure to write to Mr AB when it was determined that the charges of failing to stop and failing to report an accident should be dropped, leaving the single charge of careless driving. This latter failure was a breach of Mr AB's rights under the Victims' Code. In short, I found a number of service failures by the CPS, but I did not believe that either individually or collectively these failures were of such gravity that any redress beyond the apologies already offered was necessary. In content, both the stage 1 and stage 2 letters were excellent, although neither identified that the failure to write after two charges were dropped was in breach of the Victims' Code.

**Mr AB's son was the victim of a campaign of harassment by a woman with whom he had formerly been in a relationship.** Although no other charges were brought (a matter central to Mr AB's complaint), other members of his family had also been subject to harassment. The CPS acknowledged that the victim and his family had been let down. There had been a succession of failures – some legal, some service, and I did not think in the circumstances that it was sensible forensically to distinguish between the two. Amongst other things, there had been a failure to make an application for Mr AB's son to give his evidence from behind a screen – a breach of the Victims' Code. I recommended a £250 consolatory payment.

**Mrs AB was the victim of domestic violence. The defendant had been acquitted.** Much of her complaint engaged legal issues, but the CPS's complaint handling had also been poor. There had

been a failure by the CPS to adhere to its published timescales in handling the complaint. I also noted that at stage 1 no holding letter had been sent and the response itself did not apologise for the delay, nor offer any explanation why it had occurred. The stage 2 reply was also late, although in this case a holding letter had been provided (albeit on the last possible day – something I do not regard as good practice). Inadvertently, one piece of information in the stage 2 letter was also incorrect.

**Mr AB had been the subject of homophobic abuse while carrying out his work.** The charge against the defendant had been dropped as the police had not supplied the unused material and the CPS could not adhere to its disclosure duty to the defence. The CPS had acknowledged three failures on its part: not providing Mr AB's name to the WCU so that he could be warned for trial, not reviewing the case in good time, and suggesting to Mr AB that it was his absence that caused the case to be dropped when it was the disclosure issue. Given that the first of these is a breach of the Victims' Code, I recommended a consolatory payment of £150 and that my report be shared with the police.

**Mrs AB complained about the failed prosecution of a youth who had been harassing her son.** The CPS had acknowledged very poor case management as disks of the boy's ABE (Achieving Best Evidence) interview were not present at court, and had not been transcribed in good time, nor shared with the defence in accordance with the court's wishes. I also found significant failures in complaint handling, with repeated assurances of full responses not being met. I made two recommendations: a consolatory payment of £250 and an apology.

**Mr AB was a witness in court. He had booked his own accommodation close to the court because of mobility problems.** However, the CPS had declined to meet the full costs, given the expenses rates set by the Attorney General. I sympathised with Mr AB but, given the Attorney General's policy and the need to ensure proper use of public money, did not feel that the CPS's offer was so low as to be unreasonable or maladministrative. However, I was concerned that current arrangements took insufficient heed of mobility/disability issues. I also sympathised with Mr AB's view that the current expense rates did not reflect the actual costs of hotel accommodation in Central London. I suggested my report be shared with the Attorney General's Office for their consideration, and that Witness Care Officers be reminded to ask specifically about mobility/disability issues and to make plans for accommodation accordingly.

**Mrs AB complained on behalf of her daughter who had been considered for prosecution.** Most of the complaint concerned legal issues but there were a small number of service issues – including the

wrong advice Ms AB had been given about not being able to use the complaints process as her daughter had been a defendant. I recommended that the Chief Crown Prosecutor remind staff about the ambit of the complaints process in respect of defendants.

**Mr AB was a witness. A series of errors on the part of three agencies including the CPS together conspired to cause him to postpone his 'holiday of a lifetime' despite his efforts to alert the authorities to the dates when he was unavailable.** In consequence, he said he had to spend an additional £1,200. The CPS had apologised for its mistakes (his complaint had been upheld at both stages 1 and 2) but declined to pay any compensation for his losses. I judged that there had been a breach of the spirit of the Witness Charter, and that the CPS's involvement required a compensatory payment – assuming Mr AB could provide documentation to substantiate his loss and was not covered by insurance.

**Mr AB had been considered for prosecution. The only service issue was that the statement of an expert witness had been served late on the defence.** The Judge determined that, as the defence had not had the time to instruct its own expert and he would not allow another adjournment, the statement could not be admitted. In consequence, the CPS re-reviewed the prosecution and decided to offer no evidence. It was arguable that Mr AB was the beneficiary of this service failure, and there were no recommendations I needed to make.

**Mr AB had been the victim of an attack causing life-changing injuries.** His complaint centred on the sentencing hearing and had a number of aspects. Not least, there had been a delay in providing his VPS to the court, and he had overheard the prosecutor making an inappropriate joke at his expense to the defence. Much of his complaint concerned decisions by the Judge, and I noted that no reference had been made in the CPS correspondence to the Judicial Conduct Investigations Office (JCIO). However, by the time the matter reached me, the deadline for any referral to the JCIO had long since passed. I made no formal recommendation on this score, but I felt it was a learning point for the CPS.

**Mr AB complained about the performance of the prosecutor, but I judged that the specific elements of his grievance concerned legal matters and in any case, that I could not reach any sensible decisions about matters that had taken place 18 months previously.** However, I was concerned about aspects of the complaint handling. There were three responses at stage 1 – it being judged that Mr AB's further letters were requests for additional information rather than requests for escalation. I acknowledged that these were fine judgements, but it could not be

considered best practice that Mr AB had to write four letters and make one phone call before accessing stage 2. Only in exceptional circumstances could it be right for the same respondent to reply three times at stage 1.

**Ms AB complained about the handling of a prosecution.** I found that the casework had been frankly shambolic. Most significantly, plans had been made too late for Ms AB and another witness to attend a trial and the CPS had offered no evidence. More positively, there had been full and candid responses to the complaint so there was very little for me to do except to tell the story.

**Mrs AB complained about the circumstances of an appeal hearing. She said (and the CPS accepted) that important CCTV/mobile phone footage had not been provided to the prosecutor who had to rely on the defence copy.** Most of her complaint was 'legal', but she also said that the prosecutor had no need to apply for an adjournment on account of her supposed distress, and that the prosecutor had exaggerated the length of time he had spent with Mrs AB and her family. I also identified a number of complaint handling errors.

**Ms AB complained on behalf of her company.** She said the CPS had erred in not applying for a restraint order to safeguard her company's claim for compensation against one of its former employees who had been convicted of four counts of theft involving over £300,000. I took the view that this was a legal matter, but there had also been significant mishandling of Ms AB's correspondence.

**Mrs AB's daughter's car had been stolen while she was abroad.** The offender, who was 17, pleaded guilty to aggravated taking of a motor vehicle without consent and driving without insurance or a licence. He had hit another vehicle while driving Mrs AB's daughter's car causing damage in excess of the insurance company's valuation of the vehicle. The prosecutor had requested compensation, but the MG19 was not in her bundle and therefore she was not aware of the details of the claim. The magistrates declined to order compensation. Mrs AB asked for an ex gratia payment from the CPS but I did not feel that the threshold set by paragraph 4.4 of my terms of reference had been met. My power to recommend compensation is not intended to substitute my views for the decisions of the courts. Nor was there evidence before me of uninsured loss. If the insurance company valued the car at less than the cost of repairs that was not a risk that fell to the taxpayer.

**Mr AB was a defendant. After a review applying the public interest test, the CPS offered no evidence.** Mr AB said that the CPS had not followed its complaints procedure, and that it had failed

to disclose a draft criminal behaviour order in good time. The CPS said all the issues were legal in nature, but I took the view that those cited were 'service' (the failure to disclose was the result of an 'oversight' rather than a legal decision). However, I also judged that most of Mr AB's complaint concerned decisions about the Code for Crown Prosecutors, and I upheld no other aspect.

**Mr and Ms AB complained in detail about a prosecution in which Ms AB, a vulnerable person, was the victim.** I found that the stage 1 response had not addressed all the relevant issues (perhaps because it had been sent just four days after receipt of a 24-page complaint). I also found that no VPS was available to the court – the police had presumably not obtained one, and the CPS, pardonably but mistakenly, had assumed that the police response to an action plan saying there were no more statements/evidence meant that the victim did not wish to make a VPS. There was a variety of other issues – most of them about legal decision making or surrounding the decisions of other agencies, and therefore outside my jurisdiction. I made two recommendations: the CPS to provide additional information to Mr and Mrs AB, either by letter or face-to-face; and the CPS to consider if further advice should be offered to staff to check/chase VPSs.

**Mr AB complained on behalf of Ms AB who had been a witness in proceedings.** The principal grounds for complaint were that Ms AB had expected to be allowed to remain anonymous, but in the event she was asked to give her name – albeit she was allowed to give her evidence from behind a screen. The CPS said there was nothing in the police information to suggest that Ms AB had sought anonymity (nor were the circumstances such that such a request was likely to be granted). There were other aspects to the complaint, but the only one I upheld was in respect of a late response at stage 2 (acknowledged by the CPS and attributed to an administrative error over the summer holiday period).

**Mr AB, a victim in a family dispute, complained that the basis on which the CPS had accepted guilty pleas had not been properly explained to him.** Initially (at stage 1) he said there had been no discussion with the prosecutor. At stage 2 he said that he had not been given sufficient explanation. The CPS had obtained a particularly comprehensive account from Counsel showing convincingly that the pleas and the reasoning for accepting them had been explained at some length. There was no basis to uphold the complaint.

**Mr AB was a witness. The defendant had been on the run for many years following an incident where a man had been shot.** Mr AB said he had asked the police for anonymity, but it was clear that this request had not been passed on to the CPS. After the jury could not reach a verdict in a

first trial, Mr AB complained again after the second trial as he said the prosecutor had failed to ensure in a conversation with a court clerk that his concerns would be passed on to the Judge. I found significant flaws in the complaint handling. On the key issue of what the prosecutor had or had not told the court clerk, I could not be certain. However, I said there was evidence of a lack of witness care, and it was clear that the prosecutor had not expressed Mr AB's concerns with any urgency – otherwise it was inconceivable that a court clerk would not have passed them on to a Judge. I also felt it was inconceivable that the Judge would not wish to know that a key prosecution witness believed he had been let down by the police in regard to anonymity, and felt vulnerable to retaliation from accomplices of the defendant in consequence. I recommended that the Chief Crown Prosecutor should apologise.

**Mr AB's young son said he had been assaulted by a teacher.** The CPS had first advised no further action, but following a review under the Victim's Right to Review (VRR) had charged the teacher with child cruelty. Shortly before the trial, the CPS decided to offer no evidence following receipt of medical evidence from the defence. My investigation revealed a series of errors by the CPS. Perhaps most importantly, the case had not been identified as coming within the terms of the Youth Witness Protocol, designed to accelerate cases involving witnesses under the age of 10. I suggested that this might be something that CPS HQ wanted to take up nationally. Mr AB had sought compensation of around £5,000 but I concluded that the CPS offer of £250 was in line with its own policy and with HM Treasury guidance.

**Mr AB was the victim of theft from his shop.** The prosecution offered no evidence as the prosecutor and a police witness both believed the defendant bore no resemblance to the photograph captured on a CCTV still. Most of this complaint involved the legal decision making, but it was clear that the casework preparation had not met the appropriate Casework Standard. The responses Mr AB had received, however, were sympathetic and of a high standard.

**Mr AB had been involved in an altercation in a nightclub.** A bouncer was charged with ABH and pleaded not guilty. When the case came to the Crown Court more than a year later the CPS offered no evidence. The CPS had acknowledged a failure to review the case against the defendant for a period of four months after the barrister instructed to prosecute had expressed concerns about the evidence. However, the VRR found that the prosecution should have gone ahead (the CPS Crown Advocate based at court had not viewed the CCTV but had simply gone along with Prosecuting Counsel). There were also significant failures in complaint handling – with successive delays. I recommended an apology from the Chief Crown Prosecutor.

**Mr AB had been the victim of a road accident.** The defendant had been charged with driving without due care and attention, but a failure by the police to warn witnesses (not spotted by the CPS reviewing lawyer) meant that the CPS had to offer no evidence and the case was dismissed. I found that the failure to identify that witnesses had not been warned was a clear service failure. In addition, I said there had been a lack of candour, inconsistent with CPS principles, in that Mr AB had not been told that he had been wrongly advised that his case qualified under VRR. There were other failures in complaint handling: delay and questions and requests going unanswered. I felt that the succession of errors and oversights justified a consolatory payment of £250.

**Ms AB had been the victim of an assault by her partner.** She had made a withdrawal statement but this had not been included in the prosecution file nor disclosed to the court or the defence. However, the CPS said that the public interest in a prosecution was met in any event and that its absence made no difference (Ms AB had been able to address the court, and her partner had pleaded guilty). The consequences for the family had been severe as Ms AB's partner had found it difficult to obtain work after the conviction, and the family had faced economic and housing difficulties. Ms AB wanted the conviction replaced with a caution. Most of this complaint was out of remit (being legal or concerning the police). But the failure to include her statement in the file was a clear service failure. I also identified other minor failings in the complaint handling.

**Ms AB had been the subject of a frightening arson attack – intended by the offender for someone else – and suffered significant material loss as a result of the write-off of her car, and damage to the front of her home.** She subsequently completed a MG19 compensation form, providing invoices covering a new front door, new front windows, and other items. Including the excess on her car insurance policy, the total was just over £2,500. However, the court had made no order for compensation. Ms AB was also concerned that the details of the crime had received only a cursory examination. I could offer no comfort in respect of the compensation (the offender was homeless, with no income and was given a seven year sentence), and there would be no benefit to Ms AB if the Judge had made a compensation order that the offender had no way of paying. However, I was critical of the way in which Prosecuting Counsel presented the facts of the case at the sentencing hearing. He clearly had misunderstood that there were two utterly separate acts of arson, and had to be corrected by the Judge before making good his mistake. Ms AB was also not well served by the fact that, during his initial remarks, Prosecuting Counsel had made no mention of her and her family at all. I was also critical of Counsel for his speculation that Ms AB was insured against the damage to her home, when this was not the case. I was surprised that the responses from the CPS did not address the performance of Prosecuting Counsel in more detail. And in contrast to the outcomes at

the two internal stages, I recorded the complaint as having been upheld in part and recommended an apology.

**Mr AB and his wife were the victims of burglary and criminal damage to their home while they were out of the country.** It was accepted by the CPS that, as a result of an administrative oversight, only one of the receipts that Mr AB had supplied alongside his MG19 was available to the prosecutor at the sentencing hearing. Although the prosecutor had sought the full amount of compensation (nearly £2,000), the court limited its compensation order to £250. On the balance of probabilities, I concluded that the compensation order would have been higher if the receipts had been available. There was evidence from both the offender and the prosecutor that the Court had made remarks to that effect. However, it was inconceivable that an award of the full amount claimed would have been made, as the offender was unemployed and had poor employment prospects. I recommended a consolatory payment of £150. Like many victims, Mr and Mrs AB would suffer a significant financial loss as a consequence of the offender's actions.

**Mrs AB complained that letters she and her lawyers had sent had been ignored, and that a restraint order against assets she owned jointly with her husband (who had been convicted and was in prison) should have been lifted earlier.** She also charged that her interests as a third party had been ignored in the proceedings. I found that correspondence had been serially mishandled and that, while the fault was not solely that of the CPS, the restraint order could have been discharged some three months earlier. While I did not believe that Mrs AB was in fact a party to proceedings, assets she shared with her husband had been used to pay the compensation order he had agreed. Like many families of offenders, she had also suffered as a consequence of that offending. I recommended a consolatory payment of £100 for the "woeful" and "shambolic" handling of her correspondence.

**Mr AB complained about the handling of a prosecution against his estranged wife for child abduction.** The CPS decided to take no further action, but the reviewing lawyer had referred to the wrong part of the legislation in his letter to Mr AB. Other service failures had also been identified. However, I judged that the vast bulk of Mr AB's voluminous correspondence referred to the legal decision to take no further action, and there was little or nothing I could do for him. He had benefited from a teleconference with the Chief Crown Prosecutor and another member of CPS staff.

**Mr and Mrs AB said they had agreed to lesser charges against the defendant in anticipation that a restraining order would be imposed. This had not happened.** I found that there had been good



responses at stages 1 and 2 (albeit the outcome recorded on the CPS KIM database for stage 1 was wrong and an incorrect name was used throughout the stage 2 reply). The agent prosecutor had not consulted the CPS when accepting a guilty plea to a lesser charge, but the CPS did not believe that the sentence would have been greatly different as this was a first offence. The CPS had also discovered that a Victim Personal Statement had not been passed to the CPS (and thus made available to the court) by the police. I concluded that the absence of the VPS might have influenced the court's decision, but that the prosecutor had been unrealistic in sharing with Mr and Mrs AB his expectation of a restraining order. On the facts before the court, some 10 months after the offence, there was little basis to impose a restraining order whatever the charge. I made no recommendations; as in other cases, the findings of my independent report and previous apologies represented sufficient redress.

**Ms AB's mother had been the victim of non-recent sexual abuse. The defendant had been acquitted.** Ms AB had raised a variety of issues – the vast majority of them concerning legal decisions or the actions of witnesses and the defence. There was therefore very little that was within my jurisdiction. However, I did identify seven failings (of greater or lesser significance) in the handling of her complaint.

**Mr AB had been prosecuted. Many of the charges were dropped just before trial and he was acquitted of the remainder.** Mr AB accused the CPS of mishandling the case. I found that most of the issues he raised were legal in nature (choice of charges; evidence relied upon), but there had been some service failures. The complaint handling had been delayed, but the key failure had been the failure to disclose (and appreciate the significance of) a particular piece of evidence. Had it been considered earlier, it was likely that the majority of the charges would also have been dropped at an earlier stage. However, there was no case for the compensation for legal fees that Mr AB sought. Nor did I think that Mr AB's many questions had not been answered, as he had alleged. The questions had been answered but not to his satisfaction.

## Annex 1: Terms of Reference

### 1. Introduction

**1.1** The Independent Assessor of Complaints for the CPS (IAC) reviews complaints in respect of the quality of service provided by the CPS and its adherence to its published complaints procedure and the complaints aspects of the Victims' Code. Stephen Shaw CBE was appointed to this new position in May 2013 for a three year term (with the possibility of extension).

### 2. Role and Remit

**2.1** The remit of the Independent Assessor of Complaints (IAC) for the CPS is to consider service complaints at stage 3 of the CPS Feedback and Complaints procedure. Service complaints can be defined as 'any complaint relating to the service standards and conduct of CPS staff'. Examples of service complaints include being treated rudely or unfairly by staff members, failure to provide the correct information, or unnecessary delays in either the service provided or in responding to complaints.

**2.2** The IAC cannot review complaints that are solely about prosecution decisions. Legal complaints are only considered at stages 1 and 2 of the procedure. Victims who wish to exercise their right to request a review of decisions not to bring charges, discontinue proceedings, or offer no evidence in cases, should utilise the Victims' Right to Review scheme (VRR).

**2.3** The IAC will not consider service complaints relating to live or on-going proceedings (whether criminal or civil) until those proceedings are completed. This includes cases that qualify under VRR but have not yet exhausted all stages of the scheme.

**2.4** The IAC can consider the service elements of 'hybrid' complaints: i.e. those that embrace both legal and service aspects.

**2.5** Complaints must be referred to the IAC for review following the completion of stages 1 and 2 of the complaints procedure, if the complainant remains dissatisfied. Complaints that are linked to on-going civil proceedings must be deferred until the conclusion of all civil proceedings.

**2.6** Complainants can also refer complaints to the IAC directly where the CPS has not adhered to its complaints procedure although stages 1 and 2 may not have been completed. This could include circumstances where complaints handling at stages 1 and 2 gives rise to further complaint.

**2.7** Complaints must be submitted within one calendar month of the stage 2 response. However, the IAC has discretion in relation to this time limit where there are exceptional factors.

**2.8** The IAC also acts as the guardian of the CPS Feedback and Complaints policy, overseeing the process and supporting the CPS to develop best practice and improved service standards for victims and witnesses. In that capacity, he will review samples of cases that have not reached stage 3 to assess the quality and timeliness of stage 1 and 2 responses. The audit will involve a dip sample of all complaints to provide an update to the CPS Board, and to further develop internal guidance, protocols and training materials.

**2.9** The [Victims' Code](#) outlines victims' entitlements to ensure that services recognise and treat victims in a respectful, sensitive and professional manner without discrimination of any kind. Victims are entitled to make a complaint if their entitlements under the Code have not been met.

**2.10** The Attorney General may commission the IAC to undertake bespoke investigations on behalf of the Attorney General's Office or the CPS. The nature of these investigations may fall outside the usual IAC remit; in such cases specific terms of reference for the review will be drawn up.

### **3. Review Process and Time Standards**

**3.1** As an independent postholder with quasi-judicial functions, the IAC sets his own procedure. However, in general an IAC review will consist of a review of the papers at stages 1 and 2 of the complaint procedure. The relevant CPS Area/Central Casework Division will submit and prepare the relevant paperwork and a background note for consideration by the IAC.

**3.2** The IAC will consider the information provided and where appropriate request further reports and statements.

**3.3** The IAC will develop a draft response within 30 working days of the matter being referred to him which will be sent to the relevant CPS Area to allow for fact-checking in advance of the final response and recommendations being concluded. The timescales will begin once the complaint has been accepted by the IAC.

**3.4** The CPS will have a maximum of 10 working days to respond to the draft report.

**3.5** A full response will be provided to the complainant within 40 working days. If it is not possible to complete the review and reply within that timeframe, the IAC will contact the complainant to explain why there is a delay and provide a date by which he hopes to provide a response.

**3.6** The IAC will acknowledge receipt of complaints within five working days.

**3.7** The IAC will normally conclude his review with a formal report. However, he will be at liberty to complete a review in whatever means he judges most appropriate.

**3.8** The review process will be supported by CPS staff who will provide a back office function and advise the IAC on the eligibility of complaints under his terms of reference.

**3.9** Final reports will be sent on behalf of the IAC to the complainant and the Director of Public Prosecutions.

### **4. Remedies and Compensation**

**4.1** The normal form of redress recommended by the IAC will be a formal apology on behalf of the CPS.

**4.2** The IAC may also recommend changes to CPS policies and practices that could help prevent a recurrence of the circumstances giving rise to the complaint.

**4.3** The IAC may not recommend disciplinary action against CPS staff but he may recommend that the case for disciplinary action is considered under the CPS's HR procedures.

**4.4** The IAC can recommend that the CPS consider making a compensatory or modest consolatory payment where there is clear evidence of uninsured material loss or severe distress caused by maladministration or poor service by the CPS.

**4.5** Recommendations will be made to the Director of Public Prosecutions. The IAC's recommendations are not binding, but if the CPS decides not to accept a recommendation it will explain its decision in writing to both the complainant and the IAC.

**4.6** Victims have the opportunity to refer their complaint to the Parliamentary and Health Service Ombudsman (PHSO), via an MP, following the IAC review where they remain of the view that the Service has failed to meet its obligations under the Victims' Code.

**4.7** Complainants who are not victims of crime do not have a right of access to the PHSO; the IAC review is the final stage of the complaints process in these cases.

## **5. CPS Responsibilities**

**5.1** The CPS will provide:

- In year data to the IAC to inform the complaints reporting process.
- Open access to complaints and feedback systems and records.
- Access to such information as the IAC requests for the purpose of conducting a review.
- Executive support for the office of the IAC.

**5.2** The CPS will ensure that the referral process for the IAC is clear and accessible for complainants and that the executive support arrangements are robust. Fact-checking of draft IAC reports will be undertaken in a timely manner no longer than the timetable in paragraph 3.4 above. Where the CPS is unable to meet that timetable it will inform the IAC immediately.

**5.3** The CPS will formally acknowledge IAC reports and recommendations and provide confirmation by letter whether the recommendations have been accepted and implemented.

## **6. Reporting Arrangements**

**6.1** The IAC will report bi-annually to the Director for Public Prosecutions and the CPS Board. The CPS will publish the IAC's annual report on its website.

## **7. Contact Details**

Stephen Shaw CBE  
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London  
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Email: [IAComplaints@cps.gsi.gov.uk](mailto:IAComplaints@cps.gsi.gov.uk)

Fax: 020 3357 0567

## **8. Review Period**

**8.1** The IAC terms of reference will be reviewed annually.

**8.2** Supporting FAQ will be updated on a bi-annual basis.

